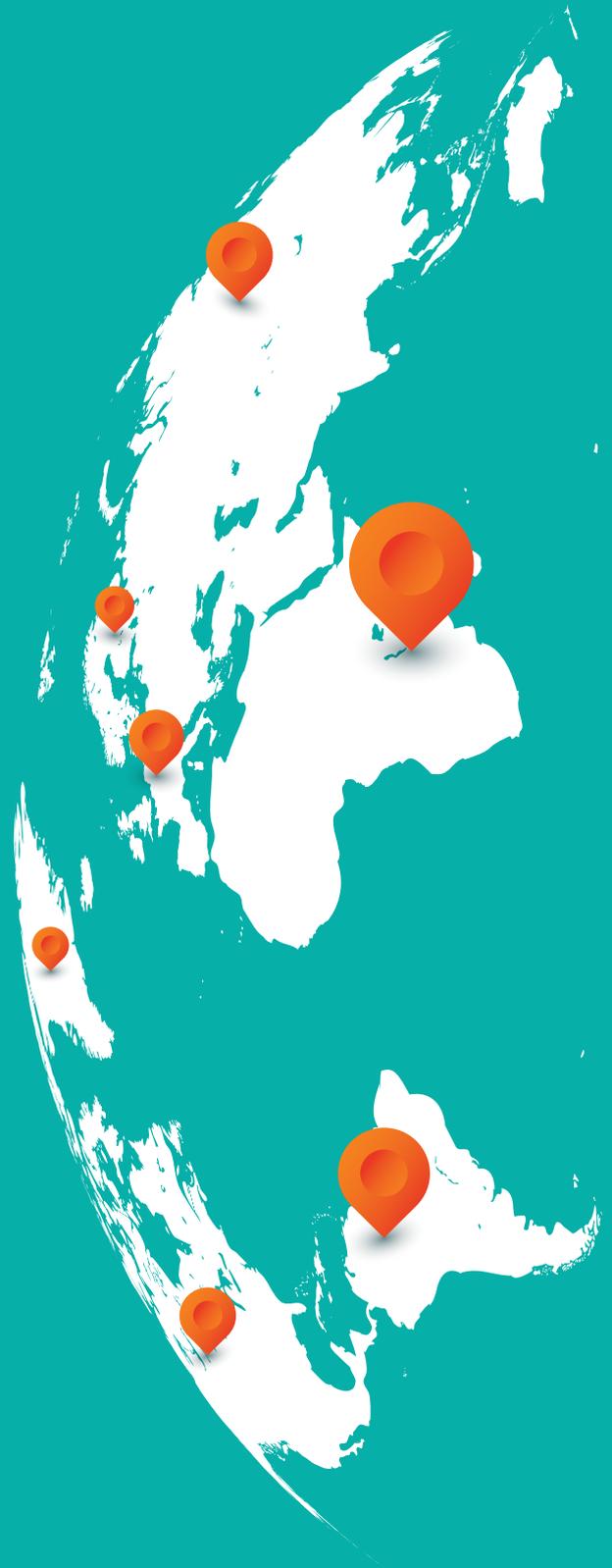




# KPMG Guide to the Posting of Workers 2020



KPMG in Romania

2020



# Content

Foreword

3

Main findings

6

15

General overview

Country-by-country report

## Foreword

As the wind of change is blowing through Europe, 2020 is the year of transition for many important changes to come for the labor market. Brexit, the revised Posting of Workers Directive, the new principle of equal pay for equal work and the establishment of a European Labor Authority are just some of the factors which will reshape labor mobility as we know it. The emergence of atypical jobs and new forms of work in the digital economy are contributing to the general feeling of uncertainty surrounding this transformation.

One thing, however, remains unchanged: posting of workers is a normal part of enterprises' cross-border activities in the Single Market. Given the increased focus on ensuring fair practices in the posting of workers, are you capable of effectively responding to the new challenges?

The KPMG guide to the posting of workers first appeared in 2016. Since then we have been monitoring corporate obligations related to mobile workers throughout the EU, from the applicable minimum wage levels to the necessary registration procedures in each Member State. The main purpose for this guide is to help employers understand the general principles around posting of workers, in order to be able to properly plan the activity of their workforce.

Given the complexity and the multitude of issues around international postings, we recommend that companies posting employees abroad should be always up to date with any legislative changes occurring in the Member States where their employees are performing activity and seek expert guidance on labor law legislation.

We hope you will derive both interest and benefit from reading this year's edition of the KPMG Guide on Posting of Workers.



# General overview

This part of the KPMG Guide on Posting of Workers is meant to give companies a clear view on rules on the posting of workers, as they have been revised with the adoption of **Directive 2014/67/EU**<sup>1</sup> and **Directive 2018/957/EU**.<sup>2</sup>

This understanding is essential to ensure that the rules are correctly and consistently applied by employers throughout the EU.

<sup>1</sup> Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation').

<sup>2</sup> Directive (EU) 2018/957 of the European Parliament and of the Council, of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

## What is a posted worker?

A **posted worker** is an employee who is sent by his/her employer to carry out a service in another EU Member State **on a temporary basis, in the context of a contract of services, an intra-group posting or a hiring out through a temporary agency.**

## What are the rights of a posted worker?

Directive 96/71/EC as amended by Directive 2018/957/EU, which must be transposed into national laws by 30 July 2020, lists the terms and conditions of employment of the host Member State that must be granted to posted workers:

- maximum work periods and minimum rest periods;
- minimum paid annual leave;
- remuneration, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes – **Directive 2018/957/EU introduced the concept of “remuneration”, replacing the concept of “minimum rates of pay”**;
- the conditions of hiring-out of workers, in particular the supply of workers by temporary employment undertakings;
- 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 provisions on non-discrimination;
- the conditions of workers' accommodation where provided by the employer to workers away from their regular place of work – **this is a new condition introduced by Directive 2018/957/EU**;
- allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons



Directive 2018/957/EU does not define “remuneration”. However, it specifies that remuneration, as far as posted workers are concerned, includes “all the constituent elements of remuneration rendered mandatory by national law (...) or by collective agreements which (...) have been declared universally applicable”.

# What does “remuneration” mean?

Directive 2018/957/EU provides that the concept of remuneration is determined at the appropriate level i.e. by the national law and/or practice of the host Member State. The Directive does not therefore attempt to determine the notion of remuneration or to define any of its constituent elements.

The remuneration, with its different elements, of a worker of the host Member State may be set by rules of a different nature: legislative and other regulatory provisions, different types of collective agreements (national, sectoral, local, and at the level of the undertaking), and the individual employment contract agreed between employer and employee

For posted workers only the elements of remuneration mandatorily applicable to all workers in the geographical area or sector are to be considered as remuneration.

The elements which are considered mandatorily applicable are those which are stated by national law or by collective agreements made universally applicable or that otherwise apply to all local workers in the geographical area or sector concerned.

The host Member State is not required to determine the actual remuneration to be paid.

Member States are required to provide the information on the terms and conditions of employment, including the constituent elements of remuneration to be applied to workers posted to their territory. **But it remains the responsibility of the employer to establish in each individual case how much a posted worker must be paid, based on this information.**

Remuneration includes any allowances specific to posting unless they are paid as reimbursement or compensation of expenditure on travel, board and lodging. **Reimbursement or compensation of expenditure on travel, board and lodging are not considered as remuneration and therefore not taken into account for the comparison.** If it does not appear clearly which elements of the posting allowance are paid as reimbursement of expenditure actually incurred because of the posting, then the entire allowance is considered to be paid as reimbursement of expenditure, not remuneration.

# Are there any specific registration requirements in the case of posted workers?

The Host Member State is entitled to require the Home Employer to take the following administrative measures, before the posting:

1 to make a simple declaration to the appropriate national authorities at the latest at the commencement of the provision of services containing the relevant information needed to allow verification of the details of the posting at the workplace, including:

- the identity of the service provider;
- the anticipated number of clearly identifiable posted workers;
- the liaison person and the contact person;
- the anticipated duration, envisaged beginning and end date of the posting;
- the address(es) of the workplace and
- the nature of the services justifying the posting.

## Most Member States have put in place an electronic system for this declaration

2 to designate a person to liaise with the appropriate authorities in the host Member State;

3 to designate a person to liaise with the appropriate authorities in the host Member State;

**Host Member States are entitled to put in place other administrative requirements provided they are justified and proportionate.**

## Do the same rules apply to short term postings?

Directive 96/71/EC and Directive 2018/957/EU apply to **all postings, irrespective of their duration**. However, some provisions of the Directive are not applicable to a short-term posting or allow host Member States not to apply their rules to postings of short duration.

First of all, there is a **mandatory exception** in cases of initial assembly and/or first installation of goods when the posting does not exceed eight days. In these cases, the rules of the Directive on minimum paid annual leave and remuneration do not apply (the exception does not apply to the construction sector).

Secondly, there are options for host Member States **not to apply some of the rules** when the length of the posting does not exceed one month.

Also some host Member States have exempted short-term postings or other types of postings from certain requirements that they impose, in particular from the requirement to make the declaration prior to the posting.

## Do the rules apply to business travelers?

Workers who are sent temporarily to work in another Member State, but **do not provide services** there, are not posted workers. This is the case, for example, for workers on business trips (when no service is provided), and those attending conferences, meetings, fairs, undertaking training etc.

These workers are not covered by the Posting of Workers Directives and, therefore, the rules on minimum wages or on mandatory registration procedures do not apply to them.



# Main findings

This part of the KPMG Guide to the Posting of Workers provides an overview of the requirements related to posting of workers within the European Union, European Economic Area and Switzerland (hereafter referred to as “the EU, EEA Member States and Switzerland” or “the Member States”).

In this section, we detail our main findings with respect to **minimum wage levels** across the EU, EEA Member States and Switzerland and trends observed in the last five years.

Even though Directive 2018/957/EU replaced the concept of “minimum rates of pay” with the concept of “remuneration”, for the time being minimum wages are still relevant, first of all because the Directive has not been implemented into the national legislation of all Member States yet, and secondly, because in some countries “remuneration” might end up being the equivalent of the current “minimum rates of pay”.

Also, in this section of the Guide you will find a comparison between the actual minimum wage and the **“target minimum wage”** proposed by the European Parliament, for each Member State.

The Guide also analyses the impact of tax and social security contributions on the minimum wage, by calculating and presenting in this

section the **cost for the employee** and the net minimum wage in each of the Member States concerned.

**Registration requirements** are another issue that raises concerns for employers and therefore in this section you will find an overview of the methods of registration available in each of the Member States to meet this obligation. Detailed information can be found in the Country by Country section.

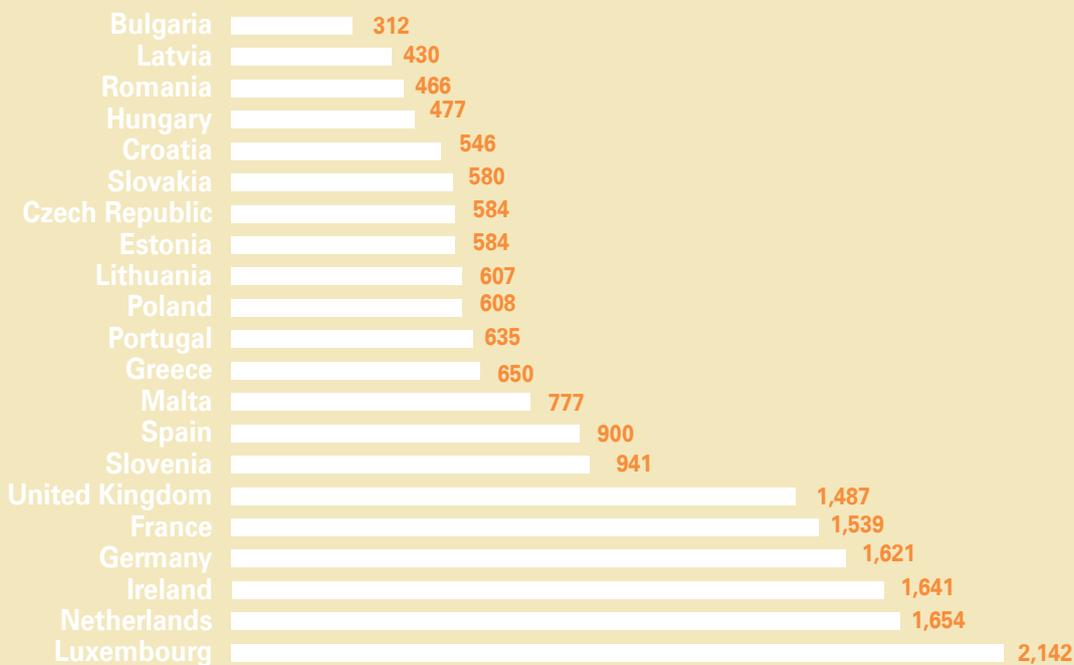
The information presented in this report is based upon a brief survey covering issues relating to minimum wage requirements and compliance requirements with respect to postings to 31 countries within the European Union, European Economic Area and Switzerland, valid as at February 2020.

This information is of a general nature and it is not meant to cover all situations which might occur. It is consequently recommended that, prior to posting an employee to a Member State, the employer should cross-check the information herein with specialized consultants or lawyers in the relevant country, including making a check as to whether there have been any recent changes to the domestic legislation of the Member State concerned

# What is the minimum wage within the EU/EEA/Switzerland?



Out of the 31 Member States only 21 have a minimum wage set at national level. Luxembourg is the Member State with the highest minimum wage and Bulgaria the one with the lowest.<sup>3</sup> Since 2016, all Member States have registered increases in the minimum wage at least on an yearly basis. Therefore, companies must be constantly on the lookout for any changes in the minimum wage requirements and adjust the remuneration of their mobile employees accordingly.



## Minimum wage set at national level in 2020 (EUR)

<sup>3</sup> Germany: EUR 9.35/hour, 40 hours/week, 4.3333/month;  
Ireland: EUR 10.10/ hour; 37.5 hours/week, 4.3333 weeks/month;  
Malta: EUR 179.33/week, 4.3333 weeks/month; UK: £8.21/hour, 35 hours/week, 4.3333 weeks/month;  
Local currencies have been exchanged into EUR using the exchange rate valid on 21 February 2020

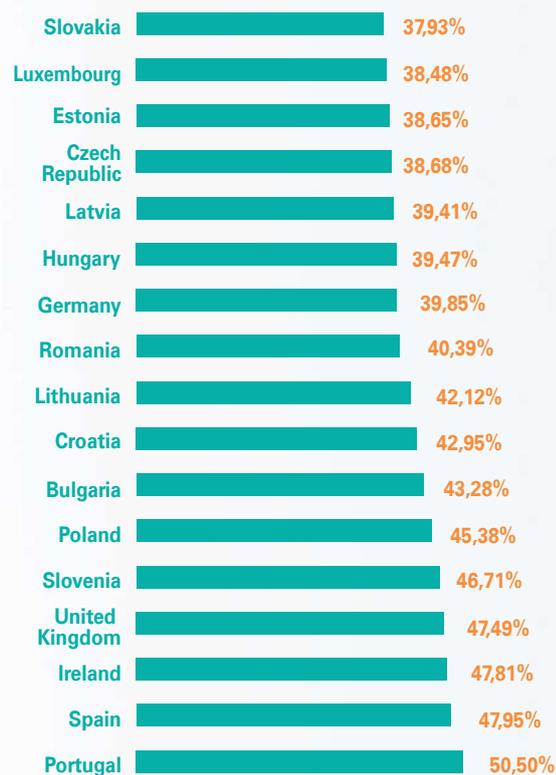


Minimum wages across Europe not only differ with respect to their institutional regime but also with respect to their absolute and relative levels. Due to the highly diverse economic and social framework conditions, it is difficult to compare absolute levels of minimum wages. A more telling indicator therefore is the relative level which measures minimum wages in relation to the overall wage structure as a percentage of the national median or average. The chart below provides information on the relative level of minimum wages in 2019 compared to the average wages in 2019.<sup>4</sup>

<sup>4</sup> Information on the average wage applicable for 2019 was provided by [tradingeconomics.com](http://tradingeconomics.com).

Minimum wage set at national level (EUR) 2016 - 2020

# 2019 Minimum wage as a percentage of the 2019 Average wage



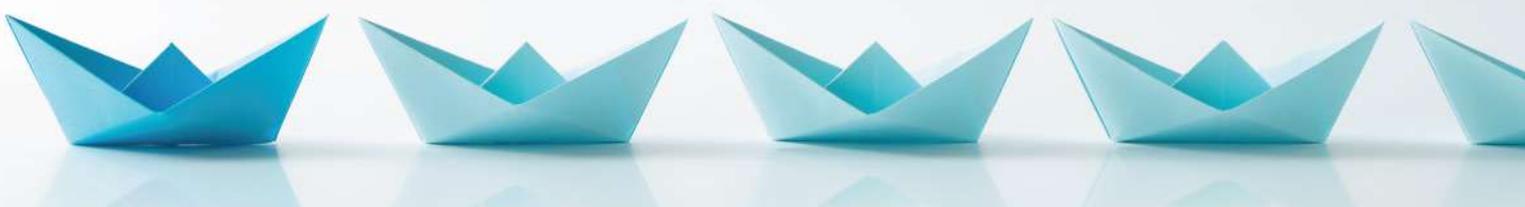
In 2008, the European Parliament (EP), in a resolution to promote social inclusion and combat poverty, called on the European Council to agree a common EU target for minimum wages. The EP states that the target should ensure a remuneration of at least 60% of the relevant average wage. In its 2016 report on social dumping, the European Parliament repeated this demand calling for a minimum wage target of “at least 60% of the respective national average wage, to avoid excessive wage disparities, to support aggregate demand and economic recovery and to underpin upward social convergence”.

All of the countries covered by the survey fall below the threshold of 60% of the average wage. The chart includes Member States that have a minimum wage set at national level, with the exception of France, Greece, Malta and the Netherlands for which no official information was found with respect to the average wage applicable in 2019.

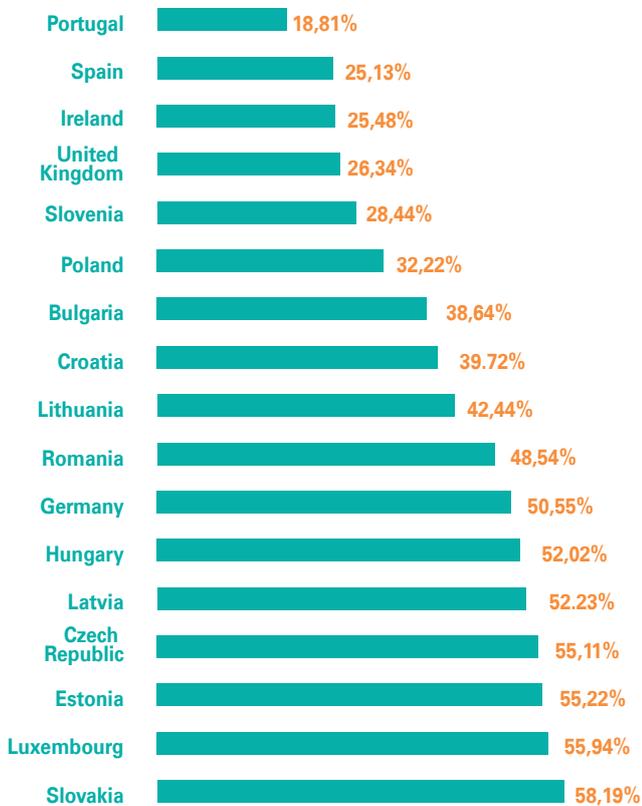
Since one of the key objectives of minimum wages is to make a contribution to keeping workers out of poverty, it is particularly worrying that in 16 of the 17 countries covered, the relative level of the minimum wage falls below even 50% of the national average wage.

The increases needed to reach the 60% threshold, in real terms, range from 111 EUR in Bulgaria to 1159 EUR in Luxembourg. However, due to large variation in absolute levels of minimum wages, even more telling is the relative increase in percentage points needed to achieve 60% of the national average wage.

The chart below illustrates that the increases in the minimum wage needed to achieve 60% of the respective average national wage range from 18% in Portugal to 58% in Slovakia.



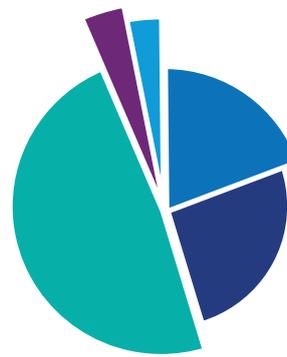
# % increase in the minimum wage necessary to reach 60% of the average wage for 2019



## Do all countries have a minimum wage?

Out of the 21 countries which have a minimum wage set at national level some also have a minimum wage set through collective bargaining agreements (hereafter CBAs).

The rest of the Member States either have the minimum wage set through CBAs only, or do not have a minimum wage at all:



### ● Minimum wage is set both at national level and through CBA - 15 Member States

Croatia	Luxembourg
The Czech Republic	Malta
France	The Netherlands
Germany	Slovakia
Greece	Slovenia
Ireland	Spain
Latvia	The UK
Lithuania	

### ● Minimum wage is not set - 1 Member State

Sweden

### ● Minimum wage for certain occupations - 1 Member State

Cyprus

### ● Minimum wage is set at national level only - 6 Member States

Bulgaria	Poland
Estonia	Portugal
Hungary	Romania

### ● Minimum wage is set through CBA only - 8 Member States

Austria	Iceland
Belgium	Italy
Denmark	Norway
Finland	Switzerland

# What happens when a Member State has the minimum wage set both at national level and through CBAs?

Where CBAs apply, the applicable minimum wage can be different from the one set at national level.

Let's consider the following scenario:

- A posting from another EU/EEA/Switzerland Member State for 2 years.
- The employee works in the construction industry, is 30 years old, single, and with no other income.
- Social security contributions are due in the host country (no A1 certificate can be obtained).<sup>5</sup>

All calculations and graphic representations presented hereafter are based on the assumptions mentioned in the scenario above.

The applicable minimum wage may differ from the one presented above, in those Member States where CBAs exist for the construction industry.

For example, in this specific scenario, in Ireland<sup>6</sup>, Latvia, Romania, and Spain the minimum wages applicable for the construction industry and for the specific situation of this individual, are different from those set at national level.

## 2020 Minimum wage at national level vs. CBAs (EUR)

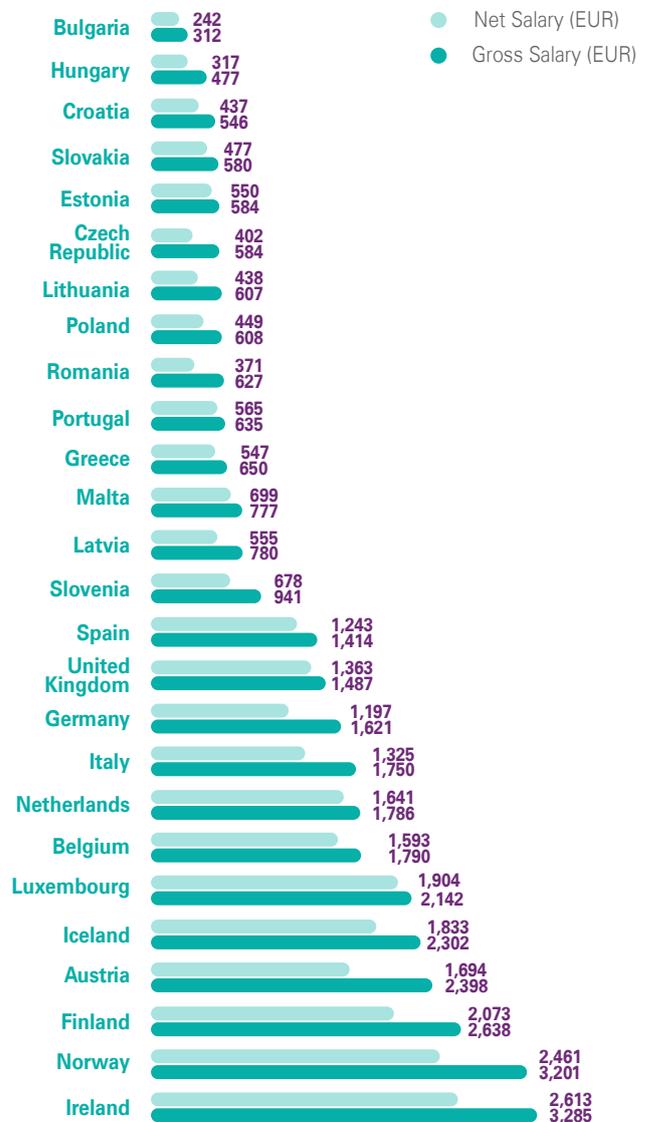


- Minimum wage set at national level
- Minimum wage set for the construction industry

## Is the minimum wage gross or net?

The minimum wage is usually a gross amount, before income tax and social security contributions. Thus, when comparing the ranking of gross salaries with that of net salaries significant shifts may take place. For the scenario we have set out, we have determined the net income corresponding to the gross minimum wage (the amount which will actually be received by the employee) in each of the Member States and we have drawn up a ranking based on the amount of the gross minimum wage as compared to the corresponding net income.<sup>7</sup>

## Net and gross minimum wage applicable for the construction industry for 2020 (EUR)



<sup>5</sup> Usually, during assignments, the individual can remain covered under the home country social security system. For the purpose of this exercise, in order to be able to calculate an effective tax and social security rate applicable to the minimum wage for each Member State, we have considered that no A1 certificate of coverage can be obtained and therefore the social security legislation of the host Member State applies.

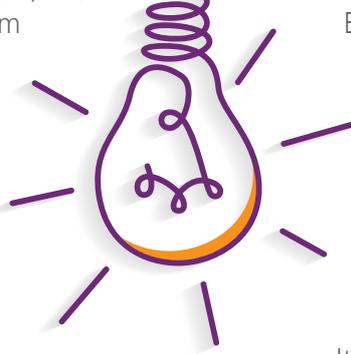
<sup>6</sup> Ireland: EUR 19.44/ hour; 39 hours/week, 4.3333 weeks/month

<sup>7</sup> Ireland: EUR 19.44 EUR/ hour; 39 hours/week, 4.3333 weeks/month

The Netherlands: The calculation is based on a gross monthly minimum salary of EUR 1,653.60 (employees of 21 years and older). Normally the statutory minimum holiday allowance of 8% will be paid to the employee once a year (for example in April or May). Subsequently we used a yearly salary of  $1,653.60 * 12.96 = 21,430.66$ , resulting in a gross monthly amount of EUR 1,786.

For Romania, the net salary may be higher, if the criteria for applying the exemptions specific to the construction industry are met. For the purpose of this exercise, the net salary was calculated as if the exemptions cannot be applied.

The ranking includes the 21 Member States that have a minimum wage set at national level, except for France where more information is needed to determine the net income. For Ireland, Spain, Romania and Latvia the gross minimum wage for the construction industry is different from the gross minimum wage set at national level, as explained above. Also, the ranking includes the Member States that do not have a minimum wage set at national level, but which have a minimum wage for the construction industry set in collective bargaining agreements. Exceptions are Switzerland, where the Swiss reference salary level cannot be determined on the basis of the information provided in the scenario, and Denmark where there is no minimum wage set for the construction industry. Cyprus and Sweden do not have a minimum wage for the construction industry.



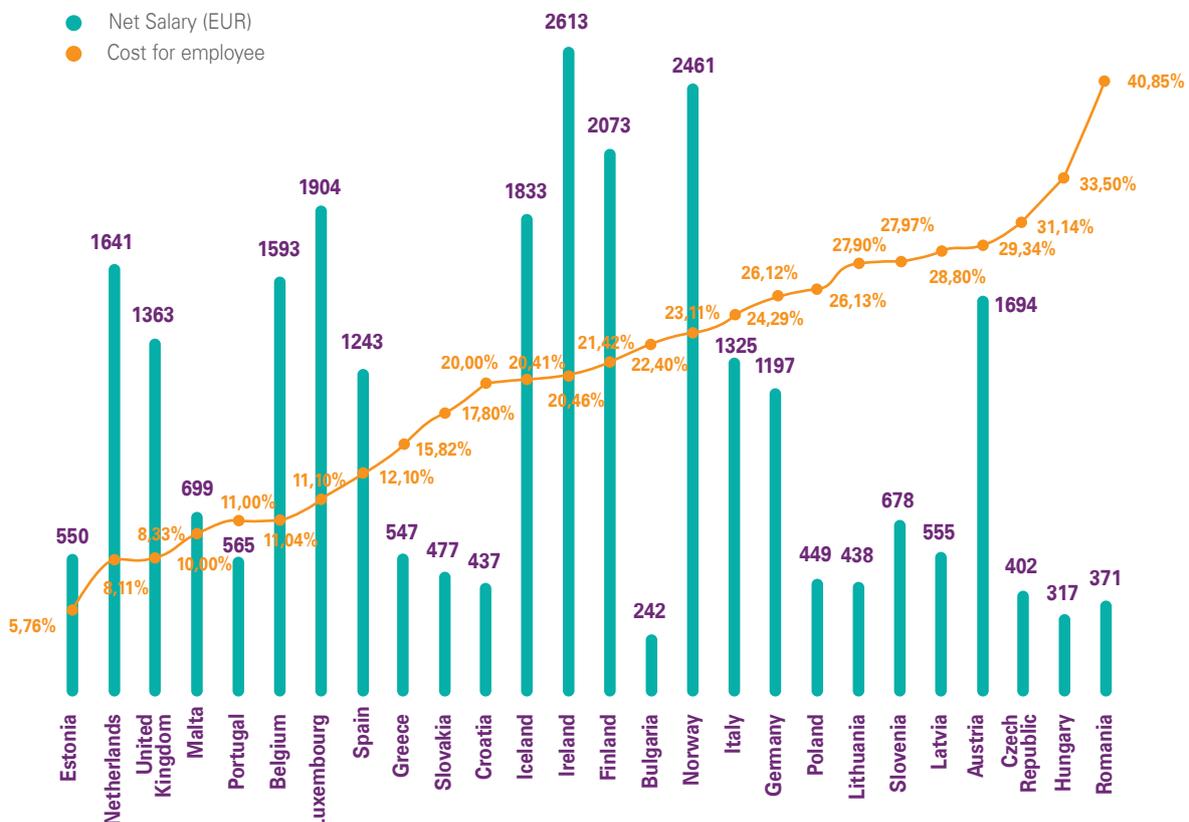
Therefore, in the above chart you can see the comparative net and gross minimum wages applicable in the remaining 26 Member States, for the scenario we have set out.

Even when looking at net amounts, Ireland and Luxembourg remain the Member States with the highest minimum wage. Countries which do not have a minimum wage set at national level at all, and which only have a minimum wage set through a CBA (i.e. Norway, Finland, Iceland, Austria, Belgium, Italy), are also placed at the higher end of the ranking.

When looking strictly at the net amounts, certain countries switch places in the general ranking. This is due to the different tax burden borne by the employee according to the domestic tax legislation of each Member State.

## But what about the tax rate? What is the cost for the employee?<sup>8</sup>

Surprisingly, countries with low minimum wages have higher employee tax costs. While Ireland, the country with the highest net salary (for the scenario concerned), has a tax burden of 20.46% for the employee, countries with the lowest minimum salaries, like Hungary and Bulgaria, have tax costs for the employee of 33.5% and 22.4%, respectively.



If we look closely, we notice that the highest cost for the employee is actually in Romania (40.85%), the country with the third lowest standard net minimum wage in the EU for the construction industry.

<sup>8</sup> The cost for the employee was calculated as total taxes covered by the employee (i.e. income tax and employee social security contributions) divided by the total gross salary.

# Registration requirements

## What is the current status of implementation of the New Posting Directive (Directive 2018/957/EU)?

Currently, in most Member States, the home entity is legally required to inform the labor authorities in the host Member State about the employee's activity in that country. Usually, this does not apply in the case of business travelers.

This notification can be made online, by e-mail or in written form directly with the relevant authorities.

There are no employment law registration requirements in relation to posted workers in Iceland, Norway, Switzerland and the UK. However, this should not be confused with any tax registration requirements, which may still be applicable even in these cases.

In some cases, the home entity may even have to appoint a representative in the host Member State to act as a contact person for the authorities. Even though this is merely an administrative procedure, penalties may be imposed in the case of non-compliance, so companies are advised to investigate the requirements applicable in the host country where the employees are carrying out their activity.

- Online submission
- By e-mail
- In written form
- No registration requirements

The EU Commission adopted the proposal for a revision of the Posting Directive on 28 June 2018 and the Directive must be implemented in each Member States' national legislation no later than 30 July 2020. Most of the Member States are currently working on this. Some early adopters include Belgium, France, Poland and Slovakia.

One of the major changes brought by the Directive is the concept of "remuneration", replacing the "minimum wage". It will be interesting to see exactly what the impact of this change will be. For some countries, like Belgium, the revised notion of "remuneration", will have no impact, given that, even now, all elements of remuneration need to be paid to assignees as of the first day of work carried in Belgium.



# Country by country report



This section includes information specific to each Member State on:

—  
Minimum wage requirements and items that can be included in the minimum wage

—  
Working time

—  
Registration requirements

—  
Penalties for non-compliance

—  
Status of implementation of the New Posting Directive

—  
Any significant ECJ cases

—  
Public sources of information



# AUSTRIA



## Minimum wage at national level

Austria does not have a minimum wage set by law, as there is no separate legislation relating to a minimum wage requirement.

## Minimum wage set through collective bargaining agreements

The rules of the Anti-Wage and Social Dumping Act (LSD-BG) apply, and the Austrian minimum wage regulations must also be complied with. Collective bargaining agreements (or minimum wage scales) set a minimum standard.

The minimum wage in the bargaining agreements changes annually. Every year there is a percentile increase in the minimum wage. Some industries raise the minimum wage at the beginning of the year, while others change it during the year (e.g. 1 November).

The minimum wage is determined based on industry (retail, construction, metal, print and paper, and the services sector) and on the occupation of the employee (depending on the qualification level of an employee, the employer has to assign a rating at the beginning of the period of employment).

Furthermore, foreign employees are entitled to allowances such as Christmas bonus, holiday allowance and overtime premiums. Except for overtime salary, these allowances are only granted if the bargaining agreement (or the minimum wage scale) regulates it. Otherwise the employee is not entitled to them. Generally (unless otherwise provided for by the collective bargaining agreement) these allowances are granted on the basis of the monthly wage.

## What can be included in the minimum wage

Every foreign employee working in Austria must receive the minimum wage which is stipulated in Austrian law, the applicable collective agreement or the minimum wage scale. Administrative penalties have been applied since May 2011 for failure to comply: Since 2015, claims for surcharges, other surcharges and overtime pay have also been included in the minimum wage basis.

On the other hand, expense allowances (such as lump sums e.g. taxfree per-diems) cannot be credited against the minimum wage.

If national Austrian provisions provide entitlement to special payments, monthly pro-rata amounts must be paid out to the employee. Since 1 January 2017, this has also applied for supply of temporary workers. The only exemptions from the minimum wage requirement are remuneration components which are non-contributory according to Section 49 para 3 (e.g. expense reimbursements, tax and non-contributory daily allowances, dirt-surcharge) of the Austrian General Social Insurance Act (Allgemeines Sozialversicherungsgesetz - ASVG), as well as remuneration components which are only due according to the individual employment contract or company agreements (e.g. special payments, performance bonus).

If one of the exceptions mentioned in Section 1 para 5, 6 LSD-BG applies (see below "Registration requirements"), the minimum wage regulations of Austria do not have to be observed.

Included in the minimum wage	Not included in the minimum wage
Basic salary/basic wage	Tax-free per-diems
Overtime payments	Housing (if an expense reimbursement)
Bonuses	Transportation costs
Surcharges (e.g. overtime surcharge (50%/100%), shift bonus, hardship allowance, hazard bonus)	Meal costs, dirt surcharge
Special payments (foreign service premium, cost of living allowance, hardship premium, country allowance, assignment allowance)	Severity allowance
Idle time compensation	Performance bonus

## Legal hours

Since 1 September 2018 the maximum legal hours have not been permitted to exceed 12 per day and 60 per week.

## Implementation of Enforcement Directive 2014/67/EU

In the course of amendment of (in particular) trans-border measures to combat Wage and Social Dumping EU Directive 2014/67 has been tightened and new regulations came into force starting

from 1 January 2017 in the form of a special Law against Wage and Social Dumping ("Lohn- und Sozialdumping-Bekämpfungsgesetz" – "LSD-BG"). The LSD-BG is also applicable for employees assigned or hired-out from foreign countries to Austria i.e. for employees of foreign employers. The above mentioned provisions are applicable for any kind of activity carried out in Austria. However there are exemptions ("list of exceptional cases") for certain short-term, small-scale activities in Austria which are not considered to be an assignment or hiring-out of employees, if the work carried out is not considered to lead to competitive distortions in Austria.



## Registration requirements

In the case of transnational posting of (temporary) workers, who are employees, by a company based in the EEA or Switzerland, these must be reported prior to commencement of work to the Central Coordination Office for the Control of Illegal Employment (in German: "Zentrale Koordinationsstelle des Bundesministeriums für Finanzen für die Kontrolle illegaler Arbeitnehmerbeschäftigung") (for posted employees by use of form ZKO 3, for hired-out employees by use of form ZKO 4).

For this purpose, only the electronic forms of the Federal Ministry of Finance may be used. The most important exemptions are highlighted below. Please note that these exemptions are applicable for short-time assignments only (as defined), except for the last one (temporary intragroup assignments/hiring-outs) which is also applicable for the hiring-out of employees:

- Participation in seminars, as long as no further services are rendered.
- In cases involving "transit traffic," activities by mobile employees or crew-members in the crossborder transport of goods or passengers (starting 1.1.2017).
- Activities as an employee of internationally active groups or companies, if the employee concerned receives a monthly gross remuneration of at least 125 percent of thirty-times the daily ASVG-maximum contribution basis (2020 : € 6.712,59).
- Temporary intra-group assignments or hiring out of especially qualified employees for a maximum of two months per calendar year, as long as the work in Austria is for the purposes of research and development, planning of project work, holding of a training course, or otherwise for the purposes of exchanging experiences, consulting the company, or controlling or participating in a cross-border group-department with management and planning functions.
- Business meetings, as long as no further services are rendered.
- Trade fairs and events similar to trade fairs (this exemption is not applicable for preparatory and concluding work).
- Attending and participating in conferences.



## Penalties for non-compliance

Offence	Penalties starting 1.1.2017
Not keeping the A1 form available (if LSD-BG is applicable)	<b>in the case of an assignment:</b> € 1,000 – € 20,000
Failure to register (and not keeping the form in case of assignment) ZKO 3/ZKO 4	<b>In case of assignment and hiring out of employees</b> € 1,000 – € 10,000
Not keeping the wage/salary documents available (such wage/salary documents which are required for establishing the remuneration due to the employee under Austrian law, whereby these shall be in the German language (except for the service-contract, which may be English) and must be available during the entire period of posting to the place of work/deployment in Austria)	<b>up to 3 employees:</b> € 1,000 – € 20,000 <b>more than 3 employees:</b> € 2,000 – € 50,000
Minimum rates of pay are undercut (underpayment during several periods of salary payment, causes only one offence; payments that surmount payments according to a provision, law or collective bargaining agreement are charged against underpayments in the respective period of salary payment; for special payments for employees underlying the ASVG, an offence of underpayment only takes place if the special payment is not paid or not fully paid by December 31 of the respective calendar year; penalties also apply for home workers if payments do not correlate with law or provisions under consideration of applicable classification rules)	<b>up to 3 employees:</b> € 1,000 – € 20,000 <b>more than 3 employees:</b> € 2,000 – € 50,000

In principle, the LSD-BG provides for a minimum fine to be imposed per employee. However, following a decision of the ECJ (C-64/18), the Austrian Administrative Court ruled that in the case of several breaches of compliance under the LSD-BG, only a single penalty may be imposed up to the maximum level provided for by law (and no longer per employee). Under certain conditions, it is possible that the employer may even be forbidden from carrying out activity in Austria for up to five years.



## New Posting Directive

The EU Commission adopted a proposal for a revision of the Posting of Workers Directive on 28 June 2018 - Directive (EU) 2018/957. The Directive must be incorporated into national law by 30 July 2020. The outstanding issues concern in particular expense reimbursement and accommodation, cross-border supply of temporary workers, long-term postings and improvements in enforcement.

Due to the political situation in Austria in 2019, Directive (EU) 2018/957 has not yet been implemented into Austrian legislation.

Covid-19 is currently still pending the implementation of the directive. Legal changes are also expected in Austria, particularly with regard to exceeding the posting period of 12 or 18 months.



## ECJ significant cases

The ECJ has recently ruled on several occasions that the cumulation of administrative penalties for the violation of formal obligations for inbound services under the LSD-BG is disproportionate and therefore violates the freedom to provide services (e.g. ECJ 12.9.2019, C-64/18). The legal consequence to be derived from this has already been mentioned above.

The central labour inspectorate has reacted to the ECJ decision of April 11, 2019, C-254/18, in a new decree by tightening up the examination of the maximum permissible average weekly working time of 48 hours within a period of 17 calendar weeks in accordance with Para 9 of the Working Time Act (Arbeitszeitgesetz -AZG). From 2020, the calculation of average working time must no longer be carried out for fixed periods of time, but on a rolling basis, i.e. the 48-hour average must be observed in any 17 calendar week period.



## Public sources of information

Please see below a link which leads to the official website of the Austrian Federal Ministry of Labour, Social Affairs, Health and Consumer Protection. There you will find all important information relating to the application of minimum wage requirements and collective bargaining agreements.

[http://www.entsendeplattform.at/cms/Z04/Z04\\_10.3.5/collective-agreements/brief-overviews-of-the-collectiveagreements](http://www.entsendeplattform.at/cms/Z04/Z04_10.3.5/collective-agreements/brief-overviews-of-the-collectiveagreements)





# BELGIUM



## Minimum wage at national level

Belgium does not have a minimum wage set at national level.

## Minimum wage set through collective bargaining agreements

In Belgium, minimum wages are set at industry level, which is divided into various joint committees. Each joint committee (JC) applies different minimum wages, as concluded by a collective bargaining agreement (CBA).

Consequently, the change of the level of the minimum wage and the expected date for this change varies, depending on the applicable CBA. A system of automatic wage indexation also exists in Belgium, which is imposed by law, but set by CBAs.

The minimum wage in Belgium is determined as a fixed gross amount, subject to occupation, seniority and industry/sector. Below, we have provided the sectorial minimum wages for starters in the auxiliary joint committees for blue-collar and white-collar employees.

### Blue collar workers

JC n° 100: Auxiliary joint committee for blue-collar employees

EUR 1,611.34 gross / month

### White collar workers

JC n° 200: Auxiliary joint committee for white-collar employees

Category A: EUR 1,790.15 gross / month  
Category B: EUR 1,864.74 gross / month  
Category C: EUR 1,891.12 gross / month  
Category D: EUR 2,039.92 gross / month

If the relevant industry's CLA does not mention wages or there is no agreement, the guaranteed minimum monthly income (GMMI) still has to be complied with. This basic wage also differs depending on the age and seniority of the employee.

There are 3 minimum wages (gross amounts):

1. For employees who are at least 18 years old: EUR 1,593.81 gross /month
2. For employees who are at least 19 years old and have at least 6 months of seniority: EUR 1,636.09 gross/ month
3. For employees who are at least 20 years old and have at least 12 months of seniority: EUR 1,654.90 gross / month

It should be noted that the GMMI is not a minimum monthly income in the strict sense of the term, since it includes certain amounts such as an end-of-year bonus or a work placement allowance.

## What can be included in the minimum wage

In Belgium, only the basic salary and certain benefits in kind are considered to be part of the minimum wage. All other additional benefits and allowances must not be taken into account in order to calculate whether the minimum wage, as established by a CBA in the applicable joint committee, has been respected.

### Included in the minimum wage

Basic salary

Benefits in kind (housing, gas, electricity, water, heating, accommodation, food, tools and/or clothes, materials) at their actual value

### Not included in the minimum wage

Per-diems

Special payments pertaining to work performed outside Belgium (Foreign Service Premium, Cost of Living Allowance, Hardship Premium, Country Allowance, Assignment Allowance)

Bonuses

Transportation costs

Meal costs

Contributions to the group insurance scheme or hospitalization insurance



## Maximum working hours

In principle, the working hours of employees in Belgium may not exceed

8 hours per day and/or 38 hours per week. Nonetheless, this daily and weekly limit on working time may be exceeded in a number of well-defined circumstances and subject to certain specific conditions. For example, a working week of 40 hours is permitted with

the allocation of 12 compensatory days of rest over a one-year reference period. Moreover, certain industries have explicitly reduced the maximum of working hours, replacing the legal limits. Exceptions to the maximum working hours are possible if certain legal conditions are met.

## Implementation of Enforcement Directive 2014/67/EU

---

In Belgium, the Enforcement Directive (2014/67/EU) has been transposed into national law by the Act of 11 December 2016 containing various provisions on the posting of employees. This Act, which took effect on 30 December 2016, provided the relevant Belgian social inspectorates with additional tools to monitor and penalize cross-border social fraud more effectively.

In accordance with the Act of 11 December 2016, employers established in a Member State of the European Economic Area (EEA) and Switzerland who send employees who habitually work in a country other than Belgium to Belgium or who hire employees in a country other than Belgium to work on a temporary or part-time basis in Belgium ("posted employees"), must comply with certain Belgian labor law rules and some formalities.

This Act also requires that employers established in the EEA, who wish to post an employee to Belgium, should appoint a liaison officer and communicate this appointment to the Belgian social inspectorate via the Limosa website (see below), prior to this secondment. The liaison officer should be an individual who will be responsible, on behalf of the posting employer, for

providing the Belgian social inspectorate with the social documents required for inspections.

In this context, the Act of 11 December 2016 stipulates that, with certain exceptions, the employer (or the liaison officer) posting an employee to Belgium must be able to submit the following social documents to the Belgian social inspectorate, which may request a translation of these records into one of the national languages (Dutch, French or German) or into English:

- Copy of the employment contract of the posted employee.
- Overview of the working hours of the of the posted employee.
- Proof of payment of the posted employee's wages.
- Miscellaneous information relating to the conditions of repatriation of the posted employee.



## Registration requirements

---

Except for certain excluded categories of posted employees, the foreign employer must, prior to the actual employment of the posted employee on Belgian territory, submit an electronic notification to the Belgian National Social Security Office (NSSO) via [www.limosabe.be](http://www.limosabe.be).

It is, however, important to note that this so-called 'Limosa-notification' has nothing to do with the work and employment permits that may be required for the employment of foreign employees in Belgium. Furthermore, if the employer does not meet its obligations on the prior Limosa-notification of posted employees, the Belgian end user or principal is required to do this.



## Penalties for non-compliance

---

Non-compliance by the employer with regard to the rules on the minimum wage, the maximum working hours, the liaison officer or the social documents is penalized in Belgium with a level 2 penalty, consisting of either a criminal fine of between EUR 400.00 and EUR 4,000.00 or an administrative fine of between EUR 200.00 and EUR 2,000.00. The fine (criminal or administrative) must be multiplied by the number of employees concerned, without being able to exceed one hundred times the maximum fine per employee.

Non-compliance by the end user or the principal with regard to the rules on the prior Limosa-notification for posted employees is penalized in Belgium with a level 3 penalty, consisting of either a criminal fine of between EUR 800.00 and EUR 8,000.00 or an administrative fine of between EUR 400.00 and EUR 4,000.00. The fine (criminal or administrative) must be multiplied by the number of employees concerned, without being able to exceed one hundred times the maximum fine per employee. The same penalties apply for an assigned self-employed worker has not duly reported his/her activities via Limosa, if the activities are pursued in a high risk industry (construction, the meat processing industry and the cleaning industry).

Non-compliance by the employer with regard to the rules on the prior Limosa-notification for posted employees is penalized in Belgium with a level 4 penalty, consisting of either a prison sentence of between 6 months and 3 years and a criminal fine of between EUR 4,800.00 and EUR 48,000.00 or one of those penalties alone, or an administrative fine of between EUR 2,400.00 and EUR 24,000.00.

The fine (criminal or administrative) must be multiplied by the number of employees concerned, without being able to exceed one hundred times the maximum fine per employee.



## New Posting Directive

As currently mandatory Belgian labor law, in so far as it is subject to criminal penalties, is already applicable as of the first day of work performed in Belgium by the posted employee, and since non-compliance with Belgian labor law is to a large extent subject to criminal penalties, the impact of the revised Posting Directive for postings of employees to Belgium has to be considered as minor.

For example, the revised notion of 'remuneration' will not have any impact in Belgium, given the fact that the non-payment of any remuneration element is subject to criminal penalties and therefore already needs to be paid as of the first day of work carried out in Belgium.



## ECJ significant cases

In the case of "Thermotec NV" of December 3, 2014 (C-315/13), the European Court of Justice decided that the prior Limosa-notification obligation for the end user in the context of the posting of foreign employees to Belgium is not contrary to the European free movement of services, at least in so far as it serves to protect employees and combat social fraud, given the fact that the measure is appropriate and does not go beyond what is necessary to achieve the aforementioned objectives.



## Public sources of information

<https://www.employment.belgium.be/en>

[https://www.international.socialsecurity.be/working\\_in\\_belgium/en/limosa.html](https://www.international.socialsecurity.be/working_in_belgium/en/limosa.html)





# BULGARIA



## Minimum wage at national level

Bulgaria has a minimum wage set at national level. From January 2020 the minimum wage is BGN 610 per month (approximately EUR 305), compared to BGN 560/month (approximately EUR 280) in 2019. The minimum wage is revised on an annual basis.

## Minimum wage set through collective bargaining agreements

The minimum wage requirement in Bulgaria is fixed regardless of the industry, age or occupation. However, the minimum insurable income varies depending on the occupation and is generally higher than the minimum wage.

## New Posting Directive

Directive (EU) 2018/957 has not been transposed into Bulgarian national law.

## Public sources of information

<https://www.mlsp.government.bg/>  
[https://www.mlsp.government.bg/index.php?lang=\\_eng](https://www.mlsp.government.bg/index.php?lang=_eng)  
<http://www.gli.government.bg/page.php?c=211>  
<https://postedworkers.gli.government.bg/>

## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Per-diems
Annual paid leave	Housing
	Transportation costs
	Meal costs

## Legal hours

In Bulgaria, the maximum legal working hours are 8 hours/day, equivalent to 40 hours/week

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive was transposed by Bulgaria by way of amendments to the Bulgarian Labor Code promulgated on 30 December 2016 and by the adopted Ordinance for the conditions and procedure for posting of employees within the framework of provision of services ("the Ordinance") effective from 10 January 2017.

The Ordinance applies to employers registered in a Member State of the EU/EEA, in Switzerland or a third country posting employees to Bulgaria, provided that the posting is temporary and there is an employment relationship between the sending employer and the employee during the period of posting.

## Registration requirements

Employers registered in a Member State of the EU/EEA, in Switzerland or a third country posting employees to Bulgaria must notify the local labor inspectorate in whose territory the activity is to be carried out, by submitting an application

in standard form, prior to the commencement of provision of services related to the posting.

The applications should be submitted electronically through the single national website of the General Labour Inspectorate

<https://postedworkers.gli.government.bg/>

The foreign employer is also required to notify the labor inspectorate about changes in the posting conditions.

## Penalties for non-compliance

For non-compliance with the provisions of labor legislation the labor authorities may impose penalties of: i) from BGN 1,500 to BGN 15,000 (approximately EUR 770 to EUR 7,700) per breach for the employer and ii) from BGN 1,000 to BGN 10,000 (approximately EUR 510 to EUR 5,120) per breach for the responsible officer. For recurring violations the penalties are i) from BGN 20,000 to BGN 30,000 (approximately EUR 10,000 to EUR 15,000) for the employer and ii) from BGN 5,000 to BGN 10,000 (approximately EUR 5,000) for the responsible officer.

For a local entity which has accepted a posted employee from another Member State of the EU/EEA or Switzerland, or an employee from a third country in breach with the terms and conditions of posting within the framework of the provision of services, a fine of BGN 5,000 for each employee (and for a second offense from BGN 5,000 to BGN 10,000) may be imposed.



# CROATIA



## Minimum wage at national level

All employees who work in Croatia, irrespective of the industry, occupation or age, are entitled to a minimum wage in accordance with the Croatian Minimum Wage Act (Official Journal of Croatia No. 118/18).

Under Government Decree (Official Journal No. 106/19), the gross minimum wage in Croatia in the period between 1 January 2020 and 31 December 2020 is HRK - 4,062.51 per month (the equivalent of approximately EUR 546). During 2019 the minimum wage was set at HRK 3,750 (the equivalent of approximately EUR 506). The minimum wage is updated annually.

In certain cases, the applicable wage can be lower than the minimum wage set by the Croatian Minimum Wage Act, if that wage is part of a collective bargaining agreement. However, even in such cases, the wage cannot be lower than 95% of the minimum wage set by the Croatian Minimum Wage Act - i.e. HRK 3,859.38 (the equivalent of approximately EUR 519).

## Minimum wage set through collective bargaining agreements

In general, in cases when the minimum wage is set through collective bargaining agreements, the amount of the minimum wage depends on the complexity of the particular work position.

For example, the Collective Agreement for the Construction Industry (Official Journal No. 115/25 and 26/18) includes Appendix 1 ("Tariff Rates") which deals with the complexity factors for the calculation of the basic wage for particular work positions in the construction industry. Under the Tariff Rates, work positions in the construction industry are divided into 10 different complexity groups.

The minimum wage for the simplest work positions in the construction industry (e.g. transport worker or cleaner) cannot be lower than HRK 3,859.39 per month (the equivalent of approximately EUR 519). On the other hand, the minimum wage for the most complex work positions in the construction industry (e.g. construction project manager) cannot be lower than HRK 9.937,50 per month (the equivalent of approximately EUR 1,340). The mentioned amounts are gross.

## What can be included in the minimum wage

### Included in the minimum wage

Basic salary/ basic wage

### Not included in the minimum wage

Overtime payments

Night work, work on Sunday and work on holidays

Bonuses

Per-diem

Housing

Transportation costs

Meal costs

Special payments (Foreign Service Premium, Cost of Living Allowance, Hardship Premium, Country Allowance, Assignment Allowance)



## Legal hours

The maximum legal working hours are 40 per week. Any additional work is considered overtime.

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive was implemented into the Croatian legal system by the Law on Amendments to the Croatian Law on Foreigners (Official Journal No. 69/17) which came into effect on 22 July 2017.

According to the Croatian Law on Foreigners (Official Journal No. 130/11, 74/13, 69/17 and 46/18), a posted worker

is an employee of a foreign employer with its headquarters in another EEA country, who is assigned to provide cross-border services for a limited period in Croatia.

## Registration requirements

Prior to the commencement of work of posted workers in Croatia, an EEA employer has to submit a posting declaration to the Labor Inspectorate. The posting declaration has to be submitted electronically, in the form and with all mandatory information as prescribed by the by-law on the form and content of a posting declaration, as set out by the Croatian Minister of Labour.

EEA employers which post workers to Croatia must nominate in the posting declaration a person in Croatia who will

act as the contact person for the Croatian authorities for the purpose of exchanging documents, requests, notices and other letters as well as a person responsible for safekeeping of certain legally prescribed documents related to the employment of a posted worker.



## Penalties for non-compliance

For non-compliance with the above minimum wage requirements, fines, which range from HRK 60,000 (approx. EUR. 7,926) to HRK 100,000 (approx. EUR 13,210) for the employer and HRK 7,000 (EUR 925) to HRK 10,000 (approx. EUR 1,321) for its responsible person can be imposed.

A failure to submit the posting declaration prior to the commencement of posting, or a failure to nominate a designated person who will keep documents as well as a person who will act as the contact person for the Croatian authorities can result in fines of up to HRK 50,000 (approximately EUR 6,600) for the foreign employer, and in fines of up to HRK 10,000 (approximately EUR 1,300) for its responsible person.

The same fines apply for a Croatian service recipient who knew or ought to have known that a posted worker engaged to provide services is not validly employed by a foreign employer.



## New Posting Directive

Directive (EU) 2018/957 has not yet been transposed into Croatian domestic law. Based on the available plan of legislative activities of the Croatian Government for 2020, Directive (EU) 2018/957 will be transposed into the new legislation titled the Law on Posting of Workers to Croatia.

A draft of the legislation is still not publicly available; however, given that it is currently under discussion at government level, it is expected that the Croatian legislation will be aligned with the Directive soon.



## ECJ significant cases

Case ECJ C-64/18 relates to Croatian workers posted to Austria ("Maksimovic and Others"). The case concerned the Croatian company, Brodmont d.o.o. which, based on a contractual agreement with Bilfinger Duro Dakovic Montaza d.o.o., leased more than 200 employees to an Austrian plant manufacturer, Andritz AG, for the purpose of short-term work on a boiler plant in Austria. During a construction site inspection at the boiler plant, the Austrian authorities revealed that Brodmont d.o.o had not complied with posted workers legislation and imposed fines exceeding EUR 13 million .

The European Court of Justice (ECJ) ruled in joined cases for "Maksimovic and Others" that fines imposed under Austrian legislation for failure to comply with the obligations for posted workers are disproportionate.



## Public sources of information

Please find below a link to the web page of the Croatian Ministry of Labor and Pension System which provides a detailed overview in English of the Croatian minimum wage legislation and obligations of foreign entities assigning personnel to Croatia:

<https://mrms.gov.hr/information-for-service-providers-performing-temporary-services-in-croatia-posted-workers-and-service-users-7189/7189>



# CYPRUS



## Minimum wage at national level

Currently there is no minimum wage at a national level. However, there is a minimum wage applied only to certain occupations and this is determined as a fixed amount or as an hourly rate.

## Minimum wage set through collective bargaining agreements

Not Applicable

## Legal hours

Cyprus has a legal limit of 8 working hours per day and 48 working hours per week.

## Implementation of Enforcement Directive 2014/67/EU

Effective 16 June 2016, the Directive's rules were transposed into the Law "concerning the posting of workers in the framework of the provision of services" ("hereinafter Law.63(I)/2017").

Law. 63(I)/2017 was introduced as part of the Cyprus's Labor legislation, based on the provisions of Directive 2014/67/EU, to monitor the terms of an assignment as being genuine whilst protecting the rights of posted workers

## What can be included in the minimum wage

Assignment allowances such as per diems, cost of living allowances, foreign services premiums, and bonuses are not included in the minimum wage. However, the minimum wage may include commissions.

### Included in the minimum wage

Basic salary/ basic wage

### Not included in the minimum wage

Per-diems

Housing

Transportation costs

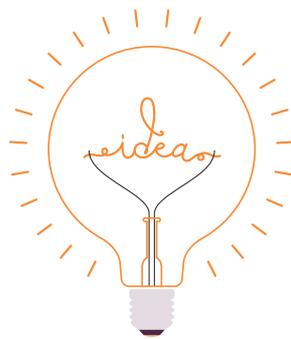
Meal costs

Special payments (Foreign Service Premium, Cost of Living Allowance, Hardship Premium, Country Allowance, Assignment allowance)

Bonuses

Overtime payments

Commissions



## Registration requirements

Every employer or their representative and any seconded worker to that employer must, when requested by the Cyprus Labor Department, provide any information, books, records, certificates or other documents or any other information relating to the employment relationship, posting terms, and the nature of services provided, as regulated in Law. 63(I)/2017.

Furthermore, the relevant approval is required prior to the commencement of the posting, and therefore a notification should be submitted to the Department of Labor, at least a week before the planned posting commences.

The law provides that in place of the employer, a representative may be appointed to provide relevant details to the authorities upon request.

Law. 63(I)/2017 requires the receiving company in Cyprus, to which the employees have been assigned, to hold and make available to the Cyprus Labor

Department, upon request, certain documents relating to the employment relationship, posting terms and the nature of services provided.



## Penalties for non-compliance

Non-compliance with the provisions of Law. 63(I)/2017, may result in imprisonment for up to 2 years or to a fine not exceeding fifty thousand euros (€ 50,000) or both.



## New Posting Directive

The Directive has not been transposed into Cyprus legislation to date. It is expected that this will happen by 30 July 2020.

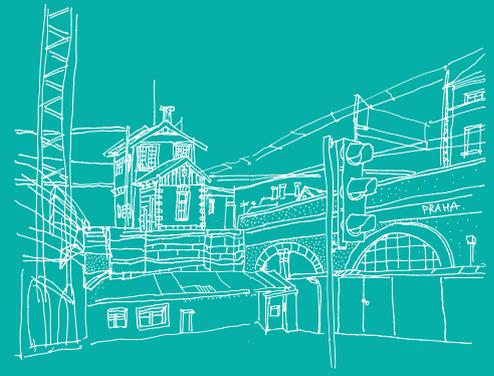


## Public sources of information

Official Labor Department URL:  
[http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/index\\_en/index\\_en?OpenDocument](http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/index_en/index_en?OpenDocument)



# THE CZECH REPUBLIC



## Minimum wage at national level

The Czech Republic has a minimum and also guaranteed wage requirement set by law. The minimum and the guaranteed wage is determined as a monthly amount and as an hourly rate.

The minimum and the guaranteed wage is revised by the Government generally every year, with effect as from 1 January.

The current level of the minimum wage is applicable as from 1 January 2020.

The minimum wage per hour is CZK 87.30 (approx. EUR 3.5), while the minimum wage per month is CZK 14,600 (approx. EUR 584), which is applicable to all employees.

In 2019, the minimum wage per hour was CZK 79.80 (approx. EUR 3), while the minimum wage per month was CZK 13,350 (approx. EUR 517.45). Apart from the minimum wage, Czech labor law also includes minimum levels of wage in relation to the difficulty and responsibility of the relevant work, which is called a 'guaranteed wage'.

Based on the Government regulation there are 8 levels for the guaranteed wage. The levels of guaranteed wage for the year 2020 vary between CZK 14,600 per month or CZK 87.30 per hour for the jobs of the lowest complexity, responsibility and difficulty (which is the minimum wage) to CZK 29,200 per month or CZK 174.60 per hour for the jobs of the highest complexity, responsibility and difficulty.

Both the minimum and guaranteed wage requirements apply only if the employee is posted to the Czech Republic for more than 30 days in a calendar year (unless it is an agency employment).

## Minimum wage set through collective bargaining agreements

The levels of the minimum and guaranteed wage may also be set through collective bargaining agreements at a higher-level, which may be concluded for individual branches of business.

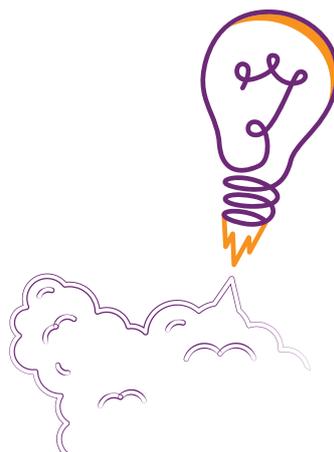
The existence of a collective bargaining agreement at a higher-level for the relevant branch of business, and the question whether such an agreement sets the level of minimum / guaranteed wage at different levels from that in legislation has to be assessed individually.

## What can be included in the minimum wage

Generally, the wage and all bonuses provided in consideration for performance of work are considered a wage for the purposes of the minimum and guaranteed wage. However, wages and surcharges for overtime work, extra pay for work on public holidays, work at night or weekends or payment for work in an unfavorable working environment cannot be considered part of the minimum wage.

The minimum wage also does not include benefits that are not provided in consideration for the performance of work, especially wage compensation, severance pay, travel expenses, loyalty benefits or remuneration for carrying out on-call duty.

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Per-diems
Bonuses provided in consideration for the performance of work	Housing fees
	Transportation costs
	Meal costs
	Travel allowances in general
	Special payments (Foreign Service Premium, Cost of Living Allowance, Hardship Premium, Country Allowance, Assignment allowance)
	Severance payments
	Overtime payments
	Payments for work during nights, weekends and/or public holidays, for the performance of work in an unfavorable working environment
	Remuneration for performing on-call duty
	Bonuses and benefits provided not in consideration for the performance of work (e.g. loyalty benefits)





## Legal hours

The maximum number of legal working hours in the Czech Republic is generally 40 per week (plus possible overtime to the extent permitted by law).

## Implementation of Enforcement Directive 2014/67/EU

In the Czech Republic, the provisions of Directive 2014/67/EU of the European Parliament and of the Council on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System were implemented through amendment of three national Acts: Act no. 435/2004 Coll., the Employment Act, as amended; Act no. 262/2006 Coll., the Labor Code, as amended; and Act no. 251/2005 Coll., on Labor Inspection, as amended.

Under Czech laws, both the sending employer and the accepting employer must fulfil certain statutory requirements when an employee is posted for the performance of work within the transnational provision of services in the Czech Republic. Some of the minimum standards of working conditions and remuneration that must be guaranteed to the assigned

employees apply only when the employee is posted for more than 30 days in aggregate within a calendar year.

The conditions may also differ if an employee is posted for the performance of work within the transnational provision of services by an employment agency.

The foreign employer (the sending employer) must also provide the assigned employee with the documentation proving the existence of the employment relationship between them (i.e. particularly the employment contract and assignment letter) together with a translation of these documents into Czech. These documents must be available at the assigned employee's workplace in the Czech Republic throughout the assignment.



## Registration requirements

According to the Employment Act, the foreign (sending) employer who posted the foreign employee to perform work in the Czech Republic is required to inform the Czech Labor Office in writing about certain information, e.g. identification details of the employee, address, travel document (passport) details, type and place of work, timeframe etc., on the day of commencement of work at the latest. Once notified, the information must be kept updated - any change or termination of posting in the Czech Republic must be notified within 10 calendar days.



## Penalties for non-compliance

Penalties for non-compliance with the minimum wage requirement can be up to CZK 2 mil. (approx. EUR 74,000).

Penalties for non-compliance with the requirement to make the documentation proving the existence of the employment relationship between the foreign employer and the assigned employee together with translation into Czech available at the workplace in the Czech Republic can be up to CZK 500,000 (app. EUR 20,000).

Non-compliance with the registration and other consequent requirements may result in penalties, the amount of which depends on the severity, whether it was a repeated breach etc. In general, the penalties that can be imposed on the employer differ depending on whether the employer is an individual or a legal entity. The amount of the penalty can be up to CZK 100,000 (approx. EUR 3,900) for certain violations. Penalties are imposed by the Czech Labor Inspectorate.



## New Posting Directive

The EU adopted a revision of the Posting of Workers Directive on 28 June 2018 - Directive (EU) 2018/957. The Directive must be transposed into national law by 30 July 2020. In the Czech Republic, the local act implementing the New Posting Directive is currently being discussed by the Czech Parliament and it is expected to be effective as of 30 July 2020.



## Public sources of information

Official website of the Czech Ministry of Labor and Social Affairs  
<https://www.mpsv.cz/web/en>

Website of the Czech Labor Office  
<https://www.uradprace.cz/web/en>

Minimum requirements  
[http://www.suip.cz/\\_files/suip-637def9ba0a2988aa361547ac6c31099/mpsv\\_2020\\_01\\_en.pdf](http://www.suip.cz/_files/suip-637def9ba0a2988aa361547ac6c31099/mpsv_2020_01_en.pdf)



# DENMARK



## Minimum wage at national level

In Denmark there is no statutory minimum wage, and no provision on minimum wages is included in the Danish Secondment/Posting Act, which implements the EU Posting of Workers Directive. Generally, this means that if an EU employee is posted by the home-country employer to deliver services to a Danish company in Denmark, no minimum wage will apply.

## Minimum wage set through collective bargaining agreements

However, in Denmark, pay and working conditions are typically laid down by collective bargaining agreements concluded between trade unions and employers' organizations. This system of labor market regulation is referred to as the Danish Model. The collective bargaining agreements include provisions on the minimum wage and other working conditions.

These Danish collective bargaining agreements are not of general application and will generally not apply if an EU employee is seconded to Denmark as mentioned above. However, the EU employer may need to observe collective bargaining requirements from the relevant Danish unions in their field of activity.

As a consequence, the Danish company receiving the services from the foreign employee may - due to the company's collective bargaining agreement(s), if the company is subject to any - be required to ensure or be encouraged to ensure that the minimum wage and working conditions are provided to posted employees as well.

If any collective bargaining agreements apply or must be followed, these are typically renegotiated every third year and this may involve a change in the minimum salary. The minimum wage set by the collective agreements may vary depending on occupation, industry, length of service, education, skills, experience, age, etc.

## What can be included in the minimum wage

The minimum wage includes the base salary and any mandatory allowances and fees stated in the relevant collective bargaining agreement. However, it will depend on the content of the specific collective bargaining agreement.

## Legal hours

In relation to the maximum legal working time, Danish legislation includes different mandatory provisions. The legislation states that the number of working hours must not exceed 48 per week on average (including overtime) within a period of 4 months. Moreover, employees are entitled to a break if the number of daily working hours exceeds six.

With regard to night work, employees may only work 8 hours per day on average in a period of 4 months. As a general rule in Danish legislation, the working hours must be arranged in such a way that the employees have a period of rest of at least 11 continuous hours within each period of 24 hours.

Danish collective bargaining agreements also include different provisions relating to working hours. Collective bargaining agreements typically state that the normal working hours are 37 per week.

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive was transposed by Denmark by means of Law no.626 of 08/06/2016 and was effective as from 18 June 2016. For employers to comply with the Directive, they are required to register in the

Register of Foreign Providers (RUT). Furthermore, the Labor Market Fund for Posted Workers (AFU) was established effective from 18 June 2016. The purpose of the fund is to ensure that posted workers are secured salaries at the correct level during posting. AFU can pay out salaries, pensions, holiday pay, allowances etc. if the work performed is covered by a collective agreement, and the case has been heard by a labor court.

Amongst a number of conditions that must be met before payment by the AFU is induced, it is required that the foreign companies must be domiciled in the EU/EEA, and the injured party must make an attempt to recover the outstanding amount from the foreign company subsequent to the hearing of the case by the labor court. Further, the companies connected to any payments by the AFU will be listed on a publicly available database.

All Danish and foreign companies which pay ATP contributions in Denmark for their employees are automatically charged a contribution to the AFU. Companies which temporarily supply services in Denmark and which do not pay ATP contributions for their employees are liable for the payment of the AFU contribution. This is charged through a registration in the RUT (see above). The AFU contribution in 2018 is approximately 0.15 EUR per quarter per employee.



## Registration requirements

For employers to comply with the Directive, they are required to register in the Register of Foreign Providers (RUT). RUT is an online service and the website offers information in both Danish, English, German and Polish.

The sending company has to set up an account before they can register. The sending company is responsible for correct information about the workplace, period and the person(s) performing the work.

The registration must be concluded before the work is carried out or no later than at the beginning of the activity. Any changes must be notified in the RUT no later than the first working day after the change has entered into force. Changes which must be notified include a new workplace, new posted workers or a longer time period.

The company is required to provide the assignor with the documentation for the registration in RUT. The company can upload an 'A1 certificate' to demonstrate that the employee is covered by social security in the home country. This documentation is still only voluntary.



## Penalties for non-compliance

Non-compliance may result in penalties being issued by the Danish Working Environment Authority, which can impose fines of 10,000 DKK. In particularly serious cases the fine is 20,000 DKK. Penalties are levied in the following cases:

- Failure to register on time or registration of incorrect information
- Failure to provide documentation when required by the authorities
- Failure to provide documentation to the assignor for timely and accurate notification in the RUT

In the case of non-compliance with the minimum wage requirements, the penalties will depend on the relevant collective bargaining agreement.



## New Posting Directive

The EU Commission adopted a proposal for a revision of the Posting of Workers Directive on 28 June 2018 - Directive (EU) 2018/957. The Directive has not been implemented yet.





# ESTONIA



## Minimum wage at national level

Estonia has a national minimum gross wage requirement. From 2020 the level of the minimum gross wage applicable to blue collar workers and other EU nationals for full time employment is set at EUR 584 per month. This represents an increase from EUR 540 per month which was the level during 2019.

The current minimum gross wage for highly skilled workers, whether they are EU nationals or non-EU citizens who are holders of the European Union (EU) blue card, is currently EUR 1,965 per month. However, the employer is required to pay remuneration to an alien during the period of validity of an EU Blue Card of at least the equivalent of 1.5 times the annual average gross monthly salary, as last published by Statistics Estonia (the new annual average gross monthly salary will be published in March 2020).

In the following cases, the minimum gross wage for an EU Blue Card holder is currently EUR 1,624.

However the employer is required to pay remuneration to a foreigner of at least the equivalent of 1.24 times the annual average gross monthly salary, as last published by Statistics Estonia (the new annual average gross monthly salary will be published in March 2020):

- Employment as a top specialist or a junior administrator
- Employment as a top specialist in natural or technical science.
- Employment as a top specialist in the health service.
- Employment as a specialist in pedagogics.
- Employment as a specialist in business or administration.
- Employment as a specialist in information or communication, or
- Employment as a specialist in the legal, cultural or social sphere.

The current minimum gross wage for a foreigner working as a top specialist, with appropriate professional training or

experience for employment in the field, is EUR 2,620 per month.

However, the employer is required to pay remuneration to a foreigner working as a top specialist of at least the equivalent of 2 times the annual average gross monthly salary, as last published by Statistics Estonia. (The new annual average gross monthly salary will be published in March 2020).

The minimum gross wage for a foreigner working as an expert, adviser, consultant or skilled worker is EUR 1,310 per month.

However, the employer is required to pay remuneration to a foreigner of at least the equivalent of the annual average gross monthly salary, as last published by Statistics Estonia (The new annual average gross monthly salary will be published in March 2020).

## Minimum wage set through collective bargaining agreements

The national minimum gross wage is agreed between Estonian Trade Union Confederation and Estonian Employers' Confederation and set by the government. Collective bargaining agreements are not very common in Estonia. However, there are some agreements that could be highlighted:

### 1. Estonian Healthcare Professionals' Association

Profession	Hourly rate (EUR)
Doctors	13.30
Specialist doctors	14.40
Nurses, midwives and health care professionals	8.00
Ambulance technicians	6.80
Emergency medical technicians	7.20
Care workers	5.00

### 2. Estonian Educational Personnel Union:

The minimum wage for a school teacher in 2020 is EUR 1315 per month;

### 3. Transport and Road Workers' Union:

From 13 April 2020, the gross wage of full-time bus, trolleybus and tram drivers licensed under the Community license, route authorization and public service contract will be at least EUR 1050 per month.



## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/basic wage	Per-diems
Overtime payments	Housing
Vacation payments	Transportation costs
Study leave	Meal costs
	Special payments (Foreign service premium, Cost of living allowance, Hardship premium, Country allowance, Assignment allowance)
	Bonuses



## Registration requirements

The employer of a posted employee is required to provide the Labor Inspectorate with information concerning the posting no later than on the day the posted employee commences the performance of work in Estonia.

The registration application is available on the Labor Inspectorate's web page. Completed applications should be sent to the following e-mail address: [posting@ti.ee](mailto:posting@ti.ee).



## Penalties for non-compliance

The Estonian Employment Contracts Act states that wages falling below the minimum wage established by the government may not be paid to an employee.

If the person providing work has not registered the commencement of employment of a worker by the deadline specified in the Estonian Taxation Act or has failed to register the termination of employment, the tax authority may set an additional deadline for registration and issue a warning to the effect that a penalty payment may be applied upon failure to register the obligation.

If a person providing work has not complied with the obligation imposed by an administrative act by the deadline stated in the warning, the penalty payment set out in the warning must be paid. The penalty payment for failure to register commencement and termination of employment totals 3,300 euros, i.e. 1,300 euros for the first missed deadline and 2,000 euros for the second.



## New Posting Directive

Directive (EU) 2018/957 has not yet been implemented. The Ministry of Social Affairs has prepared draft legislation to implement the directive and change the Working Conditions of Employees Posted to Estonia Act. According to draft, the changes should be implemented by 30 July 2020. The main changes are:

- 1) The Working Conditions of Employees Posted to Estonia Act is applied to a posted employee working at the employer's expense and subject to the employer's management and supervision, on the basis of a contract concluded between the employer and a contracting entity which is resident and providing services in Estonia.
- 2) The posted worker can be someone posted by their employer or user undertaking in the case of temporary agency work;
- 3) Employers should ensure that the following working conditions established in Estonia are applied to a posted employee:  
/.../  
- minimum wage and compensation for overtime work; - > current understanding is that the minimum wage should be ensured. The purpose of the change is to ensure that the agreed salary will be paid.
- 4) A requirement is introduced for the employer to compensate expenses related to domestic (within Estonia) assignments. (There is no requirement to pay daily allowances in such cases, but expenses for transportation and accommodation should be covered);
- 5) Parties can agree whether it will be the employer or the contracting entity which will notify the Labour Inspectorate. In the absence of an agreement, the Estonian contracting entity is responsible.

## Implementation of Enforcement Directive 2014/67/EU

Effective 17 December 2016, the Directive's rules were taken over in the Working Conditions of Employees Posted to Estonia Act.

The objective of the Act is to ensure the protection of the rights of employees from a Member State of the European Union, a Member State of the European Economic Area or the Swiss Confederation who have been posted to Estonia for the provision of services, and fair competition between employers engaged in the provision of services.



## Legal hours

The maximum legal working hours in Estonia are 8 hours per day and 40 hours per week.



## Public sources of information

Labor Inspectorate -  
<https://www.ti.ee/en/home/>

Police and Border Guard Board -  
<https://www2.politsei.ee/en/>

Estonian Tax and Customs Board -  
<https://www.emta.ee/eng>

Social Insurance Board -  
<https://www.sotsiaalkindlustusamet.ee/en>

Working Conditions of Employees Posted to Estonia Act-  
<https://www.riigiteataja.ee/en/eli/ee/502072018002/consolide/current>



# FINLAND



## Minimum wage at national level

Finland does not have a minimum wage set at national level.

## Minimum wage set through collective bargaining agreements

However, the minimum wage requirement is determined under the generally applicable collective agreements concluded between the Finnish employers' unions and trade unions.

The minimum wage is determined for different industry/occupational sectors based on the employee's professional skills, experience or other types of information such as the geographical position of the workplace.

There are also some industry/occupational sectors without a binding collective agreement, which in practice means that there are no minimum wage rules applicable. When no collective agreement generally applicable to the work performed by the posted worker exists, the posted worker should be paid at least a reasonable normal remuneration if the remuneration agreed between the employer and worker is significantly lower than this.

The average salary of the occupational sector in question or non-generally applicable collective agreement can be used to determine the reasonable normal remuneration.



## What can be included in the minimum wage

See EUCJ:C-396/13 *Sähköalojen ammattiliitto ry v Elektrobudowa Spolka Akcyjna concerning the minimum wage set in the Finnish generally applicable collective agreement.*

Included in the minimum wage	Not included in the minimum wage
Base salary based on categorization of employees into pay groups as provided for by the relevant collective agreements	Housing
Overtime payments	Meal costs
The pay which the posted workers must receive for the minimum paid annual holidays corresponding to the minimum wage to which those workers are entitled during the reference period	Travelling costs to Finland
Daily allowance (per-diems) if sent within Finland from the usual place of work*	
Compensation for commuting expenses	

\* *It is unclear if ruling C-396/13 should be interpreted so that employees posted to Finland should be paid the daily allowance for the whole assignment to Finland. In Finnish legal discussion, Äimälä and Kärkkäinen*



## Legal hours

The maximum legal working hours in Finland are 8 hours per day or the equivalent of 40 hours per week. There are stricter limits set in universally applicable collective agreements.



## Registration requirements

The posting undertaking is required to submit a notification to the occupational health and safety authority about the posting of workers to Finland under an agreement on cross-border service provision. Notification of the posting of a worker is not required if the undertaking is posting workers to Finland in an internal transfer within a group of undertakings for no more than five working days. In the case of building work, however, notification is always a requirement for performing the work.

The posting undertaking should have a representative in Finland whom the posted worker and the authorities can contact at all times during the posting of the worker. The representative may be a legal entity or an individual. The notification to the occupational health and safety authority should include the identification details and contact information of the representative in Finland. The posting undertaking does not need to have a representative if it is posting workers to Finland for a maximum period of ten working days.

Posting undertakings should keep certain information available in Finland in written form for the entire duration of the posting. The information that must be kept available includes the identification details of the posting undertaking and the posted worker.

## Implementation of Enforcement Directive 2014/67/EU

The new Act on Posting Workers entered into force on 18 June 2016. Directive 67/2014/EU was implemented by this act. In the act new administrative requirements were set for posting assignments to Finland.



## Penalties for non-compliance

A posting undertaking is liable to pay a negligence fee if it has neglected its requirement to submit the notification on posting of workers, appoint the representative or keep available the information and reports required.

The amount of the negligence fee ranges from EUR 1 000 to EUR 10 000 and is imposed by the occupational health and

safety authority. If the posting undertaking does not comply with the minimum wage requirement, i.e. does not pay the minimum wage set in the generally applicable collective agreement, the posted workers may claim the unpaid wages. The penalties for employment offences, violation of working hour regulations and violation of annual holiday regulations are laid down in the Criminal Code and in other relevant acts.



## New Posting Directive

Directive (EU) 2018/957 amending Directive 96/71/EC concerning the posting of workers should be transposed into national law by 30 July 2020. In Finland the government is preparing a proposal to the parliament for the implementation of the Directive. According to the revised Directive, a posted worker should receive remuneration paid to a local worker instead of minimum rates of pay under the original rules of Directive 96/71/EC.

The same remuneration principle has de facto already been applied in Finland.<sup>9</sup> Just as at present, the pay of posted workers will be set by law and universally applicable collective agreements. According to the revised Directive the terms and conditions set by the universally applicable collective agreements must be applied to posted workers in all industry/occupations, not only in construction as under the original rules of Directive 96/71/EC.

Finland had already used the possibility given in Article 3(10) of the original Directive to apply universally applicable collective agreements to posted workers in all sectors.

<sup>9</sup> See Lhemould, Jean Philippe: "Directive (EU) 2018/957 of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services", Europäische Rechtsakademie 2019, p. 251.)



## ECJ significant cases

EUCJ:C-396/13 *Sähköalojen ammattiliitto ry v Elektrobudowa Spolka Akcyjna*

See also (concerning social security, but affecting the cost of employer) EUCJ:C 115/11 *Format Urządzenia i Montaż Przemysłowe sp. z o.o. v Zakład Ubezpieczeń Społecznych*



## Public sources of information

Ministry of Economic Affairs and Employment of Finland  
<https://tem.fi/en/posted-workers>

Ministry of Social Affairs and Health  
<https://stm.fi/en/posted-workers>

Occupational Health and Safety Administration  
<https://www.tyosuojelu.fi/web/en/employment-relationship/posted-worker>

Act on Posting Workers 447/2016 (English translation, legally binding only in Finnish and Swedish)  
[https://www.finlex.fi/en/laki/kaannokset/2016/en20160447\\_20170074.pdf](https://www.finlex.fi/en/laki/kaannokset/2016/en20160447_20170074.pdf)





# FRANCE



## Minimum wage at national level

From January 2020 the legal minimum wage is EUR 1 539.42 € gross per month for a full time employee working 35 hours per week. Hours worked above 35 per week are regarded as overtime and should lead to additional compensation.

## Minimum wage set through collective bargaining agreements

There are various CBAs, since there is usually one per industry. A CBA applies mandatorily to a company falling within its scope. The CBA defines the minimum wages according to the employee's position within the company.

## What can be included in the minimum wage

According to French regulations, assignment related allowances can be part of the minimum wage (i.e. COLA, foreign service premiums, and bonuses). However, amounts paid to the assignee to compensate for expenses actually borne, as well as expenses directly borne by the employer like travel expenses, accommodation or meals, are not taken into account in determining the minimum wage and cannot be paid for by the employee.

## Public sources of information

[www.travail.gouv.fr](http://www.travail.gouv.fr)  
[www.legifrance.gouv.fr](http://www.legifrance.gouv.fr)  
[www.service-public.fr](http://www.service-public.fr)

## Legal hours

Generally speaking, the legal working time in France is 35 hours/week. The maximum daily legal working time is 10 hours. The maximum working time/week is 48 hours. However, the average weekly working time cannot exceed 44 hours over any period of 12 consecutive weeks.

## Registration requirements

Prior to the beginning of a temporary assignment to France, a specific declaration (déclaration préalable de détachement) should be sent by the home-country employer to the French labor inspectorate within 48 hours of the beginning of the assignment. The declaration can only be completed on the "SIPSI" online portal (<https://www.sipsi.travail.gouv.fr>).

The French purchaser and contractor must ensure that the foreign service provider has fulfilled the requirement. In addition to the Prior Declaration, the foreign company must appoint a representative on French territory by an appointment letter. This representative will be tasked with communicating with the authorities on behalf of the employer and will need to hold a copy of all the documents that the authorities could ask for. Under law no. 2018-771 dated 5 September 2018, the posting of workers for the own account of the employer is now exempt from declaration formalities. In addition, activities listed in the 4 June 2019 Order e.g. attending one-off events such as trade fairs are also exempted from the reporting requirement. However, all other requirements remain (minimum wage, vacation, working hours etc.) For activities in the building and public works sector, a professional identification card is required for all posted employees.

## New Posting Directive

The Posting of Workers Directive of 28 June 2018 - Directive (EU) 2018/957 was transposed by Ordonnance n° 2019-116 dated 20 February 2019

## Implementation of Enforcement Directive 2014/67/EU

The 2014 Enforcement Directive has been implemented in French social legislation in part via Law no. 2014-790 of 10 July 2014 (Loi Savary) whose aim is to prevent social dumping and also more strictly via Law no. 2015-990 dated 6 August 2015 (Loi Macron).

## Penalties for non-compliance

In the case of non-compliance with the above requirements, French regulations provide for different penalties depending of the type of noncompliance. They range from fines (f € 7,500 (€ 15,000 in the case of a new offense within a period of one year after the first offense) to criminal prosecution.

If the service provider fails to declare the posted worker, if the information transmitted is incorrect and/or incomplete, or if the purchaser and the contractor fail to make the necessary checks on the foreign service provider, they are subject to an administrative fine of maximum 2000€ per posted worker (4 000€ in cases of repeat offenses) up to a maximum of 500 000€.

Furthermore, failure to comply with the requirements on posting of workers can lead to penalties such as administrative fines, a requirement for the contractor and the purchaser to provide the posted workers with decent accommodation, or financial solidarity for the payment of the minimum wages, social charges and/or French Taxes and/or the suspension of the contract for services.

## ECJ significant cases

Case C-372/18: the personal income of individuals affiliated to the social security system of another EU/EEA country (or Switzerland) cannot be subject to social contributions that will finance social security benefits in France.



# GERMANY



## Minimum wage at national level

Germany has a minimum wage requirement set at national level. On 1 January 2015, Germany's law on the statutory minimum wage became effective. Consequently, a general minimum wage requirement has been implemented for all occupations and affects all individuals working in Germany regardless of their nationality and the location of the employer.

The current statutory minimum wage since 1 January 2020 is EUR 9.35 (gross)/working hour. According to the regulations of the Minimum Wage Act, the next adjustment of the statutory minimum wage will take place on 1 January 2021. Since 2017 the minimum wage has applied to all working sectors, even if a bargain agreement establishes a lower amount. In addition, there are minimum wage requirements for agency workers.



## Minimum wage set through collective bargaining agreements

In addition, there are minimum wage requirements in collective bargaining agreements which are often higher than the nation-wide minimum wage requirements and which, however, depend on the industry and occupational group.



## What can be included in the minimum wage

Besides the regular salary received during an assignment, any payment which is perceived as an equivalent for the normal performance of services, but not for rewarding special purposes, can be considered as part of the minimum wage. Consequently, if bonus payments fulfil this criterion, they can only be considered in the month in which they are paid out.

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Per-diems
Overtime payments	Housing
Bonuses	Transportation costs
Standby times	Meal costs
	Special payments (Foreign Service Premium, Cost of Living Allowance, Hardship Premium, Country Allowance, Assignment Allowance)



## Legal hours

In Germany, the standard working hours are 8 hours/day, or the equivalent of 48 hours/six days per working week.

## Implementation of Enforcement Directive 2014/67/EU

The provisions of the Posting Directive (96/71/EG) and the Enforcement Directive (2014/67/EU) have been transposed into the German Posted Workers Act (Arbeitnehmerentendegesetz – AEntG) and the Minimum Wage Act (Mindestlohngesetz – MiLoG). The Enforcement Directive was fully implemented in Germany, before the implementation period expired on 18 June 2016.



## Registration requirements

In terms of administrative requirements, in the case of assignments to Germany, there is a formal notification which has to be submitted to the Customs authority in

the case of employment in certain industries as well as in the case of agency work. Generally, the home employer has to file this notification prior to the performance of work. However in the case of agency work from foreign lessors, the obligation falls on the lessee of leased employees.

In general, foreign-domiciled employers who post workers to Germany to carry out work or to provide services are required to register the posting. In Germany, different types of registration obligations apply depending on the industry or branch of the employer.

A registration is only required if a generally binding collective bargaining agreement is in force or if the employer works within a sector which is considered especially susceptible to illegal employment. Those sectors are named conclusively in sec. 2a of the Act to Combat Illegal Employment (Schwarzarbeitsbekämpfungsgesetz): (re-) construction, hotels and catering, personal transportation, logistics and transportation of commercial goods, the exhibitor trade, forestry, the cleaning and facility management industry, fair construction, the meat industry and prostitution.

With regard to content and the operational process, both registration procedures are

identical. The registration needs to be submitted at least the day before the employee starts performing work in Germany. The relevant authority, the German Customs ("Zoll"), operates an online-tool for the purpose of registration application.

It is possible to register several employees within one notification. Moreover, the employer needs to ensure and guarantee compliance with the rules of applicable generally binding bargain agreements.

Further, German law does not differentiate between posted workers and business travelers. Therefore, any employee performing work or providing services in Germany – even if only for a day – could be considered as posted worker subject to registration obligations.

However, if the employee does not perform actual work or services but visits Germany for business reasons only, he/she is not bound by any registration requirements.



## Penalties for non-compliance

In the case of non-compliance with the minimum wage or notification requirements certain penalties are applicable:

- For non-payment or delayed payment of the minimum wage – up to EUR 500,000
- For non-compliance with the notification requirements – up to EUR 30,000.

Further penalties such as withdrawal of business license or exclusion from public procurement are possible depending on the degree of severity.



## Public sources of information

[https://www.zoll.de/DE/Fachthemen/Arbeit/Meldungen-bei-Entsendung/Anmeldung/anmeldung\\_node.html](https://www.zoll.de/DE/Fachthemen/Arbeit/Meldungen-bei-Entsendung/Anmeldung/anmeldung_node.html)





# GREECE



## Minimum wage at national level

The national minimum full-time employment salary in Greece was very recently (as from 1 February 2019) increased to EUR 650 gross, and the national minimum daily wage was also increased to EUR 29.04 gross. The above minimum salaries/wages apply irrespective of the employee's/worker's age, and increases are provided on the basis of the prior term of service.

Further, married employees employed by employers who are members of trade unions participating in the conclusion of the National General Collective Labor Agreement are also entitled to a marriage allowance (which is equal to 10% of the basic minimum salary).

## Minimum wage set through collective bargaining agreements

As well as the above minimum national salary/wage, for certain occupations, there are Sectorial Collective Labor Agreements providing for the minimum wages of the covered personnel. (However the number of Sectorial Collective Labor Agreements is currently limited).

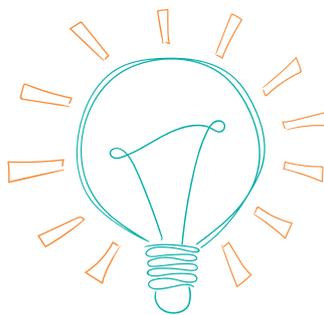
If the personnel do not fall within any Sectorial Collective Labor Agreements, the national minimum salaries/wages above apply.



## What can be included in the minimum wage

### Included in the minimum wage

Basic salary/ basic wage



### Not included in the minimum wage

Per-diems

Housing

Bonuses

Meal costs

Special payments (Foreign Service Premium, Cost of Living Allowance, Hardship Premium, Country Allowance, Assignment Allowance, Cost of living allowances)

Transportation costs

Overtime payments



## Legal hours

The minimum wage for employees is determined as a fixed amount on a monthly basis, while the minimum wage for workers is determined on a daily basis.

The maximum legal working hours in Greece are 8 hours per day, or the equivalent of 40 hours per week.

## Implementation of Enforcement Directive 2014/67/EU

The rules of the Enforcement Directive have been incorporated into Greek legislation by Presidential Decree 101/2016 ("Harmonisation of Greek legislation with the provisions of Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC regarding assignment of employees within the framework of provision of services and the amendment of Regulation (EU) 1024/2012 on administrative cooperation through the Internal Market Information System ("IMI Regulation")).



## Registration requirements

The sending company must also file with the employment authorities of the place of provision of the employees' services, at the latest by the commencement of the assignment and irrespective of the latter's duration:

a) A written declaration setting out certain details (for instance, details of the sending company, including details of its legal representative and representative in Greece during the assignment period, address/addresses where the seconded employees will provide their services, details of the receiving company etc.).

b) A list of seconded employees (two copies) setting out certain details (personal details of the seconded employees, daily and weekly working hours, remuneration etc.).

In the case of changes to any of the details set out above in the list of seconded employees, an amending list must be filed within fifteen days from the date the change becomes effective.

Further, in the case of change or amendment of the working hours or of the organization of the working schedule,

an amending list must be filed at the latest before the change/amendment comes into force and in all cases before the commencement of the seconded employees' work.

Presidential Decree 101/2016 provides that the sending company must appoint a representative in Greece during the secondment period, who will act as the liaison between the sending company and the authorities.

Presidential Decree 101/2016 applies to seconded employees, i.e. employees assigned to Greece by employers registered in the European Union or in the European Economic Area to work locally within the context of cross border provision of services. This legislation does not apply to merchant sailors.



### Penalties for non-compliance

For non-compliance with the notification and minimum wage requirements the employer could face temporary cessation of operations, monetary penalties or even imprisonment in serious cases.

Compliance with the requirements set out above is assessed by the employment authorities ("Σώμα Επιθεώρησης Εργασίας" – "Σ.ΕΠ.Ε.") which, if deemed necessary, can also cooperate with other authorities (including the social security authorities). Non-compliance with the requirements can lead to administrative penalties which can be imposed on the sending company and/or the receiving company (i.e. a penalty ranging

from EUR 300 to EUR 50 000 for each violation, with the exact amount depending on various factors, such as the severity and frequency of the violation, whether there have been any similar violations, the number of employees and size of the company, degree of fault etc.).

These penalties are imposed by the employment authorities ("Σώμα Επιθεώρησης Εργασίας" – "Σ.ΕΠ.Ε.").



### New Posting Directive

Directive (EU) 2018/957 has not been implemented yet in Greek legislation



### Public sources of information

Information on the above issues can be found (in Greek) on the official website of the Ministry of Labor. Further, the applicable laws (and other source of legislation, such as Ministerial Decisions) can also be found on the Official Government Journal's website.



# HUNGARY



## Minimum wage at national level

The minimum wage in Hungary normally changes on an annual basis, in January each year.

The minimum wage is determined on a monthly, weekly and hourly basis. As from January 2020 the minimum wage is HUF 161,000, while in 2019 it was HUF 149,000 (approximately EUR 470).

In addition, an increased minimum wage applies to employees with at least secondary school education or who work in a position requiring intermediate professional qualifications, which is HUF 210,600 in 2020.

## Minimum wage set through collective bargaining agreements

There are no public collective bargaining agreements. Such agreements (if any) are kept private within the respective industry.



## What can be included in the minimum wage

### Included in the minimum wage

Basic salary/ basic wage



### Not included in the minimum wage

Per-diem

Housing

Transportation costs

Meal costs

Overtime payments

Bonuses

Special payments (Foreign Service Premium, Cost of Living Allowance, Hardship Premium, Country Allowance, Assignment allowance)



## Legal hours

As a general rule the maximum legal working time in Hungary is 12 hours per day and 48 hours per week.

## Implementation of Enforcement Directive 2014/67/EU

The provisions of Directive 2014/67/EU of the European Parliament and of the Council on the enforcement of Directive 96/71/EC concerning the posting of workers within the framework of providing services were introduced into the Hungarian Act on the Labour Code and the Act on Labour Inspection in July 2016.



## Registration requirements

If an employer based abroad temporarily post its employees to Hungary to carry out work within the framework of an assignment agreement and a transnational agreement between the home and the host company, both the host and home companies have different registration and documentation liabilities.

First, the Hungarian host company is required to complete and file the so

called '20T104' form with the Hungarian tax authority within a maximum of 30 calendar days from the start of the assignment. This document serves for the registration of a foreign individual posted to Hungary and the (posting) foreign employer as well.

### 1. Posting registration of assignees posted from the EEA

The requirements should be fulfilled electronically (in Hungarian or English) via the labour inspectorate website of the Hungarian Ministry of National Economy.

The following information is required to fulfil the registration:

- The foreign company's information (e.g. official name, headquarters).
- Contact details of the foreign company's representative. (The representative should be an individual who is able to represent the foreign company in relations with the Hungarian Authorities at any time upon request).
- Personal information about the individual (name, start and end date of assignment etc).
- Information relating to the activity of the assigned employee.



## New Posting Directive

The registration should be filed by the foreign (posting) company by no later than the first Hungarian workday of the employee. (The Hungarian company may also file the registration on the foreign company's behalf by this deadline).

Prior to the start of the posting, the Hungarian company should inform the foreign company about the relevant Hungarian labor law requirements.

Furthermore, it is also a requirement to keep and, upon request from the Hungarian tax authority, disclose documentation concerning the assignee (e.g.: employment contract, timesheets, proof of payment of the employment income) during the period of the employee's Hungarian assignment and for a further 3 years following the end of the assignment.

### 2. Posting registration of assignees posted from a non-EEA country

Assignment from non-EEA countries should also be reported to the Hungarian Ministry of National Economy in an e-mail format, providing the information listed above.



### Penalties for non-compliance

For failure to file the form T104, the Hungarian tax authority may impose a fine of up to HUF 500,000.

For failure to fulfil the posting registration requirement, currently no special penalty exists.

However, in the case of a labour inspection the relevant authority may request fulfillment of the above requirements and may levy penalties for non-compliance.

The amount of the penalty depends on the Authority's discretionary decision and is between HUF 30,000 and HUF 20,000,000.



### ECJ significant cases

Case No. C-620/18



### Public sources of information

Information about collective bargaining agreements: [http://www.ommf.gov.hu/index.php?akt\\_menu=551](http://www.ommf.gov.hu/index.php?akt_menu=551)

Although it is mandatory to report the conclusion of a collective bargaining agreement in Hungary, several parties (employer and trade union) do not comply with this requirement. The datasheet filled out by the employer and the content of the collective bargaining agreement applicable to more than one employer may only be disclosed to others if the contracting parties have previously consented thereto.

Information about the current Hungarian law in connection with posting: [http://www.ommf.gov.hu/index.php?akt\\_menu=551](http://www.ommf.gov.hu/index.php?akt_menu=551)  
Home page of posting registration: [http://www.ommf.gov.hu/?akt\\_menu=547&set\\_lang=123](http://www.ommf.gov.hu/?akt_menu=547&set_lang=123)

Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 has not been implemented into Hungarian legislation as Hungary acted against the Directive on 2 October 2018 (see Case C-620/18). For more information please see:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62018CN0620>

Amendments in the Hungarian Labor Code have been introduced and will soon be implemented in order to adapt it to the latest modifications of the Posting Directive - Directive 2018/957 of the European Parliament and of the Council. The new provisions will be applicable as of 30 July 2020. The main changes will be as follows:

- When a non-Hungarian employer posts its employee to Hungary for the purposes of providing services, several "minimum rules" should be met with respect to the given employment relationship. These minimum rules cover amongst others the maximum working hours, and minimum wages.
- When applying the minimum rules, currently the Hungarian Labor Code and the collective agreement concluded with the employer should be considered. Based on the draft law amendment the sectoral or sub-sectoral collective agreement should also be examined.
- In addition, it will no longer be enough to guarantee the minimum wage set by Hungarian legislation; the remuneration generally applied in the industry must be provided.
- Minimum rules will also cover the terms and conditions of accommodation provided by the employer to the employee, and in certain cases the travel/catering/accommodation allowances/expenses.
- If the length of the assignment exceeds twelve, in some cases eighteen months, all provisions of the Hungarian Labor Code should be applied (except, for example, the rules of establishment of a legal relationship, termination or non-competition agreement). It should be noted that if the assignee replaces another assignee, the periods of the postings should be aggregated.



# ICELAND



## Minimum wage at national level

Iceland does not have a minimum wage requirement set at national level



## Minimum wage set through collective bargaining agreements

There are minimum wage requirements included within the various collective bargaining agreements.

All Icelandic employees must contribute to a union of their choice, each union applying a different minimum wage. The current minimum wage is applicable as from 1 May 2015 and it is revised when the collective wage agreements are updated.

Currently, the minimum monthly wage for most Icelandic unions is ISK 317,000 (approximately EUR 2,312). The minimum monthly wage will increase to ISK 335.000 (approximately EUR 2,443) on 1 April 2020, to ISK 351.000 (approximately EUR 2,560) on 1 January 2021 and to ISK 368.000 (approximately EUR 2,684) on 1 January 2022.

Generally, the minimum wage is applicable to all categories of workers, with no difference between blue collar workers and highly skilled workers with an EU blue card. However, there may be certain differences depending on the collective agreement that applies.



## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Per-diems
Bonuses	Housing
Special payments (Foreign service premium, Hardship premium, Country allowance, Assignment allowance)	Transportation costs
	Meal costs
	Overtime payments



## Legal hours

Iceland has a maximum of 13 legal working hours per day and a maximum of 48 hours per week, including overtime.

## Implementation of Enforcement Directive 2014/67/EU

Directive 67/2014/EU was implemented in Iceland's legislation in June 2018 (Act No. 75/2018).



## Registration requirements

In terms of administrative requirements, in the case of assignments to Iceland, a formal notification must be submitted to the local authorities by the host employer. The notification should be submitted to the Iceland Registers within 7 days of the assignee's arrival.

For EU/EEA nationals working in Iceland for less than three months a simple registration is sufficient. The registration is carried out by the host employer or their representative. The simple registration does not give the assignee any social security rights in Iceland.

EU/EEA nationals who intend to work in Iceland for more than three months need to fill out form A-270 and deliver it in person to the offices of Registers Iceland or the offices of the municipality in which the assignee resides.

Service companies which are established in another EEA member state and which post workers to Iceland on a temporary basis in connection with the provision of services for more than 10 working days in each twelve-month period are required to provide the Directorate of Labor with information on, amongst other things, the provision of the services and with a survey of the workers who will be working in Iceland for the company.

If a company provides a service in Iceland for a total of more than four weeks in any twelve months, it must have a representative in Iceland. The representative may be one of the company's workers who are temporarily employed in Iceland. It is not necessary to nominate a representative if fewer than six workers are normally working in Iceland for the company. The company's representative is required to represent it and be responsible for providing the authorities with information.



## Penalties for non-compliance

A fine can be imposed for non-compliance with the registration requirements.



## New Posting Directive

The EU Directive 2018/957 has not been implemented in Icelandic legislation.



## Public sources of information

Please see the Icelandic Confederation of Labor web site: <https://www.asi.is/english/the-icelandic-labour-market/> <http://www.asi.is/vinnurettarvefur/icelandic-labor-law/> for any available public information sources with regard to collective bargaining agreements and/or other industry specific agreements.

In relation to obligations of foreign entities assigning personnel to your country (e.g. obligation to notify the relevant authorities as per the Directive etc.) please see the Directorate of Labor web site: <https://vinnumalastofnun.is/en/foreign-workers>





# IRELAND



## Minimum wage at national level

Ireland's minimum wage requirement applicable from 1 February 2020 is EUR 10.10 per hour, a rise from EUR 9.80 applicable during 2019.

The minimum wage is stipulated in the National Minimum Wage Act 2000 (as amended). The minimum wage is determined as an hourly rate and it depends on the age of the employee as follows:

Age	Minimum wage applicable (EUR per hour)
Under 18 years old	7.07 (70% of the minimum wage)
18 years old	8.08 (80% of the minimum wage)
19 years old	9.09 (90% of the minimum wage)
20+ years old	10.10 (the current minimum wage)

## Minimum wage set through collective bargaining agreements

Certain employees are covered by collective bargaining agreements that deal with the pay and working conditions of the employees concerned, as follows:

### 1. Sectoral Employment Order ("SEO")

An SEO is made by the Minister for Business, Enterprise and Innovation following a recommendation from the Labour Court on matters such as remuneration, pensions and sick pay for employees in a particular economic sector and the SEO is binding on that sector. There are currently three SEOs in place covering the construction sector, the mechanical engineering sector and the electrical contracting sector.

### 2. Employment Regulation Order ("ERO")

An ERO sets the minimum rates of pay and conditions of employment for employees in a specified business sector. It is an agreement drawn up by a Joint Labour Committee (JLC), adopted by the Labour Court and signed into legislation by the Minister for Business, Enterprise and Innovation. There are currently three EROs in force; two in the contract cleaning industry and one in the security industry.

### 3. Registered Employment Agreement ("REA")

An REA is a collective agreement between a trade union or unions and an employer or employers dealing with the pay and/or conditions of employment of specified workers, which is registered with the Labour Court and is only binding on the parties that subscribe to it.

## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic pay	Payment of expenses
Piece and incentive rates, commission and bonuses which are productivity related	Payment by way of a pension, allowance or gratuity in connection with the death, retirement or resignation of the employee or as compensation for loss of office
Zero hour protection payments	Payment relating to redundancy
Shift allowances	Payment in kind or benefit in kind
A certain monetary value of board and/or lodgings	Holiday pay, sick pay, maternity pay
	Overtime premium

## Legal hours

The general maximum average legal working hours in Ireland is 48 hours per week.

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive 2014/67/EU was transposed into Irish legislation in July 2016 by means of the European Union (Posting of Workers) Regulations 2016 (the "Regulations").

The key measures introduced in these Regulations include:

- A requirement for foreign employers referred to as service providers established in another member state to notify the Workplace Relations Commission (the "WRC") when posting workers to Ireland - they must provide information which will allow the WRC to monitor posting activity and ensure compliance with posting rules.
- A subcontracting liability in the construction sector to guard against posted workers being paid less than their minimum entitlements – where a posted worker in the construction sector is not paid the applicable statutory rates of pay by their direct employer, the contractor one step up the supply chain can also be held liable.
- The creation of a right for a posted worker to refer a complaint to the Director General of the WRC naming both their employer and the contractor one step up as respondents.
- The introduction of a defense of due diligence for the contractor in any claim before the WRC – the Regulations set out in detail the test or criteria which the contractor will have to satisfy in order to use the defense of due diligence.
- Measures which allow for the enforcement of cross border financial administrative penalties and fines.



### Registration requirements

Foreign employers posting employees to Ireland for the provision of transnational services, are required to hold and keep (during the whole period of assignment and following the end of assignment) copies (in electronic format or hardcopy) in an accessible place of the following documentation:

- The employment contract of a posted employee or the written statement of terms of employment (within the meaning of s3 of the Terms of Employment (Information) Act 1994) or other equivalent document certifying employment terms.
- Where relevant, time sheets or equivalent documents indicating the working time of a posted worker including the commencement and termination of work and the number of hours worked on a given day.
- Payslips or equivalent documents specifying the remuneration of a posted worker along with the amount of deductions made in accordance with the applicable law and proof of transferring the remuneration to the employee i.e. proof of wages.

During the period of assignment and after this period, the employer posting an employee to Ireland is required to make the above documentation available at the request of the WRC, together with the appropriate translation into the English language (if necessary), no later than one month from the date of receiving the request.

The Regulations impose the requirement on foreign employers to designate a person to liaise with the WRC and to send out and receive documents and notices as necessary. The Regulations do not expressly dictate that this should be an Irish resident person but this approach would appear the most practical i.e. a person within the host company or within KPMG as their agent.

For each individual secondment from the same employer, it is necessary to complete the prescribed Form of Declaration with the following details:

- Name and address of service provider
- Name and address of contact person
- Name and personal details for each seconded worker (name, address, date and place of birth, nationality, social security number (PPSN))
- The expected start and end date of posting
- Location of work
- The nature of the services – job descriptions/job title
- Contact details
- Gross weekly pay
- Total of weekly hours worked
- Gross hourly rate of pay
- Whether an employment permit is held (for a non-EEA national)

Once the Form of Declaration is successfully submitted, the WRC will provide an acknowledgement to the service provider



### Penalties for non-compliance

Failure to pay the national minimum hourly rate of pay is a criminal offence, punishable upon summary conviction by a fine not exceeding €2,500 or imprisonment not exceeding 6 months or both.

The Regulations provide that breaches of the administrative requirements and control measures are an offence and hence the service provider may be liable:

- 1) On summary conviction, to a class A fine (currently €5,000), or
- 2) On conviction or indictment, to a fine not exceeding €50,000.

If such an offence is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of a person who is a director, manager, secretary or other similar officer of the body, or is a person who was purporting to act in any such capacity, that person as well as the body corporate commits an offence and is liable to be prosecuted and punished as if that person had committed the first-mentioned offence.

If the affairs of a body corporate are managed by its members, the above paragraph applies in relation to the acts and omissions of a member of the body corporate in connection with the member's functions of management as if the member were a director or manager of it.



## **New Posting Directive**

The new Directive (EU) 2018/957 has not yet been transposed into Irish law.



## **Public sources of information**

Sectorial specific agreements (Sectorial Employment Orders and Employment Regulation Orders) can be accessed at [www.workplacerelations.ie](http://www.workplacerelations.ie)

Obligations as per the Directive can be also found at [www.workplacerelations.ie](http://www.workplacerelations.ie)





# ITALY



## Minimum wage at national level

Italy does not have a minimum wage set at national level.

## Minimum wage set through collective bargaining agreements

The minimum wage is generally established by the National Collective Labor Agreements, which are updated yearly for each category of employee. The minimum wage is determined by negotiation between employers and different unions and it depends on the industry, employees' level, etc.

## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Production bonuses
CCNL may also include provisions on overtime rates, seniority payments and travel indemnities	Other bonuses
Paid holiday	Extra payments over and above the collective national contract

## Legal hours

The maximum legal working hours in Italy are 8 hours per day or the equivalent of 40 hours per week.

Overtime is allowed up to 8h/ week, 250 h/year, followed by a customized approach in relation to the collective agreements, which are based on the employee's status/ occupation within the company/district.

## Registration requirements

Foreign employers (EU and non -EU) and placement agencies who post employees to Italy are now required to notify the Ministry of Labor, not less than 24 hours before the secondment starts and in the event of any changes to the conditions of the secondment. The website and online registration form is available in both the Italian and English languages.

The responsibility for registration and compliance rests with the foreign employer (seconding employer), although they will need to identify representatives in Italy responsible for record keeping and liaison with the social parties. It is, of course, possible to appoint either a representative of the host company or an external third party to carry out these roles. The new

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive 2014/67/EU was transposed into Italian legislation in July 2016 by means of Decreto Legislativo n136 of 17 July 2016 (published in the Official Journal of 21 July 2016) and the legislation came into force from 22 July 2016.

Subsequently a further decree, Decreto Legislativo 10 August 2016 of the Ministero del Lavoro e Delle Politiche Sociale introduced the administrative architecture underpinning the legislation.

legislation now makes it clear that the Ministry of Labor will notify INPS (the Social Security Agency) of secondments to enable a cross-check with the A1 position.

Legislative Decree no. 136 and the Decree of the Ministry of Labor impose the requirement on foreign employers to appoint a person resident in Italy authorized to represent the foreign company in:

- Maintaining records and liaison with the appropriate Italian authorities, and
- Acting as legal representative for putting the social parties (unions et cetera) in contact with the employer for possible collective negotiations. This person does not have to be present at the workplace but available as required.

The same or different people can fulfill the record keeping and liaison roles and an external consultant, such as a registered Labour Consultant can fulfill one or both the roles.

Since the name and details of the record keeper are required as part of the online registration process, the identities should be established before the first secondment takes place.

As noted above, the Ministry of Labor has opened a dedicated portal for online registrations. It is the obligation of the home employer or designated agent to make the registration.

First, the employer needs to obtain a User ID and password from Cliclavoro and then set up their employer details. For each secondment, it is necessary to register:

- The home employer's legal name and registered office
- Details of the legal representative of the home country employer (who can also be non-resident in Italy)
- The host country employer
- Name and details of the record keeper
- Name and details of the liaison person

For each individual secondment from the same employer, it is necessary to register:

- Name and personal details for each seconded worker (name, date and place of birth).
- The expected start and end date of posting.
- Location of work.
- The nature of the services justifying the posting to Italy.
- Contact details.

Once the online registration is successfully submitted, a single consecutive protocol number is issued and it is possible to download a PDF copy of the protocol and registration details.

A separate procedure has now been instituted for cabotage operations.

Employers posting employees to Italy are required to hold and keep for the whole assignment and a further two years after the end of assignment, copies of the:

- Employment contract of a posted employee or other equivalent document certifying employment conditions.
- Working time of a posted worker indicating the commencement and termination of work and the number of hours worked on a given day.
- Documents specifying the remuneration of a posted worker along with the amount of deductions made in accordance with the applicable law and proof of transferring the remuneration to the employee.

The employer must have the above documents translated into Italian and available in maximum 5 days after the Italian Labor Inspectors request them.



## Penalties for non-compliance

Decreto Legislativo n136 introduces a penalty regime for offenses committed by an employer posting an employee to Italy as follows:

- An administrative penalty of between Euro 150 and Euro 500 for failure to register a new secondment on time
- A penalty for violations of record keeping requirements from Euro 500 to Euro 3000 per individual employee involved
- A penalty for failure to appoint a liaison or recordkeeper of Euro 2,000 to Euro 6,000
- The total of all penalties cannot exceed Euro 150,000

In cases where a secondment is not considered authentic, the fines could range from euro 50 for every employee involved per day, subject to a minimum of Euro 5,000 and maximum of Euro 50,000.



## New Posting Directive

The EU Commission adopted a proposal for a revision of the Posting of Workers Directive on 28 June 2018 - Directive (EU) 2018/957. The Directive must be transposed into national law by 30 July 2020. As at 31 January 2020, the Directive has not been transposed into Italian Law.



## Public sources of information

A full list of all current National Collective Agreements is available at the following Link. These are in the Italian language,  
<https://www.cnel.it/Contratti-Collettivi/Contrattazione-Nazionale/Archivio-Corrente>.

The Italian legislation more or less implements Directive 2014/67/EU on a word for word basis. A very useful portal and online registration form ([www.cliclavoro.it](http://www.cliclavoro.it)) has been set up, allowing speedy and efficient online registration.

More information on the regulations including FAQs in English are available at the following link  
<http://www.distaccoue.lavoro.gov.it/Pages/Home.aspx?lang=eng>.



# LATVIA



## Minimum wage at national level

Latvia has a minimum wage requirement in place.

The Latvian Government reviews the minimum wage level each year. The Latvian minimum wage in 2020 is a fixed amount of EUR 430 per month.

## Minimum wage set through collective bargaining agreements

A collective bargaining agreement has been concluded within the construction industry. It is in force as of 3 November 2019. It stipulates that the minimum wage in this industry is EUR 780 per month.

The minimum wage set through collective bargaining agreements cannot be contrary to laws and regulations in Latvia.

However, the Latvian Labor Law states that if there is collective bargaining with respect to a higher minimum wage in an industry (e.g. the construction industry) the employer is entitled to pay a lower amount of overtime pay, but not less than 50% of the standard hourly rate.

## What can be included in the minimum wage

### Included in the minimum wage

Basic salary



### Not included in the minimum wage

Compensation of business trip advances

Per-diems

Compensation of business trip advances

Bonuses

Overtime payments

Vacation pay

## Legal hours

The maximum working time in Latvia is 8 hours per day or 40 hours per week.

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive 2014/67/EU has been transposed by Latvia into the Labor Law, as well as into the Latvian Administrative Violations Code and the Civil Procedure Law.

## Registration requirements

In the case of assignments to Latvia, host employers need to notify the tax authority about all new hired employees one day before the employee starts working (one hour before if reported through the electronic declaration system).

The provisions of the Labour Law do not apply to ships' crews of merchant shipping companies.

The employer should ensure the storage of the concluded employment contracts, assignment agreements, pay-slips, time-sheets and documents which prove the payment of wages by its representative in Latvia, who is authorized to represent the employer in

relations with Latvian state institutions and in court.

This information should be presented to the supervisory and controlling authorities, and, if required by such authorities, translation of such documents into the official (Latvian) language should be ensured.

The storage and presentation period expires two years after the completion of the posting.

The employer who posts an employee to perform work in Latvia is required, prior to posting the employee, to inform in writing (in the Latvian language) the Latvian State Labour Inspectorate about the posted employee, indicating:

- The given name, surname and address of an individual who is the employer, or the name (business name) of the legal entity (company), its registration number, address and other contact information (telephone number, e-mail address).
- The given name and surname of the employee.
- The anticipated duration of the posting, as well as the date of commencement and completion of work.
- The location where the work will be carried out (if the performance of work duties is not intended to be in a certain place, it must be specified that the employee may be employed in different locations).

- A representative of the employer, including the given name, surname and contact information.
- A person for whose benefit the work will be performed (recipient of a service) as well as the nature of the services justifying the posting.
- A certification that a posted employee who is a third-country national legally works for an employer in a European Union Member State, a European Economic Area State or the Swiss Confederation.

An employer is required to appoint a representative (item 5 above) who is authorized to represent the employer in relations with Latvian state institutions and in court and to whom the parties of the collective agreement may refer in order to launch negotiations on entering into a collective agreement in accordance with the provisions of the Labor Law.

The employer may also assign two different persons – each for one of the above cases.



## Penalties for non-compliance

An employer which fails to comply with the regulations for posting an employee to carry out work in Latvia will be subject to administrative penalties in accordance with the procedures of the Latvian Administrative Violations Code.

The amount of the penalty depends on the nature of the violation, frequency of the violation, severity etc. The fine for non-compliance in general with Latvian Labour Law may range between EUR 70 – EUR 7,100. However, the Latvian Administrative Violations Code lists also other specific employment related violations for which the penalties may reach EUR 14,000.

On 1 July 2020 amendments to the Latvian Labour Law enter into force; thus penalties for non-compliance in relation to employment from this date will be set out directly in the Latvian Labour Law (as the Latvian Administrative Violations Code will be no longer in force starting from 1 July 2020). However, the amount of the penalties has not changed.



## New Posting Directive

Draft legislation amending Latvian Labour Law was announced in the Cabinet of Ministers on 6 January 2020.

According to the notes on this legislation it is intended to introduce the requirements of Directive (EU) 2018/957 into Latvian Labour Law, thus supplementing it with the relevant regulations on posting of employees.



## Public sources of information

For public information about obligations of foreign entities which send employees to work in Latvia, you may access the Ministry of Welfare of the Republic of Latvia webpage <http://www.lm.gov.lv/eng/information-for-employers/posting-of-workers-to-carry-out-work-in-latvia>





# LITHUANIA



## Minimum wage at national level

Lithuania has a minimum wage set at national level.

As from January 2020 the gross minimum wage is EUR 607 per month (equivalent of EUR 3.72 per hour).

In accordance with the new Labor Code, as of July 2017 the minimum monthly wage can only be paid for unqualified work.

Work is considered to be unqualified if no specific qualifications or skills are required from the employee.

Level of the employee	Monthly amount EUR	Hourly amount EUR
Blue collar	607	3.72
Highly skilled (blue card)	>607	>3.72

There are no general rules established in Lithuania to change or review the minimum wage regularly, e.g. annually or in January each year.

This is basically a political issue so it is difficult to predict the particular upcoming changes in the future.

## Minimum wage set through collective bargaining agreements

The minimum wage is set by the Lithuanian Government at national level. It is also permissible to set a higher minimum wage in collective agreements at company level.

## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Housing
Bonuses (depending on the type of bonus)	Transportation costs
Special payments (E.g. Foreign Service Premium, Hardship Premium, Country Allowance, Assignment Allowance, Cost of living Allowance – depending on the type of payments)	Meal costs
Per-diems	Bonuses (depending on the type of bonus)
	Overtime payments

## Legal hours

Standard working hours in Lithuania are 8 hours per day or the equivalent of 40 hours per week.

Various exceptions may be applicable in accordance with specific laws, government resolutions and collective agreements.

According to the Labor Code, maximum working hours, including overtime but excluding work under an agreement on additional work, must not exceed 48 hours in any 7 calendar days.

Maximum working hours, including overtime and work under an agreement on additional work, must not exceed 12 hours per day or 60 hours in any 7 calendar days.

## Implementation of Enforcement Directive 2014/67/EU

The Directive was implemented in Lithuania on 28 June 2016 by amending the Lithuanian Law on Guarantees Applicable for Assigned Employees.

However, as from 1 July 2017 this law was revoked and the provisions on assigned employees have been transferred to the newly adopted Lithuanian Labor Code, the Lithuanian Law of the National Labor Inspectorate and the Note on Provision of Information About Assigned Employees.

## Registration requirements

In terms of administrative requirements, a foreign employer who posts employees to Lithuania is required to notify the Lithuanian labor authorities about these postings. The notification must be submitted no later than one working day prior to the start date of activity of the assignees. Non-compliance with this

requirement can lead to various penalties for the posting employer.

If the stay of an assignee in Lithuania exceeds 3 months during a 6 month period, he/she is required to obtain a certificate confirming the right to reside in Lithuania from the migration authorities (applicable for EU/EEA/Swiss citizens only).

Once the certificate is obtained, he/she will also have to declare his/her place of residence to the municipality within next 15 business days.

Article 107 Part 6 of the Lithuanian Labor Code states that an employee assigned to a foreign country for a period exceeding 30 days should be provided with certain information, in particular: information about the employer, place where the work function will be performed, the type of employment agreement, description of the work functions, start and end dates of the work, details of the annual vacation, information on how the termination of the employment agreement may be initiated, salary, working time, information about valid collective agreements, the terms of assignment, currency of the salary, other applicable payments / benefits, relocation conditions, etc.

Under Article 109 Part 1 of the Lithuanian Labor Code and Article 3 of the Note on Provision of Information About Assigned Employees, a foreign employer (assigning company) delegating an employee for a temporary assignment in Lithuania for a period exceeding 30 days (or delegating an employee to perform construction works) should notify the local department of the Lithuanian Labor Inspectorate about the assigned employee.

The notification should be filed in Lithuanian and should be provided not later than one day before the start of the work (assignment) in Lithuania. As from 2019 the Lithuanian host company is also required to notify the social security authorities about foreign employees posted to work at the company.



## Penalties for non-compliance

Assignments of foreign employees to Lithuania, irrespective of the time spent in the country, may trigger certain tax obligations for the assignee and/ or for the host company.

Certain assignments to Lithuania also have to be reported for tax purposes by Lithuanian companies.

Therefore, in general, international assignments can be tracked by the authorities and this is one of the areas they monitor. Non-compliance with the registration requirements may result in a penalty.

The amount depends on the frequency of the violation, severity etc., and it may be up to EUR 440.



## New Posting Directive

Directive (EU) 2018/957 has not been transposed into Lithuanian legislation yet.



## ECJ significant cases

12 February 2015 Case No: C-396/13 (Sähköalojen ammattiliitto ry v Elektrobudowa Spolka Akcyjna)

6 February 2018 Case No: C-359/16 (Altun and Others)



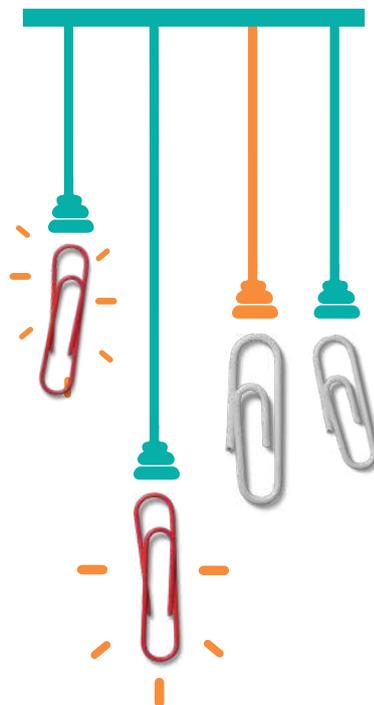
## Public sources of information

The list of collective agreements can be found here:

<https://socmin.lrv.lt/lt/paslaugos/administracines-paslaugos/kolektyviniu-sutarciuregistras>.

Publicly available information on obligations of foreign entities assigning personnel to Lithuania:

[https://www.vdi.lt/Forms/Tema.aspx?Tema\\_ID=50](https://www.vdi.lt/Forms/Tema.aspx?Tema_ID=50)





# LUXEMBOURG



## Minimum wage at national level

Luxembourg legislation provides for a minimum wage requirement. As from January 2020, the minimum wage applicable was set at EUR EUR 2141.99 per month. However this is updated periodically, with no specific rule as to how often the update takes place. The minimum wage is determined as a fixed amount and it depends on the worker's age and skills.

## Implementation of Enforcement Directive 2014/67/EU

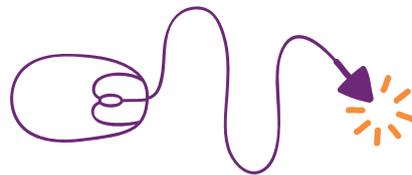
On 14 March 2017, the Luxembourg Parliament adopted a new law on the posting of workers, transposing Directive 2014/67/EU into national legislation. This new law amended both the Labor Code and Article 3 of the Law of 17 June 1994 (published in Memorial A n°. 300 de 2017). It entered into force on 24 March 2017.

## Minimum wage at national level

Age	Skill	Minimum wage (EUR)
15-16	Blue collar	1,606.50 (75% of the standard minimum wage)
17-18	Blue collar	1,713.60 (80% of the standard minimum wage)
Over 18	Blue collar	2,141.99 (100% of the standard minimum wage)
Over 18	Highly skilled	2,570.39 (120% of the standard minimum wage)

## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Reimbursement of professional expenses
	Transportation costs
	Meal costs
	Overtime payments
	Bonus
	Special payments (Foreign Service Premium, Hardship Premium, Country Allowance, Assignment Allowance, Cost of living Allowance)
	Per-diems



## Registration requirements

Prior to the employee's start-date in Luxembourg, the following information which is essential to obtain the social badge should be reported via the online platform e-Détachement:

- Details of the posting employer and its effective representative
- Details of the legal entity or individual, present in Luxembourg, who will be the contact for the ITM and other authorities
- The start date and the expected duration of the posting, in accordance with the service contract
- The place(s) of work in Luxembourg and the foreseeable duration of work
- The surnames, first names, dates of birth, nationalities, and professions of the employees
- The capacity in which the employee is engaged in the company and the profession or occupation which he/she usually has, as well as the activity to be performed during the posting to Luxembourg

To substantiate the information above, the following documents are required:

- A copy of the labor supply contract, where applicable
- The certificate of prior declaration (certificat de déclaration préalable) or the certificate replacing it issued by the Ministry of the Middle Class (Ministerie des classes Moyennes)
- The original or certified copy of the A1 certificate
- The VAT certificate issued by the VAT administration (Administration de l'enregistrement et des domaines)
- A copy of the employment contract or a certificate of compliance with Directive 91/553 of 14 October 1991 on an employer's obligations to inform employees of the conditions applicable to the contract or employment relationship
- In the case of a part-time work or a fixed-term employment contract, a certificate of conformity issued by the competent control authority in the country in which the posting undertaking has its registered office or usual place of operation
- The official documents attesting the professional qualifications of the workers
- Payslips and proof of payment for the duration of the posting
- A register indicating the beginning, end, and duration of each workday for the whole duration of posting
- A copy of the stay permit or residence permit for each third-country worker posted to Luxembourg
- A copy of the pre-employment medical certificate

All documents must be translated into French or German. Any subsequent changes, including the location or purpose of the work, should be reported to the ITM.

The registration should be completed prior to the first work day in Luxembourg.

Luxembourg law provides for the posting entity to indicate a legal representative in Luxembourg to establish contact with the Luxembourg authorities. According to the law, if this entity has no legal representative in Luxembourg, one of the employees posted to Luxembourg should be designated as a contact person with the Luxembourg authorities.



## Penalties for non-compliance

According to the law, the Luxembourg authorities may issue fines of between €1,000 and €5,000 for infringements of the provisions related to the posting of workers. The fine may be doubled if repeated offences are committed within a period of two years following the date of notification of the first fine. The fine applies per posted worker, with a cap of €50,000.



## Public sources of information

For public information on obligations of foreign entities assigning personnel to Luxembourg, please visit the website: <http://itm.lu/en/home.htmls>.

To allow employers to comply with the new law, the existing electronic platform (<https://guichet.itm.lu/edetach/>) has been improved and extended.

This website is available in French, German, and English.





# MALTA



## Minimum wage at national level

Malta has a minimum wage set at national level.

However, the minimum wage requirement is determined by the economic activity of the enterprise as stipulated in the applicable Wage Regulation Order and by the age of the employee.

Where no Wage Regulation Order applies, the level of the minimum wage effective as from January 2020 is as follows:

Age	2019	2020
<b>UNDER 17 YEARS</b>	EUR 166.22 per week	EUR 169.71 per week
<b>AGED 17 YEARS</b>	EUR 169.06 per week	EUR 172.55 per week
<b>AGED 18 AND OVER</b>	EUR 175.84 per week	EUR 179.33 per week

The minimum wage increases annually and is expected to change starting from 1 January of each year.

## Minimum wage set through collective bargaining agreements

The Employment and Industrial Relations Act (Chapter 452 of the Laws of Malta) provides for the possibility of collective bargaining agreements to be negotiated between an employer and one or more organizations of employees about conditions of employment.

These collective agreements cover a wide range of matters including the possibility of negotiations in relation to salary scales and annual increments higher than those provided for by the national minimum wage.

## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Housing
	Transportation costs
	Meal costs
	Statutory bonuses
	Weekly allowances
	Cost of Living Adjustment



## Legal hours

In terms of legal working hours, the general rule is that the average working time, including overtime, must not exceed 48 hours for each seven day period, spread over a reference period of seventeen weeks.

It is, however, possible to exceed this average provided that the employee consents in writing. Exceptions also apply in relation to certain types of employment covered by a particular Wage Regulation Order.

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive was transposed into Maltese law by means of the Posting of Workers in Malta Regulations, 2016 (Subsidiary Legislation 452.82 of the Laws of Malta).

## Registration requirements

In terms of administrative requirements, in the case of assignments to Malta, it is the responsibility of the employer posting the worker to Malta to notify the Department of Industrial and Employment Relations of the intention to post a worker to Malta, prior to the date of posting.

While carrying out work in Malta an employee who is posted from an EU/EEA country is not required to apply for a working license in Malta.

In the case of a third country national (TCN) an employee who is employed by a posting undertaking that is established in an EU/EEA country, does not need to go through a working license procedure in Malta if the posted worker already holds a working license issued in the country where the posting undertaking is established. However, the employee is still required to transfer the permit by liaising with the employment agency.

For any foreign national who is posted to Malta by an undertaking established outside an EU/EEA country, a working license is required to be issued by Jobsplus prior to the commencement of the posting.

In any case of a posting to Malta, the undertaking posting the worker is required to notify the Director of Industrial and Employment Relations (DIER) of its intention to post a worker to Malta. A 'Notification of a Posted Worker to Malta' form must be prepared for this purpose.

The Notification Form should be accompanied by supporting documentation including a copy of the employee's passport bio page, a copy of the principal employment contract, a copy of the contract of posting and, in the case of a TCN posted employee from an EU/EEA country, also with a copy of his/her existing working license, and it should reach the Department of Industrial and Employment Relations prior to the commencement of the posting.

The undertaking making use of the services of the posted worker is required to keep a copy of this Notification Form and the requisite supporting documentation at the place of work for monitoring purposes by the DIER inspectors.

All employees posted to Malta are entitled to receive equality of treatment with Maltese employees. Minimum conditions include maximum work periods and minimum rest periods as applied to various classes of employees, minimum paid annual holidays as applied to various classes of employees, minimum rates of pay, including overtime rates as applied to various classes of employees, equality of treatment between men and women and other non-discrimination provisions in accordance with the laws of Malta, protective measures with regard to terms and conditions of employment protecting pregnant women or women who have given birth a short while before, protective measures in accordance with the laws of Malta with regard to terms and conditions of employment protecting children and young people, measures in accordance with the laws of Malta relating to health, safety and hygiene at work, as well as the conditions for hiring out of workers, in particular the supply of workers by temporary employment undertakings.



### Penalties for non-compliance

For breaching the provisions of the Posting Workers in Malta regulations, a fine of between EUR 117 and EUR 1,165 may be imposed.

In the case of non-compliance with the minimum wage requirement, penalties between EUR 232.94 and EUR 2,329.37 may apply. In addition, the employer may be liable to pay the employee the amount due.

In cases of criminal conviction for certain offenses, the employer is subject to penalties as well as being required to pay the posted employee the amounts due to him/her. These offenses are:

- Failing to pay the posted worker the minimum rates of pay, including overtime rates as applied to various classes of employees.
- Unduly withholding back-payments, or refund of taxes or social security contributions from the posted worker's salary.
- Withholding or deducting excessive costs for accommodation from the posted worker's salary.



### New Posting Directive

The EU Commission adopted a proposal for a revision of the Posting of Workers Directive on 28 June 2018 - Directive (EU) 2018/957. The Directive must be transposed into national law by 30 July 2020.

Malta is currently in the process of transposing Directive (EU) 2018/957 through an amendment to the current regulations.



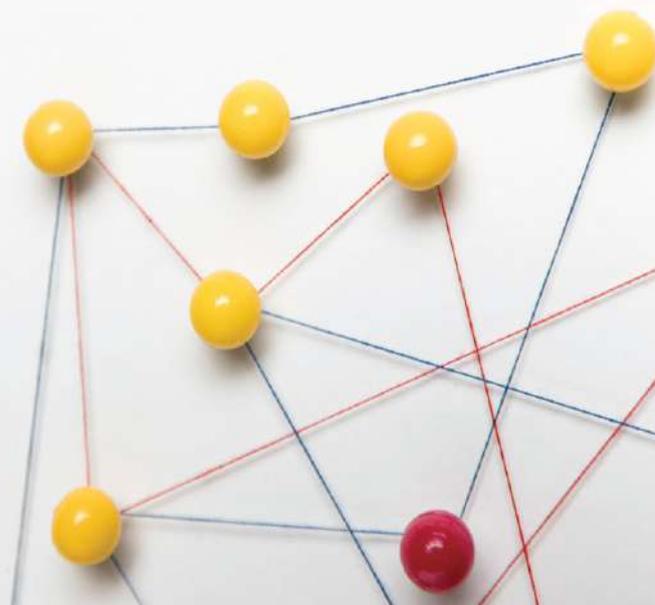
### Public sources of information

Please refer to the following wage regulations orders which are applicable to particular industries:

<https://dier.gov.mt/en/Legislation/Pages/Wage-Regualtion-Orders.aspx>

For information regarding obligations of foreign entities assigning personnel to Malta please visit the following website:

<https://dier.gov.mt/en/Employment-Conditions/Posting%20of%20Workers%20in%20Malta/Pages/Information.aspx>





# THE NETHERLANDS



## Minimum wage at national level

Currently, the Netherlands has a gross minimum wage set at national level. However, the minimum wage is determined based on the age of the employee. With effect from 1 July 2019 the age barrier for entitlement to the full minimum wage has been set at 21 years.

The level of the minimum wage is determined monthly, weekly and daily as per the table below. Amounts shown exclude the statutory holiday allowance of 8% of the gross wage:

Period	Employees over the age of 21
Daily	EUR 76.32
Weekly	EUR 381.60
Monthly	EUR 1,653.60
Hourly:	Depending on the regular hours worked in the applicable branch a different hourly wage applies:
-36 hours	EUR 10.60
-38 hours	EUR 10.05
-40 hours	EUR 9.54

\*Employees under the age of 21 are granted a different minimum wage.

A new provision has applied since January 2016 stating that the minimum wage should be paid to a bank account.

Blue collar workers can only work in the Netherlands for the minimum wage mentioned above if they are EU/EEA or Swiss nationals. In general, special salaries, much higher than the minimum wage, apply to non-EU/ EEA highly skilled migrants who apply for residence work authorizations and for blue card holders

## Minimum wage set through collective bargaining agreements

Effective 1 January 2018 the minimum wage also applies to any work hours in addition to the regular working hours in the profession or industry, unless this work is paid as compensatory time-off.

Another important change effective since 1 January 2018 is that independent contractors or freelancers are covered by the scope of the law and should thus also be paid at least the minimum wage.

The applicable number of working hours can be determined in the collective bargaining agreement. These agreements can also contain different agreements with respect to the applicable minimum wage but this may never be less than the statutory minimum wage as per the above table.

## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/basic wage	Per-diems
Compensation for overtime	Housing
Additional payments for e.g. irregular working hours, night shifts	Transportation costs
Structural (weekly or monthly) payments based on the employee's turnover (so the amount can vary but the payments itself should not be incidental)	Bonuses
	Holiday allowances
	Payments for special events, entitlements to receive payments in the future, reimbursements which are supposed to cover necessary expenses as a result of the employment, special reimbursements for wage-earners and heads of families, year-end payments, employer's contributions to health insurance
	Profit sharing payments
	Meal costs

## Legal hours

The law does not lay down how many hours there are in a full working week. There are usually 36, 38 or 40 hours in a full week, depending on the normal work hours in the particular profession. Therefore, the hourly minimum wage varies.

The maximum legal working schedule in the Netherlands is 12 hours per day or 60 hours per week.

## Implementation of Enforcement Directive 2014/67/EU

Effective 18 June 2016, the Directive's rules were taken over in the act "Wet arbeidsvoorwaarden gedetacheerde werknemers in de Europese Unie" or WagwEU. In accordance with the Directive, the aim of WagwEU is to ensure that assignments really are temporary, that self-employment is not fake and that the sending company is genuine.



## Registration requirements

Further to the EU Enforcement Directive, the corresponding Dutch act (abbreviated as "WagwEU") contains the checks which the authorities may apply to determine if an employee is temporarily assigned to work in the Netherlands and, consequently, falls under the scope of the act.

Examples of these checks are: the duration and start-date, whether the employee will return, whether he/she normally works in the home country, the nature of the activities performed in the host country, whether or not the sending company pays for housing in the host country, earlier time spent in the Netherlands, proof of continuation of social security coverage in the home country, from where and how regularly the services are managed, who pays etc.

WagwEU requires the sending company to have (either in hardcopy or electronically) the following information available at the employee's place of work: the contract of employment, documents showing the number of hours worked, copy/copies of payslip(s), proof of payment of social security contributions (the A1 social security certificate of coverage), proof of the identity of the sending and receiving companies, the assignee and the person responsible for paying the assignee's wage and proof showing that the assignee's salary has been paid.

Upon the authorities' request, the sending company is responsible for providing this information after or during the assignment within a reasonable timeframe.

To help employers comply with the legislation a central website has been launched in English, German and Dutch, via which the sending company should register the assignee and which shows all the relevant conditions for companies to register.

The website also links to the online reporting tool through which the information should be submitted by the foreign employer. Now that this has been put into place, a filing obligation has been implemented with effect from 1 March 2020 for postings with a start date after 1 March or for extensions.

While the sending company must submit the notification, the receiving company should in turn verify if the sending company has complied with its reporting obligation; this official check must be made by the receiving company within five days of the start of the work using the same online reporting tool.

As part of WagwEU the sending company is required to appoint a contact person in the Netherlands to act as a liaison with the authorities.



## Penalties for non-compliance

The penalties for non-compliance for the foreign employer are linked to the number of workers and vary from EUR 1,500 in cases where there are less than 10 posted workers up to EUR 4,500 in cases of 20 posted workers or more.

Failing to check the notification by the receiving company may lead to a EUR 1,500 fine. Furthermore, fines may be lowered or raised depending on the frequency of the violation and its severity.

The Dutch authorities are very strict in enforcing the employer's obligation to pay staff according to the Minimum Wage Act. This is audited in several ways, for instance by the authorities checking the central payment system (SUWI-net) or by inspections on site by the Labor Inspectorate. Furthermore, construction sites must maintain a strict gate administration which is very often checked as well.



## New Posting Directive

The EU Commission adopted a proposal for a revision of the Posting of Workers Directive on 28 June 2018 - Directive (EU) 2018/957.

The Directive must be transposed into national law by 30 July 2020 and although the applicable legislation is still in the drafting stage, it is expected that the Netherlands will have implemented the new Posting Directive by the set deadline.



## Public sources of information

There are many different collective labor agreements in the Netherlands.

The following website has a collective labor agreements search function, which might be useful:

<https://www.fnv.nl/sector-en-cao/alle-caos/>

Posted worker information webpage with link to the online reporting tool:

<https://english.postedworkers.nl/>



# NORWAY



## Minimum wage at national level

Minimum wage at national level  
Norway is one of the Nordic countries which does not have a statutory fixed minimum wage requirement in place.

## New Posting Directive

The new posting directive is currently under revision within the Ministry of Labour and Social Affairs with the intent of implementation, but the particulars on how the new posting directive will affect posting of employees to Norway is not yet clear.

## Public sources of information

Several government agencies have cooperated to launch a website called <https://www.workinnorway.no/en/Home>.

This website contains some relevant information with regard to working and/or doing business in Norway.

The Ministry of Labor and Social Affairs has the following webpage:  
<https://www.regjeringen.no/en/dep/asd/165/>

The Norwegian Labor Inspection Authority also has a website:  
<https://arbeidstilsynet.no/en/> which contains relevant information about minimum wage requirements in various industries, working hour regulations and health and safety issues at the workplace.

## Minimum wage set through collective bargaining agreements

Generally, remuneration is negotiated between the parties, either individually or collectively. However, in certain industries or business sectors there are generally applicable collective bargains in place, which provide mandatory minimum wages for certain groups of employees.

The minimum wage can change at different times for different industries. However, generally, it changes annually, during spring. The minimum wage depends on education, experience etc. Below you can find some examples of the current mandatory minimum pay in certain industries:

Industry	Qualifications	Mandatory minimum wage per hour
Building sites *	Skilled employees	NOK 209,70
	Unskilled employees	NOK 188,40
Maritime construction/ shipbuilding industry *	Unskilled, min. 1 year work experience	NOK 188,40
	Skilled workers	NOK 178,55
	Semi-skilled worker	NOK 170,53
Agriculture and horticulture*	Unskilled worker	NOK 162,60
	In addition, applies various increment to wages	
	Unskilled employees	NOK 143,05
Cleaner*	Skilled worker	NOK 143,05 + NOK 11,75
	In addition, applies various increment to wages	
Cleaner*		NOK 187,66

*\*the employer should also pay 14.1 % pension contribution. In addition to the salary, the employer has to offer an obligatory private pension scheme (special rules apply on this) to employees who are members of the Norwegian social security scheme. The contribution paid by the employer is tax free for the employee, but employer social security contribution are calculated on the pension contribution paid.*

In addition, most generally applicable collective bargaining agreements require the employer to cover expenses related to travel, board and lodging for travel within Norway.

Currently, in addition to the industries mentioned above, there are generally applicable collective bargaining agreements in place in the following industries: electro, fish processing enterprises, hotel, restaurants and catering, and the transport industry (both transport of freight and of persons).

It is important to determine whether the work is covered by an agreement which contains provisions on a minimum wage. Moreover, enterprises participating in public procurement will have a contractual obligation to apply minimum pay according to either a national applicable collective bargaining agreement or a generally applicable collective bargaining agreement. This should be assessed prior to submitting a tender.





## What can be included in the minimum wage

In terms of how the minimum wage is determined, wages are considered as remuneration for labour. Allowances come in addition to wages and should not be included in minimum pay, but there may be exceptions.

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage per hour	Per-diems
Some premiums may, subject to further assessment on a case-by-case basis, be included in the minimum wage if they are not meant to cover the employee's expenses. For instance, there are examples of cases where an assignment allowance has been accepted by the Norwegian Labor Inspectorate as included in the minimum wage, provided the allowance was not meant to cover the employee's expenses while posted. *	Housing
	Transportation costs
	Meal costs
	Insurance and pensions schemes
	Generally applicable bonuses (e.g. to all employees)
Individual bonuses (e.g. based upon individual efforts)	Overtime supplement and (if applicable) shift premiums are not included in the minimum wage and should be paid out in addition to the basic hourly wage.

\* Please note that the regulatory/compliance risk with such arrangements are high. Before concluding that a premium may be included in the minimum wage following the Norwegian regulations, we recommend seeking legal assistance.



## Legal hours

Mandatory normal working hours are maximum 9 hours a day and maximum 40 hours a week. Most employees work 8 hours a day Monday-Friday.

Shorter working hours may apply according to a generally applicable collective bargaining agreement or a national applicable collective bargaining agreement. The working hours should be stated in the employment contract.

If the conditions are fulfilled the employer may apply average calculation of normal working hours. Average calculation of normal working hours means that the employees may work longer hours per day and week for a specific period, provided the extra hours put in are taken out in free time.

On average, the employee must not work more than the maximum normal working hours according to the legislation or the applicable collective bargaining agreement. Before average calculation of working hours can be adopted, certain mandatory requirements must be followed in order for it to be valid. In some cases, average calculation of working hours may require consent from the Norwegian Labor Inspection Authority.

In addition, the Norwegian Annual Holiday Act applies.

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive was implemented in the Norwegian Working Environment Act and the regulation concerning posted workers as from 1 of July 2017.



## Registration requirements

There is currently no registration requirement with the labor authorities or any obligation to appoint a contact representative in Norway as a consequence of the Enforcement Directive.

The Ministry of Labor and Social Affairs did not want to implement such arrangements at the time the Enforcement Directive was implemented, without conducting a more thorough assessment of the consequences of imposing such obligations.

However, in terms of administrative requirements, in the case of assignments to Norway, the employee must be registered with the Norwegian tax authorities on a specific form (RF-1198).



## Penalties for non-compliance

Breach of the mandatory provisions concerning the minimum wage in the industry sectors with generally applicable collective bargaining agreements may entail compliance/regulatory risk in relation to the Labor Authorities.

The Norwegian Labor Inspection Authority may impose penalties in the form of administrative orders, enforcement fines or non-compliance penalties for severe breaches. The same applies for breaches of mandatory working hour provisions.

The maximum non-compliance penalty that may be issued by the Labor Inspectorate is 15 times the basic national insurance amount (15 G), currently approximately NOK 1 500 000.

Non-compliance with reporting employees on the form RF-1198 may entail a penalty of NOK 2 300 for each employee.

The EFTA surveillance authority considers, however, that the duty to report employees on form RF-1198 distorts competition, and is in violation of the principle of freedom to provide services according to Article 36 of the EEA agreement.

The EFTA surveillance authority have therefore concluded that the Norwegian reporting scheme must cease, and so it is likely that the Norwegian authorities will take steps to end it.

Penalties incurred may be unlawful as a consequence of the decision made by the EFTA surveillance authority, and there may be grounds to claim a refund of any penalties paid.



# POLAND



## Minimum wage at national level

Poland has a minimum wage set at national level.

The level of the minimum wage is usually published in September and is applicable from 1 January of the following year. The minimum wage is a fixed amount determined based on the increase in the price of goods.

As from January 2020 the level of the minimum wage is PLN 2,600 (approximately EUR 615) fixed for both blue collar workers and highly skilled workers, corresponding to full time employment, based on an employment contract only.

For civil law-based contracts the minimum wage equals PLN 17 per working hour (approximately EUR 4). In 2019, the minimum wage was PLN 2,250 (approximately EUR 530) for employment contract workers and PLN 14.70 (approximately EUR 3.50) for civil law-based contractors.



## Public sources of information

Ustawa z dnia 10 października 2002 r. o minimalnym wynagrodzeniu za pracę (Dz. U. z 2018 r. poz. 2177 oraz z 2019 r. poz. 1564) – official act of law regulating minimum wage requirements plus implementing acts that are issued each year



## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Overtime payments
Seniority allowance	Housing
Bonuses	Transportation costs
Holiday payments	Meal costs
Special payments (Foreign Service Premium, Hardship Premium, Country Allowance, Assignment Allowance, Cost of Living Allowance)	Per-diems, severance payment, night shift payment, social funds payments



## Legal hours

The maximum legal working hours in Poland are 8 hours per day, or the equivalent of 40 hours per week

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive 2014/67/EU was transposed into Polish legislation in June 2016 upon adoption of the Seconded Persons Act, which entered into force on 18 June 2016.

The new regulations are intended to enforce Directive 96/71/WE of 16 December 1996 (the Basic Directive) concerning the posting of workers within the framework of the provision of services and introduce a range of new obligations for employers who send their staff to Poland.

In order to establish one comprehensive regulation on key issues related to the posting of employees as part of the provision of services, the Polish Seconded Persons Act covers issues regulated by the Basic Directive and Directive 2014/67/EU. Consequently, the Polish Seconded Persons Act includes the provisions implementing the Basic Directive (by transferring them from existing laws), and establishing new regulations, implementing Directive 2014/67/EU.



## Registration requirements

The Polish Seconded Persons Act sets a requirement for foreign employers to

appoint a person (who should stay in Poland during the employees' posting period) authorized to represent the foreign company in contacts with the Polish Labor Inspectorate.

An employer posting an employee to Poland must submit to the Polish Labor Inspectorate a statement containing the information necessary to check the actual situation at the workplace. The foreign employer is required to meet these obligations (filing the declaration and nominating a contact person) on the first day the employee works in Poland at the latest.

The Polish Labor Inspectorate should be notified of any change to the information contained in the statement no later than within 7 working days of the date of the change.

Statements and information on procedures can be found on the website of the Polish Labor Inspectorate:

<https://www.pip.gov.pl/en/legality-of-employment/65535,information-on-posting-of-workers.html>



## Penalties for non-compliance

Penalties of between PLN 1,000 and PLN 30,000 (approx. 200 – 6,500 EUR) can be imposed for offenses against the regulations.



## New Posting Directive

The EU Commission adopted a proposal for a revision of the Posting of Workers Directive on 28 June 2018 - Directive (EU) 2018/957, which was implemented by the Polish government in 2018. The regulations in Poland appear as in other EU countries. The changes resulting from the directive will take place from 30 July 2020.



# PORTUGAL



## Minimum wage at national level

Portugal has a minimum wage requirement which is updated as needed by the economic environment, with no specific timetable.

The current level of the minimum wage, applicable from January 2020, is EUR 635 per month. Previously, as from January 2019, the minimum wage was set at EUR 600 per month.

The minimum wage does not depend on occupation, industry or age. The minimum wage is also applicable to all employees irrespective of their professional background (e.g. blue collar workers, highly skilled workers or other categories).

## Public sources of information

From a tax perspective, the following websites can be useful:

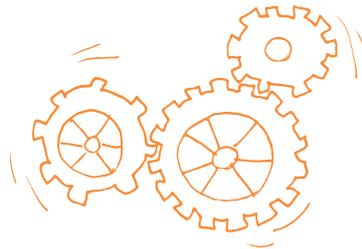
Portuguese Tax authorities (Portuguese tax system):  
[http://info.portaldasfinancas.gov.pt/pt/docs/Conteudos\\_1pagina/Pages/portuguese-tax-system.aspx](http://info.portaldasfinancas.gov.pt/pt/docs/Conteudos_1pagina/Pages/portuguese-tax-system.aspx)

Social Security Authorities website:  
<http://www.seg-social.pt/inicio>



## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Per-diems
	Overtime payments
	Housing
	Transportation costs
	Bonuses
	Special payments (Foreign Service Premium, Hardship Premium, Country Allowance, Assignment Allowance, Cost of Living Allowance)
	Any other items that are deemed as employment income, and not included above



## Legal hours

The maximum legal working time in Portugal is 8 hours per day and 40 hours per week.



## Registration requirements

The employer is required to communicate the posting to the Authority for Working Conditions (ACT) with certain particulars, i.e.: the identity of the service provider; the number and identification of the workers to be highlighted; identification of the liaison person; the estimated duration and estimated dates for the start and end of the posting; the address of the place of work; as well as the nature of the services justifying the posting.

To do this, the employer must use the form available at [http://www.act.gov.pt/\(pt-PT\)/CentroInformacao/DestacamentoTrabalhadores/Destacamento\\_detrabalhadores/Documents/Formulario\\_destacamentoV2.pdf](http://www.act.gov.pt/(pt-PT)/CentroInformacao/DestacamentoTrabalhadores/Destacamento_detrabalhadores/Documents/Formulario_destacamentoV2.pdf).

The communication should be sent to the email: [destacamento@act.gov.pt](mailto:destacamento@act.gov.pt).

The foreign company must appoint a person to liaise with the appropriate authority and to send and receive documents and information and, where appropriate, to liaise with the social partners on collective bargaining.



## Penalties for non-compliance

If the service provider fails to declare the posted worker, if the information transmitted is incorrect and/ or incomplete, or if the purchaser and the contractor fail to carry out the appropriate checks on the foreign service provider, they are subject to an administrative fine of maximum 9 690 € per posted worker.

If the declaration does not comply with the form and is not sent to the email above, the service provider is subject to an administrative fine of maximum 1 530 € per posted worker. Failure to comply with the posting of workers obligations, can also lead to penalties such as administrative fines.

The contractor and the employer are jointly responsible for any net remuneration in arrears corresponding to the minimum legal, conventional or guaranteed labor contract remuneration, due to the posted employee.



# ROMANIA



## Minimum wage at national level

Starting 1 January 2019, there are three levels of minimum wage in Romania:

- Standard minimum wage - 2,230 RON per month for 2020
- Minimum wage for positions which require university studies and work experience of at least 1 year - 2,350 RON per month for 2020
- Minimum wage for the construction sector - 3,000 RON per month.



## Minimum wage set through collective bargaining agreements

Minimum wage rates are also established by the applicable private collective agreements.

However these amounts cannot be lower than the national minimum gross wage.



## New Posting Directive

The EU Commission adopted a proposal for a revision of the Posting of Workers Directive on 28 June 2018 - Directive (EU) 2018/957. The Directive has not been implemented into Romanian legislation.



## What can be included in the minimum wage

Under the Romanian labor code, wages are defined as basic wages, allowances, benefits, as well as other additional payments. At the same time the base wages cannot be lower than the national minimum wage. It is thus considered, that the Romanian minimum wage cannot include cost of living allowances, foreign service premiums, bonuses or per – diems.

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Per-diems
Overtime payments	Housing
Bonuses	Transportation costs
	Meal costs
	Special payments (Foreign Service Premium, Hardship Premium, Country Allowance, Assignment Allowance)



## Legal hours

In Romania the standard working hours are 8 hours per day and 40 hours per week.

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive was transposed by Romania by means of Law no.16/ 2017 and its application norms dated 18 May 2017.



## Registration requirements

Undertakings established in a Member State other than Romania, or in the Swiss Confederation, which post workers to undertakings in Romania are required to submit a notification on the transnational posting of workers, in the Romanian language, to the local labour inspectorate under whose jurisdiction they are going to operate.

The notification must be submitted at the latest on the working day prior to commencement of the activity.

Romanian law provides for the posting entity to indicate a legal representative in Romania to establish contact with the Romanian authorities. According to the law, if this entity has no legal representative in Romania, one of the employees seconded to Romania should be designated as a contact person with the Romanian authorities.



## Penalties for non-compliance

According to the law, the Romanian authorities may impose fines (i.e. RON 5,000 – RON 9,000, the equivalent of approximately EUR 1,090 – EUR 1,960, at the exchange rate of 4.6 RON/EUR) for:

- Not filing the informative form.
- Not holding and making available to labor inspectors at their request the above mentioned documents.
- Not presenting a translation into Romanian of the documents requested.
- Not presenting the documents required by the authorities after the termination of the secondment period, at the request of the national Labor Inspectorate or of the local labor inspectorates, within a maximum of 20 working days from receipt of the request.
- Not fulfilling the obligation to designate a person to liaise with the relevant national authorities and to send and receive documents and / or opinions, if appropriate.

Companies must keep and be able to present the required documents for 3 years after the end of assignment.

If the informative form is incomplete or has inaccurate information in the statement the authorities may impose fines of between RON 3.000 and RON 5.000.



## Public sources of information

See model of notification

<https://www.inspectiamuncii.ro/documents/66402/1518590/ModelDeclaratie-en.pdf/976f2580-2efd-4553-8382-df76328dca5b>

See the list of labor inspectorates

<https://www.inspectiamuncii.ro/documents/66402/1518590/Lista+ITM+--+uri+pentru+pct.+l.1-en.pdf/7b6b03fc-8f37-4366-8c30-fe860f5d7ec0>

See other information

[https://www.inspectiamuncii.ro/documents/66402/201782/Detasarea+transnationala+pe+teritor iul+Romaniei-en\\_2018.pdf/81a2bdc7-7986-46ba-a2c6-1ce54ba4df5e](https://www.inspectiamuncii.ro/documents/66402/201782/Detasarea+transnationala+pe+teritor iul+Romaniei-en_2018.pdf/81a2bdc7-7986-46ba-a2c6-1ce54ba4df5e)

<http://www.mmuncii.ro/j33/index.php/ro/legislatie/munca2/2019-mobilitatea-fortei-de-munca>

<http://www.mmuncii.ro/j33/index.php/ro/>

<https://www.inspectiamuncii.ro/>

<http://www.itmbucuresti.ro/>



# SLOVAKIA



## Minimum wage at national level

Slovakia's minimum wage is determined annually through government regulation. The Slovak government passes the regulation in October each year and it enters into force starting from 1 January of the following year.

The minimum wage is determined as a fixed, monthly amount, for employees who are paid monthly and have a regular weekly working time.

The minimum monthly wage in 2020 is EUR 580. For other employees an hourly rate is applicable, which is EUR 3.333 in 2020. The minimum wage must be paid to every employee in an employment relationship.

## Minimum wage set through collective bargaining agreements

Employees whose remuneration terms are not regulated in a collective agreement are eligible to receive at least the minimum wage.

Sector wide, so called higher level collective bargaining agreements can be accessed on the webpage of the Ministry of Labor of the Slovak Republic via the following link (in Slovak only): <https://www.employment.gov.sk/sk/praca-zamestnanost/vztah-zamestnanca-zamestnavateľa/kolektívne-pracovnoprávne-vztahy/kolektívne-zmluvy/zoznam-kolektívnych-zmluv-vyššieho-stupňa/>

Higher level collective bargaining agreements are concluded between country-wide representative(s) of employees and representative(s) of employers for a specific sector or sectors. These collective agreements should guarantee more favourable or comparable rights of employees than the statutory minimum set out in the Labour Code. Additionally, there are also collective bargaining agreements concluded between the employers and trade unions, which apply only to the specific company.

Minimum wages, however, do not apply to certain categories, e.g. public servants, civil servants, members of the armed forces, customs officers, fire fighters, judges, and prosecutors.

The level of the minimum wage does not depend on the occupation, but on the type of work (i.e. complexity, responsibility and level of work difficulty). Each position must be classified in one of the six levels of work difficulty.

The minimum wage for each level of work difficulty is determined by multiplying the minimum wage by the index stated for the relevant level of work difficulty. Below you can find examples of the six levels of work difficulty:

- Level 1 – e.g. Cleaner
- Level 2 – e.g. Administrative worker
- Level 3 – e.g. Nurse
- Level 4 – e.g. Chief accountant
- Level 5 – e.g. Production manager
- Level 6 – e.g. Managing director

As the minimum wage level depends on the level of work difficulty, the type of work must be taken into consideration. Highly skilled workers are generally classified in the fifth and sixth level of work difficulty.

For example, for blue collar workers the minimum wage is at least EUR 580 (EUR 520 during 2019) per month, while for highly skilled workers in the sixth level of work difficulty (e.g. workers with a blue card), the minimum wage is at least EUR 1 160 (EUR 1 040 during 2019) per month.

## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Per-diems
Paid Holiday	Housing
Food allowance	Transportation costs
	Meal costs
	Discharge benefit
	Contributions from a social fund
	Contributions to an employee's life insurance
	Compensation for work standby and other



## Legal hours

In general, the maximum legal working time in Slovakia is 8 hours per day or 40 hours per week. Special rules apply for working hours of youth workers (under 18 years old), workers performing work in a high cancer risk environment and healthcare workers.

## Implementation of Enforcement Directive 2014/67/EU

Directive 2014/67/EU of the European Parliament and of the Council on the enforcement of Directive 96/71/EC concerning the posting of workers within the framework of the provision of services and amending Regulation (EU) No 1024/2012 on Administrative Cooperation Through the Internal Market Information System (hereinafter the "Enforcement Directive") was transposed into Slovak legislation by:

- Act No 351/2015 Coll. on Cross Border Cooperation Concerning the Posting of Workers within the Framework of the Provision of Services as amended (hereinafter the "Act") effective as of 18. June 2016.
- The Amendment to the Slovak Labor Code (hereinafter the "Labor Code") and
- The Amendments to other legislation regulating the labour market, in particularly the Act on Illegal Work or the Act on the Slovak Labor Inspectorate, etc.



## Registration requirements

The notification obligation of the Assigning Employer should be fulfilled on the first day of assignment, at the latest.

It can be submitted electronically (via <https://www.ip.gov.sk/notification-form/>) or in hardcopies.

Apart from the notification requirement, the commencement and termination of an assignment must be notified to the appropriate Labor Office through delivery of the Information Card by the recipient of services.

The posted worker should also comply with residence obligations (Notification of stay and registration of residence, if applicable) to the Slovak Foreign Police. However, the extent of these obligations depends on the length of the assignment.



## Penalties for non-compliance

Penalties for employers for breaching the obligations related to the Labor Office and the National Labor Inspectorate can be up to EUR 200 000.

Penalties for foreigners for breaching the obligations related to the Foreigners' Police can be as follows:

- Financial penalty up to EUR 1 600; and/or
- Penalty of administrative expulsion.



## New Posting Directive

The National Council of the Slovak Republic approved an amendment to the Labor Code effective as of 30 July 2020. This amendment will introduce changes adopted in European Directive no. 957/2018, amending the original Directive 96/71/EC on the posting of workers within the framework of the provision of services.

The new directive is based on the need to strike a balance between promoting freedom to provide services and ensure a level playing field on the one hand, and the need to protect the rights of posted workers, on the other.



## Public sources of information

Ministry of Labor, Social Affairs and Family  
<https://www.employment.gov.sk/en/>

Central Office of Labor, Social Affairs and Family  
<https://www.upsvr.gov.sk/>

National Labor Inspectorate  
<https://www.ip.gov.sk/home/>

Ministry of the Interior of the Slovak Republic  
<http://www.minv.sk/?residence-of-an-foreigner>





# SLOVENIA



## Minimum wage at national level

Slovenia has a minimum wage requirement and the level is generally updated every year in January. As from 1 January 2020 the level of the minimum wage has been set at EUR 940,58 gross per month for full-time work (8 hours per day).

No worker in Slovenia should be paid less than this minimum pay rate, irrespective of the individual's professional expertise (e.g. blue-collar workers, highly skilled workers or others). A worker working part time is entitled to a proportionate share of the minimum wage.

The minimum wage is determined as a fixed amount and is based on economic factors, such as growth of retail prices, change in salaries, economic growth and changes in employment.

## Minimum wage set through collective bargaining agreements

The law sets the minimum wage. However, collective bargaining agreements determine the minimum wage for the lowest ranked positions.

## What can be included in the minimum wage

The minimum wage requirement covers the following remuneration components:

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	All wage supplements (e.g. for years of service, for night work, for work in shifts, for work on Sundays, for work on public holidays and work-free days determined by law, for overtime work)
	Performance bonuses (whether based on individual or company performance success), Holiday allowance, severance payments, jubilee awards
	Transportation costs i.e. commuting expenses for travel to and from work Meal allowances Housing Business trip expenses Per-diems
	Special payments (Foreign Service Premium, Hardship Premium, Country Allowance, Assignment Allowance, Cost of Living Allowance)

A calculation formula expected to be introduced in January 2021 will keep the net minimum wage for full working time 20% above the minimum costs of living.

## Legal hours

The maximum legal working time in Slovenia is 8 hours per day or 40 hours per week.

## Implementation of Enforcement Directive 2014/67/EU

Directive 96/71/EC has already been implemented into current legislation, through the Employment, Self-employment and Work of Aliens Act, the Employment Relationship Act, the Private International Law and Procedure Act, and the Employment and Insurance Against Unemployment Act.

Directive 2014/67/EU was implemented into national legislation on 1 January 2018 through the Posting of Workers Act which also includes Directive 96/71/EC.

## Registration requirements

The home employer must notify the posting to the Slovenian labor authorities (the National Employment office) before the work commences (at least one day earlier). The home employer should appoint a representative in Slovenia to be in contact with the authorities.



## Penalties for non-compliance

For non-compliance with the minimum wage requirements, the general penalty is between EUR 3,000 and 20,000. For employers with 10 or fewer employees, the penalty is between EUR 1,500 and EUR 8,000.

A penalty of between EUR 1,000 and EUR 2,000 is also applicable to the individual that represents the employer, who is responsible for the non-compliance.

If a home employer does not comply with the registration requirement, the penalty is between EUR 3,000 and 30,000 (also if the service is not performed according to the service registered or if the employer does not keep documentation or if this is not provided to the supervisory authority).

A penalty of between EUR 500 and EUR 1,500 is also applicable to the individual that represents the employer, who is responsible for the non-compliance.



## New Posting Directive

Directive (EU) 2018/957 has not yet been implemented into national law. The revision of the Posting of Workers Act was proposed in October 2018, but it has not yet been adopted.

According to proposed amendments to the Posting of Workers Act, it should simplify the procedure for obtaining A1 certificates (immediate automatic issuance of the certificate by request via the respective authority e-system).



## Public sources of information

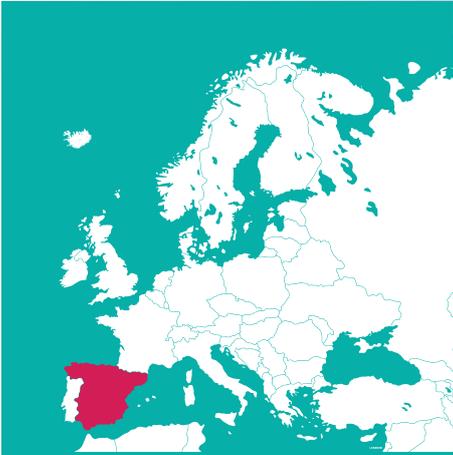
Information about collective bargaining agreements and/or other industry specific agreements can be found on the Ministry of Labor, Family, Social Affairs and Equal Opportunities web page as well as on the web page of the Association of Employers of Slovenia.

Public information sources on the obligations of foreign entities assigning personnel to Slovenia can be found on the Financial Administration of the Republic of Slovenia web page or on the Health Insurance Institute of Slovenia web page.





# SPAIN



## Minimum wage at national level

There is a minimum wage requirement in Spain, which is set by the government. For 2019, the minimum wage was EUR 900.00/month. The minimum wage for 2020 is still 900 € per month. But it is expected that it will be increased to 950.00

The minimum wage set by the government is applicable as from 1 January and it is updated every year. It is a fixed amount.

The minimum wage does not depend on the occupation, industry or the age of the employee; it is set depending on agreement between the government, the most representative unions and employers. The minimum wage does not distinguish between blue collar, highly skilled or other types of workers, as it is a fixed amount.



## Minimum wage set through collective bargaining agreements

Collective bargaining agreements (national, regional or sectional), usually set another minimum wage requirement, depending on the activity or professional category, which is always higher than the one set by the government.

Collective bargaining agreements set the minimum wage for a fixed period of time as well, generally for one year. Collective bargaining agreements can determine other remuneration systems. Generally, collective bargaining agreements set a fixed amount and, in addition, set out other amounts that depend on productivity, seniority, etc.

The minimum wage set by collective bargaining agreements can be based on other criteria such as occupation or position in the company, as it depends on the sector. Collective bargaining agreements usually set a level of minimum wage depending on the category of the employee.



## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary	Per-diems Housing Transportation costs Meal costs
Overtime payments	Special payments (Foreign Service Premium, Hardship Premium, Country Allowance, Assignment Allowance, cost of living allowance)



## Legal hours

The Spanish Workers Statute establishes a maximum of 9h per day and 40h per week. However, the duration of the working day or week may be different, depending on the applicable collective bargaining agreement.

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive was transposed by Spain by means of Royal Decree-Law 9/2017 and its application norms dated 27 May 2017.



## Registration requirements

The employer is required to communicate the posting electronically to the corresponding authority according to the area of the country where the services are provided.

This communication must be made by the Spanish company in Spain, before the displacement is effective.



## Penalties for non-compliance

According to the provisions of the Royal Decree-Law, compliance is enforced by the inspectorate of Work and Social Security. Breaches are penalized according to the Act of Criminal Offenses against the Social Order and Penalties as follows:

### Serious offenses: (fines of between € 626 and € 6,250):

- The presentation of the communication of the posting after the effective date or without designating the company's representative who will serve as a contact with the appropriate Spanish authorities, or a person who can act in Spain, to provide information and consultation for employees and negotiations on behalf of posted employees in Spain.
- Failure to hold the posting documentation according to Spanish legal provisions
- Failure to inform the labor authorities on time or in the correct format of serious accidents which result in death or injury.
- Failure to present the documentation required by the Inspectorate of Work and Social Security or to present any document without a translation.

### Very serious offenses: (fines of between € 6,251 and € 187,515):

- Lack of a posting communication
- Falsehood or concealment of posting data

The level of the fines is based on different criteria (number of employees affected, whether it is a repeat offense etc.) A liaison person/ representative in relations with the relevant labor authorities may act with a power of attorney issued by a notary.



### New Posting Directive

This has not been implemented in Spain.



### Public sources of information

<http://www.seg-social.es/wps/portal/wss/internet/InformacionUtil/32078/32253/1437/1440>





# SWEDEN



## Minimum wage at national level

Sweden does not have minimum wage legislation.

## Minimum wage set through collective bargaining agreements

No minimum wages.

## What can be included in the minimum wage

Not applicable.

## Legal hours

The legal working hours are 8 hours per day or 40 hours per week. Overtime and standby time may be allowed within certain limits.

## Implementation of Enforcement Directive 2014/67/EU

Directive 67/2014/EU was implemented in Sweden on 1 June 2017 as part of legislation on posting of workers.

## New Posting Directive

Not yet implemented.

## Registration requirements

The home country employer must notify the Swedish Work Environment Authority no later than five days after the assignment has begun.

The notification should include certain specific information such as both the home and the host employer as well as a contact person of the employer.

The notification can be filed online, on the Swedish Work Environment Authority's website.

## Penalties for non-compliance

Penalties starting from SEK 20,000 may be levied in cases of non-compliance with the notification requirements.

## Public sources of information

More information, in English:  
<https://www.av.se/en/>





# SWITZERLAND



## Minimum wage at national level

Switzerland does not have a minimum wage set at national level.



## Public sources of information

Please find links regarding Collective Labor Agreements in Switzerland:  
[https://www.seco.admin.ch/seco/de/home/Arbeit/Personenfreizugigkeit\\_Arbeitsbeziehungen/Gesamtarbeitsvertraege\\_Normalarbeitsvertraege/Gesamtarbeitsvertraege\\_Bund/Allgemeinverbindlich\\_erklaerte\\_Gesamtarbeitsvertraege.html](https://www.seco.admin.ch/seco/de/home/Arbeit/Personenfreizugigkeit_Arbeitsbeziehungen/Gesamtarbeitsvertraege_Normalarbeitsvertraege/Gesamtarbeitsvertraege_Bund/Allgemeinverbindlich_erklaerte_Gesamtarbeitsvertraege.html)

[https://www.seco.admin.ch/seco/de/home/Arbeit/Personenfreizugigkeit\\_Arbeitsbeziehungen/Gesamtarbeitsvertraege\\_Normalarbeitsvertraege/Gesamtarbeitsvertraege\\_Kantone.html](https://www.seco.admin.ch/seco/de/home/Arbeit/Personenfreizugigkeit_Arbeitsbeziehungen/Gesamtarbeitsvertraege_Normalarbeitsvertraege/Gesamtarbeitsvertraege_Kantone.html)



## Minimum wage set through collective bargaining agreements

However, minimum wage requirements are set out for specific industries in hundreds of collective labor schemes (some of which mandatorily apply to all employees working in Switzerland whether or not the employer or its Swiss host group company is a party to the scheme).

Apart from the above and regardless of the type of industry and work performed in Switzerland, the following applies without exception: Employees who are employed outside Switzerland and are supposed to work in Switzerland as assignees must be paid a salary for the time in Switzerland which is in line with the customs in the relevant Swiss canton, industry and profession (so-called Swiss reference salary).

In this respect, the Swiss immigration authorities always check on the salary requirements when processing a work permit application.

In addition, in the event of labor inspections in Switzerland on site, the employer may be required to provide evidence to the authorities that the salary (plus expenses) outlined in the work permit application and supporting documents is actually being paid (by providing pay slips, records of expense compensation payment, etc.).

All 26 Swiss cantons apply their own standard salary levels, meaning that when determining a relevant reference salary every case is analyzed individually.

All cantons, however, base their assessment on their statistical reference salaries for comparable Swiss employees in their geographical area.

This means that for all sorts of activities and groups of employees they apply a statistical reference salary range and usually request the assigning employer to pay the average of the statistical salary range to the employee.

If a salary turns out not to be sufficient during the work application process, time consuming negotiations with the authorities on the adjustment payments and drafting and signing of new supporting documents are required.

The minimum wage is determined either

(i) based on the provisions of potentially applicable collective labor scheme(s) or

(ii) in the case of assignees for whom no collective labor scheme applies, individually on a case by case basis.

For assignees for whom no collective labor scheme applies, the following main criteria must be taken into consideration:

- Specific role/activities/ responsibilities when working in Switzerland;
- Age.
- Job grade.
- Overall level of occupation (e.g. 50%, 80%, 100%).
- Weekly hours of work as per employment/assignment contract.
- Qualification level (highest educational and professional certificate).
- Overall professional experience.
- Service for the applying employer.
- Number of employees employed by the Swiss group entity.
- Work location, since the reference salary differs from canton to canton.



## What can be included in the minimum wage

Included in the minimum wage	Not included in the minimum wage
Basic salary/ basic wage	Per-diems (to the extent that they are compensating for the assignment related expenses)
Per-diems (to the extent that they are not compensating for the assignment related expenses)	Housing
Overtime payments	Transportation costs
Bonuses may only be included in the minimum wage, if they are a fixed amount that is guaranteed / a non-variable part of the salary.	Meal costs
Special payments (Foreign Service Premium, Hardship Premium, Country Allowance, Assignment Allowance, Cost of Living Allowance)	



## Legal hours

In Switzerland, the maximum legal working hours per day/ week depends on the specific activity and industry.

## Implementation of Enforcement Directive 2014/67/EU

The Enforcement Directive 2014/67/EU is not applicable in Switzerland.



## Registration requirements

In terms of administrative obligations, at least an online notification or even a formal application is required to be submitted to the local authorities (depending on the location of the home company nationality of the assignee, the duration of the assignment and the total duration of all assignments of the same employer to Switzerland in the current calendar year).



## Penalties for non-compliance

All 26 cantons apply different processes to the different permit types. In the case of non-compliance with the above requirements the employer may be liable to the following:

- Subsequent payment of the salary gap being claimed.
- Obligation to pay the cost of enforcement proceedings
- Administrative penalties (fines up to CHF 30,000, exclusion from the Swiss market for one to five years, payment of inspection costs by offending employers).
- Criminal penalties (fines up to CHF 1,000,000, seizure of assets such as unlawful earnings).
- Penalties set out in the generally applicable collective employment contract.



## New Posting Directive

The Posting of Workers Directive on 28 June 2018 - Directive (EU) 2018/957 is not applicable in Switzerland. There are, however, similar rules in Switzerland that have been in place for many years.





# UNITED KINGDOM



## Minimum wage at national level

The United Kingdom has a National Minimum Wage ('NMW'). Historically, NMW rates used to change annually on 1 October. However, in April 2016, the Government introduced the National Living Wage ('NLW') which applies to workers aged 25 and over. Since April 2017, NLW and NMW rates have been reviewed and increased at the same time and are both determined as an hourly rate of pay. Since 6 April 2016, a mandatory NLW has applied to workers aged 25 and over. The NMW applies for workers aged 24 and under.

For NMW purposes, the pay allocated to a pay reference period in the UK is any pay which is:

- Received during that period.
- Earned in that period but not received until the next pay reference period.

The pay in the period will consist of the total eligible earnings for NMW purposes and it is not limited to the hourly rate received by the individual.

The NMW is calculated by dividing pay by the number of actual hours worked in the relevant pay reference period.

The legislation in relation to the minimum wage is extremely complex. The calculation of the NMW may be further affected by the worker type (as determined by their contract of employment e.g. hourly paid or salaried worker), the working practices in operation and how working time is identified and captured for payroll purposes.

The level of the minimum wage is determined based on the age of the worker and whether the individual is employed as an apprentice.

Year	Apprentice	Under 18	18 -20	21 to 24	NLW 25 and over
April 2019 (current rate)	£3.90	£4.35	£6.15	£7.70	£8.21
Rate from April 2020	£4.15	£4.55	£6.45	£8.20	£8.72

The apprentice rate may be paid only to apprentices who are either:

- Under 19
- 19 and above and in the first year of their apprenticeship

Apprentices aged 19 or above who have completed the first year of their apprenticeship are entitled to the minimum wage rate for their age.

**Work experience** – refers to a specified period of time that a person spends in a business, during which they have an opportunity to learn directly about working life and the working environment. The nature and arrangements for work experience vary and an individual's entitlement to the NMW will depend on whether the work experience offered makes the individual a worker for NMW purposes.

Circumstances in which the minimum wage is not applicable:

- Government training schemes or European Union Programmes: if a person is doing work experience as part of a government scheme to provide training, work experience or temporary work.
- Work experience as part of an education course – a person doing work experience which is a requirement of a higher or further education course for less than one year is not eligible for the minimum wage.
- Volunteers.

## Minimum wage set through collective bargaining agreements

Collective bargaining agreements are relatively rare in the UK except in certain sectors. Consequently, most employers will be unaffected by collective bargaining agreements. Where they do exist, collective bargaining agreements are generally agreed on an employer by employer basis (rather than a sector basis).

## What can be included in the minimum wage

Included in the minimum wage*	Not included in the minimum wage*
Basic salary/ basic wage	Per-diems
Overtime payments (in some circumstances on the basic rate is included)	Benefits in kind (other than provision of accommodation in some cases)
Bonuses	Traveling expenses
	Allowances which are not consolidated into the worker's standard pay (Foreign Service Premium, Hardship Premium, Country Allowance, Assignment Allowance, cost of living allowance, meal allowances)
	Advances of wages
	Tips and gratuities

*\*please note these are for example only and are not exhaustive lists*



## Penalties for non-compliance

In case of non-compliance with the minimum wage requirements and enforcement by the regulator (HMRC) the employer might be required to:

- Repay arrears of the minimum wage (going back up to 6 years) to each worker, to be paid at the current minimum wage rate
- Pay a penalty



## Working Hours

In general, workers cannot be made to work more than 48 hours per week on average or more than 6 hours without a rest break. In most cases, workers are also entitled to an 11 hour gap between shifts.

In the UK, workers can consent to opt out of the 48 hour maximum working week. An employee can withdraw their consent to opt out at any time by giving notice to their employer. The required notice period cannot be longer than 3 months.

It is important to be aware that working time for NMW purposes may not always be defined in the same way as working time for the purposes of the Working Time Regulations 1998.

## Implementation of Enforcement Directive 2014/67/EU

The Posted Workers Directive (2014/67/EU) ("Directive") requires member states to ensure that workers who are posted from one member state to another are entitled to the same minimum rights that are available to workers in the host member state.

The UK government made only minor changes to existing legislation to implement the Directive in the UK, because most existing domestic legislation relevant to the Directive already applied to all employees or workers whether working permanently or temporarily in the UK.

UK legislation includes (amongst others) the Health and Safety at Work Act 1974, the Working Time Regulations 1998, the National Minimum Wage Act 1998, the Employment Agencies Act 1973, and further legislation governing youth employment.

The UK did implement the Posted Workers (Enforcement of Employment Rights) Regulation 2016 (SI 2016/539) ("PWR") but this only deals with specific provisions relating to construction workers.

The Directive will no longer apply to the UK after the end of the Brexit transition period. Consequently, workers posted between the UK and EU countries will no longer be affected by the Directive and national rules relating to the rights of workers posted to a particular country will apply.

For workers posted to the UK, this will not mean any real change for employers, because the UK has not implemented any labour registration requirements for posted workers and the existing UK legislation will continue to apply in the same way to all posted workers, whether from the EU or not.



## Registration requirements

There are no labour registration requirements in the UK. Workers are still required to be registered with the tax authorities and (if applicable) the immigration authorities.

As there are no existing labour registration requirements, this will not be impacted by Brexit. However, depending on what is finally agreed with the EU before the end of the transition period, Brexit may mean that, in future, more workers from the EU will be required to register with the immigration authorities. The form that this registration would take is unclear as uncertainty over future EU- UK relations persists.



## New Posting Directive

Directive (EU) 2018/957 of the EU Parliament and of the Council of 28 June 2018 amending the Directive concerning the posting of workers was adopted by the EU Commission.

The Directive must be transposed into national law by 30 July 2020, but will not be relevant to the UK once the Brexit transition period ends.

On 28 June 2019, the European Commission published European Commission Notice to Stakeholders, Withdrawal of the United Kingdom and EU rules on the provision of services and posting of workers.

The notice stated that from the day the United Kingdom exits the EU the Directive will no longer apply where EU workers are posted into the UK or UK workers are posted into the EU (except where a UK national who is legally residing in an EU member state is posted to another EU state). However, at present, the UK is in the transition period, and the Directive still applies.



## Public sources of information

Please see this link for further information about NMW and NLW rates: <https://www.gov.uk/national-minimum-wage-rates>



### **Mădălina Racovițan**

Partner, Head of People Services

Tel: +40 (372) 377 782

Email: [mracovitan@kpmg.com](mailto:mracovitan@kpmg.com)



### **Medeea Marineci**

Manager, People Services

Tel: +40 (372) 377 800

Email: [mpopescu@kpmg.com](mailto:mpopescu@kpmg.com)

## **KPMG Romania**

### **Bucharest Office**

Victoria Business Park,  
DN1, Bucuresti - Ploiesti Road  
no. 69-71, Sector 1, Bucharest  
013685, Romania  
P.O. Box 18-191

**T:** +40 (372) 377 800

**F:** +40 (372) 377 700

**E:** [kpmgro@kpmg.ro](mailto:kpmgro@kpmg.ro)

[www.kpmg.ro](http://www.kpmg.ro)

### **Cluj Napoca Office**

Vivido Business Center  
Alexandru Vaida Voievod street, no 16,  
400592, Cluj Napoca, Romania

**T:** +40 (372) 377 900

**F:** +40 (753) 333 800

**E:** [kpmgro@kpmg.ro](mailto:kpmgro@kpmg.ro)

### **Constanta Office**

Mamaia blv., no. 208,  
4th Floor, Constanta,  
900540, Romania

**T:** +40 (756) 070 044

**F:** +40 (752) 710 044

**E:** [kpmgro@kpmg.ro](mailto:kpmgro@kpmg.ro)

### **Iasi Office**

Ideo Business Center,  
Pacurari Road, no. 138,  
Ground Floor

Iasi, 700521, Romania

**T:** +40 (756) 070 048

**F:** +40 (752) 710 048

**E:** [kpmgro@kpmg.ro](mailto:kpmgro@kpmg.ro)

### **Timisoara Office**

ISHO Offices  
Take Ionescu blv. no. 50,  
Building A,  
7th floor, Timis, Romania

**T:** +40 372 377 999

**F:** +40 372 377 977

**E:** [kpmgro@kpmg.ro](mailto:kpmgro@kpmg.ro)

## **KPMG Moldova**

### **Chisinau Office**

171/1 Stefan cel Mare blv.,  
8th floor, MD-2004, Chisinau  
Republic of Moldova

**T:** + 373 (22) 580 580

**F:** + 373 (22) 540 499

**E:** [kpmg@kpmg.md](mailto:kpmg@kpmg.md)

[www.kpmg.md](http://www.kpmg.md)

[kpmg.com/socialmedia](http://kpmg.com/socialmedia)



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. The KPMG name and logo are registered trademarks or trademarks of KPMG International.

© 2020 KPMG Romania S.R.L., a Romanian limited liability company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in Romania.

