



# EXPANDING HORIZONS

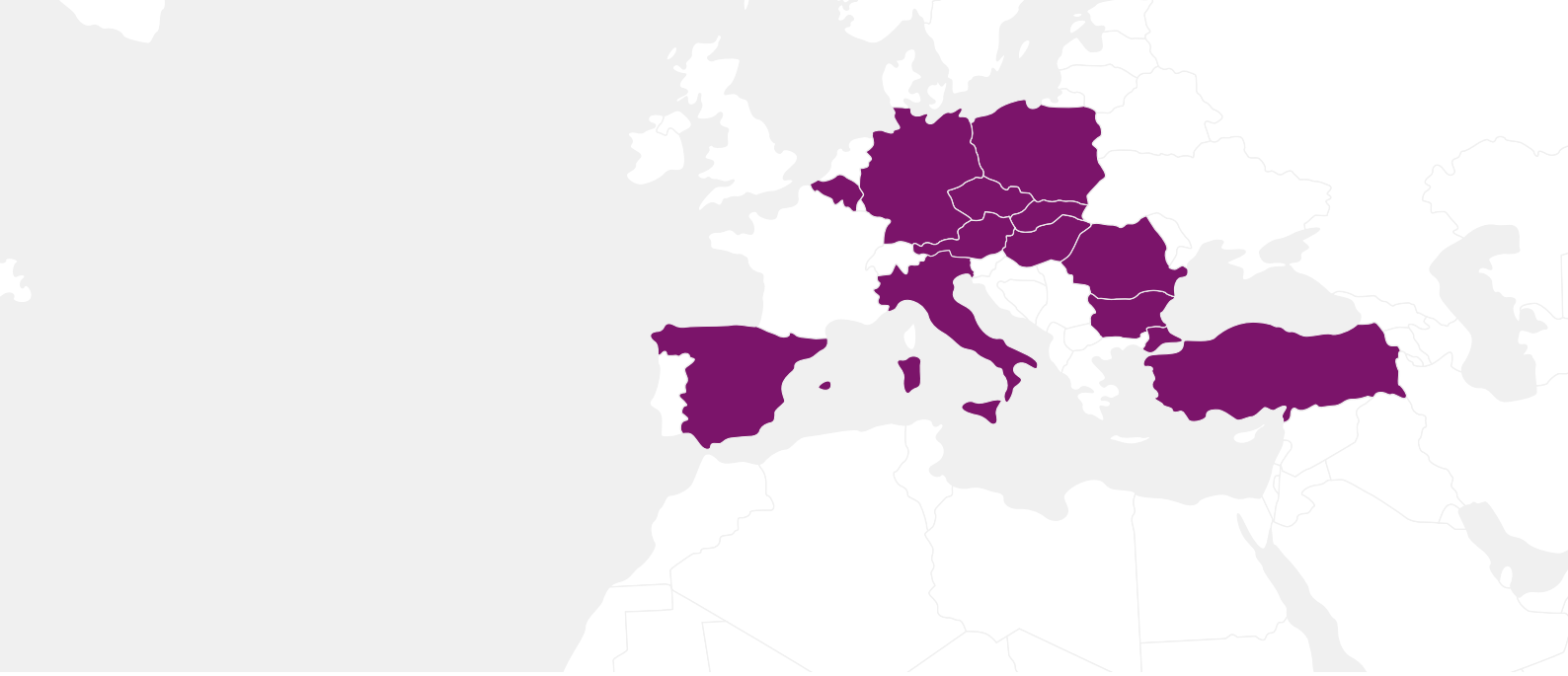


**SCWP  
SCHINDHELM**

LAWYERS,  
EXPERIENCED  
AND CREATIVE.

AUSTRIA BELGIUM BULGARIA CHINA CZECH REPUBLIC GERMANY  
HUNGARY ITALY POLAND ROMANIA SLOVAKIA SPAIN TURKEY

[SCWP.COM](http://SCWP.COM)



# TABLE OF CONTENTS

Schindhelm Allianz .....	3
Bulgaria .....	4
China .....	6
Germany .....	8
Italy .....	10
Austria .....	12
Poland.....	16
Romania.....	18
Slovakia .....	20
Czech Republic .....	23
Spain.....	26
Turkey .....	28
Hungary .....	30



# **27 LOCATIONS. 230 LAWYERS. 1,000 POSSIBILITIES.**

From Prague to Budapest, from Bucharest to Warsaw, from Shanghai to Beijing. In an era of growing economic globalization, posting and/or hiring out employees becomes increasingly vital to internationally operating companies - to set up new distribution channels, bring in new clients, deliver projects, or to set up representative offices or subsidiaries. Flexibility and mobility are increasingly important traits for employees to ensure that the company is able to react quickly and remain capable of effective policy action in a continuously changing business environment. In the context of posting staff abroad, a number of legal questions arise - both on the employers' side and on the employees' side. Schindhelm will support you through this process with international teams, open up new avenues and help you avoid pitfalls, providing expertise, commitment and valuable experience on the ground.

Schindhelm is an alliance of European corporate law firms with a special focus set on Central and Eastern European Countries and the Asia-Pacific region. Currently, we support national and international undertakings in 13 countries (Belgium, Bulgaria, China, Germany, Italy, Austria, Poland, Romania, Slovakia, Spain, Czech Republic, Turkey and Hungary) in all areas of corporate law. With this brochure, the legal experts of Schindhelm Allianz provide a first overview of EU and national legislation and policies for posting employees from EU/EEA countries to each EU Member State, the obligations of employers and employees, the insurance and fiscal aspects that must be taken into account, and the country-specific rules and regulations that must be observed in each country.

# BULGARIA



## APPLICABLE LEGISLATION

Regulation No. 883/2004; Labour Code; General Tax and Social Security Code; Social Insurance Code; Labour Migration and Labour Mobility relating to Posted EU Nationals and Third-Country Nationals Act; Aliens in the Republic of Bulgaria Act; law on entry, stay and exit of Union citizens who are not nationals of Bulgaria and their family members; regulation on business trips and the posting of workers in the framework of the provision of services as well as some requirements of the individual regulatory bodies in Bulgaria competent in this matter.

## EMPLOYER'S OBLIGATIONS

The employer must notify, in writing, the Main Labour Inspectorate (Bulgarian: "Glavna Inspekcija Po Truda") of any posted worker within seven days of the date on which the posted worker commences working in Bulgaria (third-country nationals) and no later than on the date on which the posted worker commences providing services (EU and EEA nationals) and communicate changes to the original posting without delay (in some cases within seven days).

### Moreover, the employer must

- guarantee posted workers the minimum employment standards applicable in Bulgaria to employees in the same or a comparable position (including all wage agreements). This does not apply if the terms and conditions of employment applicable in the sending country are more favorable for the posted worker than those in Bulgaria (including wage, paid annual holidays, work periods, etc.)
- fulfil the statutory work permit, visa and residence requirements for third-country nationals
- provide the local employer with the mandatory

documents for each posted worker

- pay, in certain cases, the personal income tax and the social security and health insurance costs for the posted worker in Bulgaria

Whether foreign workers are posted to Bulgaria or employed directly, a liability of the sending employer and the receiving employer can be established. This is especially important if the receiving employer is part of the corporate group to which the sending employer belongs.

## MINIMUM RATES OF PAY

The minimum pay for 2020 was set at BGN 610.00 (approx. EUR 312.00). The minimum hourly wage is BGN 3.66 (approx. EUR 1.87). In some sectors (e.g. teachers) the law provides for special minimum salaries. Where the Ministry of Labour and Social Policy has approved a collective labour agreement (wage agreement) for a specific sector, the foreign undertaking is responsible for applying these arrangements whenever they are more favorable for the posted worker. Whenever the employment conditions under the laws of the sending country are more favorable for the posted worker than those applying under Bulgarian labour law (including all wage agreements), the employment rules of the sending country shall apply, however.



### **POSTED WORKER'S OBLIGATIONS**

The posted worker has the obligation to comply with Bulgarian legislation in general and Bulgaria's rules for public order and for registering his/her place of residence.

Third-country nationals must obtain a visa and later a residence permit for the purpose of and on the basis of the work permit.

Third-country nationals are in most cases not allowed to hold a visa or residence permit due to reasons other than the work permit or for reasons not compatible with the work permit. This applies also to the period of time before and during the application for the work permit. Third-country nationals may be employed if they hold a work permit, a combined work and residence permit or an EU Blue Card. The requirement to hold a combined work and residence permit or a Blue Card does not apply to posted workers.



### **ADDITIONAL EMPLOYER INFORMATION**

#### **Possibility of fines**

Non-compliance with the standards of the Bulgarian labour legislation can result in a potential fine of up to BGN 15,000.00 (approx. EUR 7,500.00). In case of repeated breach, a fine of up to BGN 60,000.00 (approx. EUR 30,000.00) may be imposed on the employer. Additionally, the accountable employees may be fined between BGN 100.00 and 500.00 or BGN 1,000.00 and 10,000.00, depending on the type of infringement. In the case of third-country nationals, an infringement of specific rules can lead to revocation of a work permit issued.



# CHINA

## **EMPLOYER INFORMATION**

### **Framework conditions for employers**

Employers must be operating lawfully, have no criminal record and must be solvent. Aliens may be employed for specific work in accordance with Chinese rules and regulations as long as no equally qualified Chinese candidate is available.

### **Term of employment**

In accordance with the “Regulations on the Management of the Employment of Aliens in China” some rules must be respected. The term of employment must be limited to five years. The employment can be extended if the alien submits an application for extension of his/her employment with the administrative authority competent for employment matters within 30 days before the expiration of his/her contract.

Special retirement arrangements are applicable to employed aliens. This does not apply to specially qualified aliens falling under Tier A. Aliens falling under Tier B over the age of 60, men or women, should not be employed. Subject to a specific authorization there is some leeway when it comes to this requirement.

### **Social security**

The insurance premiums shall be paid proportionally by the employer and the employee according to the applicable arrangements. Social security contributions, like minimum pay standards, vary from region to region. The social insurance contributions of an employee in Shanghai are set at 10.5 % of his/her pay. The employer’s share is at least 31.2 % of the employee’s pay. It includes e.g. contributions to the pension scheme, health insurance, unemployment insurance, provisions for pregnancy, and workplace accident insurance the percentage of which depends on the

level of hazard. A 7 % contribution by both parties for the funding of housing is optional for aliens.

Internationally operating undertakings should adapt their global employment guidelines and relevant employment practices to the special requirements of China’s employment and social protection legislation.

## **EMPLOYEE INFORMATION**

### **The China work visa**

Foreign employees who plan to go to China for a paid job offer should enter the country only if they hold a valid Z visa – but the application process for such a visa is more complicated than the process e.g. for a business visa (M visa). The employer in China must first apply for the so-called “Notification Letter of Foreigner’s Work Permit” and provide the employee with the original and a copy of the ministerial invitation letter. The next step is that the employee, within 15 days after entering China, obtains a work permit. The last step is to apply for a residence permit.



### The work permit system

Applicants for a work permit are placed, according to their qualifications, in either Tier A, B or C on the basis of a national grading system. Applicants scoring 85 or more points qualify for Tier A; those scoring 60 - 85 points classify as Tier B; and those scoring below 60 fall under Tier C. In addition to the point scoring system, applicants can also be classed on the basis of specific conditions presented.

According to the “Exit and Entry Administration Law” of the People’s Republic of China and the “Notice on Full Implementation of the Work Permit System for Aliens in China” at least four different documents are needed to work as alien in China.

### MINIMUM RATES OF PAY

Basically, undertakings are entirely independent in their salary arrangements. However, every employee should get paid at least the local monthly minimum rate of pay, which varies between regions in China. A number of regions are listed in the table below (last updated 04 April 2019).

#### Minimum rates of pay in different regions of China (RMB per month)

Region	Level 1
Shanghai	2420
Shenzhen	2200
Beijing	2120
Guangdong Province	2100







# GERMANY

## **APPLICABLE LEGISLATION**

Posted Workers Act (AEntG); Minimum Wage Act; Federal Holiday Act; Hours of Work Act; Temporary Employment Act; Occupational Safety and Health Act; Maternity Protection Act; Youth Employment Protection Act; Ordinance on Protection Against Child Labour, and the General Act on Equal Treatment.

## **EMPLOYER'S OBLIGATIONS**

Depending on the type of posting and industry, the employer must comply with specific obligations. For every posted worker a certificate confirming continued coverage in the social security system of the country of citizenship must be issued (document A1).

Depending on the industry there are different reporting obligations under the Minimum Wage Act, the Posted Workers Act and the Temporary Employment Act. The respective reports should be made via the designated internet portal ([www.meldeportal-mindestlohn.de](http://www.meldeportal-mindestlohn.de)).

In some industries, e.g. construction, the industrial cleaning or care services, an additional registration with the customs administration is required, including an assertion that the rules for minimum protection are observed. Specific provisions apply to shiftwork and working at night or in various places of work. In such instances, the submission of operational schedules is required.

Moreover, under certain conditions the provision of specific documents is required for examination by the competent authorities in Germany or at the place of employment, as the case may be. Such documents can be e.g. the employment contract, records of wor-

king time, pay slips and proof of payment of wages. Employees in some branches have the obligation to carry their identity documents. The A1 attestation should be carried in any case.

In the case of temporary employment, it should be borne in mind that the employer needs a German temporary employment permit. Employers legally established in a country outside the European Economic Area are prohibited from providing subcontracted labour.

## **MINIMUM RATES OF PAY**

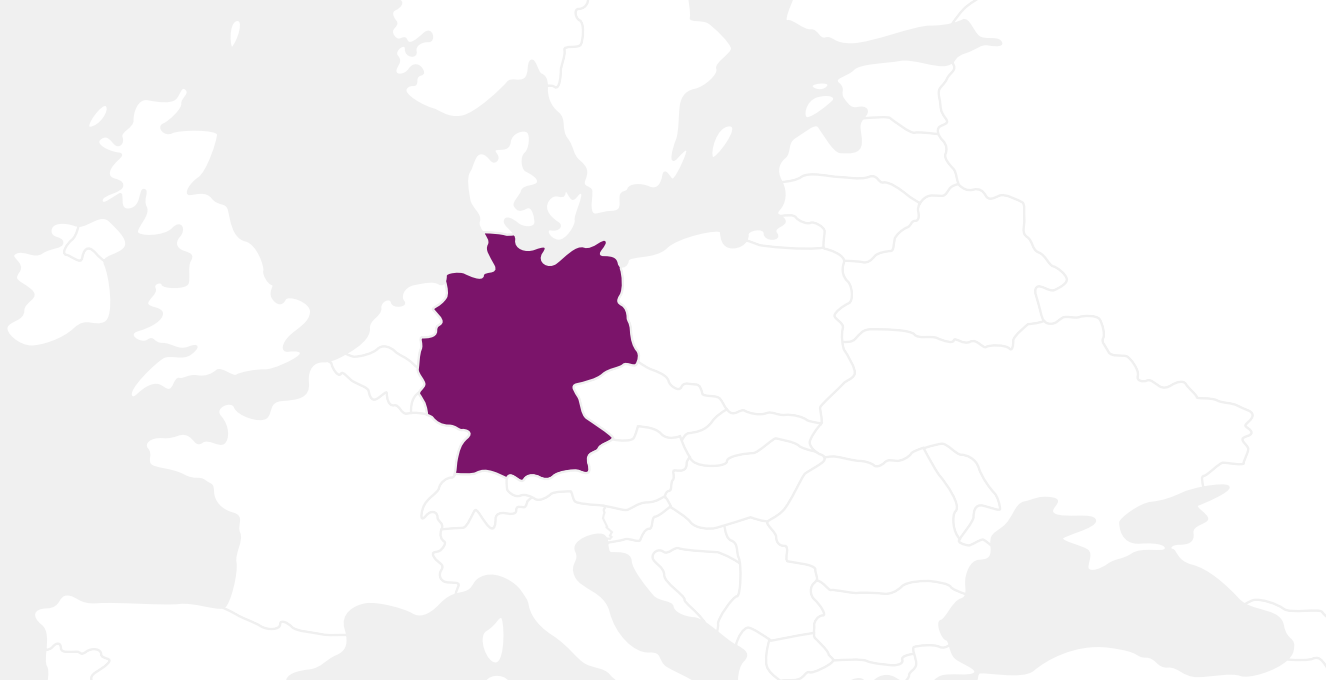
The statutory gross minimum wage in Germany is currently EUR 9.19 per hour. In certain industries (including, but not limited to, construction) compliance with the arrangements laid down in existing collective agreements is additionally required. They provide for higher minimum wages in many cases. Additional special provisions apply in the care industry.

## **POSTING OF NON-EU CITIZENS**

Generally, non-EU citizens may only be employed in Germany if they hold a residence permit allowing them to work. The conditions on which such a residence permit will be granted are detailed in the Residence Act. A residence permit allowing the holder to take up employment can generally only be granted with the approval of the Federal Employment Agency.

In the case of non-EU citizens who are to work in Germany as temporary workers, the Federal Employment Agency is not allowed to grant such an approval. Thus, employing a non-EU citizen as temporary worker is only possible if, by way of exception, he/she was





already granted a residence permit including permission to take up employment that is not subject to the approval of the Federal Employment Agency. This is only possible in exceptional cases.

#### **ADDITIONAL EMPLOYER INFORMATION**

##### **Possibility of fines**

Failure to comply with employer obligations is punishable as administrative offence and subject to fines of up to EUR 500,000.00 on a case-by-case basis.





# ITALY

## APPLICABLE LEGISLATION

The rules for the cross-border posting of workers are laid down in the Legislative Decree No. 136/2016, which was adopted on 22 July 2016 implementing Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014.

## EMPLOYER'S OBLIGATIONS

Foreign undertakings that carry out services in Italy must fulfil the following requirements:

- reporting the posting of employees in Italy no later than on the date on which the posted worker commences working
- communicating changes to the original posting within five days of the occurrence of the event
- keeping records (in paper or electronic form), in the Italian language, relating to the employment (employment contract or a comparable document), payroll, the beginning, the end and the length of the daily hours of work, proof of payment of wages or an equivalent as well as a certificate on the applicable social security legislation (A1) and the public reporting/registration of the employment taken up (for the entire period of posting and until two years after the end date of the posting)
- indicating a contact person resident in Italy in charge of sending and receiving documents. Otherwise, the registered office of the sending undertaking shall be considered the place where the recipient of the service is registered or resident (for the entire period of posting and until two years after the end date of the posting)
- indicating a person acting as legal representative (does not have to be identical with the person indicated above) to liaise between the relevant social

partner and the service provider for potential collective bargaining. The contact person is not required to be present at the place where the services are carried out but must be available whenever a reasoned request is filed (for the entire period of posting and until two years after the end date of the posting).

## MINIMUM RATES OF PAY

Under Italian law there is no statutory minimum wage. Minimum wages are laid down in the national wage agreements adopted by the most representative unions of the different industry sectors at national level (in accordance with Article 36 of the Constitution, which lays down the workers' right to wages in proportion to the quantity and quality of their work).

## ADDITIONAL EMPLOYER INFORMATION

### Possibility of fines

Where the posting is not for a limited period, or if the employer violates the reporting requirements or a cross-border posting is identified without the conditions laid down regarding employees being met, the worker and the employer involved in the fake posting are subject to a fine in the amount of EUR 50.00 per employee per day of unlawful employment (the fine applied must in any case amount to at least EUR 5,000.00 and not exceed EUR 50,000.00).

Fake posting of a minor employee is a criminal offence by the employer and can lead to imprisonment for up to 18 months and an increase of the fine to EUR 300.00 per day and per illegally posted worker. This breach has no statute of limitations period.



## **ADDITIONAL EMPLOYEE INFORMATION**

### **Employee protection**

Posted workers who work or worked in Italy can assert their rights in administrative and in legal procedures. Unlawful situations can be reported to the local offices of the National Labour Inspectorate, which will initiate the necessary monitoring measures. ([www.ispettorato.gov.it/it-it/il-ministero/Uffici-periferici-e-territoriali/Pagine/default.aspx](http://www.ispettorato.gov.it/it-it/il-ministero/Uffici-periferici-e-territoriali/Pagine/default.aspx))

The General Directorate of the Ministry for Labour and Social Policies is responsible, within the framework of its competences, for the implementation of employment rules, also where the cross-border posting of workers is involved. The Ministry provides special support to user undertakings required to submit mandatory prior notifications. Legal and technical questions may be submitted online. ([www.urponline.lavoro.gov.it/s/](http://www.urponline.lavoro.gov.it/s/))

### **Social security law aspects**

Where a worker from an EU Member State is sent to Italy, the term 'posted worker' refers to an employee who normally works in an EU Member State other than Italy and, for a limited period, carries out his/her work in Italy. In this context it should be pointed out that the conditions in force where the posted worker carries out his/her work apply, i.e. the principle of *lex loci* (local law) applies.

Where workers from non-EU countries or workers from third countries with which Italy entered into special agreements are posted to Italy, it is however possible to continue, within the limits set out in the agreements and using the existing form sheets, the payment of contributions exclusively in the country from which the worker is posted.

The Italian Social Security Institute ("INPS") has transmitted the new portable A1 document (certificate on the social security legislation applying to the relevant person) in accordance with EU guidelines, which supersedes the previous forms.



# AUSTRIA

## APPLICABLE LEGISLATION

Wage provisions specified in the collective agreements of the respective industries; Law on Working Time and Rest Periods; LSD-BG (Act to Combat Wage and Social Dumping); AuslBG (Foreign Labour Act); AÜG (Temporary Employment Act); GewO (Trade Regulation Act); special rules are also in place for the posting/temporary employment of workers from third countries (Non-EU/EEA/ Switzerland); Limited Liability Companies Act (GmbHG).

## EMPLOYER'S OBLIGATIONS

It is important to differentiate between the hiring out and posting of workers. Where a worker is hired out, the material obligations are to be met by the party hiring the worker (i.e. the undertaking where the work is carried out), whereas in the case of a posted worker the material obligations are to be met by the employer. The prerequisite for posting a worker is an appropriate contract for a specific, distinguishable work (in contrast to hiring out workers).

Employer's obligations in case of posting workers from the EU/EEA/Switzerland

- (Electronically) submit a written posting notification using form ZKO 3 before posting the worker to Austria ([www.formularservice.gv.at](http://www.formularservice.gv.at))
- Workers/superiors must carry wage records, the ZKO 3 form and the A1 document at the building site and/or working place
- Evidence of compliance with Austrian wage provisions: wage records in the German language (employment contract (also permitted in the English language), pay slip, proof of payment of wages or bank transfer notes (e.g. preceding month and/or current month), working time records (on a daily

basis), documents relating to the pay grade (e.g. job specification, employment contract))

- Exceptions to the requirement of keeping documents on-site are possible (e.g. the documents may be kept at the legal representative's office or at the respective branch or may be electronically available etc.), but in the transport sector no exception is allowed
- Notification of services to be provided pursuant to GewO in the case of a regulated industry
- For third-country nationals holding an ICT residence permit, apply for an EU posting confirmation (ICT = intra-corporate transfer)

Obligations of the temporary employment undertaking and the employer hiring the worker in case of temporary employment of workers from EU/EEA/Switzerland

- (Electronically) submit a temporary employment notification using form ZKO 4 before the worker is hired out by the temporary employment undertaking ([www.formularservice.gv.at](http://www.formularservice.gv.at))
- Submit wage and registration records and a temporary employment notification to the employer hiring the temporary worker.
- Evidence of compliance with Austrian wage provisions: wage records in the German language (employment contract (also permitted in the English language), pay slip, proof of payment of wages or bank transfer notes (e.g. preceding month and/or current month), working time records (on a daily basis), documents relating to the pay grade (e.g. job specification, employment contract))
- An employer hiring temporary workers must keep wage records, ZKO 4 and A1 documents on-site (place of employment) for inspection
- Exceptions to the requirement of keeping docu-



ments on-site are possible (the documents may be kept at the legal representative's office or at the respective branch or may be electronically available etc.), but in the transport sector no exception is allowed

- Notification of services to be provided pursuant to GewO in the case of a regulated industry (e.g. hiring out of industrial workers, except in the same industry)
- For third-country nationals holding an employment permit in an EU Member State, an EU temporary employment certificate must be applied for

The following applies to the posting/hiring out of non-EU nationals by employers legally established in EU/EEA/Switzerland

- Submission of the respective notification and keeping on hand of registration and wage records like for other workers (ZKO notification, A1 attestation, wage records)
- For third-country nationals holding a work permit in an EU Member State, no work permit in Austria is required, only an EU temporary employment certificate must be applied for in Austria, including ZKO 4 notification
- For third-country nationals holding an ICT residence permit of an EU state, no work permit is required, only an EU posting certificate must be applied for in Austria

### **MINIMUM RATES OF PAY**

For the length of the posting or temporary employment the employee is in any case entitled to at least the statutory wage laid down by a regulation or collective agreement which comparable employees at the place of work are entitled to receive from

comparable employers.

In addition to their regular pay, workers posted or temporarily employed in Austria are entitled to prorated special payments (usually holidays money and Christmas money), if such payments are provided for in the applicable collective agreement. The special payments must be paid out monthly pro rata for the relevant wage payment period, i.e. in the amount of 1/12 each in addition to the regular basic pay.

Minimum wage and leave entitlement in the case of posting/ temporary employment

- Basic pay according to collective agreement (correct industry!)
- Prorated special payments (Christmas money and holidays money)
- Extra hours and overtime with a 50 % or 100 % premium
- Hardship allowance, dirt money or danger pay according to collective agreement
- Leave entitlement according to statutory provisions

### **Full exemptions**

No notification and document-keeping obligations, no minimum pay requirements or working time and holiday requirements (according to collective agreements) are in place for:

- Business meetings without provision of further services
- Participation in seminars and presentations without provision of further services
- High-income employees of the corporate group (approx. EUR 7,200.00 gross income/month or more)
- Temporary posting/temporary employment of specific experts within the respective corporate group for two months per calendar year (certain activities)

# AUSTRIA

## Partial exemptions

- Exemption for assembly workers I: in case of a posting lasting not longer than 3 months no entitlement to the collective agreement minimum rates of pay; construction work excepted
- Exemption for assembly workers II: in case of a posting lasting not longer than 8 days no entitlement to the collective agreement minimum rates of pay; the provision on a mandatory paid holidays entitlement does not apply; construction work excepted
- The obligation to submit the respective notification (ZKO 3) and keep the wage records and registration documents on hand (ZKO form and A1 form) applies, however.

## POSTED WORKER'S OBLIGATIONS

### Rules relating to the right of residence for EU citizens /EEA nationals

For EU citizens/EEA nationals, a period of three months after entering the territory of Austria is visa-free. From the 4th month on, the locally competent residence authority must be informed of the place of residence, failing which fines ranging between EUR 50.00 and 250.00 can be imposed.

### Rules relating to the right of residence for non-EU/EEA nationals

Third-country nationals need a visa (type C or D) for a posting period of up to six months. From the 7th





month on, a residence permit is required. Depending on the qualification and reason for the posting, different residence permits are granted (for example, “Residence permit – Posted Worker”, “Red-White-Red Card”, “Red-White-Red Card plus”, “Blue Card EU”, “Residence Permit”, “Family Member”, “Permanent Residence EU”, “Intra-corporate Transfer/ICT” etc.). Mobile ICT can be granted if the applicant already holds a valid ICT residence permit issued by another EU Member State. For obtaining a residence permit, generally a proof of income, health insurance and accommodation is required.

Generally the following applies: If you take a flat in Austria, you have the obligation to register with the competent authority within three days of moving into the flat, failing which you can be fined up to EUR 726.00 (in the event of a repeat offence, up to EUR 2,180.00).

## **ADDITIONAL EMPLOYER INFORMATION**

### **Posting of employees**

A temporary managing director can be appointed if no managing director has his/her “habitual residence” (not just temporary residence, but for a period of more than six months) in Austria. A limited liability company (GmbH) needs at least one managing director on whom documents can be served to an address in Austria. The purpose of this provision is to avoid problems of delivery. A temporary stay abroad is no problem.

### **Abstract of key offences (minimum penalties)**

- Failure to keep wage records:  
EUR 1,000.00, where > 3 workers: EUR 2,000.00
- Underpayment: EUR 1,000.00, where > 3 workers:  
EUR 2,000.00
- Failure to keep A1 / ZKO 3 / ZKO 4: EUR 1,000.00
- Failure to submit notification / late notification / ZKO 3 / ZKO 4: EUR 1,000.00
- Failure to keep A1 document / notification of temporary employment by the party hiring the worker:  
EUR 500.00

### **Sources**

- [www.wko.at](http://www.wko.at)
- [www.bmf.gv.at](http://www.bmf.gv.at)
- [www.sozialministeriumservice.at](http://www.sozialministeriumservice.at)
- [www.formularservice.gv.at](http://www.formularservice.gv.at)
- [www.entsendeplattform.at](http://www.entsendeplattform.at)
- [www.help.gv.at](http://www.help.gv.at)
- [www.migration.gv.at](http://www.migration.gv.at)



# POLAND



## APPLICABLE LEGISLATION

The rules for posting workers to the territory of Poland are laid down in the law on posting workers in the framework of the provision of services. It is important to note that this law applies both to employers from Member States of the European Union and to employers legally established outside the European Union who post workers to Poland.

## EMPLOYER'S OBLIGATIONS

1. To warrant terms and conditions of employment that are not less favorable to the posted workers with regard to:

- Standards, working periods and daily and weekly rest periods
- Paid annual leave
- The minimum rate of pay for work in the year 2020 is PLN 2,600.00 gross income/month
- Pay rates and overtime rates
- Health, safety and hygiene at work
- Protection of employees during pregnancy and maternity holidays
- Protective measures for children and young people with regard to their working and employment conditions
- Equal treatment for men and women in employment and other non-discrimination provisions
- Work performance in accordance with the legislation on the employment of temporary workers

Exceptions are in place for first assembly and/or installation work, provided that the posting period does not exceed eight days per year (calculated from the 1st day in the workplace). This exception does not apply to actual building work and building maintenance as well as excavation, earthmoving, assembly

and dismantling of prefabricated elements, fitting out or installation, renovation, dismantling, demolition, maintenance, upkeep, painting and cleaning work.

2. To designate a person who is authorized to liaise with the National Labour Inspectorate (Państwowa Inspekcja Pracy) and responsible for sending and receiving documents and notifications. This person should be available in Poland throughout the posting period.

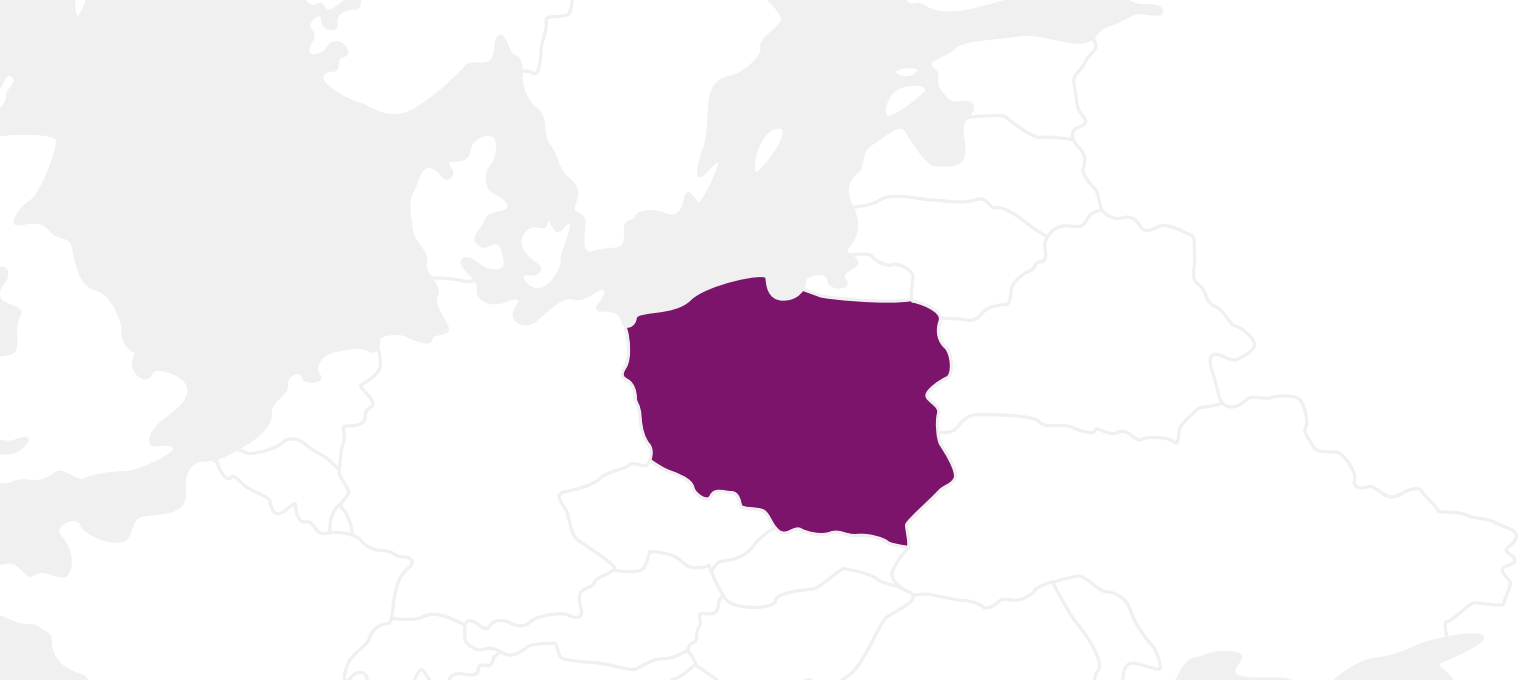
3. At the request of the Labour Inspectorate the person designated according to para 2. above has the obligation to provide details of the person authorized by the sending employer to represent the employer during any inspection carried out by the Labour Inspectorate.

Such details include: full name, address, phone number and business email address of the authorized person. Upon a reasonable request by the Labour Inspectorate this person should be available in Poland in matters concerning the inspection.

4. To submit the certificates required for the inspection of the actual situation in the workplace to the Labour Inspectorate no later than on the 1st day of work. It should be emphasized that the sending foreign employer is responsible for submitting any required notifications.

5. To keep the following documents either in paper or electronic form throughout the period of posting the worker to Poland:

- A copy of the employment contract of the worker posted to Poland or another equivalent document certifying the conditions of employment under the



employment relationship

- Documentation of the hours worked by the worker posted to Poland (start and end of work and the number of hours worked on a given day), or a copy thereof
- Documents defining the pay of the worker posted to Poland together with the amount of deductions made (according to the applicable laws) and evidence of wage payments or copies thereof

The employer posting the worker to Poland has the obligation to provide upon request by the Labour Inspectorate the documents mentioned above, together with their translations into the Polish language, no later than five working days after receipt of the application.

Two years after the work of the posted worker has been completed, the employer must, upon request by the Labour Inspectorate, provide the documents no later than 15 working days after receipt of the request. The request may also contain a request to have certain documents translated into the Polish language

### **POSTED WORKER'S OBLIGATIONS**

EU citizens and EEA nationals have the obligation to register their place of residence with the competent voivodeship office no later than three months after entering the territory of the Republic of Poland. If the person is staying for a period of more than 30 days, he/she must register his/her place of residence for the temporary period with the competent municipal office.

In principle, posted workers who are no EU citizens or EEA nationals have the obligation to hold already a residence permit when entering the territory of

Poland. For the legal employment of workers who are not EU citizens or EEA nationals, a work permit is required. This does not apply to foreign nationals who hold permits to stay and work in the territory of an EU country, an EEA country that is not an EU Member State or in the Swiss Confederation and who are employed by an employer who is resident in such a country and temporarily posted to Poland in the framework of the provision of services.

### **ADDITIONAL EMPLOYER INFORMATION**

#### **Possibility of fines**

For the infringement of obligations, fines in the amount of PLN 1,000.00 to 30,000.00 can be imposed on foreign employers.

# ROMANIA



## APPLICABLE LEGISLATION

Government Regulation No. 937/2018 on establishing the national gross minimum basic wage; Law No. 16 of 17 March 2017 on the posting of workers in the framework of the provision of transnational services (Law 16/2017); Law No. 53/2003 Labour Code; Regulation (EC) No 883/2004 on the coordination of social security systems.

## EMPLOYER'S OBLIGATIONS

Employees of an employer legally established in an EU Member State or in Switzerland may be posted to a branch or an undertaking that is part of the same corporate group. If the worker is posted to Romania, the following formalities are required before the posted worker begins to work in Romania:

A registration/declaration in the Romanian language signed by the employer must be submitted to the locally competent labour inspectorate in Romania no later than one day before the worker begins to work in Romania. The relevant declaration must contain the following information:

- Identification data of the employer
- Identification data of the posted worker
- Identification data of the Romanian undertaking to which the employee is posted
- Identification data of the representative of the worker in Romania vis-à-vis the supervisory authorities (usually a managing director or an employee from HR)
- Posting information (posting period, purpose)

Usually the Romanian undertaking to which the employee is posted must keep the following information on the employee:

- Copy of the employment contract

- Information on the currency in which the wage will be paid and proof of payment of the wage

- Working time and presence records

The information mentioned above can be provided either in paper or electronic form. A translation into the Romanian language is also required.

Throughout the posting period, the posted worker is subject to the employment laws applicable in the worker's home country. Compliance with the Romanian rules and regulations regarding the following matters is required, however:

- Work period (8 hours a day, 40 hours a week)
- Minimum paid annual leave (20 working days)
- Statutory minimum rate of pay
- Safety and health at work, protection of pregnant workers
- Non-discrimination of workers

## MINIMUM RATE OF PAY

The statutory minimum gross rate of pay is Lei 2,080.00 (approx. EUR 440.00) and Lei 2,350.00 (approx. EUR 500.00) for workers who have a degree and for those who have at least 15 years of service (Rom: vechime in muncă).



### **POSTED WORKER'S OBLIGATIONS**

A work permit for Romania is not required, but three months after entering the territory of Romania the posted worker must apply for registration with the local unit of the General Inspectorate for Immigration (Inspectoratul General pentru Imigrari) where the worker resides and will obtain an appropriate registration certificate.

### **POSTING OF NON-EU CITIZENS**

Workers from third countries that are to be posted to Romania need a work and residence permit. These workers may be posted to Romania for a maximum period of one year within a period of five years. Holders of a Blue Card or persons who obtained a work and residence permit in another Member State are generally also allowed to take employment in Romania.

### **ADDITIONAL EMPLOYER INFORMATION**

#### **Possibility of fines**

For the infringement of statutory regulations, fines of up to Lei 20,000.00 can be imposed, and the employer may be prohibited from employing posted workers.

### **ADDITIONAL EMPLOYEE INFORMATION**

#### **Social security and income tax**

If an A1 attestation is available, the social security obligation in the country of citizenship remains in full effect. It should be noted that the maximum posting period is 24 months. The A1 document certifies that the social security system of the country of citizenship applies. In the event that such an attestation is

not available and/or the relevant conditions are not met, the social security contributions must be paid in Romania.

Posted workers staying in Romania for more than 183 days in a calendar year become subject to personal income tax in Romania.

# SLOVAKIA

## APPLICABLE LEGISLATION

Act No. 311/2001 Z.z. Labour Code; Act No. 5/2004 Z.z. on Employment Services and on Amending and Supplementing Certain Laws; Act No. 404/2011 Z.z. on the Residence of Aliens; Act No. 82/2005 Z.z. on Illegal Work and Illegal Employment and on Amending and Supplementing Certain Laws; Regulation of the Government of the Slovak Republic No. 300/2018 Z.z. on the Minimum Rate of Pay for 2019.

## EMPLOYER'S OBLIGATIONS

A Slovak employer may only employ a third-country national if he/she

- a) holds an EU Blue Card
- b) holds a temporary residence permit for the purpose of working based on a document certifying that there is an opportunity to fill a vacant job
- c) holds a work permit and temporary residence permit for the purpose of working, unless separate provisions provide otherwise
- d) holds a work permit and temporary residence permit for the purpose of family reunification
- e) holds a work permit and temporary residence permit as a third-country national and at the same time holds a long-term residence permit in an EU Member State, unless separate provisions provide otherwise
- f) fulfils the requirements listed in § 23a of the Act on Employment Services

According to para 1 subparas a) to e), a third-country national may only be employed within the framework of an employment relationship.

According to subparas a) to e), a Slovak employer or a temporary employment undertaking is not allowed to temporarily assign a third-country national to a user undertaking for performing work. Assigning a worker temporarily to the same employer is permitted for a maximum period of 24 months.

## The Slovak employer is responsible for

- informing the employment office in writing about the start of employment and the end of employment of a citizen of a Member State of the European Union, his/her family members and a third-country national within seven working days after the start of employment and within seven working days after the end of the employment. Where a third-country national holds an EU Blue Card, the employer must fulfil this obligation vis-à-vis the employment center.
- informing the employment office in writing whenever a third-country national who holds a work permit or temporary residence permit for the purpose of working based on a document certifying that there is an opportunity to fill a vacant job does not take up his/her job within seven working days after the agreed date of start of work.
- informing the employment center in writing if the third-country national holding a Blue Card does not take up his/her job within seven working days after the agreed date of start of work.

A Slovak legal person or a Slovak natural person that has entered into an agreement with a foreign legal or natural person and on the basis of such an agreement receives workers from a foreign employer for the performance of work in the territory of the Slovak Republic is responsible for the working conditions and the conditions of employment according to the respective special provisions.



The foreign employer who posts a worker to a Slovak employer has the obligation to provide the National Labour Inspectorate of the Slovak Republic with the data specified by law (employer's and employee's identity data, place of work, type of work to be undertaken etc.) no later than on the day the worker is posted.

A temporary employment undertaking posting workers to the Slovak Republic must hold a licence issued by the employment center for engaging in this activity.

### **MINIMUM RATE OF PAY**

The minimum rate of pay for 2020 is set at EUR 520.00/month for a worker who gets paid on a monthly basis and/or EUR 2.989 per hour worked.

If payment of the workers is not regulated by a wage agreement the employer has the obligation to pay the worker a wage at least equivalent to the minimum rate of pay set for the level of job requirements (subsequently "level") at the relevant job.

For each job level (1 to 6) the minimum rate of pay multiplied by the relevant coefficient shall be applied (level 1 = coefficient 1.0; level 2 = coefficient 1.2; level 3 = coefficient 1.4; level 4 = coefficient 1.6; level 5 = coefficient 1.8 and level 6 = coefficient 2.0). In the event that in a calendar month the worker's wage falls short of the minimum rate of pay to which he/she is entitled, the employer shall pay the employee the difference between the wage reached and the minimum rate of pay defined for the appropriate job level.

### **POSTED WORKER'S OBLIGATIONS**

An EU citizen taking up residence in Slovakia must notify a police station thereof within ten working days after entering the territory of the Slovak Republic. An EU citizen who is staying in the Slovak Republic for more than three months must file an application for registration of residence using an official form to be submitted personally to a police station within 30 days after the expiry of three months after entry into the Slovak Republic.



# SLOVAKIA

Third-country nationals must notify the police office within three working days after entering Slovakia of:

- the beginning and expected length of their stay in Slovakia and their place of residence if they hold a Schengen visa or a national visa or if they are not required to hold a visa or if this is not the duty of the landlord who accommodates them. At the request of the third-country national the police office will issue a certificate of residence
- the starting date of the stay in Slovakia, if a residence permit was issued

Third-country nationals who obtained a temporary residence permit must submit a medical certificate showing that they do not have a disease that is a threat to public health to the police office within 30 days after receipt of the certificate of residence.

## **POSTING OF NON-EU CITIZENS**

Except in exceptional cases it is generally not possible to post third-country nationals to the Slovak Republic unless they hold a residence permit and also a work permit issued by the competent employment office (and/or a document certifying that there is an opportunity to fill a vacant job).

## **ADDITIONAL EMPLOYER INFORMATION**

### **New legislation**

The government of the Slovak Republic endeavors to respond to the needs of employers. At the end of 2018 the “Strategy on Labour Mobility of Foreigners in the Slovak Republic” was adopted. This document addresses in detail the issues of short-term and long-term recruitment and employment of foreign workers. Within the framework of said strategy, a series of short-term and long-term measures are to be implemented – with the objective of streamlining the procedure for employing foreign nationals in Slovakia, which is relatively challenging in terms of time and administrative complexity. Some of the changes have already been integrated into the relevant laws.





# CZECH REPUBLIC

## APPLICABLE LEGISLATION

Act No. 262/2006 Sb. Labour Code, as amended from time to time; Act No. 435/2004 Sb. Employment Act, as amended from time to time; Government Regulation No. 567/2006 Sb. on Minimum Salary, Minimum Level of Guaranteed Salary, Determination of Hazardous Work Environments and Salary Supplements for Work in Hazardous Work Environments, as amended from time to time; Act No. 326/1999 Sb. on the Residence of Aliens in the Czech Republic, as amended from time to time.

## EMPLOYER'S OBLIGATIONS

The employer, a legal or a natural person who has entered into an agreement with a foreign employer on the basis of which a foreign employee is posted to the territory of the Czech Republic (subsequently referred to as "host employer") must notify in writing the competent office of the Labour Office of the Czech Republic of the employment of the posted worker no later than on the day on which the worker takes up the employment. The same procedure is required within ten calendar days of the day on which the posting period ends.

The host employer must maintain a register of all posted workers and retain copies of the required documents at work. The documents must demonstrate in the Czech language that an employment relationship is in place. Usually it is an employment contract or a similar contract concluded between the posted worker and the sending employer that is governed by the laws of the state in which the posted worker normally works. Other written confirmations of the employer certifying that the posted worker has entered into an employment agreement

with the sending employer are also accepted.

When an employee from an EU Member State is posted to the Czech Republic in the framework of the cross-border provision of services, the employee is subject to the legislation of the Czech Republic. Subject to the requirement that it is more favorable for the employee, this applies to:

- maximum work periods and minimum rest periods
- minimum paid annual leave or a pro rata part thereof
- the minimum rates of pay, minimum level of guaranteed wage and overtime rates
- safety and health at work
- the working conditions for pregnant and breastfeeding employees, employees until the 9th month after giving birth and for young people
- equality of treatment between men and women and non-discrimination
- the working conditions in case of employment via a temporary employment undertaking

If the posting employer is a foreign temporary employment undertaking, the Czech Employment Law requires the foreign temporary employment undertaking to obtain a licence for the placement of natural persons for the purpose of the provision of services, which is issued by the General Directorate of the Labour Office. This does not apply to a single job placement.

# CZECH REPUBLIC

## MINIMUM RATES OF PAY

As of 01 January 2019, the basic rate of minimum pay for the fixed weekly work period of 40 hours is CZK 13,350.00/month or CZK 79.80/hour. The minimum rate of pay does not include overtime rates, allowance for working at night, on public holidays, in emergency situations and high-risk environments, and on Saturdays and Sundays.

In addition to the minimum rates of pay, the Czech law also recognizes so-called guaranteed wages. A guaranteed wage is based on the respective contract, internal rules and requirements or the wage declared applicable. The minimum amount of guaranteed wage for employees whose wage was not agreed in a wage agreement (overriding agreement or contract for services) is defined by eight categories of work for each of which a minimum level of guaranteed hourly and monthly wage is set. The general characteristics of each category of work including examples for the classification are set forth in the annex to the Government Regulation mentioned above.

As of 01 January 2019, the minimum guaranteed hourly wages are:

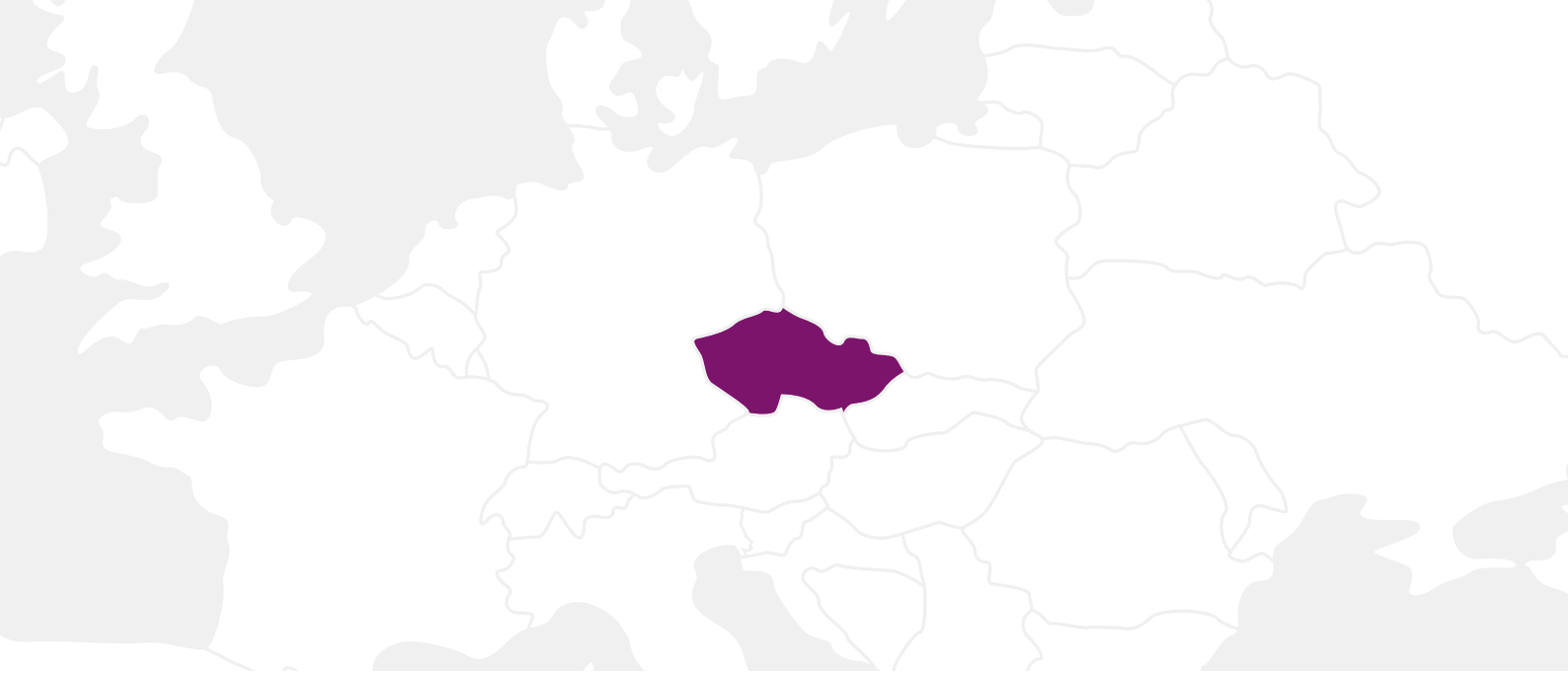
Category of work	Minimum guaranteed pay	
	CZK / month	CZK / hour
1.	13,350.00	79.80
2.	14,740.00	88.10
3.	16,280.00	97.30
4.	17,970.00	107.40
5.	19,850.00	118.60
6.	21,900.00	130.90
7.	24,180.00	144.50
8.	26,700.00	159.60

## POSTED WORKER'S OBLIGATIONS

The employee must report his/her place of residence to the competent office of the Czech police within 30 days after entering the territory of the Czech Republic, if his/her stay in the Czech Republic presumably lasts longer than 30 days.

Third-country nationals have the obligation to meet this requirement regardless of the anticipated length of their stay within three working days after entering the Czech Republic.

The requirement to inform the Czech police of the place of residence does not apply to aliens who have fulfilled this obligation via their landlord.



### **POSTING OF NON-EU NATIONALS**

Employees from third countries may only be posted to the Czech Republic if they hold a work permit and a long-term residence permit in the Czech Republic or the so-called Green Card or Blue Card (combined work and residence permits). The same applies to the posting through an employer from another EU Member State in the framework of the transnational provision of services.

This does not apply to workers who are employed in another EU Member State and posted to the Czech Republic by their foreign employer to provide services to a Czech undertaking. Where such employees provide services for a period not exceeding 90 days, they need no work permit and no employee card or Blue Card or any other residence permit.

### **ADDITIONAL EMPLOYER INFORMATION**

#### **Ongoing debate about amendment**

The Czech Parliament is currently debating an amendment to the Residence of Aliens Act. The amendment will simplify the procedure of issuing work visas to third-country nationals. As the Czech legislative procedure allows the submission of draft amendments, the final text of the law is not yet available.

### **Possibility of fines**

Non-compliance of employers with their obligations is considered an administrative offence for which a fine is imposed. Natural persons can be fined between CZK 20,000.00 and CZK 5,000,000.00; corporate entities between CZK 20,000.00 and CZK 10,000,000.00.



# SPAIN

## APPLICABLE LEGISLATION

The requirements and the rights and obligations of employees and of the undertakings that post employees are governed by Directive 96/71/EC of the European Parliament of December 16, 2016, which was transposed in Spain by Law 45/1999 of 29 November 1999.

“Posting workers in the framework of the transnational provision of services” means the sending of an employee to Spain, for a limited period, by his/her employer who is established in a country that has entered into the Agreement on the European Economic Area.

- Posting an employee at the expense and under the supervision of his/her undertaking for performance of a contract concluded between the undertaking and the recipient of the service, who is established in Spain or pursues activities there.
- Posting an employee to a workplace of the same undertaking or another undertaking of the same corporate group in Spain.
- Posting an employee, through a temporary employment undertaking, to put him/her at the disposal of a user undertaking that is legally established in Spain or carries on its activities there.

## EMPLOYER'S OBLIGATIONS

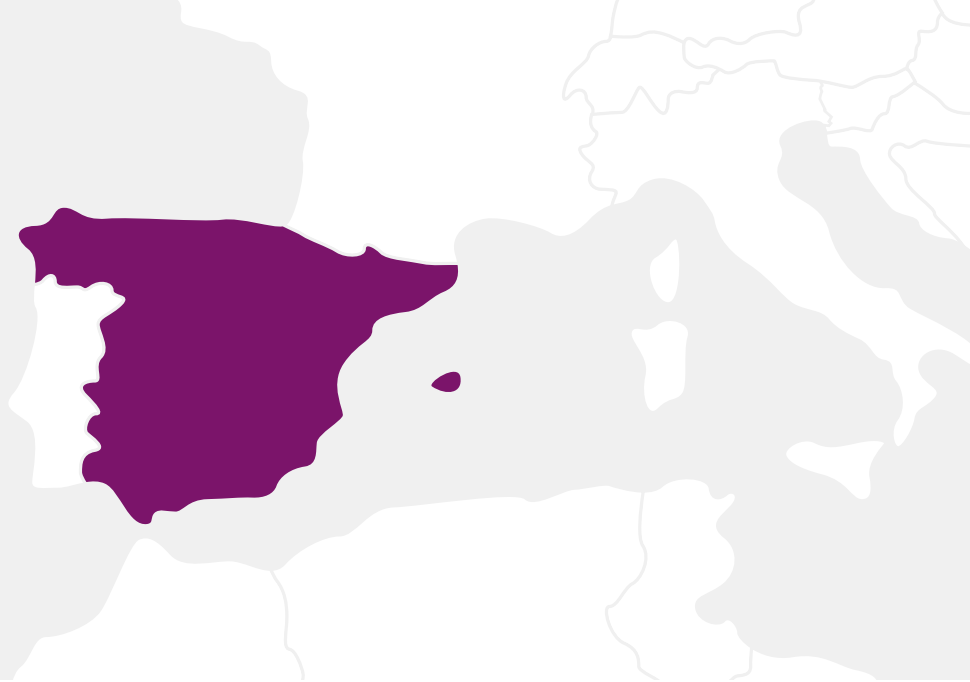
An employer posting employees to Spain has the obligation to inform the employment authority of the respective autonomous community (Spain is divided in 17 autonomous communities, e.g. Basque Country or Andalusia, and the autonomous cities of Ceuta and Melilla) where the services are to be provided, before the start of the posting period and irrespective of its

length. This notification requirement does not apply where the posting period is less than eight days, with the exception that temporary employment undertakings have the obligation to report a posting in any case.

The notification is normally submitted in electronic form and recorded in the electronic central register that has been set up for this purpose. The following details must be provided:

- Identification of the undertaking posting the worker
- The posted worker's personal data and professional data
- Identification of the undertaking where the posted worker will work
- Start date and anticipated end date of the posting
- Definition of the services that will be provided by the employee in Spain
- Identification and contact details of a natural or a legal person in Spain that was named by the undertaking to liaise with the Spanish authorities
- Identification and contact details of a person authorized to act on behalf of the undertaking in Spain in proceedings for notifications, hearings and negotiations concerning posted workers.

Undertakings that post their employees to Spain have the obligation to guarantee, regardless of the laws governing the employment contract, that the minimum employment standards under the Spanish employment laws are complied with (except where the standards laid down in the employment contract are more favorable): working periods, remuneration, equal treatment for men and women and nondiscrimination, child labour, prevention of risks at work, respect for privacy and the dignity of the employees,



freedom of association and the right to strike and to freedom of assembly.

### **POSTED WORKER'S OBLIGATIONS**

Posted workers staying more than three months in Spain have the obligation to register their places of residence with the competent Aliens Office. If the stay in Spain exceeds 183 days in a calendar year, the employee must notify the Ministry of Finance using Tax Form 147.

A posted worker who is a citizen of a country that is not a Member State of the European Union or the European Economic Area must have the right to work in the state from which he/she is posted. A new permit for work in Spain is not required.

A posted worker continues to be covered by the social security system of his/her home country, provided that the posting does not last longer than 24 months and he/she was posted as a substitute for a previously posted worker. It is strongly advised that the employees obtain an A1 document from their home country. When the 24 months are over, the receiving Member State may allow them to continue to be covered by the social security system of their home country. Otherwise they must abide by the regulations in force in the state to which they are posted.

### **ADDITIONAL EMPLOYER INFORMATION**

During the posting, the undertakings in Spain have the obligation to retain a series of documents relating to their posted workers (in paper or electronic form) to be made available to the labour inspectorate and the social security institution, including: employment contracts, pay slips and proofs of payment, registration programs and the work permits for posted workers who are not citizens of a Member State.

Undertakings posting employees to Spain to operate as subcontractors in the construction sector have to comply with additional obligations. Where the posting lasts longer than eight days, the undertaking must be registered in the Register of Accredited Undertakings (Registro de Empresas Acreditadas-REA) of the labour authority of the Autonomous Community where the services are provided. The certificate of registration thus obtained is valid for the whole territory of Spain for a period of three years. For an undertaking to get registered in the REA it must prove that:

- it complies with the rules on the prevention of risks at work, i.e. it has set up a special risk prevention unit or it is connected to a risk prevention unit in its home country
- there are certificates showing that the undertaking's management personnel and the personnel performing the work have been trained in the prevention of risks at work
- at least one of the posted workers must be an "employee performing work", because under the Spanish laws it is not possible to award subcontracts for all building activities, and therefore the building contractors must carry out part of the construction work themselves, even if to a minimal extent.

# TURKEY



## APPLICABLE LEGISLATION

Act No. 6735 on International Labour Force; Application Regulation for the Law on Work Permits for Foreign Citizens of 29 August 2003; Turquoise Card Regulation of 14 March 2017; Act No. 4875 on Foreign Direct Investment; Regulation on Employment of Foreign Personnel in the context of Foreign Direct Investment of 29 August 2003; Regulation on Work Permits for Foreigners Who Will Work in Free Trade Zones of 27 May 2017; Tourism Encouragement Law No. 2634; Labour Act No. 4857.

## EMPLOYER'S OBLIGATIONS

A Turkish employer who wants to hire a foreign employee must apply for a work permit for that person. The work permit is tied to an employment in the particular plant indicated by the employer in the application process. In the event that the employer wants to use the foreign worker in a different plant or branch, an approval by the Ministry of Labour and Social Security must be obtained. Then the work permit will be reissued for the new worksite. If the employment ends before the expiration date of the work permit, the employer must report this circumstance to the Ministry of Labour and Social Security within 15 days. The work permit is at the same time a residence permit.

A Turkish employer may also employ foreign workers who hold the Turquoise Card. The Turquoise Card is granted to foreign citizens who are highly qualified in areas of strategic importance to Turkey or can make a significant contribution to the Turkish economy in terms of export, investment or employment volume. The Turquoise Card can be granted for an indefinite term after a transition period of three years, whereas

the work permit is only granted for a period of one year.

Every foreign employee in Turkey is subject to the Turkish labour legislation. The employment contract must be submitted in the Turkish language to the Ministry of Labour and Social Security. According to the Turkish Labour Act the number of standard weekly working hours is 45. The Employer has the obligation to obtain Turkish social security coverage for foreign workers and transfer the personal income tax for them in Turkey.

## MINIMUM RATES OF PAY

Generally, wages are subject to negotiation, but the salaries must at least be equivalent to the corresponding local salaries. The statutory minimum gross rate of pay is currently TL 2,943.00/month. Exceptions are in place for the following professional groups; the minimum salaries for:

- managers and pilots must be at least 6.5 times
- department and branch managers as well as architects and engineers must be at least 4 times
- trained specialists, teachers, psychologists, physiotherapists, musicians and actors must be at least 3 times
- employees in tourism and animation must be at least 2 times
- midlevel employees must be at least 1.5 times the statutory minimum rate of pay.



### **POSTED WORKER'S OBLIGATIONS**

The posted worker must also apply for a work permit. If he/she has a place of residence in a foreign country, the application for a work permit shall be filed with the Turkish consulate competent for the place of residence; if he/she is residing in Turkey, directly with the Ministry of Labour and Social Security.

The application must contain the name of the employer; the work permit is tied to that specific employer. In the event that the foreign worker fails to enter Turkey within six months after he/she receives the work permit or applies for a job with another employer in Turkey, the work permit is annulled.

#### **Exceptions**

Foreign workers who are posted to Turkey for the following purposes:

- installation, maintenance or repair of machinery and equipment in Turkey,
- provision of training in the use of such machinery and equipment,
- receipt of such machinery and equipment,
- participation in or provision of training relating to goods or services exported from Turkey or imported in Turkey, and
- representation of tour operators in Turkey,

do not need a work permit. They must report to the security authorities within 30 days after entering Turkey and in any case before starting to work, and provide information on the purpose, place and length of stay and apply for a residence permit.

The maximum permitted length of stay in Turkey

- for representatives of tour operators is up to eight months,
- for all other exceptions is up to three months within a period of one year.

### **ADDITIONAL EMPLOYER INFORMATION**

#### **Foreign investors**

Foreign investors in Turkey that meet special criteria in accordance with the provisions of Act No. 4875 on Direct Foreign Investment are subject to a simplified procedure when applying for work permits for key personnel.

#### **Possibility of fines**

Turkish employers employing foreign workers without a valid work permit are subject to a fine of TL 10,812.00 per foreign employee. For failure to comply with their notification obligations, employers can be fined TL 851.00. The amount of fine doubles each time such an offence is repeated.

### **ADDITIONAL EMPLOYEE INFORMATION**

#### **Possibility of fines**

A foreign worker who is gainfully employed in Turkey without holding a valid work permit is subject to a fine of TL 4,323.00 and TL 8,650.00 as freelance professional. The amount of fine doubles each time such an offence is repeated. Moreover, the worker may be deported from Turkey.



# HUNGARY

## APPLICABLE LEGISLATION

Directive 96/71/EC of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services (Posted Workers Directive); Act No. I of 2012 on the Labour Code (subsequently: LC); Act No. LXXV of 1996 on Labour Inspection; Act No. IV of 1991 on Job Assistance and Unemployment Benefits; Act No. II of 2007 on the Admission and Right of Residence of Third-Country Nationals; Act No. CXVII of 1995 on Personal Income Tax; Act No. LXXX of 1997 on the Eligibility for Social Security Benefits and Private Pensions and the Funding for these Benefits; Regulation No. 883/2004 of the European Parliament and of the Council on the coordination of social security systems.

## EMPLOYER'S OBLIGATIONS

When posting workers to Hungary, the following rules for minimum protection must be complied with:

- Maximum work periods and minimum rest periods: the standard hours of work are 8 hours a day, which may be extended to 12 hours a day in special cases. In the case of irregular working time, 12 hours is the maximum per day, except where shifts of 24 hours per day have been agreed between the employer and the employee. The daily uninterrupted rest period is at least 11 hours. In special cases it may be 8 hours.
- Minimum paid annual leave: the basis is 20 days. The number of annual leave days can be increased according to the employee's age, and for employees with children under the age of 16 years and/or children with disabilities
- The requirements for posting workers laid down in the LC

- The Hungarian occupational health and safety regulations
- The Hungarian regulations concerning pregnant employees, women who have recently given birth and minors
- The Hungarian rules to prevent discrimination

The rules for minimum protection also include the regulations laid down in collective agreements. Whenever the laws of the sending state (which are applicable to the employment) are more favorable, the regulations of the sending state shall apply and not the rules for minimum protection set forth in the LC.

The Hungarian employer to which the posted workers are sent shall inform the foreign employer about the rules for minimum protection prior to the conclusion of the employment contract, failing which the host employer will become liable as surety. Joint and several liability between the Hungarian employer and the foreign employer is applicable if the Hungarian employer was aware or should have been aware that the foreign employer failed to fulfil its obligations regarding the payment of wage and the respective contributions.

At the worksite, employment contracts, working time records and proof of actual payment of the wages and salaries to the posted workers must be retained either in paper or electronic form throughout the posting period. These documents should be available at the headquarters or branch of the Hungarian undertaking for a period of three years after the posting.

The foreign employer must name a person liaising with the employment authorities and in charge of delivering and receiving the documents listed above.



The foreign employer has the obligation to notify the Hungarian fiscal authorities of the employment of the posted worker, applying for an appropriate tax ID number for the posted worker. Moreover, the foreign employer must register the posted worker – or a fine will be imposed – with the Hungarian employment authority, which shall carry out an inspection regarding compliance with the posting rules and report any noncompliance to the Labour Inspectorate and/or cooperate with the inspectorate in the implementation of potential sanctions.

#### **MINIMUM RATES OF PAY**

The current minimum gross rate of pay is HUF 149,000.00 (approx. EUR 460.00) per month, the minimum gross hourly wage is HUF 857.00 (approx. EUR 2.65).

#### **POSTED WORKER'S OBLIGATIONS**

The posted worker is responsible for getting registered, notifying the immigration authority by the 93th day after his/her entry of the place of residence in Hungary, if he/she is staying more than three months.

#### **POSTING OF NON-EU CITIZENS**

A third-country national can be employed in Hungary in two ways:

- on the basis of a residence permit issued by the immigration authority after completion of a uniform application process
- on the basis of a work permit issued by the competent government authority for employment in Hungary

#### **ADDITIONAL EMPLOYEE INFORMATION**

##### **Social security and tax**

The posted worker is covered by the social security system of the sending state if the posting period is less than two years. If the posted worker qualifies as private person resident abroad, he/she has restricted tax liability. This means that his/her tax liability is related only to the income from a source inside the country or income otherwise taxable in Hungary on the basis of an international contract and/or reciprocity. The posted worker qualifies as a person resident abroad if he/she is staying in Hungary for less than 183 days in the reporting year. If this condition is not met, the worker is subject to full tax liability.

## AUSTRIA

### GRAZ

SCWP SCHINDHELM  
Saxinger, Chalupsky & Partner  
Rechtsanwälte GmbH  
graz@scwp.com

### LINZ

SCWP SCHINDHELM  
Saxinger, Chalupsky & Partner  
Rechtsanwälte GmbH  
linz@scwp.com

### WELS

SCWP SCHINDHELM  
Saxinger, Chalupsky & Partner  
Rechtsanwälte GmbH  
wels@scwp.com

### VIENNA

SCWP SCHINDHELM  
Saxinger, Chalupsky & Partner  
Rechtsanwälte GmbH  
wien@scwp.com

## BELGIUM

### BRUSSELS

SCWP SCHINDHELM  
Saxinger, Chalupsky & Partner  
Rechtsanwälte GmbH  
brussels@scwp.com

## BULGARIA

### SOFIA

SCHINDHELM  
Dr. Cornelia Draganova & Colleagues  
sofia@schindhelm.com

## CHINA

### SHANGHAI

SCHINDHELM  
Schindhelm Rechtsanwaltsgesellschaft mbH  
shanghai@schindhelm.com

### TAICANG

SCHINDHELM  
Schindhelm Rechtsanwaltsgesellschaft mbH  
taicang@schindhelm.com

## CZECH REPUBLIC

### PILSEN

SCWP SCHINDHELM  
Saxinger, Chalupsky & Partner v.o.s  
Advokátní kancelář  
plzen@scwp.com

## PRAGUE

SCWP SCHINDHELM  
Saxinger, Chalupsky & Partner v.o.s  
Advokátní kancelář  
praha@scwp.com

## GERMANY

### MUNICH

SCHINDHELM  
Schindhelm Rechtsanwaltsgesellschaft mbH  
muenchen@schindhelm.com

### DÜSSELDORF

SCHINDHELM  
Schmidt Rogge Thoma Rechtsanwälte  
Partnergeseellschaft mbB  
duesseldorf@schindhelm.com

### HANOVER

SCHINDHELM  
Schindhelm Rechtsanwaltsgesellschaft mbH  
hannover@schindhelm.com

### OSNABRÜCK

SCHINDHELM  
Schindhelm Rechtsanwaltsgesellschaft mbH  
osnabrueck@schindhelm.com

### FRANKFURT

SCHINDHELM  
Schindhelm Rechtsanwaltsgesellschaft mbH  
frankfurt@schindhelm.com

## HUNGARY

### BUDAPEST

SCWP SCHINDHELM  
Zimányi & Fakó Rechtsanwälte  
budapest@scwp.hu

## ITALY

### BOLOGNA

DIKE SCHINDHELM  
DIKE Associazione Professionale  
bologna@schindhelm.com

## POLAND

### WROCLAW

SDZLEGAL SCHINDHELM  
Kancelaria Prawna  
Schampera, Dubis, Zajac i Wspólnicy sp.k.  
wroclaw@sdzlegal.pl

### WARSAW

SDZLEGAL SCHINDHELM  
Kancelaria Prawna  
Schampera, Dubis, Zajac i Wspólnicy sp.k.  
warszawa@sdzlegal.pl

## ROMANIA

### BUCHAREST

SCHINDHELM  
Schindhelm & Asociatii S.C.A.  
bukarest@schindhelm.com

## SLOVAKIA

### BRATISLAVA

SCWP SCHINDHELM  
Saxinger, Chalupsky & Partner s.r.o.  
bratislava@scwp.com

## SPAIN

### BILBAO

LOZANO SCHINDHELM  
Lozano, Hilgers & Partner SLP  
bilbao@schindhelm.com

### DENIA

LOZANO SCHINDHELM  
Lozano, Hilgers & Partner SLP  
denia@schindhelm.com

### MADRID

LOZANO SCHINDHELM  
Lozano, Hilgers & Partner SLP  
madrid@schindhelm.com

### PALMA DE MALLORCA

LOZANO SCHINDHELM  
Lozano, Hilgers & Partner SLP  
palma@schindhelm.com

### VALENCIA

LOZANO SCHINDHELM  
Lozano, Hilgers & Partner SLP  
valencia@schindhelm.com

## TURKEY

### ISTANBUL

GEMS SCHINDHELM  
istanbul@schindhelm.com