

(English version)

Question for written answer E-003102/19
to the Commission
Jeroen Lenaers (PPE)
(3 October 2019)

Subject: Increase in the number of A1 portable documents issued in Slovenia

A study ⁽¹⁾ shows that there has been a very large increase in the number of A1 portable documents issued in Slovenia since 2015. In 2017, Slovenia issued 190 976 A1 PDs. This means that, relatively speaking, Slovenia posts more workers than any other country. More than half of these workers are temporarily posted to the building industry.

Research by EFBU shows that these A1 PDs were mainly issued to Bosnian employees and that the competent Slovenian authorities do not consistently monitor whether the applicant undertaking performs substantial activities in the sending State.

A study by the Austrian trade union shows that Slovenian undertakings temporarily posting workers abroad take advantage of a favourable calculation of the social security contributions payable, which has the effect of reducing gross wage costs.

1. Can the Commission explain this sudden sharp increase in the number of A1 PDs issued, and indicate whether the practice outlined in the research is consistent with its objective of fair mobility in the EU?
2. Can the Commission tell us how Slovenia monitors compliance with the ‘substantial activities’ criterion, and can the Commission assess whether it does so properly and consistently?
3. What is the Commission’s position with regard to the favourable calculation method for determining social security contributions for businesses posting workers temporarily?

Answer given by Mr Schmit on behalf of the European Commission
(31 January 2020)

The Commission has observed, over the last years, an increase in the overall number of Portable Documents A1 (PDs A1) issued in almost all Member States. ⁽²⁾

Before issuing a PD A1, institutions in the Member States are under an obligation to check that the conditions for posting are met, one of which is that the employer ‘ordinarily performs substantial activities, other than purely internal management activities, in the territory of the Member State in which it is established’ ⁽³⁾. Decision No A2 ⁽⁴⁾ and the Practical Guide on the Applicable Legislation ⁽⁵⁾ lay down various criteria for the application of this condition.

The procedures related to the issuing of the PD A1 are based on national law of each Member State. In order to ensure the uniform application of the rules governing the issue of PD A1, a recommendation ⁽⁶⁾ was adopted which includes a standardised set of questions to be asked by the Member States when evaluating a request for a PD A1.

The Commission is committed to ensure a proper functioning of the internal market, including the freedom to provide services. This implies the suppression of obstacles to the provision of services, which are not justified and proportionate. In addition, this should not lead to inequalities between posted and national workers in the home Member State in relation to social security contributions.

The Commission is evaluating whether the Slovenian legislation is leading to any inequalities between posted and national workers.

¹⁾ Posting of workers, Report on A1 Portable Documents issued in 2017, Frederic De Wispelaere & Jozef Pacolet — HIVA-KU Leuven, 2018.

²⁾ Posting of workers, Report on A1 Portable Document A1 issued in 2017, Frederic De Wispelaere & Jozef Pacolet — HIVA — KU Leuven, 2018, pg 20 — 21

³⁾ Article 14(2) of Regulation (EC) No 987/2009

⁴⁾ Decision of the Administrative Commission of 12 June 2009 :

[https://eur-lex.europa.eu/legal-content/HR/TXT/?uri=CELEX:32010D0424\(02\)](https://eur-lex.europa.eu/legal-content/HR/TXT/?uri=CELEX:32010D0424(02))

⁵⁾ Practical Guide prepared and agreed by the Administrative Commission: <https://ec.europa.eu/social/keyDocuments.jsp?advSearchKey=4944&mode=advancedSubmit>

⁶⁾ Recommendation of the Administrative Commission of 18 October 2017

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3A0J.C_.2018.183.01.0005.01.ENG&toc=OJ%3AC%3A2018%3A183%3ATOC