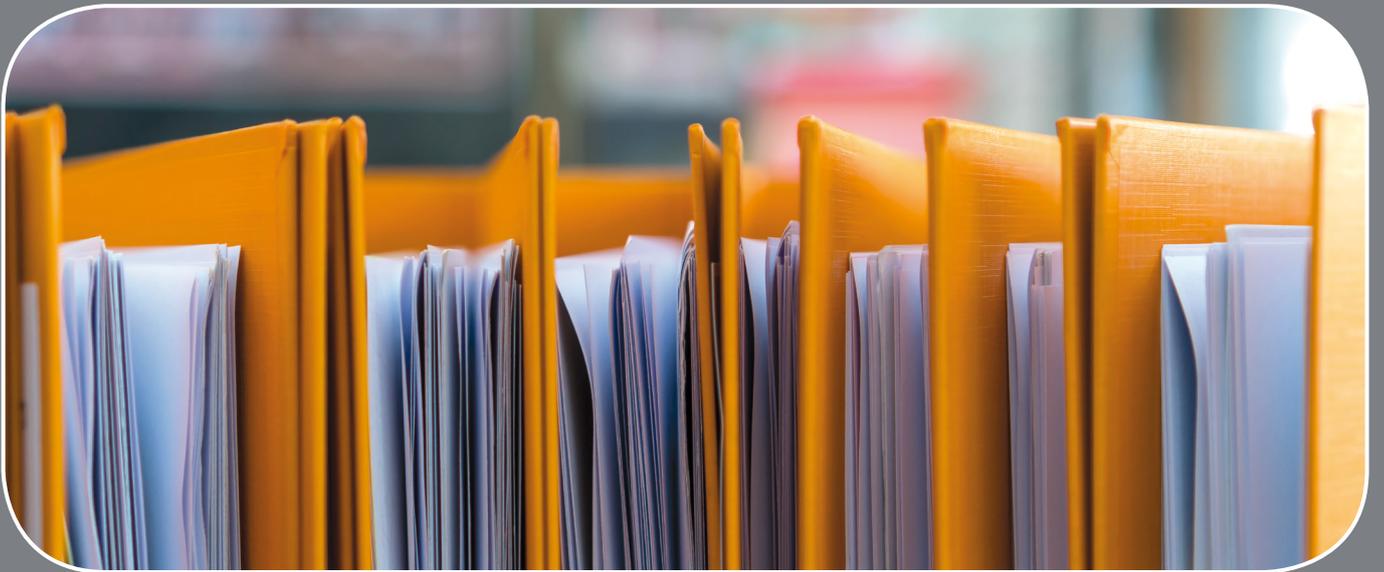




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Comparing legislation as well as regulatory and financial burdens in four EU Member States

This study is part of a larger project investigating whether and how European legislation is implemented in selected EU Member States on the legislative as well as administrative level and what (different) bureaucratic burdens are associated with their fulfilment in comparable family businesses. The project covers Austria, France, Germany and Italy and deals with a selected number of European directives and regulations. It was started in autumn 2020. This part of the project covers the A1 Certificate. It focusses on the administrative requirements related to workers from Austria, France, Germany and Italy.

The study contributes to an evidence-based discussion on the reduction of regulatory burdens at European and national level by comparing the transposition and implementation of European legislation ensuring social security in cross-border postings and assessing the regulatory burdens related to the A1 Certificate. Part A – the comparison of the legislation – was completed in early 2021, Part B – on the economic assessment of the regulatory burdens – was finalised in autumn 2022.

The A1 Certificate/Portable Document A1 proves that a worker is already subject to the social security legislation of another Member State while being posted/working in another Member State. Without this proof, a worker could be subject to additional social security contributions in the host country.

The study was made possible by numerous family businesses, chambers, consultancies and other experts that agreed to share their experiences with the A1 Certificate/Portable Document A1 with the scientists. We are grateful for their commitment and the time spent on the interviews. Thank you!

Summary of main results

Key findings of the legal study (cep)

1. EU law stipulates that as a general rule, a person shall be subject to the social security legislation of one Member State only. Usually, this is the Member State in which the individual works, but in cases of temporary posting – maximum 24 months –, the law of the home Member State continues to apply.
2. In such cases, the competent social security institution of the home Member States issues, upon request, an attestation that its social security legislation is applicable. It is this attestation that is referred to as an A1 Certificate. EU law does not stipulate what information the application for an A1 Certificate must entail.
3. In addition, a person may want to be subject to the social security legislation of their home Member State although the conditions for issuing an A1 Certificate are not fulfilled, e.g. because the posting or deployment lasts longer than 24 months. In this case, the Member States concerned may agree to provide for an exception. The attestation that affirms the applicability of the home Member State’s social security legislation in such cases is referred to as a “certificate according to Art. 16”. EU law does not specify what information must be provided in the application for this certificate either.
4. Some information is required in the application for an A1 Certificate in all four researched Member States. These are:
 - name, contact details, register number and primary country of activity of the employer;
 - name, date of birth, sex, nationality, social security number/fiscal code and address (both in the state of residence and in the state of posting) of the posted employee;
 - state and place of posting, type of work carried out and envisaged period of posting.
5. In addition, each researched Member State requires some information that none or only some of the other require. For instance, Austria, France and Germany require information on the employer’s sector of activity; Austria and Germany the employer’s legal form and whether the employee was posted to the same Member State in the two months prior to the current posting; Austria and France the beginning date of the employment relationship; Germany whether the German social security legislation applied for the posted employee for at least one month immediately before the posting; Italy the employer’s date of establishment and the date on which the employment contract was signed; and France whether the employee had been posted to the same undertaking in the past. As all Member State researched require some information that none or only some of the other require, it is highly likely that all four Member States can reduce the information requirements and thus bureaucratic costs.

Each Member State asks for additional information.

A1 Certificate: reduction potential for information requirements in all four states

6. Regarding the application for a certificate according to Art. 16, no information is available for Italy. Austria, France and Germany all require:
 - name, address and sector of activity of the employer as well as the extent to which their business activity is carried out in the posting state;
 - host state, place where the work will be carried out and the period for which the certificate is applied for;
 - the employee's name, date of birth, nationality, social security number and the name of their social security organisation before the posting;
 - the date on which the employee joined the company, who is responsible for remuneration during the posting, whether the employment relationship in the home Member State continues throughout the posting and whether there is a contract between the employee and the host company.
7. In addition, Austria, France and Germany require information that is not required in (all) the other researched Member States. For instance, France requires the employer's and the host company's total number of employees and posted employees as well as the employee's place of birth; Austria and France the name of the host company and whether the posting is intra-group; Austria and Germany whether social security contributions continue being paid in the home Member State; Germany whether the employee worked in the past two years in the country which the certificate is now applied for; and Austria the employee's address in the state of residence. Given the different information requirements in Austria, France and Germany, it appears very likely that information requirements and thus bureaucratic costs can be reduced in all three Member States.
8. In terms of digitisation, electronic applications for both the A1 Certificate and the certificate according to Art. 16 are possible in Austria, Germany and Italy. In France, an electronic application for an A1 Certificate is only possible for postings up to three months and impossible for certificates according to Art. 16. As all four Member States require a lot of information, it is very important to offer streamlined and simple application procedures in order to minimise bureaucratic costs.

*streamlined and
simple application
procedures needed*

Key findings of the assessment of the regulatory burdens (Prognos AG and CSIL)

Approach

1. Part B of this study **compares the regulatory burdens related to the issuance of the A1 Certificate** in four European countries based on the concept of compliance cost. The empirical assessment is informed by a total of 82 interviews conducted with companies and experts across the four Member States.

Current practice

2. All four countries **offer an online solution to apply for the A1 Certificate**. The ease of use differs considerably between countries. While France now offers a fully automated process and Austria relies on an established portal (ELDA), the German and Italian solutions require more input from the users.
3. The **total time to apply for an A1 Certificate** varies considerably between over 30 minutes in Italy and just under 20 minutes in Austria and France. In Germany, the average time was estimated to be around 26 minutes. This includes the time to compile and submit the information and distribute the Certificate.

This total time taken translates into compliance costs ranging from around seven euros per application in Austria (6.80 EUR) and France (7.12 EUR) to above ten euros in Italy and Germany (10.28 EUR). Total economic cost are highest in Germany (around 16.7m EUR in 2019), and lowest in Austria (0.66m EUR), followed by France (0.83m EUR) and Italy (1.66m EUR). However, this mainly reflects the vast differences in the number of A1 Certificates issued in the respective countries.

4. Prior to applying, companies must **familiarise themselves with the legal requirements**. Efforts to familiarise with the regulation differ between the four countries and have been described as particularly high in Germany.
5. The time required for **compiling the information to be submitted** (e.g. on wages) differs between the countries. France recently introduced a once-only solution, providing a pre-filled form using social security data, thus reducing the time to compile and fill in the data considerably.
6. **Filling in the provided online forms** differs as well between countries. In particular, the French once-only solution and the use of the ELDA portal in Austria reduce the time needed to fill in the forms, while e.g. the German solution does not allow saving employee data, thus requiring re-entering the data for every application.
7. **Processing and delivery time of the Certificate** by the responsible authorities follow a similar pattern. In France, the application is usually processed instantaneously and can be downloaded from the portal. While legally required to issue the Certificates within three working days, companies reported longer waiting times in Italy and Germany. Even short-term delays in the issuance of the Certificates are, however, an obstacle to complying with the regulation, in particular in border regions, where working across the border on short notice is not uncommon.

Proposals for reducing administrative burdens

8. Introducing a **European Social Security Card** as a proof of national affiliation with social security cover – modelled according to the principles of the European Health Insurance

Card – could substantially reduce the need for frequently issuing A1 Certificates to the same persons.

9. **Merging the requirements and processes** of the A1 Certificate and the Posting of Workers Directive as well as making the process available through a central EU-wide portal, giving companies a single point of access when posting workers abroad. However, this would require substantial cooperation and harmonisation between Member States, making such a portal more of a long-term solution.
10. In the short to medium term, Member States, in particular Germany, should aim to set up portals, bundling all relevant information on posting abroad and allowing the application for A1 Certificates in a user-friendly way, in particular by applying the once-only principle and using unique identifiers (such as the tax ID in Germany).
11. Simplifying requirements for some forms of posting abroad, e.g. by the length of stay (under five days), in border regions, or for specific types of working such as teleworking (“workation”).

application of once-only principle and use of unique identifiers would lead to more user-friendliness

Part A: Comparative legal study by cep on regulatory burdens resulting from A1 Certificates and certificates according to Art. 16 of Regulation (EC) No. 883/2004

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I. Introduction

The coordination of social security systems has a long history in EU law. It dates back to 1958, when the Council passed two regulations on social security for migrant workers. In 1971, these regulations were replaced by Regulation (EEC) 1408/71.¹ This regulation was followed in 2004 and 2009 by Regulation (EC) 883/2004² and its implementing regulation, Regulation (EC) 987/2009.³ These two regulations currently constitute the main body of law for the social security for migrant workers in the EU.

Art. 11 of Regulation (EC) 883/2004 states the general rule that a person shall be subject to the social security legislation of one Member State⁴ only. For a working individual, this will usually be the Member State in which they work. As an exception to that rule, Art. 12 (1) provides that an employee who usually carries out their activities in one Member State and is posted by their employer to another Member State to work there (hereinafter “posting”) continues to be subject to the social security legislation of the Member State where they usually work, provided that the anticipated duration of the posting does not exceed 24 months and that they are not sent to replace another person. Art. 12 (2) establishes the same principle for self-employed individuals who usually carry out their activity in a Member State and temporarily go to another Member State to pursue their activity there (hereinafter “deployment”).

The application of these provisions is specified in Art. 15 (1) of Regulation (EC) 987/2009. It provides that the employer or self-employed person shall inform the competent institution in their home Member State, if possible, in advance. This institution, in turn, shall make available information concerning the applicable legislation to the person concerned and to the competent institution in the host Member State. Furthermore, according to Art. 19 (2), the competent institution of the Member State whose legislation is applicable – in cases covered by Art. 12 of Regulation (EC) 883/2004 the home Member State – shall provide an attestation that its social security legislation is applicable. Where appropriate, the attestation shall also indicate until when and under what conditions the legislation of the issuing Member State is applicable. This attestation is called “A1 Certificate”.

1 Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01971R1408-20100501>.

2 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004R0883&qid=1614608039969>.

3 Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009R0987&qid=1614608117664>.

4 For the purposes of this study, the term “Member State” encompasses EU Member States, EEA countries and Switzerland. Likewise, the term “within the EU” encompasses the territory of EU Member States, EEA countries and Switzerland.

In that regard, this chapter examines the procedure for the application for the A1 Certificate according to Art. 12 of Regulation 883/2004, namely where it must be applied for, in what way and which information must be provided. In addition, it is examined whether the researched Member States provide, as host Member States, for a duty to carry an A1 Certificate.

Furthermore, a person may want to be subject to the social security legislation of their home Member State even if the conditions of Art. 12 of Regulation (EC) 883/2004 are not fulfilled, for instance because the posting/deployment lasts longer than 24 months. For such circumstances, Art. 16 of said regulation provides that the Member States concerned may agree to provide for exceptions, that is, that the person concerned continues to be subject to the social security system of their Member State of origin, even though the conditions of Art. 12 of Regulation (EC) 883/2004 are not fulfilled. The certificate according to Art. 16 of Regulation (EC) 883/2004 that confirms the continued application of the home Member State's social security system based on the agreement between the Member States concerned is hereinafter referred to as "certificate according to Art. 16."⁵

Additionally, there might be treaties under international law between Member States that provide for a larger scope of application of the home Member State's social security legislation than foreseen under EU law or that dispense from the requirement to carry an A1 Certificate. However, as far as can be ascertained, the Member States researched are not parties to such agreements. The only treaty referred to is a treaty between France and the Czech Republic that modifies the application process for certificates according to Art. 16.⁶

In addition to the aforementioned rules, special régimes apply to civil servants, individuals who regularly work in more than one Member State, individuals who are posted to do work in more than one Member State or individuals who combine employed and self-employed work in different Member States. These régimes are not covered in this chapter, neither are specific rules that might apply to individuals who are not EU/EEA/Swiss citizens.

5 While some Member States also consider this certificate to be an A1 Certificate, this is not the case everywhere. Therefore, this chapter maintains a terminological differentiation.

6 See section III.3.

II. Austria

1. Relevant national legislation

Austrian law does not entail specific provisions on the application process for the A1 Certificate. Relevant information is available on the websites of the social security institutions.⁷

As for the obligation to carry the A1 Certificate when posted to Austria, the relevant provision is § 21 of the Anti-Wage and Social Dumping Act (Lohn- und Sozialdumping-Bekämpfungsgesetz,⁸ hereinafter LSD-BG).

2. Where to apply for A1 Certificates or certificates according to Art. 16 of Regulation (EC) No. 883/2004

At which institution the A1 Certificate must be applied for depends on whether a person is employed or self-employed. For employees, the competent institution is the Österreichische Gesundheitskasse (hereinafter ÖGK). For self-employed individuals, it is the Sozialversicherungsanstalt der Selbständigen (hereinafter SVS).⁹

A certificate according to Art. 16 of Regulation (EC) 883/2004 must be applied for with the Federal Ministry of Social Affairs, Health, Care and Consumer Protection.¹⁰

3. Design of the application

a) A1 Certificates

Under Austrian law, the design of the application depends on whether the application for an A1 Certificate concerns an employee or a self-employed individual.

For employees, the employer has to apply for the A1 Certificate either electronically or by paper.¹¹ The electronic application can be submitted via the cost-free platform for electronic

7 See <https://www.gesundheitskasse.at/cdscontent/?contentid=10007.870659&portal=oegkportal>, <https://www.gesundheitskasse.at/cdscontent/?contentid=10007.820028&portal=oegkdportal>, <https://www.gesundheitskasse.at/cdscontent/?contentid=10007.820993&portal=oegkdportal>, <https://www.gesundheitskasse.at/cdscontent/?contentid=10007.865616&portal=oegkdportal> and <https://www.svs.at/cdscontent/?contentid=10007.816700&portal=svsportal>.

8 Available at <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20009555>; an unofficial – and not entirely up to date – English translation is available at https://www.entsendeplattform.at/cs/Satellite?blobcol=urldata&blobheadername1=content-type&blobheadername2=content-disposition&blobheadervalue1=application%2Fpdf&blobheadervalue2=inline%3B+filename%3D%22Anti-Wage_und_Sozial_Dumping_Act_%2528Lohn-_und_Sozialdumping-Bek%25C3%25A4mpfungsgesetz%252C_LSD-BG%2529_.pdf%22&blobkey=id&blobnocache=false&blobtable=MungoBlobs&blobwhere=1342632474969&ssbinary=true&site=Z04.

9 See <https://www.wko.at/service/t/arbeitsrecht-sozialrecht/arbeitsrecht-taetigkeit-ausland.html>.

10 <https://www.sozialministerium.at/Themen/Soziales/Sozialversicherung/Sozialversicherung-International.html>.

11 <https://www.gesundheitskasse.at/cdscontent/?contentid=10007.820028&portal=oegkdportal>; <https://www.wko.at/service/t/arbeitsrecht-sozialrecht/arbeitsrecht-taetigkeit-ausland.html>.

communication with social security institutions (ELDA)¹², which employers must use in order to fulfil their reporting obligations to social security institutions.¹³ The ÖGK very much prefers the application via ELDA.¹⁴ The form for the paper-based application is available online.¹⁵

The application form obliges employers to notify the ÖGK promptly if the posting does not take place, is interrupted for more than two months or terminated prematurely.

Self-employed individuals can apply electronically via the SVS website¹⁶ or paper-based. While there are no preconditions for accessing and filling out the online application form, online submission is only possible by use of the mobile phone signature (hereinafter Handysignatur), which is the Austrian digital personal signature that can be used for various online applications and has the same legal force as a handwritten signature. A person who does not use the Handysignatur can fill out the form online, print and sign it and then submit a paper-based application. In addition, paper forms are available at the SVS customer centres.¹⁷

In contrast to the application form for employees, the form for self-employed individuals does not contain a clause according to which changes must be communicated.

b) Certificates according to Art. 16 of Regulation (EC) 883/2004

The application form for requests according to Art. 16 of Regulation (EC) 883/2004 for employees is available online.¹⁸ The application must be signed by both the employer and the employee, additionally by the employer abroad if there is an employment contract with the establishment in which the posted employee works. The application form for requests according to Art. 16 of Regulation (EC) 883/2004 for self-employed individuals is available on request.

Both application forms – for employees and self-employed individuals – can be submitted via mail or via e-mail.

12 <https://www.elda.at/cdscontent/?contentid=10007.838915&portal=eldaportal>.

13 <https://www.gesundheitskasse.at/cdscontent/?contentid=10007.820028&portal=oegkdportal>.

14 <https://www.gesundheitskasse.at/cdscontent/?contentid=10007.820028&portal=oegkdportal>.

15 At <https://www.gesundheitskasse.at/cdscontent/load?contentid=10008.682861&version=1575374595>.

16 At https://www.sozialversicherung.gv.at/formulare-prod/formserver_svs_040/start.do?wfjs_enabled=true&vid=f69826e6867ac2ef&wfjs_orig_req=%2Fstart.do%3Fesvcdid%3D10007.854359%26esvendurl%3DaHR0cDovL3d3dy5zb3ppYWxzZXJzaWNoZXJ1bmcuZ3YuYXQvZm9ybWdlbi9hYnNjaGx1c3MueGhObWw%252FbGF5b3V0PXdpdGhvdXROXYXmY29udGVudGlkPTEwMDA3Ljg1NDM1OSZwb3J0YWw9c3ZzcG9ydGFs%26esvlayout%3DwithoutNav%26esvportal%3Dsvportal%26esvstarturl%3DaHR0cDovL3d3dy5zb3ppYWxzZXJzaWNoZXJ1bmcuZ3YuYXQvZm9ybWdlbi8%252FbGF5b3V0PXdpdGhvdXROXYXmY29udGVudGlkPTEwMDA3Ljg1NDM1OSZwb3J0YWw9c3ZzcG9ydGFs%26generalid%3DVS120005%26hash%3De9dd16ac918d5a675a7737d-19b92f58c47dde5c31fbfd870fc9fee186110f5fc%26mobileLayout%3Dfalse%26sso_override%3DKEINE&txid=1e10e0104652037825aa075f8c58582ea2023825#.

17 <https://www.svs.at/cdscontent/?contentid=10007.816700&portal=svsportal>.

18 At <https://www.sozialministerium.at/Themen/Soziales/Sozialversicherung/Sozialversicherung-International.html>.

Furthermore, both application forms require the applicants to notify the Federal Ministry of Social Affairs, Health, Care and Consumer Protection if changes occur regarding the statements made.

4. Costs

The application for the A1 Certificate or a certificate according to Art. 16 (1) of Regulation (EC) No. 883/2004 is free of charge.

5. Information requested in the application

a) Information requested for A1 Certificates

In Austria, different information is requested depending on whether the individual is an employee or self-employed.

aa) For employees

The paper form¹⁹ for the A1 Certificate for employees requires the following information:

- Information on the employee:
 - ▶ name, sex, date and place of birth, social security number, nationality,
 - ▶ address in the state of residence, and
 - ▶ address in the state of posting.
- Information on the employer:
 - ▶ name, address, phone number, e-mail address, legal form, register number, contribution account number,²⁰
 - ▶ sector in which the employer is active,²¹
 - ▶ whether, based on turnover and the number of employees, the employer carries out at least 25 per cent of their business activities in Austria, and
 - ▶ whether the employer has further employees in Austria (besides internal administrative staff).
- Information on the posting:
 - ▶ state of posting,

19 Available at <https://www.gesundheitskasse.at/cdscontent/load?contentid=10008.682861&version=1575374595>.

20 I.e. the account for social security contributions.

21 To be chosen from agriculture/hunting/fishing, construction, industry, services (with the sub-sectors whole-sale and retail; accommodation and restaurants; finance, insurance, real estate, and leasing; transport and communication; health, veterinary, and social affairs), and "other sector".

- ▶ designation of the place of posting,²²
- ▶ address of the place of posting,
- ▶ whether the posting is contractually temporary due to the nature of the activity,
- ▶ foreseeable beginning and end date of the posting,
- ▶ date of commencement of the employee's employment relationship with the employer,
- ▶ type of work that the employee carries out,
- ▶ whether the posted employee replaces an employee posted by the employer to the same state who carried out the same work, and if so, why,
- ▶ whether the employee was posted to the same state in the two months prior to the current posting, and
- ▶ whether the company to which the employee is posted will hire them out to another company.

bb) For self-employed individuals

For self-employed individuals, the following information is required:²³

- ▶ whether SVS has been notified of the self-employment (yes required to proceed),
- ▶ whether the duration of occupation abroad is already fixed (yes required to proceed),
- ▶ the competent SVS regional office (depends on which federal state the self-employed individual's business is based in),
- ▶ name, nationality and social security number of the self-employed individual,
- ▶ contact information (phone number or e-mail address),
- ▶ in which state, in what line of work and during what period (foreseeably) the self-employed individual will be working abroad,
- ▶ whether the self-employed individual will have more than one place of occupation abroad (if only one, the address of this place; if more than one, only the names of towns or cities),
- ▶ whether there are one or more client(s) abroad,
- ▶ identity of the client(s) and which state the client(s) is/are based in (and the address if there is only one client),

22 If no fixed place of posting exists, that can be indicated by ticking a checkbox.

23 This is the information requested when filling out the form available at the SVS website.

- ▶ a copy of the contract with the client(s),²⁴ and
 - ▶ whether the applicant submits the application in their own name.
- b) Information requested for certificates according to Art. 16 of Regulation (EC) 883/2004

In Austria, different information is requested depending on whether the individual is an employee or self-employed.

aa) For employees

The application according to Art. 16 of Regulation (EC) 883/2004 for employees requires the following information:

- Information on the employee:
 - ▶ name, date of birth, social security number, nationality,
 - ▶ competent social security provider/regional office of the social security provider,
 - ▶ address in the state of residence, and
 - ▶ date since which the employee is employed with the Austrian company.
- Information on the employer:
 - ▶ name and address,
 - ▶ whether, based on turnover and the share of employees, the employer carries out their business activities predominantly in Austria, if no, to what extent they are active in Austria, and
 - ▶ sector in which the employer is active.
- Information on the posting:
 - ▶ state of posting, and
 - ▶ name and address of the establishment in which the employee is working.
- Information on the timeframe of the exception agreement:
 - ▶ if no A1 Certificate or certificate according to Art. 16 has been awarded (Erstantrag): requested beginning and end date of the exception, and
 - ▶ in case of an extension of an A1 Certificate or of a certificate according to Art. 16:
 - beginning and end date of the A1 Certificate (if any),

²⁴ This copy can be submitted online if the entire application is submitted online. Otherwise, a physical copy must be submitted together with the paper application form.

- whether an exception agreement exists²⁵ and
- requested beginning and end date of the extension.
- Other information:
 - ▶ whether, during the posting abroad, the employment relationship in Austria:
 - continues to apply and is supplemented by specific posting rules,
 - is dormant, or
 - is dealt with in a different way,²⁶
 - ▶ whether the employee is posted to an affiliated company (for instance a parent company or subsidiary),
 - ▶ whether there is an employment contract with the establishment in which the employee is working,
 - ▶ whether the salary and Austrian social security contributions are paid by the establishment in which the employee is working or by the Austrian employer,
 - ▶ whether social security contributions have already been paid in the state of posting,
 - ▶ whether the Austrian employment relationship will continue after the posting, and
 - ▶ which activity is carried out in the state of posting.

c) For self-employed individuals

The application according to Art. 16 of Regulation (EC) 883/2004 for self-employed individuals requires the following information:

- Name, date of birth, social security number, competent social security institution, address and nationality of the self-employed person,
- Member State in which the self-employed person is temporarily active,
- Sector in which the self-employed person is active (in Austria and the host state),
- Starting date of the self-employed activity (in Austria and the host state),
- Address and name of the undertaking (in Austria and the host state),
- Requested beginning and end date of the exception agreement,
- Whether the self-employed activity in Austria will be continued, laid dormant or terminated,

25 I.e. whether a certificate according to Art. 16 has been awarded in the past.

26 If that is the case, the arrangement must be explained.

- Which percentage of the activity is exercised in Austria and which in the host state, and
- Whether social security contributions have already been paid abroad, and if so, name and address of the social security institution.

6. Obligations to keep A1 Certificates available

According to § 21 (3) (1) LSD-BG, for employees that are posted to Austria, the employer/user undertaking must keep the A1 Certificate available. If the company has applied for the A1 Certificate but has not received it on time, the obligation can be fulfilled by producing the application for the A1 Certificate and a confirmation from the competent social security institution that the employee is covered for the time of posting to Austria.

7. Treaties under international law

Austria has not concluded treaties under international law relevant to the present topic.

8. Other relevant information

No other relevant information.

III. France

1. Relevant national legislation

As the provisions regarding the A1 Certificate are mostly laid down in EU regulations, national provisions transposing the requirements are not necessary. Nonetheless, some provisions on employees posted within the EU are laid down in Art. L.761-1 to Art. L.761-8 of the French Social Security Code²⁷ (Code de la sécurité sociale, hereinafter CSS), regarding among others their affiliation to the French social security system.

Executive provisions concerning employees posted within the EU are laid down in Art. R.761-1 to Art. R.761-20 CSS.²⁸ Among others, they lay down that the request to remain affiliated to the French social security system is addressed to the employee's social security institution and that – where the conditions are met – the institution issues a certificate to the person concerned.

For employees and self-employed individuals carrying out their activity in France while being affiliated to a different social security system than the French one, the law No. 2016-1827²⁹

27 Code de la sécurité sociale, partie législative, https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006073189/LEGISCTA000006156249/#LEGISCTA000006156249.

28 Code de la sécurité sociale, partie réglementaire, https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006073189/LEGISCTA000006156763/#LEGISCTA000006156763.

29 Loi No. 2016-1827 du 23 décembre 2016 de financement de la sécurité sociale pour 2017, Art. 27.

introduced Art. L.114-15-1 in the CSS³⁰ providing for the obligation to keep the A1 Certificate available in case of control.³¹

For both employees and self-employed individuals carrying out their activity in France or within the EU, a public institution – the Centre for European and International Liaison on Social Security (hereinafter Cleiss)³² – provides information on social protection and on the conditions to remain affiliated in the country of origin. Information on the A1 Certificate is available on the Cleiss website.³³ A legal guide to worker mobility in Europe is also available.³⁴

Further information and guidelines are provided on the websites of authorities delivering the A1 Certificate.³⁵

2. Where to apply for A1 Certificates or certificates according to Art. 16 of Regulation (EC) 883/2004

As a general rule³⁶, the A1 Certificate for employees must be applied for with the Caisse Primaire d'Assurance Maladie (hereinafter CPAM)³⁷ and for self-employed individuals with the Centre national de gestion de la mobilité – Urssaf Nord-Pas-de-Calais.³⁸

For employees and self-employed individuals working in the agricultural sector, the competent institution is the Caisse de Mutualité sociale agricole³⁹ (hereinafter MSA).

The CPAM and the MSA have different regional offices.⁴⁰

30 Code de la sécurité sociale, Art. L114-15-1, https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033687767/.

31 See section 6.

32 Centre des Liaisons Européennes et Internationales de Sécurité Sociale (2020), information in English.

33 <https://www.cleiss.fr/reglements/a1.html>.

34 https://www.cleiss.fr/pdf/guide_mobilite_travailleurs_europe.pdf.

35 <https://www.ameli.fr/>, <https://www.msa.fr/>, and <https://www.urssaf.fr/>.

36 Specificities for agricultural workers are developed in the study, but other specific sectoral provisions are left aside (e.g. for sailors and mining workers).

37 L'Assurance Maladie (2022), Détachement d'un salarié dans un état de l'UE/EEE ou en Suisse, <https://www.ameli.fr/entreprise/vos-salaries/detachement-france-etranger/detachement-salarie-ue-suisse>.

38 "Union(s) de Recouvrement des cotisations de Sécurité Sociale et d'Allocations Familiales", Urssaf (2020), Je souhaite travailler hors de France, <https://www.urssaf.fr/portail/home/independant/ma-situation-ou-mes-coordonnees/je-souhaite-travailler-hors-de-f.html>.

39 Caisse de Mutualité sociale agricole (2018), Le détachement des salariés agricoles au sein de l'UE, <https://www.msa.fr/lfy/employeur/detachement-des-salaries-ue>; La mobilité des non salariés agricoles au sein de l'UE, <https://www.msa.fr/lfy/exploitant/mobilite-union-europeenne>.

40 L'Assurance Maladie (2021), Adresses et contacts, <https://www.ameli.fr/hauts-de-seine/assure/adresses-et-contacts>; MSA (2020), Les coordonnées des MSA, <https://www.msa.fr/lfy/contact/coordonnees-msa>.

Requests for issuing a certificate attesting the continued application of French social security law under a bilateral agreement between France and another Member State according to Art. 16 of Regulation (EC) 883/2004 must be lodged with the Cleiss.⁴¹

3. Design of the application

a) A1 Certificates

In France, there are different ways to apply for the A1 Certificate depending on whether the individual is an employee, self-employed or works in the agricultural sector.

aa) For employees

If an employee is posted within the EU, it is on the employer to apply for an A1 Certificate that attests the affiliation to the French social security system. The employer must fill out a form⁴² and send it via mail to the regional CPAM of the company's head office.⁴³ The employer also must give a copy of the filled-out form to the employee.

The employer shall inform the CPAM of any change in the situation of the posted employee.⁴⁴

Employers posting employees for maximum three months can apply for an A1 Certificate online⁴⁵ by filling out an online form (Déclaration des détachements à l'étranger, hereinafter DAE). Based on the information provided, the competent service of Net-entreprises⁴⁶ (service détachement à l'étranger) will determine the adequate certificate for the posting (for instance: the A1 Certificate if the posting is within the EU⁴⁷). The online form is then automatically sent to the regional CPAM of the company's head office. Employers must submit the form before the employee's departure.

To use this online service employers need to register with the DAE. The service is accessible within 24 hours after registering.

41 Centre des Liaisons Européennes et Internationales de Sécurité Sociale (2021), Détachement au-delà de 24 mois, accords individuels exceptionnels et procédures, https://www.cleiss.fr/employeurs/empl_france_envoi_ue_ue.html#exceptions; Travailleur indépendant, https://www.cleiss.fr/independants/france_etranger883.php?desti=allemagne&nat=autre.

42 Available at https://www.ameli.fr/sites/default/files/formulaires/215/questionnaire_maintien_regime_francais_travailleur_salarie_detache_formulaire_s3208_cnam.pdf.

43 Service Public (2017), Questionnaire de maintien au régime français de sécurité sociale d'un travailleur salarié détaché, <https://www.service-public.fr/professionnels-entreprises/vosdroits/R14594>.

44 L'Assurance Maladie (2022), Détachement d'un salarié, <https://www.ameli.fr/entreprise/vos-salaries/detachement-france-etranger/detachement-salarie-ue-suisse>.

45 Website: <https://www.net-entreprises.fr>.

46 "Net-entreprises" is a service by the French social security institutions to companies and their representatives to make and pay their social declarations online.

47 Other certificates may be issued, for instance, if the employee is posted outside the EU.

bb) For self-employed individuals

To apply for an A1 Certificate, self-employed individuals need to fill out and sign an online⁴⁸ form. The answers on the form will determine which social security legislation applies. The form must then be submitted via e-mail.⁴⁹

cc) For employees and self-employed individuals working in the agricultural sector

To apply for an A1 Certificate, employees and self-employed individuals working in the agricultural sector shall fill out an online form. There are different forms for employees⁵⁰ and for self-employed individuals.⁵¹ After filling out, the form can be sent either via mail or electronically to the regional MSA under which the employee or self-employed individual is registered.⁵²

b) Certificates according to Art. 16 of Regulation (EC) 883/2004

For employees and self-employed individuals that want to remain affiliated to the French social security system while carrying out their activity outside of France, without fulfilling the criteria for the issuance of an A1 Certificate – for instance postings of more than 24 months –, a request for the application of Art. 16 of Regulation (EC) 883/2004 shall be submitted to the Cleiss. The form shall be sent by mail only. If the posting is to the Czech Republic, only an annex shall be filled out.⁵³

The Cleiss shall be informed of any change in the situation (extent or interruption of the mission).

4. Costs

The application for A1 Certificates and certificates according to Art. 16 of Regulation (EC) 883/2004 is free of charge.

48 Available at <https://www.urssaf.fr/portail/home/independant/ma-situation-ou-mes-coordonnees/je-souhaite-travailler-hors-de-f/demande-de-mobilite-en-europe-po.html>.

49 Urssaf (2020), Demande de mobilité internationale pour travailleur indépendant.

50 Available at <https://mps.msa.fr/lfy/documents/11566/82812069/Questionnaire+%C3%A0+remplir+par+l%27employeur+pour+le+maintien+au+r%C3%A9gime+fran%C3%A7ais+de+s%C3%A9curit%C3%A9+sociale+d%27un+travailleur+salari%C3%A9+d%C3%A9tach%C3%A9>.

51 Available at <https://mps.msa.fr/lfy/documents/11566/80413109/Questionnaire+pour+le+maintien+au+r%C3%A9gime+fran%C3%A7ais+de+s%C3%A9curit%C3%A9+sociale+d%27un+travailleur+non+salari%C3%A9+d%C3%A9tach%C3%A9.pdf>.

52 Caisse de Mutualité sociale agricole (2021), Les coordonnées des MSA.

53 Décret No. 2011-438 du 20 avril 2011 portant publication de l'accord entre le Gouvernement de la République française et le Gouvernement de la République tchèque sur l'échange de données et la coopération en matière de cotisations et de lutte contre la fraude aux prestations de sécurité sociale (ensemble une annexe), signé à Chantilly le 11 juillet 2008. Art. 10 of the bilateral agreement provides for the "cooperation in determining the applicable legislation and the collection of contributions", <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000023893954>.

5. Information requested in the application

a) Information requested for A1 Certificates

In France, different information is requested depending on whether the individual is an employee, self-employed or works in the agricultural sector.

aa) For employees

To request the A1 Certificate for employees, the following information must be provided:

- Information on the employee:
 - ▶ name, nationality, date of birth, social security number,
 - ▶ address in France,
 - ▶ address in the state of posting,
 - ▶ beginning date of employment, and
 - ▶ occupation.
- Information on the employer:
 - ▶ business name, address, phone number, fax number, e-mail address, register number (“numéro SIRET”⁵⁴),
 - ▶ sector in which the employer is active (“code NAF”⁵⁵),
 - ▶ number of employees in the undertaking and number of posted employees, and
 - ▶ whether the employer carries out a “substantial activity” in France besides “simple administrative management”.⁵⁶
- Information on the posting:
 - ▶ state of posting,
 - ▶ foreseeable duration of the posting, indication of the beginning and end dates,
 - ▶ exact nature of work that the posted employee carries out,
 - ▶ company to which the employee is posted (if none, personal address/workplace of the employee): business name, address, registering number (if known),

54 The number which is attributed to each French establishment.

55 A code issued by the INSEE for each professional activity, based on the French activity nomenclature.

56 Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, Art. 14 (2): “The relevant criteria must be suited to the specific characteristics of each employer and the real nature of the activities carried out”, <http://data.europa.eu/eli/reg/2009/987/oj>; Commission Administrative pour la coordination des systèmes de sécurité sociale, Décision A2 du 12 juin 2009, https://www.cleiss.fr/reglements/cacsss/Dec_A2fr.pdf.

- ▶ whether the employer is paying salaries and social security contributions during the posting,
- ▶ whether the employee is insured under a French social security scheme,
- ▶ whether the employee had been posted to the same undertaking prior to the current posting; if so, the dates shall be indicated, and
- ▶ whether the posted employee replaces an employee posted by the employer to the same undertaking and who came back to France after expiration of the posting period; if so, the dates of the previous posting shall be indicated.

An overview of the application form for employees is available online.⁵⁷ The application form⁵⁸ for employees in the agricultural sectors is identical.

bb) For self-employed individuals

To request the A1 Certificate for self-employed individuals, the following information must be provided:

- Contact information (phone and e-mail),
- Sex, surname (birth name/married name), name, nationality, date and place of birth,
- French social security number, name and address of the social security institution in France,
- Address of residence and if applicable of correspondence, and
- Information on the deployment:⁵⁹
 - ▶ nature of work carried out during the deployment (must be the same as the work carried out in France),
 - ▶ period of deployment (date of beginning and end),
 - ▶ information on the activity in the state of deployment:
 - business name,
 - address of the business/site,
 - ▶ if the deployment is renewed or renewable, precision of dates (begin/end), and

57 Available at <https://www.ameli.fr/content/questionnaire-maintien-au-regime-francais-de-securite-sociale-dun-travailleur-salarie-detache>.

58 Available at <https://www.msa.fr/lfy/documents/11566/82812069/Questionnaire+%C3%A0+remplir+par+l%27employeur+pour+le+maintien+au+r%C3%A9gime+fran%C3%A7ais+de+s%C3%A9curit%C3%A9+sociale+d%20%99un+travailleur+salar%C3%A9+d%C3%A9tach%C3%A9>.

59 "Auto-détachement" in French.

- ▶ a document justifying the deployment shall be enclosed (for instance accepted offer, bill for services, development project, signed contract).

An overview on how to apply for the A1 Certificate is available online.⁶⁰

cc) *For employees or self-employed individuals working in the agricultural sector*

For employees, see section 5. a) aa).

To request the A1 Certificate for self-employed individuals in the agricultural sector, the following information must be provided:

- Surname (birth name/married name), name, nationality, date and place of birth, marital status, French social security number,
- A copy of the ID Card shall be enclosed,
- Contact information (phone number, fax number and e-mail address),
- Address of residence in France and address in the state of deployment, and
- Information on the activity carried out in France:
 - ▶ business name, address,
 - ▶ register number (numéro SIRET),
 - ▶ activities (Code NAF),
 - ▶ starting date of activity in France, and
 - ▶ a copy of the proof of activity shall be enclosed (for instance “*liasse CFE*”⁶¹).
- Information on the deployment:
 - ▶ the state of deployment,
 - ▶ the name of the business where the activity will be carried out,
 - ▶ the address of the business/site,
 - ▶ the nature of the activity in France, and
 - ▶ the nature of the activity abroad.

⁶⁰ At <https://www.urssaf.fr/portail/files/live/sites/urssaf/files/documents/6007-Flyer-DLA-AC-PLNR.pdf>.

⁶¹ The commercial formality center “*CFE*” – *Centre de formalité des Entreprises* enables companies to subscribe in the same place and in the same document (“*liasse CFE*”) the declarations to which they are bound. See Infogreffe, <https://www.infogreffe.fr/informations-et-dossiers-entreprises/lexique-juridique/centre-de-formalites-des-entreprises-cfe.html>.

- Information on the deployment period:
 - ▶ beginning and end dates,
 - ▶ whether the self-employed individual already worked in the same state abroad, and if so, beginning and end dates,
 - ▶ whether during the deployment a structure of business will be maintained in France so that the professional activity can be resumed on return and whether the activity will be resumed when returning from abroad, and
 - ▶ the copy of a document justifying the deployment shall be enclosed (for instance accepted offer, bill for services, development project, signed contract).

For self-employed individuals, an overview of the application form is available online.⁶²

b) Information requested for certificates according to Art. 16 of Regulation (EC) 883/2004

To request the application of Art. 16 of Regulation (EC) 883/2004, for employees and self-employed individuals, the following information must be provided:

- Information on the employer filing out the application:
 - ▶ name or business name,
 - ▶ address,
 - ▶ person in charge of the application,
 - ▶ phone number, fax number and e-mail address,
 - ▶ date of creation of the business,
 - ▶ whether the business carries out a “substantial activity”⁶³ in France,
 - ▶ the sector of activity (transport, building and public works, temporary work agency, agriculture, or specify if other), code APE,⁶⁴
 - ▶ register numbers (numéro SIREN or SIRET,⁶⁵ numéro RCS⁶⁶), and

62 At <https://www.msa.fr/lfy/documents/11566/80413109/Questionnaire+pour+le+maintenance+au+r%C3%A9gime+fran%C3%A7ais+de+s%C3%A9curit%C3%A9+sociale+d%27un+travailleur+non+salari%C3%A9+d%C3%A9tach%C3%A9.pdf>.

63 For examples of criteria, see Regulation (EC) No 987/2009, Art. 14 (2) and 14 (3), as well as CACSSS, Décision A2 of June 2009: e.g. the number of administrative staff working respectively in the Member State of establishment and in the other Member State or the place where the posted employees are recruited and where the majority of contracts with clients are concluded.

64 The code APE is the code NAF that corresponds to the main activity carried out by a company.

65 The SIRET consists of 14 digits, 9 of them constitute the SIREN number.

66 The RCS number is the identification number in the commercial register. It is a unique identifier that is compulsory for any individual or legal entity with the status of company or tradesperson in France.

- ▶ total number of employees and number of deployed employees.
- Information on the employee/self-employed individual:
 - ▶ number of the Cleiss file,
 - ▶ surname, name(s), date and place of birth, nationality,
 - ▶ social security number, name of the social security organisation right before the assignment, and
 - ▶ whether the employee keeps their residency in France; if yes, the address in France and abroad shall be indicated; if no, only the address of main residency.
- Information on the activity carried out in France:
 - ▶ date of joining the company,
 - ▶ position held,
 - ▶ nature of the work contract; if permanent, the beginning date must be indicated; if fixed term, the period must be indicated, and
 - ▶ whether the work contract is suspended, maintained or terminated during the period of activity abroad.
- Information on the activity carried out abroad:
 - ▶ state of posting/deployment,
 - ▶ start date of the posting/deployment,
 - ▶ required period for the application of the exception,
 - ▶ if applicable: previous exception period already granted,
 - ▶ professional perspective for the employee and self-employed individual after the exception period,
 - ▶ name or business name of the host company, address, identification number (for instance trade register number),
 - ▶ sector of activity (transport, building and public works, employment agency, agriculture, or specify if other),
 - ▶ number of employees and of posted employees,
 - ▶ whether there is a contract between the employee and the host company: if yes, a copy shall be enclosed; if no, the amendment of posting shall be enclosed,
 - ▶ description of the mission/task that will be carried out abroad,
 - ▶ whether the posting is intra-group; if so, the career path of the employee within the group shall be detailed, and

- ▶ whether it is a service provision contract; if yes: date of the contract and object of the service; a copy of the contract shall be enclosed.
- Complementary information:
 - ▶ whether during the posting the salary is paid by the employer, the host company or both,
 - ▶ whether during the posting the usual employer, the host company or both exercise the authority and control over the employee, and
 - ▶ if the applicant requests the application of Art. 16 of Regulation (EC) 883/2004 to regularise a delay in completing the posting/deployment formalities, the reasons for the delay must be explained.
- Employee declaration:
 - ▶ acknowledgement of the request and that the employee shall normally not stay affiliated in France,
 - ▶ motivation to stay affiliated in France, and
 - ▶ name, period of posting abroad, date and place of signature.
- Employer declaration:
 - ▶ engagement to exclusively pay contributions to French social security during the whole assignment,
 - ▶ transmission of a copy of previous certificate(s) of posting shall be enclosed if the application is an extension request, and
 - ▶ transmission of a copy of the payslip of the month prior to the request and of the latest payslip shall be enclosed.

An overview of the application form for the exceptions of Art. 16 of Regulation (EC) 883/2004 is available online.

6. Obligations to keep A1 Certificates available

The national provision that requires to keep the A1 Certificate available is Art. L.114-15-1 CSS.⁶⁷ It provides that, while carrying out an activity in France without being subject to the French social security legislation, there is a duty to keep the A1 Certificate available to the various control officers, at the place where the work is carried out and at the premises of the contract partner. The A1 Certificate can be provided by the employee/ self-employed individual, by the employer/the employer's contact person in France, or by the contract partner. The A1

⁶⁷ Code de la sécurité sociale, Art. L.114-15-1, https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033687767/.

Certificate can be surrogated by a supporting document proving that the application for the A1 Certificate has been submitted, if the A1 Certificate is then provided within two months. Failure to produce the A1 Certificate during an inspection will result in the application of a penalty on the contract partner.⁶⁸

7. Treaties under international law

In 2008, France concluded a bilateral treaty with the Czech Republic on the exchange of data and cooperation on social security contributions and the fight against social security benefit fraud. Among others, the treaty provides for the cooperation in determining the applicable legislation and the collection of contributions.⁶⁹ While it does not dispense from the requirement to apply for and carry an A1 Certificate, it simplifies the application procedure.⁷⁰

8. Other relevant information

No other relevant information.

IV. Germany

1. Relevant national legislation

According to § 4 of the German Social Code IV (SGB IV), when an employee in a direct employment relationship in Germany is posted within the EU, the employee remains affiliated to the German social security system. The term used to describe this effect is “Ausstrahlung”. The posting must be temporary – limited in time either by the nature of the assignment or by prior contractual arrangement. The same shall apply to self-employed individuals.⁷¹ The Federal Associations of Health, Accident, and Pension Insurances together with the Federal Employment Agency regularly provide guidelines for the evaluation of insurance-related aspects in the context of posting employees.⁷² These guidelines aim to ensure uniform application of the law.

§ 106 SGB IV entails provisions concerning the electronic request for a certificate indicating the affiliation to the German social security system. The Federal Associations of Health, Accident, and Pension Insurances together with the Federal Employment Agency provide

68 Code de la sécurité sociale, Art. L.114-15-1; Cleiss (2017), Détachement: Production des formulaires A1 lors des contrôles effectués en France, <https://www.cleiss.fr/actu/2017/1702-detachement-a1.html>.

69 Décret No. 2011-438 du 20 avril 2011 portant publication de l'accord entre le Gouvernement de la République française et le Gouvernement de la République tchèque sur l'échange de données et la coopération en matière de cotisations et de lutte contre la fraude aux prestations de sécurité sociale (ensemble une annexe), signé à Chantilly le 11 juillet 2008, <https://www.legifrance.gouv.fr/jorfi/id/JORFTEXT000023893954>.

70 See section 3. b).

71 § 4 (2) SGB IV.

72 Gemeinsame Verlautbarung zur versicherungsrechtlichen Beurteilung entsandter Arbeitnehmer (2020), available at <https://www.deutsche-rentenversicherung.de/DRV/DE/Experten/Arbeitgeber-und-Steuerberater/summa-summarum/Rundschreiben/rundschreiben.html>.

details concerning the content of the application, the data to be provided and a procedure description.⁷³

2. Where to apply for A1 Certificates or certificates according to Art. 16 of Regulation (EC) No. 883/2004

For employees and self-employed individuals insured with the German statutory health insurance institution (gesetzliche Krankenkasse), the A1 Certificate must be applied for with the health insurance institution of the employee/self-employed individual.⁷⁴

For employees and self-employed individuals covered under a private health insurance, the competent institution depends on whether they are a member of a professional association pension scheme⁷⁵ or not. If they are a member of a professional association pension scheme, the A1 Certificate must be applied for with the Arbeitsgemeinschaft berufsständischer Versorgungseinrichtungen (hereinafter ABV)⁷⁶. If they are not, the A1 Certificate must be applied for with the competent pension insurance institution (zuständiger Rentenversicherungsträger).⁷⁷

However, the above-mentioned differentiations for the issuance of the A1 Certificate are not relevant for the application procedure in itself. The main criterion for the application procedure is whether the posted/deployed person is employed or self-employed.

Both for employed and self-employed individuals, requests for issuing a certificate according to Art. 16 of Regulation (EC) 883/2004 (Ausnahmevereinbarung) are to be addressed to the Spitzenverband Bund der Krankenkassen (hereinafter GKV-Spitzenverband), Deutsche Verbindungsstelle Krankenversicherung – Ausland (hereinafter DVKA).⁷⁸

73 Gemeinsame Grundsätze für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV (2020), available at https://www.gkv-datenaustausch.de/media/dokumente/arbeitgeber/entsendung/grundsaeetze_1/GG_A1_01012021.pdf, and Verfahrensbeschreibung für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV in der vom 1. Januar 2021 an geltenden Fassung, (2020), available at <https://www.informationsportal.de/sv-bibliothek/meldeverfahren/gemeinsame-meldeverfahren/entsendung/>.

74 For individuals insured with the Landwirtschaftliche Kranken- und Pflegeversicherung, the competent institution is the Landwirtschaftliche Kranken- und Pflegeversicherung; see also website of the Sozialversicherung für Landwirtschaft, Forsten und Gartenbau, available at <http://www.svlfg.de/bescheinigung-a1>.

75 A membership with a professional association pension scheme (Berufsständisches Versorgungswerk) is possible for registered liberal professions (verkammerte Freie Berufe), for example doctors, pharmacists, architects, engineers, notaries, psychologists, lawyers, tax consultants, veterinarians, auditors and dentists. A list of the professional associations providing such pensions schemes can be found at https://www.bundesfinanzministerium.de/Content/DE/Downloads/BMF_Schreiben/Steuerarten/Einkommensteuer/2020-06-19-liste-der-berufsstaendischen-versorgungseinrichtungen.pdf?__blob=publicationFile&v=1.

76 § 3 (2) of the Gesetz zur Koordinierung der Systeme der sozialen Sicherheit in Europa – SozSichEUG. The ABV is the umbrella organisation of compulsory retirement schemes for registered liberal professions.

77 For employees, the pension insurance institution is the Deutsche Rentenversicherung.

78 Gemeinsame Grundsätze für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV (2020), available at https://www.gkv-datenaustausch.de/media/dokumente/arbeitgeber/entsendung/grundsaeetze_1/GG_A1_01012021.pdf, p. 6; also www.dvka.de/de/arbeitgeber_arbeitnehmer/antraege_finden/abschluss_ausnahmevereinbarung/abschluss_ausnahmevereinbarung.html.

3. Design of the application

a) A1 Certificates

The application for an A1 Certificate is different for employees and self-employed individuals.

For employees, applications must be submitted by the employer.⁷⁹ The A1 Certificate can only be applied for electronically, either via a payroll accounting programme that includes the application function – additional module for A1 Certificate – or via the website <https://standard.gkvnet-ag.de/svnet/>.⁸⁰ The employer must fill out a form and address it to the competent authority. By filling out the form via a payroll accounting programme, the system recognises the competent insurance body and addresses the application accordingly.

Self-employed individuals may apply for the A1 Certificate only in paper form using a questionnaire⁸¹ (Antragsvordruck für Selbstständige) and submit the completed questionnaire via mail. They can also fill out the form online, then print and sign it and submit the hardcopy. Since 1 January 2022, an electronic application is in place for self-employed individuals as well.⁸²

b) Certificates according to Art. 16 of Regulation (EC) No. 883/2004

The application for a certificate according to Art. 16 (1) Regulation (EC) No. 883/2004 is different for employees and self-employed individuals.

For employees – similar to the application of an A1 Certificate – an application must be submitted either via a payroll accounting programme that includes the application function – additional module for A1 Certificate – or via the website <https://standard.gkvnet-ag.de/svnet/>. The request must be submitted online by the employer, by ticking the corresponding box in the application process and providing the corresponding information. Since January 2021, an electronic data exchange with the DVKA is in place.⁸³ Therefore, all communication between the employer and the DVKA can take place electronically.

79 § 106 (1), (2) SGB IV.

80 § 95a (1) SGB IV; Verfahrensbeschreibung für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV in der vom 1. Januar 2021 an geltenden Fassung (2020), available at https://www.informationsportal.de/wp-content/uploads/document__10576__GG-A1-01012021.pdf.

81 Available at https://www.dvka.de/media/dokumente/antraege_av_gme/entsendung/Antrag_101_Selbst_Online.pdf.

82 Art. 28 (7) of Siebtes Gesetz zur Änderung des Vierten Buches Sozialgesetzbuch und anderer Gesetze, Federal Law Gazette 2020 I No. 28, available at https://www.bgbl.de/xaver/bgbl/start.xav#__bgbl__%2F%2F%5B%40attr_id%3D%27bgbl120s1248.pdf%27%5D__1614247875243.

83 Art. 28 (6) of Siebtes Gesetz zur Änderung des Vierten Buches Sozialgesetzbuch und anderer Gesetze, Federal Law Gazette 2020 I No. 28, available at https://www.bgbl.de/xaver/bgbl/start.xav#__bgbl__%2F%2F%5B%40attr_id%3D%27bgbl120s1248.pdf%27%5D__1607426620138.

For self-employed individuals – similarly to the application of an A1 Certificate – the application must be submitted in paper form. An online application is not available.

4. Costs

The application for issuing the A1 Certificate or a certificate according to Art. 16 (1) Regulation (EC) No. 883/2004 is free of charge.

5. Information requested in the application

a) Information requested for A1 Certificates

In Germany, different information is requested depending on whether the individual is an employee or self-employed.

aa) For employees

In the application process for the A1 Certificate, the following information is required:⁸⁴

■ Information on the employer:

- ▶ country of establishment (request will be rejected if not Germany),
- ▶ legal form and establishment number (Betriebsnummer),⁸⁵
- ▶ whether, based on turnover, the establishment carries out more than 25 per cent of its business activity in Germany and/or more than 25 per cent of the employees are based in Germany (the request will be accepted only if at least one of the answers is yes),
- ▶ business sector (22 categories available), and
- ▶ declaration of the employer by clicking the checkbox “the provided information reflects the actual conditions” and acknowledgement of the notification duties in case of changes relating to the posting (for example the posting not taking place, interruptions longer than two months, earlier end of posting).

■ Information on the employee:⁸⁶

- ▶ sex and nationality,
- ▶ address in the state of residence and in the state of posting,⁸⁷ and

84 See Verfahrensbeschreibung für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV in der vom 1. Januar 2021 an geltenden Fassung, (2020), available at <https://www.informationsportal.de/sv-bibliothek/meldeverfahren/gemeinsame-meldeverfahren/entsendung/>, p. 11–27.

85 An identifier provided by the Federal Employment Agency for all automated data transmissions between employers and public bodies in the area of social security.

86 No further information on the employee such as name, social security number has to be filled out here because an application via a payroll programme already entails such information.

87 Voluntary information.

- ▶ membership number, if member of a berufsständische Versicherung.
- Information on the posting:
 - ▶ beginning and end date of the posting,
 - ▶ type of work carried out in another Member State (three categories available),
 - ▶ place(s) of work in another Member State, maximum eleven with address; in case of more, the field “no fixed working place” should be selected,
 - ▶ whether the posting will take place in a Member State (if not, the request will be rejected),
 - ▶ whether an A1 Certificate can be issued considering the nationality of the posted employee combined with the posting state,⁸⁸
 - ▶ whether the employee was posted to the same state in the two months prior to the current posting; if so, additional information on the period of posting (Beschäftigungszeiten) for the past two years is required (in case of interruptions longer than two months, the prior period of posting will not be considered),⁸⁹
 - ▶ whether the establishment to which the employee is posted will hire them out to another establishment (if so, the request will be rejected), and
 - ▶ whether the posted employee replaces an employee posted by the employer, by another employer from Germany or by an employer from another state. If the posted employee replaces an employee posted by the same employer, information on the replaced person must be filled in – information on the intended posting period as well as on the factual posting period must be updated.
- Activity in Germany:
 - ▶ whether the German social security legislation applied for the posted employee for at least one month immediately before the posting. If not, only exceptionally can a request for an A1 Certificate be accepted after evaluating all the aspects of the individual case,
 - ▶ whether the employer with residence in Germany remains responsible for remuneration (if not, the request will be rejected), and

88 See table for the personal scope of Regulation (EC) 883/2004, Verfahrensbeschreibung für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV in der vom 1. Januar 2021 an geltenden Fassung, (2020), available at <https://www.informationsportal.de/sv-bibliothek/meldeverfahren/gemeinsame-meldeverfahren/entsendung/>, p. 15.

89 Relevant information to determine if the entire period of posting will exceed the maximum period of 24 months. If so, the request will be rejected.

- ▶ whether the employer of the posted employee decides exclusively upon the employee's recruitment (Anwerbung), employment contract, dismissal, major tasks in the state of posting.⁹⁰ The request will be accepted only if all answers are yes.

The employer has a general obligation to notify immediately the competent authority if changes occur.⁹¹

bb) For self-employed individuals⁹²

- Information on the self-employed individual:
 - ▶ personal information: name, date and place of birth, German social security number (Rentenversicherungsnummer), nationality,
 - ▶ address in the state of residence,
 - ▶ address in the state of deployment,
 - ▶ whether the German social security legislation was applicable for at least one month before the work in another Member State, and
 - ▶ if applicable, the name and address of the competent private insurance institution, additionally if applicable the name, address and membership number of the Versorgungswerk.
- Information on the self-employed activity in Germany:
 - ▶ establishment name, address, phone number, e-mail address, type of work/branch, establishment number (Betriebsnummer),
 - ▶ beginning date of self-employed activity, number of hours per week exercising a self-employed activity,
 - ▶ whether during the work in another Member State social security contributions will still be made in Germany,
 - ▶ whether taxes will be paid in Germany,

90 Same information as indicated in the Decision of the Administrative Commission for the Coordination of the Social Security Systems, No A2 of 12 June 2009 concerning the interpretation of Art. 12 of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the legislation applicable to posted workers and self-employed workers temporarily working outside the competent State, no. 1, available at <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:106:0005:0008:EN:PDF>.

91 See Gemeinsame Grundsätze für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV (2020), available at https://www.gkv-datenaustausch.de/media/dokumente/arbeitgeber/entsendung/grundsaeetze_1/GG_A1_01012021.pdf, p. 11.

92 Information according to the questionnaire, available at https://www.dvka.de/media/dokumente/antraege_av_gme/entsendung/Antrag_101_Selbst_Online.pdf.

- ▶ whether during the work in another Member State an affiliation with the Handelskammer or the Berufsverband⁹³ stays in place,
 - ▶ whether the self-employed activity in Germany will continue after the work in another Member State, and
 - ▶ whether the infrastructure to continue the self-employed activity in Germany will be maintained during the work in another Member State.
- Information on the work in another Member State:
- ▶ Member State in which the work will be carried out and type of activity/branch,
 - ▶ whether the duration of the work in another Member State is fixed by a contract or by the nature of the activity,
 - ▶ prospective duration of the work in another Member State, and
 - ▶ workplace in another Member State: name (Bezeichnung), address, phone number and e-mail address (in the case of more than one place, the information must be provided for all places of work).

In addition to the information above, the self-employed individual must sign a declaration (part of the questionnaire):

- ▶ that the provided information reflects the actual conditions, and
 - ▶ that the self-employed individual commits to informing the responsible authority if the work in the above-mentioned State doesn't take place, is interrupted for longer than two months or ends sooner than indicated.
- b) Information requested for certificates according to Art. 16 of Regulation (EC) 883/2004

In Germany, different information is requested depending on whether the individual is an employee or self-employed.

aa) For employees

The application for a certificate according to Art. 16 of Regulation (EC) 883/2004 for employees must include the following information:⁹⁴

93 Associations set up for the purpose of representing the interests of a certain profession, e.g. HKI Industrieverband Haus-, Heiz- und Küchentechnik e.V.

94 Verfahrensbeschreibung für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV in der vom 1. Januar 2021 an geltenden Fassung, (2020), available at <https://www.informationsportal.de/sv-bibliothek/meldeverfahren/gemeinsame-meldeverfahren/entsendung/>, p. 42–46.

- Information on the employer:⁹⁵
 - ▶ whether, based on turnover, the establishment carries out more than 25 per cent of its business activity in Germany and/or more than 25 per cent of the employees are based in Germany; only if at least one of the answers is yes, the request will be accepted. In “exceptional cases”, which are not defined any further, the certificate might be issued even if the employer is not based in Germany,
 - ▶ whether the German social security legislation applied for at least two months immediately before the work in another Member State,
 - ▶ whether the posted employee has an employment contract exclusively with the employer based in Germany or whether an assignment agreement (Entsendevereinbarung) was concluded between the employee and the employer, and, in both cases, whether the employer is responsible for remuneration. If the employment contract is not exclusively with the applicant of the request or the contract is suspended, or an employment contract is concluded with an employer in another Member State and this employer is responsible for remuneration, the following additional information must be provided:
 - whether reporting obligations (Berichtspflichten) to the employer residing in Germany are maintained during posting,
 - whether the employer based in Germany keeps paying the contributions under the occupational pension scheme, and
 - whether the employer based in Germany considers periods spent in another Member State as periods of employment, and
 - if applicable, the date on which the employment relationship ceases.
- Information on the work in another Member State:
 - ▶ whether the employee worked in the past two years in the country which the certificate according to Art. 16 is now applied for; if so, the period and place of employment in another Member State in the past two years must be indicated,
 - ▶ whether the posted employee replaces an employee posted by the employer, by another employer from Germany or by an employer from another state,
 - ▶ information on the beginning, end, place and state where the work will be carried out,⁹⁶ and

95 Master data (Stammdaten) of the employer as well as of the employee are already filled out in the payroll programme.

96 An exception agreement under Art. 16 (1) Regulation (EC) 883/2004 will be concluded for up to 5 years, under exceptional circumstances for 3 more years, see Verfahrensbeschreibung für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV in der vom 1. Januar 2021 an geltenden Fassung, (2020), available at <https://www.informationsportal.de/sv-bibliothek/meldeverfahren/gemeinsame-meldeverfahren/entsendung/>, p. 35.

- ▶ whether the total duration of employment in another Member State – including the period for which a certificate according to Art. 16 is now applied for – exceeds five years; if so, a justification must be provided.

The employer has a general obligation to notify the competent authority immediately if changes occur.⁹⁷

bb) For self-employed individuals

There is no specific provision or information on the website of the DVKA about the request for a certificate according to Art. 16 (1) Regulation (EC) No. 883/2004 for self-employed individuals. The request – in the form of an informal letter – is to be sent to the postal/fax address of the *GKV-Spitzenverband*, DVKA in paper form and further details pertaining to the information and documents needed will be provided via correspondence.⁹⁸

6. Obligations to keep A1 Certificates available

Under German law, it is not necessary to carry the A1 Certificate. Under § 3 (1) of the *Schwarzarbeitsbekämpfungsgesetz*, German customs authorities, for instance *Finanzkontrolle Schwarzarbeit*, are only entitled to obtain information on the social security law situation and, if necessary, to verify any supporting documents.⁹⁹

7. Treaties under international law

Germany has not concluded treaties under international law relevant to the present topic.

8. Other relevant information

Since, as a general rule, A1 Certificates must be applied for in advance, the Bundesministerium für Arbeit und Soziales (hereinafter BMAS) issued in June 2019 a document stating: “In the case of non-regular business trips arranged at short notice and/or extremely short postings of up to one week, it may [...] be appropriate to waive the necessity to apply for the issuance of an A1 attestation.”¹⁰⁰ However, the BMAS also states: “Where there is an obligation to

97 Gemeinsame Verlautbarung zur versicherungsrechtlichen Beurteilung entsandter Arbeitnehmer (2020), available at <https://www.deutsche-rentenversicherung.de/DRV/DE/Experten/Arbeitgeber-und-Steuerberater/summa-summarum/Rundschreiben/rundschreiben.html>, p. 11.

98 See also DVKA website, available at https://www.dvka.de/de/arbeitgeber_arbeitnehmer/antraege_finden/abschluss_ausnahmevereinbarung/abschluss_ausnahmevereinbarung.html.

99 BMAS (2019), Handling of A 1 attestations for activities arranged at short notice and short-term activities in other EU countries, the EEA countries Iceland, Liechtenstein and Norway as well as Switzerland, available at https://www.bmas.de/SharedDocs/Downloads/EN/Topics/Social-Europe-and-international-Affairs/handling-of-a1.pdf?__blob=publicationFile&v=1.

100 BMAS (2019), Handling of A 1 attestations for activities arranged at short notice and short-term activities in other EU countries, the EEA countries Iceland, Liechtenstein and Norway as well as Switzerland, available at https://www.bmas.de/SharedDocs/Downloads/EN/Topics/Social-Europe-and-international-Affairs/handling-of-a1.pdf?__blob=publicationFile&v=1.

apply for an A1 attestation under national law in the country of destination,¹⁰¹ waiving prior application cannot be recommended even in exceptional cases.”¹⁰²

V. Italy

1. Relevant national legislation

In Italy, the application procedure for the A1 Certificate is governed by Circular No. 86 of 2019¹⁰³ of the Italian National Social Security Institute¹⁰⁴ (Istituto Nazionale della Previdenza Sociale, hereinafter INPS). Further aspects are set out in INPS Message No. 1633/2020¹⁰⁵ and INPS Message No. 3326/2014.¹⁰⁶ A dedicated area of the INPS website¹⁰⁷ contains the information needed to access the system for the registration and request for the A1 Certificates or the certificates according to Art. 16 of Regulation (EC) 883/2004. The application forms themselves are only available upon registration.

Furthermore, Art. 10 (3) (a) of Legislative Decree 136/2016¹⁰⁸ regulates the obligation to keep the A1 Certificate available in cases of posting to Italy.

2. Where to apply for A1 Certificates or certificates according to Art. 16 of Regulation (EC) No. 883/2004

Both for employees and self-employed individuals, the competence to issue A1 Certificates lies with the responsible INPS office.¹⁰⁹ The competence is divided among the INPS offices in the 20 Italian Regions depending on the host Member State.¹¹⁰ The same is true for certificates according to Art. 16 of Regulation (EC) 883/2004.

101 The document mentions France and Austria.

102 BMAS (2019), Handling of A 1 attestations for activities arranged at short notice and short-term activities in other EU countries, the EEA countries Iceland, Liechtenstein and Norway as well as Switzerland, available at https://www.bmas.de/SharedDocs/Downloads/EN/Topics/Social-Europe-and-international-Affairs/handling-of-a1.pdf?__blob=publicationFile&v=1.

103 INPS, Circolare No. 86, 11 Juni 2019, available at http://www.lavorosi.it/fileadmin/user_upload/PRASSI_2019/inps-circ-n-86-del-11-06-2019-documento-portatile-a1.pdf.

104 The INPS is the main entity of the Italian social security system. All employees and most self-employed individuals, namely those without a proper autonomous social security fund, must be subscribed to the INPS. The entity is under the supervision of the Ministry of Labour and Social Policies. Its main activity is to guarantee the public service related to social security benefits.

105 Available at <https://www.inps.it/MessaggiZIP/Messaggio%20numero%201633%20del%2015-04-2020.pdf>.

106 Available at <https://www.inps.it/Messaggi/Messaggio%20numero%203326%20del%2014-03-2014.htm>.

107 Available at <https://www.inps.it/NuovoportaleINPS/default.aspx?itemdir=49966&lang=IT>.

108 Available at https://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2016-07-21&atto.codiceRedazionale=16G00152&elenco30giorni=true.

109 INPS, Circolare 86/2019, available at http://www.lavorosi.it/fileadmin/user_upload/PRASSI_2019/inps-circ-n-86-del-11-06-2019-documento-portatile-a1.pdf.

110 For a list see http://www.odcec.torino.it/public/circolari/assicurazioni_-_distacchi_n1.pdf, p. 15.

3. Design of the application

a) A1 Certificates

For employees, requests for an A1 Certificate must be submitted online by the employer¹¹¹ via the INPS Portale delle Agevolazioni (ex DiResCo).¹¹² At this portal, the online form “Distacchi” can be filled out, the employer can also see the list of the employees for whom they have already submitted a request for an A1 Certificate. The user information present in the web service¹¹³ explains the details of the application procedure.¹¹⁴

Self-employed individuals cannot submit the application through a web portal. Instead, they must apply for the A1 Certificate via Certified Electronic Mail (hereinafter PEC),¹¹⁵ registered mail or directly at the counter of the competent regional INPS office.

b) Certificates according to Art. 16 of Regulation (EC) 883/2004

Both employees and self-employed individuals must submit their requests via PEC, registered mail or directly at the counter of an INPS office. As explained by the INPS in its Message No. 3326/2014,¹¹⁶ for postings and deployments to France, the request must be accompanied by a questionnaire¹¹⁷ drawn up by the Cleiss, the competent French authority.¹¹⁸

4. Costs

The application for issuing an A1 Certificate or a certificate according to Art. 16 of Regulation (EC) 883/2004 is free of charge.

5. Information requested in the application

a) Information requested for A1 Certificates

In Italy, different information is requested depending on whether the individual is an employee or self-employed.

111 Gallo, B./Bongiovanni, G., Le nuova modalità di rilascio del modello A1, Euroconference Lavoro, 24 July 2019, available at <https://www.eclavoro.it/nuova-modalita-rilascio-modello-a1/>.

112 Available at <https://www.inps.it/nuovoportaleinps/default.aspx?itemdir=50122>. See INPS, Circolare 86/2019, p. 2–3.

113 Available at <https://distaccoue.lavoro.gov.it/AnteprimaPDF.aspx?id=219&lang=it-it>.

114 Par. 3.1. Circolare 86/2019.

115 A certified e-mail (PEC e-mail) is an e-mail that guarantees legal certainty of the sender’s identity, of the date and time of sending and receiving the e-mail, and of its content. PEC e-mail can therefore be described as an electronic registered letter. A PEC e-mail can be used to officially write and send documents to the Italian public administration, citizens, private companies etc.

116 Available at <https://www.inps.it/Messaggi/Messaggio%20numero%203326%20del%2014-03-2014.htm>.

117 Available at https://www.inps.it/MessaggiZIP/Messaggio%20numero%203326%20del%2014-03-2014_Allegato%20n%202.pdf.

118 INPS, Regional Office Piemonte, Convenzioni internazionali: Assicurazioni - Distacchi, available at http://www.odcec.torino.it/public/circolari/assicurazioni_-_distacchi_n1.pdf, p. 14.

aa) *For employees*

To request the A1 Certificate for employees,¹¹⁹ the following information must be provided:¹²⁰

■ Information on the applicant:¹²¹

- ▶ position of the applicant (employer, legal representative of the employer, delegated person¹²² of the employer),
- ▶ name and date of birth,
- ▶ fiscal code,¹²³
- ▶ address,
- ▶ contact details for communication relating to the application (for instance phone number, e-mail address, fax number),
- ▶ declaration that there is a stable link between the employer and the posted employee by employment contract, with consequent obligations and responsibilities of the employer towards the employee,
- ▶ declaration that the stable link will be maintained throughout the duration of the posting,
- ▶ the date on which the employment contract was signed,
- ▶ the type of employment contract under which the posted employee is employed in Italy (fixed-term/indefinite-term, full-time/part-time),
- ▶ declaration that the employer carries out their activity mainly in Italy,
- ▶ the number of their employees currently employed in Italy and posted abroad,
- ▶ the amount of turnover in a period congruent with the period of posting for which certification is requested, and
- ▶ the date of establishment of the company in Italy.

■ Information on the employee:

- ▶ sex, name and date of birth,
- ▶ fiscal code,

119 Information requested for certificates according to Art. 16 of Regulation (EC) 883/2004 is not available.

120 Ceccato Tormen & Partners, Modello A1: dal 01.09.2019 Esclusivamente Telematico, 29.8.2019, available at <https://ceccatotormen.com/wp-content/uploads/2019/08/EDITORIALE-Modello-A1-Esclusivamente-Telematico.pdf>.

121 Applicant means the person who materially submits the request for the issuance of an A1 Certificate: employer, legal representative of the employer, delegate of the employer etc.

122 E.g. an attorney or a staff member of the employer.

123 The Italian fiscal code, officially known in Italy as codice fiscale, is the tax code in Italy, similar to a Social Security Number in the United States or the National Insurance number issued in the United Kingdom.

- ▶ citizenship,
- ▶ address in the state of residence,
- ▶ address in the state of posting, and
- ▶ identification document of the posted employee.
- Information on the posting:
 - ▶ indication of the period of posting,
 - ▶ indication of the state of posting,
 - ▶ indication of the task which will be carried out, and
 - ▶ contact details of the company to which the employee is posted (for instance address).

bb) For self-employed individuals

To request the A1 Certificate for self-employed individuals, the following information must be provided:

- Information on the self-employed individual:
 - ▶ sex, name and date of birth,
 - ▶ fiscal code,
 - ▶ citizenship,
 - ▶ address and phone/fax number in the state of residence,
 - ▶ address and phone/fax number in the state of deployment,
 - ▶ identification document of the deployed self-employed individual,
 - ▶ declaration that they habitually carry out their self-employed activity in Italy,
 - ▶ date from which they have been carrying out their self-employed activity,
 - ▶ declaration that they carry out their main activities in Italy,
 - ▶ declaration that they pay their taxes in Italy,
 - ▶ declaration that at the end of the period of posting they will continue to carry out their activity in Italy, and
 - ▶ declaration that in the state of posting they will carry out an activity similar to that habitually carried out in Italy.
- Information on the deployment:
 - ▶ indication of the period of deployment,
 - ▶ indication of the state of deployment, and

- ▶ contact details of the person/company/place where the work abroad will be carried out (for instance address, phone/fax number).

b) Information requested for certificates according to Art. 16 of Regulation (EC) 883/2004

No information available.

6. Obligations to keep A1 Certificates available

During the period of posting and up to two years after its termination, the posting company is obliged to keep available a copy of the A1 Certificate in Italian.¹²⁴

7. Treaties under international law

Italy has not concluded treaties under international law relevant to the present topic.

8. Other relevant information

No other relevant information.

VI. Comparative analysis

In the following, we summarise and compare some of the most relevant national provisions and administrative requirements regarding the application for an A1 Certificate or a certificate according to Art. 16 of Regulation (EC) 883/2004. In doing so, we cover neither self-employed individuals nor sector-specific requirements, such as those for agricultural workers in France. We focus on those requirements that may increase administrative burdens. To what extent these requirements actually increase red tape is an empirical question.

While EU law requires that Member States issue A1 Certificates, it does not lay down which information Member States can or must request for this purpose. There is no list of information categories against which national requirements can be assessed. Therefore, one cannot speak of “gold plating” in the strict sense.¹²⁵

1. Applicable legislation

Table 1 provides an overview of the applicable legislation – both primary and secondary – and other relevant legal sources.

124 Art. 10 (3) (a) of Legislative Decree 136/2016.

125 “Gold plating” occurs when the transposition of EU legislation into national law goes beyond what is required by that legislation, while staying within legality.

Table 1: Applicable legislation

	Austria	France	Germany	Italy
Primary national legislation	Lohn- und Sozialdumping-Bekämpfungsgesetz	Code de la sécurité sociale (legal part)	Sozialgesetzbuch IV	Decreto Legislativo 17 July 2016, No. 136
Secondary national legislation and other sources	https://www.svs.at/cdsc content/?contentid=10007.816700&portal=svsportal https://www.gesundheitskasse.at/cds content/?contentid=10007.820028&portal=oegkdgportal https://www.gesundheitskasse.at/cds content/?contentid=10007.865616&portal=oegkdgportal https://www.gesundheitskasse.at/cds content/?contentid=10007.820993&portal=oegkdgportal	Code de la sécurité sociale (executive part) https://www.cleiss.fr/reglements/a1.html https://www.ameli.fr/entreprise/vos-salaries/detachement-france-etranger/detachement-salarie-ue-suisse https://www.urssaf.fr/portail/home/independant/ma-situation-ou-mes-coordonnees/je-souhaite-travailler-hors-de-f.html	Gemeinsame Verlautbarung zur versicherungsrechtlichen Beurteilung entsandter Arbeitnehmer Gemeinsame Grundsätze für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV Verfahrensbeschreibung für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV in der vom 1. Januar 2021 an geltenden Fassung	Circolare dell'Istituto Nazionale della Previdenza Sociale No. 86 of 20 July 2018 Messaggio dell'Istituto Nazionale della Previdenza Sociale No. 1633 of 15 April 2020 Messaggio dell'Istituto Nazionale della Previdenza Sociale No. 3326 of 14 March 2014

2. A1 Certificates

Table 2 provides an overview of the commonalities and differences concerning the information that must be provided when applying for an A1 Certificate.

Table 2: Information required in the application for an A1 Certificate

Category of information required	Information required in all Member States researched	Austria: additional information required	France: additional information required	Germany: ¹²⁶ additional information required	Italy: additional information required
Information on the applicant	Name Contact details Register number ¹²⁷ Whether the posting company is primarily active in the posting state	Contribution account number Legal form Sector in which the employer is active	Sector in which the employer is active	Country of establishment Legal form Business sector	Position of the applicant ¹²⁸ Date of birth of the applicant Date of establishment of the employer
Information on the employee	Name Date of birth Sex Nationality Address in the state of residence Social security number/fiscal code Address in the state of posting	Place of birth	None	Membership number if member of an occupational pension organisation	Identification document

¹²⁶ Master data (Stammdaten) of the employer as well as of the employee are automatically inserted by the payroll programme.

¹²⁷ In Austria Firmenbuchnummer; in France SIRET number; in Germany establishment number; in Italy fiscal code.

¹²⁸ Employer, legal representative of the employer, delegated person of the employer.

Category of information required	Information required in all Member States researched	Austria: additional information required	France: additional information required	Germany. ¹²⁶ additional information required	Italy: additional information required
Information on the posting	State of posting Indication of the envisaged period of posting Type of work carried out Place of posting/host company	Whether the posted employee replaces an employee posted by the employer to the same state who carried out the same work, and if so, for what reason Whether the employee was posted to the same state in the two months prior to the current posting	Company ¹²⁹ to which the employee is posted: business name, address, registering number (if known) Whether the employee was posted to the same undertaking prior to the current posting, if so, the dates shall be indicated Whether the posted employee replaces an employee posted by the employer to the same undertaking and who came back to France after expiration of the posting period ¹³⁰	Whether an A1 Certificate can be issued considering the nationality of the posted employee combined with the posting state Whether the employee was posted to the same state in the two months prior to the current posting ¹³¹ Whether the establishment to which the employee is posted will hire them out to another establishment Whether the posted employee replaces a posted employee ¹³²	None

¹²⁹ If none, personal address/workplace of the employee.

¹³⁰ If so, the dates of the previous posting shall be indicated.

¹³¹ If so, additional information on the period of posting (Beschäftigungszeiten) for the past two years is required.

¹³² If so, information on the replaced person is required.

Category of information required	Information required in all Member States researched	Austria: additional information required	France: additional information required	Germany: ¹²⁶ additional information required	Italy: additional information required
Information on the employment relationship	None	Date of commencement of the employment relationship Occupation	Beginning date of employment Occupation Whether the employer is paying salaries and social security contributions during the posting Whether the employee is insured under a French social security scheme	Whether the German social security legislation applied for the posted employee for at least one month immediately before the posting Whether the employer with residence in Germany remains responsible for remuneration Whether the employer of the posted employee decides exclusively upon the employee's recruitment, employment contract, dismissal, major tasks in the state of posting	Date on which the employment contract was signed Assurance that the employment relationship is stable and will be preserved for the entire duration of the posting Type of employment contract ¹³³ Statement that the employee's main work activity is carried out in Italy

133 Fixed-term/indefinite term, full-time/part-time.

3. Certificates according to Art. 16 of Regulation (EC) 883/2004

Table 3 provides an overview of the commonalities and differences concerning the information that must be provided when applying for a certificate according to Art. 16 of Regulation (EC) 883/2004.

Table 3: Information required in the application for a certificate according to Art. 16 of Regulation (EC) 883/2004

Category of information required	Information required in Germany, Austria and France	Austria: additional information required	France: additional information required	Germany: ¹³⁴ additional information required	Italy: additional information required
Information on the employer	Name Address Sector of activity Extent to which the business activity is carried out in the posting state	None	Person in charge of the application Date of creation of the business Register numbers ¹³⁵ Total number of employees and number of posted employees	None	No information available

134 Master data (Stammdaten) of the employer as well as of the employee are automatically inserted by the payroll programme.

135 Numéro SIREN or SIRET, code APE numéro RCS.

Category of information required	Information required in Germany, Austria and France	Austria: additional information required	France: additional information required	Germany: ¹³⁴ additional information required	Italy: additional information required
Information on the work in another Member State	<p>Host state</p> <p>Place where the work will be carried out</p> <p>Period for which the certificate is applied for</p>	<p>Name of the host company</p> <p>Whether the employee is posted to an affiliated company¹³⁶</p> <p>Activity carried out in the state of posting</p> <p>In case of an extension of an A1 Certificate or of a certificate according to Art. 16: beginning and end date of the A1 Certificate (if any), whether an exception agreement exists</p>	<p>Name or business name of the host company</p> <p>Sector of activity of posting and host company</p> <p>Number of employees and of posted employees of the host company</p> <p>Description of the mission/task that will be carried out abroad</p> <p>Whether the posting is intra-group; if so, the career path of the employee within the group shall be detailed</p> <p>If applicable: previous exception period already granted</p> <p>Whether it is a service provision contract; if yes: date of the contract and object of the service; a copy of the contract shall be enclosed</p>	<p>Whether the employee worked in the past two years in the country which the certificate according to Art. 16 is now applied for¹³⁷</p> <p>Whether the posted employee replaces another posted employee</p> <p>Whether the total duration of employment in another Member State exceeds five years¹³⁸</p>	No information available

¹³⁶ For instance, a parent company or subsidiary.

¹³⁷ If so, the period and place of employment in another Member State in the past two years must be indicated.

¹³⁸ If so, a justification must be provided.

Category of information required	Information required in Germany, Austria and France	Austria: additional information required	France: additional information required	Germany ¹³⁴ additional information required	Italy: additional information required
Information on the employee	Name Date of birth Nationality Social security number Name of the social security organisation right before the assignment	Address in the state of residence	Number of the Cleiss file Place of birth Whether the employee keeps their residency in France; if yes, the address in France and abroad shall be indicated; if no, only the address of main residency	None	No information available
Information on the employment relationship	Date of joining the company Whether the employer or host company is responsible for remuneration Whether, during the posting abroad, the employment relationship in the home country continues to apply Whether there is a contract between the employee and the host company ¹³⁹	Whether the employer or the host company is responsible for social security contributions in Austria Whether social security contributions have already been paid in the state of posting Whether the Austrian employment relationship will continue after the posting	Position held Nature of the work contract; if permanent, the beginning date must be indicated; if fixed-term, the period must be indicated Whether, during the posting, the usual employer, the host company or both exercise authority and control over the employee Professional perspective for the employee after the exception period	Whether the German social security legislation applied for at least two months immediately before the work in another Member State Whether reporting obligations to the employer residing in Germany are maintained during the posting Whether the employer based in Germany keeps paying the contributions under the occupational pension scheme Whether the employer based in Germany considers periods spent in another Member State as periods of employment If applicable: the date on which the employment relationship ceases	No information available

139 For France: if yes, a copy shall be enclosed; if no, the amendment of posting shall be enclosed.

Category of information required	Information required in Germany, Austria and France	Austria: additional information required	France: additional information required	Germany. ¹³⁴ additional information required	Italy: additional information required
Other information	None	None	If the applicant requests the application of Art. 16 of Regulation (EC) 883/2004 to regularise a delay in completing the posting formalities, the reasons for the delay must be explained	None	No information available

4. Digitisation

Table 4 provides an overview of the possibilities of electronic applications for the A1 Certificate or the certificate according to Art. 16 of Regulation (EC) 883/2004.

Table 4: *Applicable legislation*

Type of application	Austria	France	Germany	Italy
A1 Certificate	Possible	Only for postings of up to three months	Possible	Possible
Certificate according to Art. 16 of Regulation (EC) 883/2004	Possible	Not possible	Possible	Possible

All in all, each of the four Member States researched requires some information that none or only some of the others require. Therefore, it is highly likely that all four Member States can reduce the information requirements and thus bureaucratic costs.

Furthermore, as all four Member States require a lot of information, it is very important to offer streamlined and simple application procedures in order to minimise bureaucratic costs.

Each of the four Member States requires information that none or just some of the others require.

Part B: Assessment of regulatory burdens by Prognos AG and CSIL

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I. Introduction

The Portable Document A1 (PD A1) is a formal statement proving that the holder pays social contributions in the Member State of origin. On 1 May 2010, PDs A1 replaced the E101 forms by virtue of Regulation (EC) No 883/2004 on the coordination of social security systems and its implementing Regulation (EC) 987/2009. The Certificate was introduced to prove that the rights of the social security system also apply to a posting abroad. The Certificate thus serves as proof that a worker is not subject to the legislation of the receiving country. The EU legislation obliges the employer or self-employed individual to inform the social security institution in the Member State of origin before a posting. The institution in turn provides information on the applicable legislation and issues a portable document (A1 Certificate) on the applicability of social security legislation. While EU law¹⁴⁰ obliges Member States to issue A1 Certificates and lays down the structure, content and format, Member States decide how the rules are implemented in national administrations. Therefore, a significant part of the regulatory burden results from the transposition into national law and the respective administrative context and implementation.

For businesses, excessive bureaucracy is not only a nuisance, but ties up valuable human and financial resources. Bureaucracy is seen as a barrier to the EU's internal market, which guarantees the free movement of goods, services, capital and people between Member States. Cutting red tape for businesses has become an important competitive factor in a global economy and is on the political agenda of the EU and its Member States. Since the beginning of the 2000s, it has been a declared goal of the European Commission to reduce the administrative burdens for businesses and citizens. These efforts find expression, for example, in the Regulatory Fitness and Performance Programme (REFIT), which examines the potential impact of new regulations in advance and provides the European Commission with a decision-making aid.¹⁴¹

The aim of this study is to compare the regulatory burdens for companies during the A1 application process in the four EU Member States Germany, France, Italy and Austria. The study takes a more comprehensive approach to measuring compliance costs for companies compared to the EU standard cost model, which focusses on the costs incurred by complying with information obligations only. In doing so, it contributes to a more evidence-based discussion on the reduction of regulatory burdens at European and national level.

Overall, the study aims to answer the following research questions for each Member State within a comparative study design:

140 Regulation (EC) 987/2009 and Administrative Commission Decision No A1 of 12 June 2009.

141 REFIT – making EU law simpler, less costly and future proof | European Commission (europa.eu).

- How is EU legislation transposed into national law and does “gold plating” occur?
- How are the provisions implemented in the administrative context?
- What are the standard processes (procedures) for companies to apply for A1 Certificates?
- How digital are the application procedures and administrative services?
- What are the average compliance costs for a company to apply for an A1 Certificate?
- What are perceived burdens for companies?
- What are the compliance costs for the economy as a whole?
- What changes could improve the application process?

The findings of this second part of the study are presented in the following chapters, starting with the comparative analysis (B.II). More details on the countries can then be found in the individual country chapters (B.III to B.VI). Details on the methodological approach and the data collection for this study can be found in the final chapter (B.VII).

II. Comparison of the regulatory burdens of Portable Document A1 application

1. Issuance of A1 Certificates: statistical overview

In 2019, Member States issued more than 4.6 million PDs A1. The majority of two-thirds (3.2 million) were issued for posting to a single country (under Art. 12) and one-third (1.4 million) for posting to multiple countries (under Art. 13). This figure also includes multiple postings of workers more than once within a calendar year.¹⁴² These latest official statistics show the situation before the coronavirus pandemic. Due to the restrictions imposed, it can be assumed that far fewer PDs A1 were applied for and issued during the pandemic.

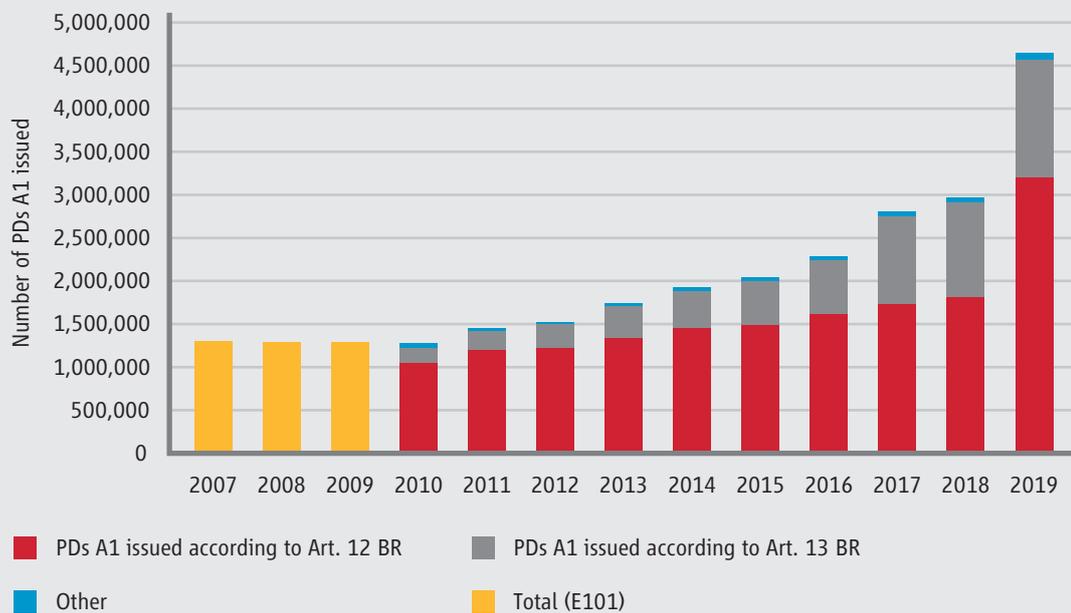
Germany issued nearly 1.8 million PD A1s, more than eight and nine times as many as Italy (215,628) and Austria (197,627), respectively, and more than fourteen times as many as France (126,485). The number of PD A1s issued in Germany almost quadrupled compared to 2018 (475,704).

In a time series from 2007 to 2019, the number of PDs A1 issued in the EU increased steadily from 2012. A link with economic growth leading to an increase in cross-border provision of services is suspected. The sharp increase in PDs A1 issued between 2018 and 2019 can be mainly attributed to a strong rise in Germany (+ 1,322,892). The sharp increase in Germany

¹⁴² De Wispelaere, Frederic/De Smedt, Lynn/Pacolet, Jozef (2020), Posting of workers. Report on A1 Portable Documents issued in 2019; European Commission – Directorate-General for Employment, Social Affairs and Inclusion – Directorate D – Labour Mobility – Unit D/2 – Social Security Coordination.

is most likely due to German employers becoming more aware of the application procedures for a PD A1.

Figure 1: Evolution of the number of PDs A1 issued, by type, 2007–2019

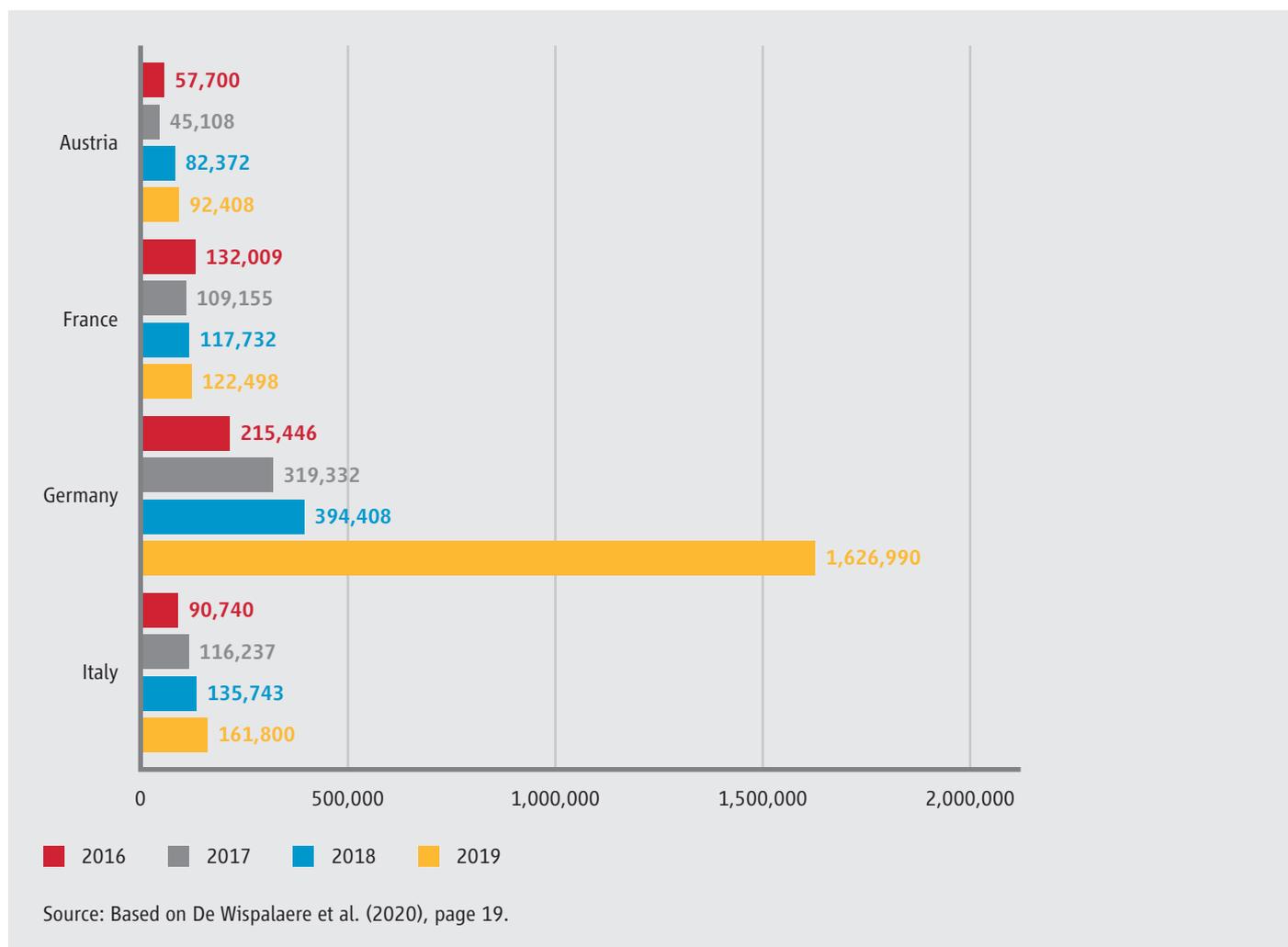


Source: De Wispalaere et al. (2020), page 10.

Based on expert assessments in Germany, tighter controls in the neighbouring countries, especially France, Austria and Switzerland, were one of the drivers for the increased awareness, especially in sectors such as the construction industry, where controls are more frequent. Additionally, the electronic application process for A1 Certificates became mandatory in Germany in 2019 and made it easier to comply with the regulation.

Hence, the calculations of compliance costs at country level are based on the number of PDs issued by the Member States for workers actively employed under Art. 12 (1). The following figure gives an overview of the number of PD A1s issued under Art. 12 (1) by the compared posting Member States from 2016 to 2019. The data basis is discussed in more detail in the country chapters.

Figure 2: Total number of PDs A1 issued by the sending Member State according to Art. 12 (1), 2016–2019



2. Transposition and administrative implementation

The transposition into national law and the respective administrative implementation leads to only marginal differences in the scope of the reporting and information obligations in the compared Member States. In the table below, the scope of the information obligations (number of characteristics to be provided upon application) is quantitatively assessed based on the legal study. Recent legal changes have not yet been considered.

A direct comparison shows that all four Member States request information to a similar extent. This can be information on the applicant (employer), the employee, the posting or the employment relationship. In Austria and Germany, for example, the legal form of the company must be indicated, whereas this is not required in France and Italy.

Table 5: Quantity of information required in the application for an A1 Certificate

Category of information required	Pieces of information required in all Member States researched	Additional information required in:			
		Austria	France	Germany	Italy
on the applicant	4	+3	+1	+3	+3
on the employee	7	+1	None	+1	+1
on the posting	4	+3	+3	+4	None
on the employment relationship	None	+2	+4	+3	+4
total	15	+9	+8	+11	+8

As far as the administrative context is concerned, a distinction can be made between centralised and decentralised systems, i.e. depending on how the social security systems are organised. Regardless of the underlying organisational system, there is now a uniform online application procedure in all the countries studied. The central digital coordination of the application for the A1 Certificate has already significantly accelerated the procedure in decentralised systems such as Germany. In France, the application process is fully automated (since 2022) and draws on data from different sources (e.g. social contributions declarations). The Certificate is available immediately. Based on the EU Digital Maturity Model, Austria, France, Germany and Italy fall into category four, as online services are available through an online portal.

In Germany, decentralised administration is still reflected in the length of time it takes to process applications, as issuance depends on the competent health insurance fund. In 2020, Austria switched from a decentralised system to a centralised one by merging the existing decentralised 21 statutory health insurance funds into the Austrian Health Insurance Fund (ÖKG). In France, the core of the social security system (general *régime*) is centralised,¹⁴³ though there are local branches in the different local areas (CPAM). In the past, the application for A1 Certificates depended on these local branches of the social security, which created disparities across the territory (e.g. in terms of delays, procedures, contacts) and generated major uncertainties for companies. Since early 2022, the procedure has been consolidated, with the “Union(s) de Recouvrement des cotisations de Sécurité Sociale et d’Allocations Familiales” (Urssaf) acting as the sole contact point for companies, regardless of their location. Companies can now apply through a single portal for A1 Certificates. This change has been positively regarded

143 I.e., the social security system is national (with some caveats), as compared to the existence of different regional health insurance funds, such as in Germany.

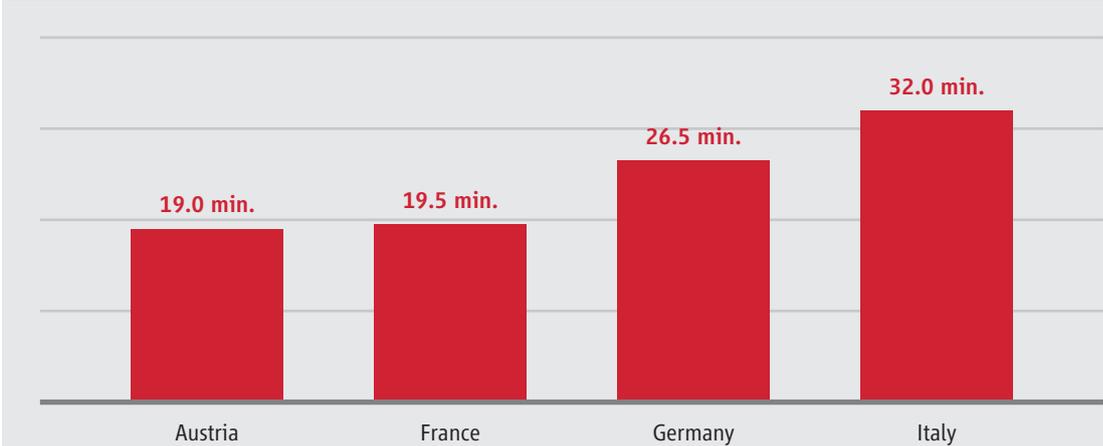
by companies, as it has simplified the procedure, typically reduced delays and enabled easier contacts with the responsible institution. The centralisation of the procedure thus has major benefits, but also some pitfalls to be considered, regarding transitory issues, for instance (transfer of pending applications). In Italy, the competence to issue A1 Certificates lies with the INPS, the National Social Security Institute. A common online procedure is available in the whole country. Concretely, handling A1 Certificate applications and issuing them is a task performed by the decentralised branches of the INPS, which are widespread across Italy (in total, the INPS has about 30,000 employees) and are responsible for relationships with users in their territorial area (businesses, workers, retirees, other beneficiaries). No significant difference in the times of A1 Certificate delivery was reported depending on INPS local offices. Interviewees from different regions consistently mentioned an improvement in the delivery times compared to the past, reflecting an increase in attention paid by INPS offices to A1 Certificate delivery times across the country.

3. Efforts and compliance costs for standard application

The estimated total time needed on average to apply for A1 Certificates at company level varies considerably between the countries studied (Figure 3). On average, an Italian company takes one third longer than an Austrian or French company. A driving factor seems to be the time needed to fill in the form.

average total time needed to apply varies considerably between Member States

Figure 3: Total estimated time for applying for an A1 Certificate at company level in minutes



Source: Prognos AG and CSIL.

When interpreting the results, it should be noted that they are based on median values; the estimated efforts vary greatly in individual cases. In addition, the different legal backgrounds between the A1 Certificate and the Posting of Workers Directive were often unknown in practice in all the countries studied. In the interviews, it was often impossible for the interviewees

to distinguish between the two areas of law; rather, they were always considered together. Usually, the same employees are responsible for both topics in the companies. The effort to become and stay familiar with the rules and regulations of the A1 Certificate was therefore sometimes combined with the posting of workers abroad. This includes initial research into legal requirements, training and ongoing efforts based on research into changes in the law.

The application for A1 Certificates is available in the form of online services via an online portal in all countries studied. In France, the service to apply for an A1 Certificate (ILASS portal) is integrated to the wider Urssaf website. Companies typically already have an Urssaf account so that they only have to activate the ILASS service, rather than undergo the entire registration process. Moreover, the registration process is rather simple, relying in particular on the standard company number (SIRET codes). In Austria, the ELDA portal is likewise an established platform for electronic data exchange, which is also regularly used by companies for other applications. In Germany, registration with sv.net requires not only the entry of the companies' master data but also a plausibility check, which takes additional time. The initial registration of the businesses and the input of master data with a payroll programme was considered less burdensome in Germany and Austria. In Italy, all the firms established in the country are registered with the INPS. As such, while in principle a registration on the INPS website is necessary to complete the A1 Certificate request, companies typically already have an INPS account and do not need to register just for the purpose of A1 Certificate applications. Moreover, the creation of an INPS account is reported not to be burdensome by interviewees.

*effort to obtain
necessary informa-
tion is similar in all
four countries*

The effort required to obtain the information necessary to apply for the A1 Certificate is similar in all countries studied. The total number of information requirements is broadly similar in all countries. However, the internal process of collecting the information required for the Certificate request information from existing data varies largely within the companies.

*application proce-
dure is fastest in
Austria and France*

The actual application procedure (submitting an application via an online portal) is less time-consuming in Austria and France than in Germany and Italy. In all countries, the actual application can differ based on the company's familiarity with the application procedure. A link is suspected between a higher number of postings performed by a company and a lower time to complete the request, compared to companies posting workers on a less regular basis. In France, the application procedure for A1 Certificates is streamlined and efficient thanks to the automated ILASS portal. The collection of information can be performed in about ten minutes in most cases (though with important heterogeneities, for companies with limited experience). The use of the portal has been optimised through UX design (e.g. simple forms, auto-filling capabilities), allowing a completion in about 7.5 minutes (ten minutes for a first attempt, which can then be optimised with experience). As such, the total timing for the actual application is about 19.5 minutes in France. In Austria, the functionality of the ELDA portal is

described as very intuitive and the company's master data is stored in the system. Users are usually very familiar with the functionality, as the portal is also used for other services. An application takes 7.5 minutes on average. In Germany, many of the companies surveyed use the browser-based standard version of sv.net, in which the company master data is stored, but the employee data must be entered manually for each application. The estimated time for applying for an A1 Certificate was between ten and 15 minutes (12.5 minutes on average). In Italy, the introduction of the mandatory online procedure is reported to have reduced times and simplified the obligation, with a generally good level of user satisfaction. Yet, the uncertainty about specific pieces of required information many companies face when completing the application can be assumed to cause a slight increase in the time necessary for completing the application.

In all countries studied, the A1 Certificate is provided via the online portal or the payroll accounting programme. In France, the Certificate is issued immediately; in Austria, Germany and Italy usually within one to three working days. However, German and Italian companies reported that it sometimes takes weeks for the health insurance fund to issue the Certificate.

The handover of the A1 Certificate to the employee is comparable in all countries. A slightly higher effort in Germany stems from the fact that in some cases, companies indicated that the A1 Certificate would be printed and sent to the employee by mail. In France, the delivery of the Certificate is automatic and instantaneous. Therefore, there is no need to return to the portal after submitting the request to download, send and store the document. This activity can be completed in about two minutes. This is a major improvement as compared to the previous system, where companies had to wait between a few days and a few weeks to receive the Certificates and to forward them. In Italy, once the A1 Certificate application has been approved, the company receives a notification with the Certificate via e-mail from the local INPS office. If possible, the Certificate is then handed over to the worker in paper form, otherwise via e-mail. A1 Certificates are also stored by the company for potential controls.

Given that the delivery times of the Certificate in Germany and Italy can amount to more than three days or even weeks, posted workers still sometimes leave for the country of destination only with the filled-in application.

The time required to apply for a Portable Document A1 was monetised on the basis of total labour costs per hour. Labour costs depend on national labour law, tax rules and national contractual arrangements. The use of labour costs makes it possible to overcome the problem arising from differences between countries in the distribution of social contributions paid by employers and employees.

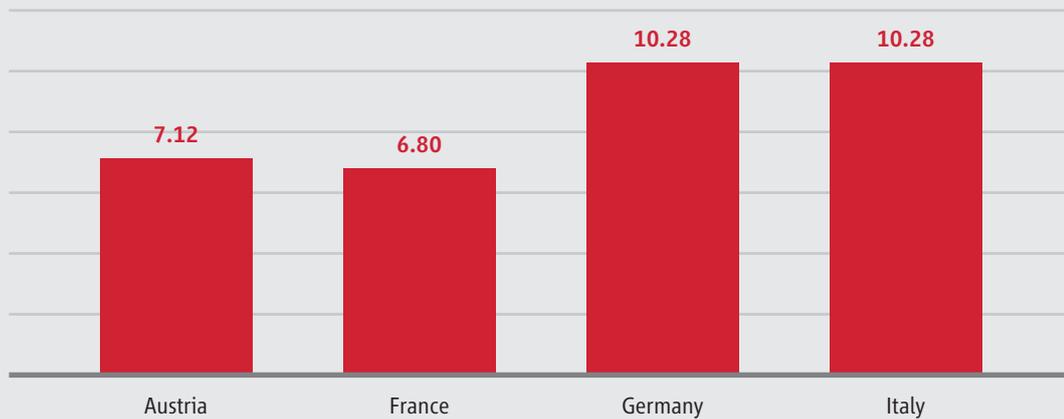
issuance frequently delayed in Germany and Italy

In Germany and Italy, employees sometimes have to leave for the host country without the A1 Certificate.

lowest compliance costs in France

Due to the higher total labour costs per hour in Germany and the lower ones in Italy, compliance costs in Germany approach those in Italy in absolute terms. The situation is similar in Austria and France. In absolute terms, compliance costs are lowest in France.

Figure 4: Total estimated costs for applying for an A1 Certificate at company level in EUR



Source: Prognos AG and CSIL.

The total compliance costs for the economy are due to the significantly higher case numbers in Germany (Figure 5). Official EU statistics show a fourfold increase in A1 Certificates in 2019 for Germany compared to 2018.

highest total economic costs in Germany

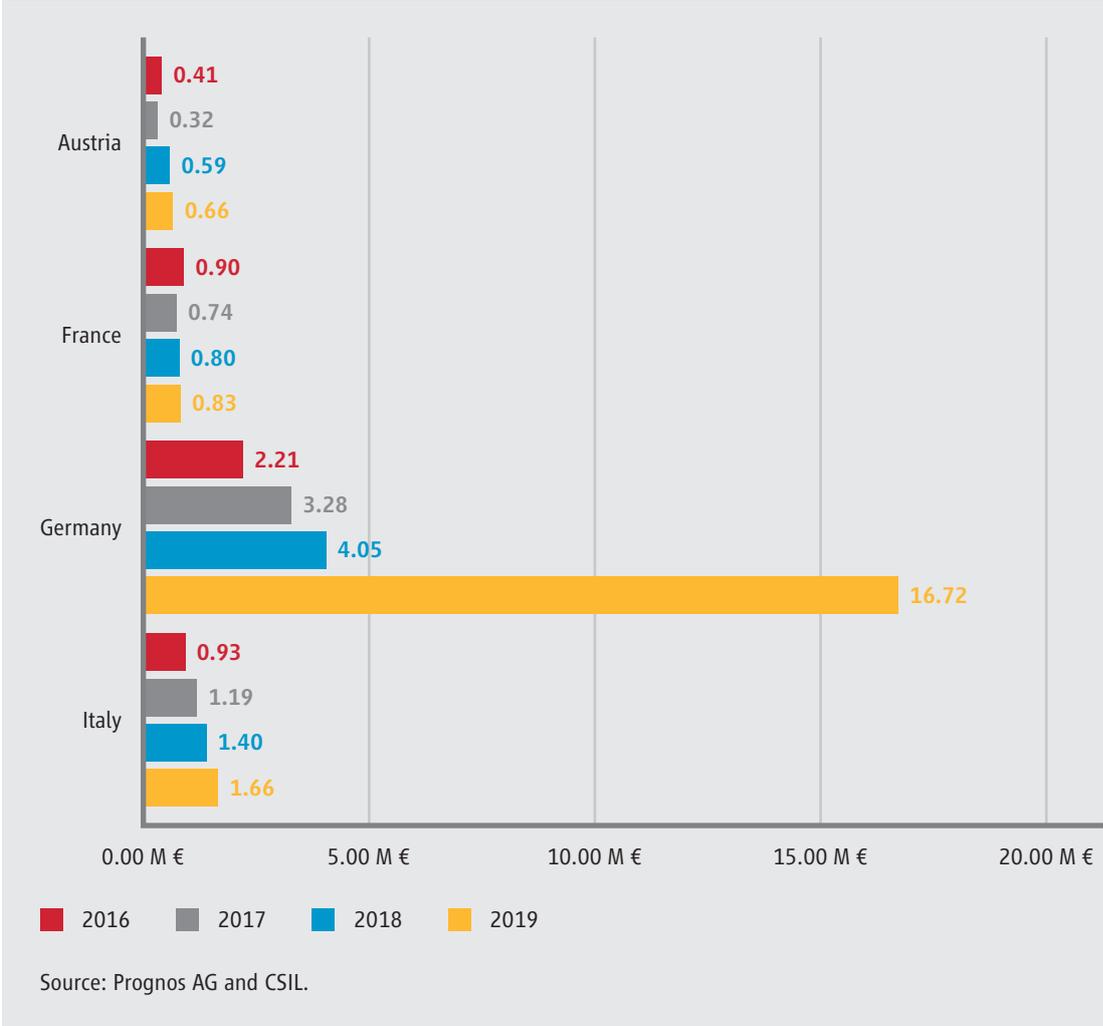
For Germany, the total economic costs for A1 Certificate applications (core steps) can be estimated to be around 15.5 million euros annually, based on the number of PDs A1 issued in 2019. The sharp increase can be attributed to several factors besides the economic growth. First, the electronic application process for A1 Certificates became mandatory in Germany in 2019. With the electronic application, the waiting time until the A1 Certificate is issued has been greatly reduced. Numerous companies described that they refrained from applying if they had to post on short notice before. Second, marketing of the topic information campaigns by the chambers while implementing the Posting of Workers Directive made many smaller companies become aware of the requirements. Third, tighter controls in the neighbouring countries, especially France, Austria and Switzerland, led to an increased awareness as heavy fines could be or were imposed.

In Austria, the total burdens of applying for the A1 Certificate can be estimated at around 660,000 euros per year. In line with the lowest total number of A1 Certificates applied for in the four countries studied and the lowest time efforts, these are also the lowest total costs. Due

to the simplicity of the application and the wide range of information offered by the chambers, it can be assumed that the requirements are largely fulfilled – this was also confirmed by the experts interviewed. Due to the rapid dispatch of the A1 Certificate, an application is also submitted in the case of short-term postings.

*lowest total costs
in Austria*

Figure 5: Total economic costs in the investigated countries in Mio. EUR, 2016–2019



In France, the total costs associated with the completion of the request for A1 Certificates (core steps) can be estimated at about 800,000 euros,¹⁴⁴ given the number of Portable Documents A1 issued in 2019. This limited cost is driven by the fact that the number of applications is not very high, as compared to Germany. This can be explained by different factors. Postings are indeed not necessarily a beneficial option for French companies (given the importance of social contributions and the existence of alternatives, such as setting up branches with local contracts in other EU countries). Moreover, according to the experts and some companies

144 However, this is likely to increase given that the current procedure was introduced only in 2022 and will probably generate a higher volume of demands.

interviewed, businesses often do not apply for A1 Certificates for short postings, which limits the recorded number.

In Italy, the requests for A1 Certificates generate a total burden on companies which can be estimated to be over 1.6 million euros per year. This estimate is based on the number of Certificates issued per year, which has seen a significant growth between 2016 and 2019. Despite the support and awareness-raising campaigns of business associations, it became clear in the expert interviews that not all posting companies, especially micro and small enterprises, comply with the existing obligations that require the A1 Certificate. It can be assumed that the total costs of a systematic application for A1 Certificates would in principle be higher than estimated. From a practical point of view, the A1 Certificate request in Italy is not deemed to be overly burdensome by interviewees, notably thanks to the digital maturity of the online process.

4. Perceived burdens

The following perceived burdens are based on the suggestions from interviewees who participated in the study. The identified burdens are common in all countries studied.

a) Ambiguity in the provisions of the A1 Certificate

Information on the provisions of the A1 Certificate can be obtained by companies in different ways. Some companies obtain information through external training or consultants, others through newsletters and working groups. Information and advice are provided by local and national chambers of commerce, among others. However, due to the variety of sources, some companies are unsure whether their knowledge is up to date and whether they are complying with the current legal framework.

b) Multiple applications for posting within a shorter period

For workers who are regularly posted to one or more EU countries for a certain period, a corresponding A1 Certificate of "usual multiple employment" can be issued as proof of affiliation to the social security system in Germany. However, this option is subject to clearly defined conditions that do not apply to the majority of posted workers. Accordingly, employers usually must obtain an A1 Certificate for each individual posting, regardless of the frequency and duration of the postings (provided the period does not exceed the prescribed 24 months). This leads to an increased administrative burden, which causes a lot of frustration for many companies, in particular if each application requires providing the same information.

c) Complexities linked to specific situations

Even if the overall burden is relatively low with the A1 Certificate, it can still be considered out of proportion by some stakeholders. For instance, it can be burdensome for short-term or cross-border missions by small businesses (which are concerned by the process). In practice, many companies may not respect the obligation for such postings.¹⁴⁵ Similarly, teleworking poses new legal and practical issues regarding the A1 Certificates.

5. Proposals for reducing regulatory burdens

The study participants' general suggestions from Austria, France, Germany and Italy for reducing regulatory and administrative burdens can be summarised in two areas. First, best practices based on the detailed process analysis in the country chapters to improve existing application procedures. Second, specific recommendations focussing on EU-wide solutions to change policies at EU and national level.

a) Potential improvements of existing application systems

Based on the comparison of the different application systems in the countries studied, good practices can be identified that could improve the existing systems without the need for transformative action at EU level. France's recent experience in particular can provide interesting insights.

Simple adjustments to the online portals can significantly improve user experience and potentially lead to efficiency gains (e.g. time savings). The saving of previous applications and the introduction of auto-filling functionalities (e.g. based on standard social security numbers) can favour the process, for instance.

b) Organisational improvements in the administration

The countries surveyed have a uniform portal/system for applying for A1 Certificates. However, there are significant differences in some countries, as the local branches of the social security institutions or the local health insurance funds may provide different services. Distributing applications more efficiently among the competent institutions and/or adjusting their capacities to the workload (e.g. increasing staff in case of delays/stress) can therefore lead to significant improvements. The French system, for example, distributes claims through a single portal to different regional branches of the Urssaf based on their workload (invisible to the applicant), allowing for shorter deadlines.

*adjustments to
online portals
needed, e.g. auto-
filling functions*

*efficient procedures
in competent bodies
needed*

¹⁴⁵ In some cases, the HR departments of companies are also not aware of the movements of people and cannot perform the requests in due time.

better communication on companies' duties needed

c) Improved communication to raise awareness

Companies are often unaware of the requirements for posting workers abroad. This is especially true for SMEs, craftsmen and other companies that only make one-off postings. Therefore, it is very cumbersome for them to obtain information and apply for A1 Certificates. The situation could be improved by strengthening local and EU support networks (e.g. through better publicity via communication measures).

6. Potential EU-wide and strategic improvements

These proposals are more focussed on long-term aspects, aiming at improvements beyond what can be achieved at the national level.

a) Introduction of a European Social Security Card

Companies repeatedly criticised the bureaucratic effort involved in applying for the A1 Certificate for each individual posting. Many respondents could not understand why the Certificate is issued depending on the individual posting and not for a worker to be posted, regardless of the place of posting and the duration. As an example, the German health insurance card was mentioned: It serves as proof of the individual's health insurance status, is valid for a certain period and can be presented at individual doctor's visits – even in other EU countries. If the same logic as for the A1 Certificate were to apply, the person insured would have to request a certificate of insurance before each individual doctor's visit. As a suggestion for improvement, a certificate (analogue or digital) based on the principle of the EU Health Insurance Card with a validity of 24 months was proposed, which could be repeatedly presented during controls in the context of individual postings.

certificate with 24-months-validity needed

b) Harmonisation of application processes for A1 Certificates and posted workers

The A1 Certificate and the Posting of Workers Directive are often seen as "two sides of the same coin". However, the administrative processes of the respective notifications run separately. Individual companies have therefore expressed the wish to merge the processes and to map the notification of both regulations in one notification process. Combining the procedures for the application for A1 Certificates with the notification duty could simplify the management of postings for companies. However, this would require a strong cooperation between organisations and a harmonisation effort across the EU.

streamlining of application processes needed

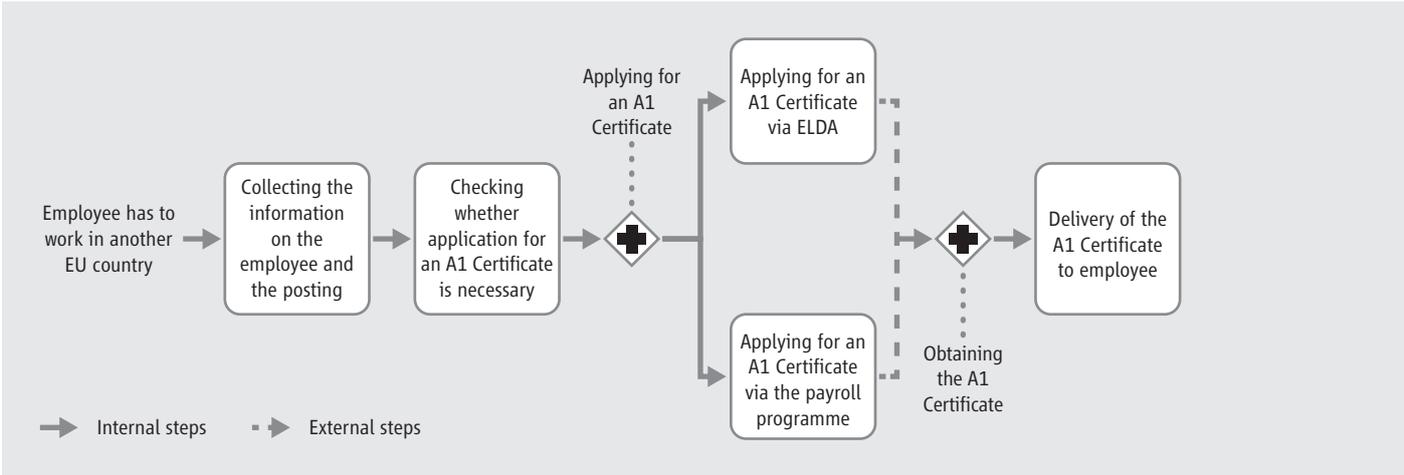
c) Simplification of requirements for specific situations

Several stakeholders have noted the benefit of a simplification of requirements to obtain an A1 Certificate in the case of situations such as short-term business trips, cross-border activities or teleworking. Such situations could be exempted from the A1 requirement, though it will have to be planned carefully to avoid frauds (especially in sensitive sectors, such as construction).

Slips of pre-filled certificates could also be used as a replacement, for instance for companies performing multiple postings in cross-border areas. The A1 Certificate represents a high bureaucratic burden, especially for short-term postings. According to the legal provisions, an A1 Certificate is required for a wide range of cross-border economic activity within the EU, even if it is only an hourly or one-day posting. Therefore, some companies express the wish to set a minimum posting duration of e.g. less than five days, below which no A1 Certificate is required.

minimum posting duration to be defined as precondition for certificate

III. Austria



Austrian law does not contain any special provisions on the application procedure for the A1 Certificate. Instead, the design of the application procedure was left to the health insurance fund, which provided the following provisions on its website: employers must apply for an A1 Certificate for their employees electronically from the respective health insurance fund. The employer must also report immediately if the posting does not take place, is interrupted for more than two months or is terminated prematurely.¹⁴⁶

A large part of the Austrian population is insured in a statutory health insurance scheme.¹⁴⁷ In 2020, the existing decentralised 21 statutory health insurance funds were merged into the Austrian Health Insurance Fund (ÖKG), in which white- and blue-collar employees (approx. 7.4 million)¹⁴⁸ are insured. In addition, there is the Social Insurance Institution for the Self-Employed (SVS), in which self-employed individuals and farmers are insured (approx. 1.2 million).¹⁴⁹ State employees and employees in the railway and mining sectors are insured in the “Versicherungsanstalt öffentlich Bediensteter, Eisenbahnen und Bergbau” (BVAEB) (approx.

146 <https://www.gesundheitskasse.at/cdscontent/load?contentid=10008.682861&version=1636535398>.
 147 According to the Ministry of Social Affairs, nearly 99.9 per cent of the population; <https://www.sozialministerium.at/Themen/Soziales/Sozialversicherung/Krankenversicherung.html>.
 148 <https://www.gesundheitskasse.at/cdscontent/?contentid=10007.867331&portal=oegkportal>.
 149 <https://www.svs.at/cdscontent/load?contentid=10008.762865&version=1639636633>.

1 million).¹⁵⁰ Freelancers who are organised in chambers, such as tax consultants and doctors, can choose between statutory and private insurance.

1. Standard application processes

In Austria, the platform for electronic communication with the Austrian social insurance institutions (ELDA) is crucial for the A1 Certificate application process. ELDA was introduced as early as in 1995 as a system for electronic data exchange (e.g. registration of insured employees, sickness notifications). Employers can use the ELDA platform to apply for the A1 Certificate if they belong to one of the following insurance providers:

- Österreichische Gesundheitskasse (ÖGK)
- Versicherungsanstalt öffentlich Bediensteter, Eisenbahnen und Bergbau (BVAEB)
- Sozialversicherungsanstalt der Selbständigen (SVS)
- Allgemeine Unfallversicherungsanstalt
- Krankenfürsorgeanstalt der Bediensteten der Stadt Wien
- Krankenfürsorgeanstalt der Landeshauptstadt Graz
- KFA Magistratsbeamten der Landeshauptstadt Salzburg

Since the majority of the Austrian population is covered by one of these health insurance funds, the electronic application for the A1 Certificate can usually be submitted via ELDA. A payroll accounting programme with an interface for ELDA can also be used. ELDA additionally provides an integration of functions for payroll programmes so that these also benefit from updates. The A1 Certificate is then issued electronically and can be handed over to the respective insured employee.

If a company uses neither the ELDA system nor a payroll accounting programme, the health insurance funds alternatively provide an online form that can be filled out and sent electronically or printed out, filled out by hand, scanned and uploaded to the health insurance fund. The process is described by experts and companies as much more time-consuming.

2. Perceived burdens and compliance costs

Judging by the interviews, it appears that the time spent on the initial research to familiarise oneself with the legislation and the administrative procedure for the application of the Portable Document A1 is on average half a working day to a full working day. It was pointed out

¹⁵⁰ <https://www.bvaeb.at/cdscontent/load?contentid=10008.762916&version=1639996298>.

that the WKO¹⁵¹ has sufficient advisory and information capacities. The annual time required to deal with changes in laws and posting procedures was estimated to be between several working days and one week.

A one-time registration of the company for the filing is required both when using ELDA (case group A) and a payroll programme (case group B). While payroll accounting programmes are usually already available and include the possibility of applying for A1 certification, the initial set-up process takes about 30 minutes which are necessary to understand the application process with the programme. In contrast, the initial registration on the ELDA portal takes up to 90 minutes. Payroll programmes, due to their broader scope, offer on average a faster linkage of employee data with the requirements when applying for the A1 Certificate. Both programmes allow the storage of company and user data.

The following table lists and describes the standard activities required to apply for an individual Portable Document A1. The time expenditure was estimated in the interviews and then the median value was calculated. A low level of qualification is assumed for the execution of the process steps; accordingly, the time expenditure is multiplied by a gross hourly rate of 22.48 euros.

Table 6: Compliance costs for one Portable Document A1 – Austria

Standard Activity	Description	Median time spent (in minutes)	Costs (in EUR) ¹⁵²
Gathering the necessary information	Internal information exchange to gather the information necessary for the application	10 (5–20)	3.75
Case group A) Applying for an A1 Certificate via ELDA	Company master data is stored in the system	7.5 (5–10)	2.81
Case group B) Applying for an A1 Certificate via the payroll programme	Company master data and employee data are stored in the system	6.5 (3–10)	2.44
Delivery of the A1 Certificate to employees	Employee receives the Certificate as a digital document and provides it to the posted workers by post or e-mail	2 (1–3)	0.75

151 Wirtschaftskammer Österreich (Austrian Federal Economic Chamber).

152 Calculated based on the hourly labour cost for clerical support workers (see Section B.III).

The centralisation of the statutory health insurance funds has led to an acceleration in issuing the A1 Certificate. The time it took for the A1 Certificate to arrive electronically at the company ranged from seven hours to three working days in our sample. Some companies issue a certificate of notification to their employees as an interim solution. This is permissible under certain national laws but carries the risk that auditors on site in a EU Member State abroad may doubt the integrity of the certificate and possibly impose sanctions.

Companies usually set up internal procedures for notifying a posting to the department or person filing the A1 application. While an electronic procedure usually prevails in large companies, internal reporting is ad hoc in small and micro businesses. It is not uncommon for the managing director to apply for A1 certification themselves.

The standard application via a payroll programme is on average one minute faster than applying via ELDA. The difference in time can again be attributed, among other factors, to the size of the companies surveyed: larger companies are more likely to use accounting programmes than the ELDA programme, have more routine due to a higher number of application procedures and carry out applications more efficiently. This results in different compliance costs for the two case groups.

The distribution between applying via ELDA and the payroll system is unknown. Therefore, the average value between the two case groups is used as the basis for calculating the compliance costs for the core activities of the PD A1 application procedure (gathering information, application via the portal or programme, handover to the employee). For an average company, these costs amount to 7.12 euros (7.31 euros when using ELDA or 6.93 euros when using a payroll programme). The following table extrapolates the total compliance costs for all applications for PDs A1 according to Art. 12 (1) in Austria for the years 2016 to 2019.

Table 7: Portable Documents A1 according to Art. 12 (1) and total compliance costs

	2016	2017	2018	2019
Number of Portable Documents A1	57,700	45,108	82,372	92,408
Total compliance costs in Mio. EUR	0.41	0.32	0.59	0.66

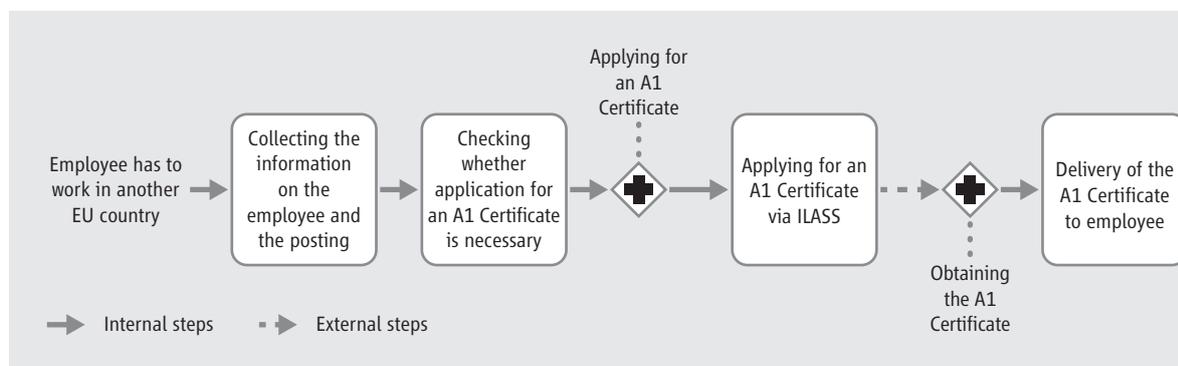
3. Proposals to reduce burdens

The general suggestions of the study participants for reducing regulatory and administrative burdens are summarised in the comparative chapter for all countries studied. A proposal specifically for Austria is as follows:

Based on the interviews, it can be assumed that most violations of the obligation to carry the A1 Certificate are due to a lack of awareness of this obligation. Trends such as “workations” or the possibility of mobile working abroad seem to make strengthening this awareness particularly relevant. A central information point for business trips abroad (possibly also in connection with the requirements of the Posting of Workers Directive) could raise awareness of this obligation.

central information point for business trips abroad needed

IV. France



The French Social Security Code defines legal provisions on posted employees (e.g. definition of their situation and their affiliation with the French social security system).¹⁵³ Executive provisions on postings are also outlined in the French Social Security Code, such as the principle to formulate the request for the A1 Certificate to the employee’s social security institution.¹⁵⁴

The concrete consequence of these provisions is that businesses must request the A1 Certificate when one of their employees is transferred to another country for a maximum period of 24 months¹⁵⁵ on the firm’s account (EU, EEA or Switzerland). A1 Certificates must be provided by the employers to the employees prior to their departure if possible (or the proof that the

153 Art. L.761-1 to Art. L.761-8, see https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006073189/LEGISCTA000006156249/#LEGISCTA000006156249.

154 Art. R.761-1 to Art. R.761-20 CSS, see https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006073189/LEGISCTA000006156763/#LEGISCTA000006156763.

155 In general, postings can last for a maximum of 24 months, though it is possible to request an extension. This request must be sent to the Cleiss (<https://www.cleiss.fr/employeurs/detachement/formulaires.html>), though the responsibility will be transferred to the Urssaf during the course of 2022, see below.

request has been performed). The employee must carry the Certificate (or said receipt) during their activities abroad, to produce it during potential controls.

The French social security system is compulsory, public, centralised (i.e., there are no region-specific social security systems¹⁵⁶) and organised into three types of *régimes* (General for both employees and self-employed individuals, Agricultural and Special¹⁵⁷) with different organisations.¹⁵⁸

For the general *régime*, the system is coordinated by national institutions, organised in different branches that manage specific risks (family, retirement, collection, health and labour accidents). Of notable importance for the analysis of A1 Certificates are:

- the Caisse Nationale d'Assurance Maladie (CNAM; National Fund for Health Insurance), which manages health and labour risks for the general regime,
- the network of Union de Recouvrement des cotisations de Sécurité Sociale et d'Allocations Familiales (Urssaf; Organisations for the Collection of Social Security and Family Benefit Contributions), which collect social security contributions.

This system is, however, territorialised, with branches active at the regional/local level (typically *départements*) to provide services to the population and companies (e.g. the Caisses Primaires d'Assurance Maladie – CPAM; Primary Funds for Health Insurance)¹⁵⁹. Other institutions manage the social security system for other *régimes* (i.e. for agricultural workers: the Mutualités Sociales Agricoles; Agricultural Social Mutualities).

For international mobility issues, the Centre des Liaisons Européennes et Internationales de Sécurité Sociale (Cleiss) provides support to employees and companies. It is traditionally competent for questions regarding A1 Certificates and postings (e.g. clarifying the legislation to companies) – though since early 2022, these responsibilities are being transferred to the Urssaf.

156 Even if there are some specific rules for territories such as Alsace-Moselle.

157 These *régimes* deal with specific sectors, activities or companies (e.g. national railways). They predate the national social security system and are known as *régimes spéciaux*. They do not account for a large share of workers in France.

158 <https://assurance-maladie.ameli.fr/qui-sommes-nous/organisation/securite-sociale>.

159 <https://secu-jeunes.fr/wp-content/uploads/2019/09/Fiche-organisation-de-la-S%C3%A9curit%C3%A9-sociale.pdf>.

Since early 2022, the institution responsible for the issuance of the A1 Certificates is the Urssaf,¹⁶⁰ for both employees and self-employed individuals. Previously, the local branches of the general *régime* (CPAM) performed this task for employees, while the Urssaf was already responsible for self-employed individuals. The issuance of the A1 Certificates for agricultural workers is still performed by the local branches of the MSA. As of mid-2022, the Cleiss is still responsible for long-term Certificates (more than 24 months), where an agreement with the local social security body of the country welcoming the worker is required. However, this responsibility is currently being transferred to the Urssaf as well; this is expected to be completed during 2022.

The procedure to request the A1 Certificates thus depends on the applicable *régime* of the mobile worker.¹⁶¹ Our analysis focusses on employees from the general *régime*.

1. Standard application processes

From January 2022, the procedure to request A1 Certificates was harmonised for both employees and self-employed individuals. From then, companies sending their workers and self-employed individuals must request a Certificate from the Centre National de Gestion (CNG) de la mobilité internationale (Urssaf).¹⁶² This is performed through a new dedicated online portal, the Instruction de la Législation Applicable à la Sécurité Sociale (ILASS)¹⁶³ – i.e. solely through electronic means.

The ILASS portal covers not only postings to other EU countries, but also postings to countries outside the EU with a bilateral convention and countries without a bilateral convention. The ambition is to provide a unified solution that is easy to use for businesses.

The requested information is similar for the different groups of users.¹⁶⁴ Some additional information (as compared to the basics of EU provisions) is requested for A1 Certificates in France, i.e.:¹⁶⁵

160 The requests are processed by the regional Urssaf of Nord-Pas-de-Calais, Île-de-France and Corse, regardless of the location of the businesses.

161 There are also special rules and organisations for fishermen and miners. See <https://www.cleiss.fr/reglements/a1.html>.

162 <https://www.cleiss.fr/reglements/a1.html>.

163 <https://www.ameli.fr/entreprise/vos-salaries/detachement-france-etranger/detachement-salarie-ue-suisse>.

164 With slight differences between employees and self-employed individuals. However, there is a notable distinction in the form between classical postings and pluriactivity cases.

165 Sector of the company seems not to be asked in the new ILASS portal, probably because it can be deduced automatically from the SIRET number.

- Information on the posting:
 - ▶ company to which the employee is posted (name, address, registering number),
 - ▶ whether the posted employee replaces an employee posted by the employer to the same undertaking and who came back to France after expiration of the posting period.¹⁶⁶
- Information on the employment relationship:¹⁶⁷
 - ▶ whether the employer is paying salaries and social security contributions during the posting,
 - ▶ whether the employee is insured under a French social security scheme (past 30 days),
 - ▶ whether the company in the destination country can terminate employment/change base remuneration unilaterally/impose sanctions on the posted worker, and
 - ▶ whether a work contract was established with the destination company.

Despite these additional requirements, the ILASS process was designed to minimise the number of questions.¹⁶⁸ The tool relies on the information collected by the Urssaf, through unique identifiers (i.e. SIRET numbers for the identification of enterprises' establishments, NIR for the identification of workers). It enables a partial auto-completion of the form.

After the request for the A1 Certificate is transmitted electronically through the ILASS portal, two distinct situations can emerge:

1. For most requests (70–80 per cent), the system is fully automated thanks to the identifying numbers (company register number and social security number of the employee) and the data stored by the Urssaf. First, the system checks the Déclaration Sociale Nominative (Nominal Social Declaration), which is a monthly declaration transmitted by businesses on their employees, wages and social contributions. If not present, the system checks whether there is a Déclaration Annuelle des Données Sociales (Yearly Declaration of Social Data), which is similar but on a yearly basis. There is a comparison between these documents and the information provided for the A1 requests. If the data matches, the A1 Certificate is automatically released within one to five minutes.
2. For other requests, manual checks are to be performed by the back office of the Urssaf to release the Certificate. These checks can usually be performed in a working day. This can entail a contact between the Urssaf team and the company. However, for complex cases, the delays can be longer and with limited visibility for the company.

166 If so, the Certificate is refused.

167 Data on the beginning of employment and occupation can be automatically retrieved through Urssaf data.

168 <https://www.urssaf.fr/portail/files/live/sites/urssaf/files/documents/DLA-Mission-etranger-Guide.pdf>.

The released Certificate includes a QR code which allows easy controls if needed (i.e. to check whether the person is actually affiliated to the French social security system).

This new system is still being phased in (as of mid-2022), with notable improvements compared to the previous system (see below) but also some transitory issues or problems due to the increase in the volume of requests.

Before January 2022, businesses sending their employees abroad had to apply to the social security organisation (Caisse Primaire d'Assurance Maladie) of their headquarters, rather than to the Urssaf. This procedure was performed via e-mail, sending the S3208 form. It took much longer than with ILASS (typically ranging from four to six weeks), with several uncertainties for businesses and disparities across the French territories. For short-term postings (three months at most), the employers had access to an online declaration form, called the Déclaration des Détachements à l'Étranger (DAE), to obtain the Certificate.¹⁶⁹ Self-employed individuals had to request the A1 Certificate online through their Urssaf account.

For the farming sector, the company must request the Certificate at the local Caisse de Mutualité Sociale Agricole corresponding to the worker – using a dedicated form. This process still exists (even after January 2022), since agricultural workers are not part of the general *régime*. There are also special rules and procedures for miners and fishermen, stemming from the specific historical organisation of social security for these groups.

The process to request an A1 Certificate is free of charge in any case (either for registration or for the release of a Certificate).

Requests for authorisations of long-term postings (beyond 24 months) must still be sent via e-mail to the Cleiss, by completing an ad-hoc form.¹⁷⁰ It is thus not integrated to the standard process yet. As mentioned previously, this process will be taken over and managed by the Urssaf in 2022.

2. Perceived burdens and compliance costs

For companies conducting postings, there is an overwhelming agreement among the interviewed stakeholders that the process to obtain an A1 Certificate has substantially improved in France since early 2022. In particular, the shift from the system in which companies had to send requests via e-mail to their local CPAM to the unified Urssaf-led portal is seen as a

169 <https://www.net-entreprises.fr/>.

170 https://www.cleiss.fr/pdf/form_detachement_eee.pdf.

major benefit. Indeed, it has reduced uncertainties for businesses (in terms of delays, access to information and availability of feedback) and allowed for much shorter delays and limited complexity. Accordingly, the Urssaf claims very high satisfaction ratings for the use of ILASS: 4.5 out of five for connecting success and four out of five for the actual reception of the Certificate. The reactivity of the Urssaf team in managing complex cases is also generally appreciated by stakeholders. However, the high volume of requests can challenge this reactivity in some situations.

Overall, the procedure to obtain an A1 Certificate is now relatively well-known among French companies (as opposed to e.g. requirements for the notifications of postings). The principle is typically understood/accepted, as A1 Certificates are linked to social security rights for the coverage of employees. Small companies still tend to be less knowledgeable about the issue and the process, especially if they perform a limited number of postings. However, the distinction between the A1 Certificates and the notifications of postings (and the underlying legal issues) is often blurry for French companies, which has implications on how they handle the administrative procedures.

The process to obtain an A1 Certificate is fairly straightforward for French companies, even if upstream steps (such as the familiarisation with the obligation and the search for a supporting consultancy for instance) can be burdensome and require expensive skills.¹⁷¹ Requests of A1 Certificates must be performed on the Urssaf website, using the ILASS service. They require an Urssaf account. However, companies have usually created one for other purposes than the A1 Certificates. The registration process and activation of the ILASS service are in any case swift and simple. The use of the ILASS portal does not require extensive training as such,¹⁷² and the Urssaf has released a dedicated video conference to explain the process to companies.¹⁷³

Beyond these initial steps, the process to request an A1 Certificate is composed of different actions. There are important heterogeneities in the time spent for these actions, depending on the experience of the company with the process, its size and organisation etc. The following table focuses on the core steps to be performed for each A1 Certificate application and on the typical associated burdens.

Costs are based on the total labour costs of employees that typically perform the different tasks, which correspond to clerical support workers for the core steps (about 21 euros per hour).

171 Moreover, time spent for these steps is very heterogeneous and cannot be estimated reliably, so they are not listed in the table below.

172 However, the legal underpinnings can be quite complex.

173 <https://www.urssaf.fr/portail/home/actualites/toute-lactualite-employeur/mobilite-professionnelle-des-tra.html>.

More complex steps (not included in the table), such as legal analysis, can induce higher costs due to the skills needed.

A notable benefit of the French process is that the release of the Certificate is nearly immediate and automatic. It enables the applicant to retrieve the Certificate from the portal immediately, without having to reconnect to the portal later, saving time.¹⁷⁴

Table 8: Compliance costs for one Portable Document A1 – France

Standard Activity	Description	Median time spent (in minutes)	Costs (in EUR)
Retrieving relevant information from existing data	Collecting information required for the Certificate request	10 (5–20 in most cases) ¹⁷⁵	3.5
Completing the online form on the ILASS portal	The user completes the information on the ILASS website ¹⁷⁶	7.5 (5–10) ¹⁷⁷	2.6
Delivery of the Certificate	In 80% of the cases, the Certificate is delivered automatically by the ILASS portal within 1–5 minutes of requesting. In other cases, the request may be rejected or require further discussions with the Urssaf (e.g. phone contacts). In such cases, the delivery can take a few days and imply additional work for the company.	In most cases: 0 ¹⁷⁸	Usually: 0
Sending/Printing the Certificate	The Certificate is accessible directly on the portal and can be printed or sent to the worker (file with a QR code).	2 ¹⁷⁹ (1–5)	0.70
Storing the Certificate for controls	Certificates should be stored for potential controls.		

174 The time to send/print/store the Certificate in the following table encapsulates the potential short waiting time to obtain the Certificate from the portal.

175 This timing can vary substantially based on the organisation of the process and on the level of experience of the company. It could take up to an hour in extreme situations.

176 See the form on <https://www.urssaf.fr/portail/files/live/sites/urssaf/files/documents/DLA-Mission-etrananger-Guide.pdf>.

177 At first, up to 10 minutes, then efficiency gains can be achieved. In extreme cases, 1 minute can be sufficient to fill in the form, though this is not considered representative.

178 This is the working time associated with this step. Complex cases can require dialogue with the Urssaf to clarify the situation and obtain the A1 Certificate.

179 The Certificate is released almost immediately after the request, so the user does not have to access the portal again later to retrieve and store it. These 2 minutes include the short waiting time for the release of the previous step.

Obtaining an A1 Certificate thus induces 19.5 minutes of effort at an estimated cost of 6.8 euros.¹⁸⁰ Based on the analysis of the process (survey results) and statistics from the EU institutions on A1 Certificates (Art. 12), it is possible to produce an estimate of the total burdens falling on French businesses to fulfil the core steps for this obligation at the national level.

This projection is detailed in the table below:

Table 9: Portable Documents A1 according to Art. 12 (1) and total compliance costs

	2016	2017	2018	2019
Number of Portable Documents A1	132,009	109,155	117,732	122,498
Total compliance costs in Mio. EUR	0.9	0.74	0.80	0.83

Note: These estimates apply the current process to obtain A1 Certificates (effective since 2022) to previous years for reference. It is likely that the costs were in fact higher for French businesses during the 2016–2019 period. Complex cases and upstream steps are also not considered. In a nutshell, the estimates should be considered as a lower bound.

Based on the evidence collected during this study and the additional statistical data from third-party sources, the burdens falling on French companies for the core steps to apply for A1 Certificates can be estimated at about 800,000 euros for a typical year. Using a consultancy service can substantially increase the total costs (e.g. in the hundreds of euros per posting) but has benefits for companies in terms of reducing legal risks, compliance and smoother management of the volume of Certificates. In numerous instances, companies using consultancy services for strategic aspects in their international mobility strategy still request the A1 Certificates themselves, as the process is straightforward.

An important point to consider is that this overall figure does not include the most upstream stages of the burdens for companies (i.e. the legal analysis and understanding of the situation) – which need not be repeated for each posting but can be of high duration, costs and complexity.

Overall, the burdens from the application for and delivery of the A1 Certificates is low in France. Moreover, the introduction of the new ILASS portal in early 2022 has limited the time needed to receive the Certificates, resulting in greater security for companies.

¹⁸⁰ Excluding upstream steps of familiarisation and training as well as potential costs related to consultancy services if needed.

Despite the solid overall performance of the ILASS system, there are still some issues and administrative burdens that can be linked to the current situation for A1 Certificates in France:

a) Difficulties using the ILASS portal

As the ILASS portal is still relatively new, there are some transitory issues when applying for A1 Certificates that are linked to the change of responsibilities for the procedure (from the CPAM to the Urssaf). Pending applications were not transferred by the CPAM to the Urssaf, which leads to missing files for a series of postings. Some cases of bugs (Certificates with the wrong information, lost Certificates etc.) were also reported by some stakeholders. In large companies, the stakeholders usually managing the Urssaf account may not be the one requesting the A1 Certificates, which can pose some organisational challenges internally.

The ILASS portal works based on SIRET numbers (to automatically retrieve information on, e.g., workers). A single company is composed of different establishments (identified by a series of SIRET numbers), so the applicant must use the relevant code, which is sometimes misunderstood by companies.

b) Lacking functionalities to apply for A1 Certificates

Some functionalities are missing on the ILASS portal, which affects the standard process for applications, as well as some specific situations.

Saving of drafts is also still impossible on the portal.

The ILASS portal is well-suited to individual postings of workers, for whom it enables a short completion time. However, it is not adapted to large volumes of postings (e.g. a company sending tens of workers simultaneously to the same site). This poses a notable challenge for large corporations and for companies in the construction sector.

As of mid-2022, the online portal does not allow the automatic consideration of cancellations of postings and/or modifications (e.g. anticipated returns), which must be declared outside the portal. In fact, this entails further work for the companies, which have to send an e-mail describing the situation to the Urssaf for manual processing.

The authorisation for long-term postings is still managed by the Cleiss in mid-2022, which is distinct from the main process managed by the Urssaf. It is important that companies anticipate their needs prior to the request.

c) The “risk of simplicity” for companies

The ILASS portal is a well-performing digital tool. However, this benefit could potentially be a double-edged sword for companies. Due to its apparent simplicity in generating the Certificates, it indeed hides the fact that the process has important legal ramifications. An analysis of the situation is needed before applying for the Certificate, and the persons completing the form in the companies may not have this knowledge. The risk is to obtain an A1 Certificate that does not correspond to the legal framework and that is consequently invalid in practice.

It is thus critical to spread information on the legal basis of the procedure, for both the companies and the teams managing the process in the Urssaf.

3. Proposals to reduce burdens

The following proposals for reducing regulatory and administrative burdens are based on the suggestions by interviewees from France (focussing on country-specific ones). The study participants’ general proposals for reducing regulatory and administrative burdens are summarised in the comparative chapter on the countries studied. As the ILASS portal is still relatively new, many of the previously listed burdens are expected to be corrected in the upcoming months. Indeed, the ILASS team has planned the introduction of several new functionalities, including:

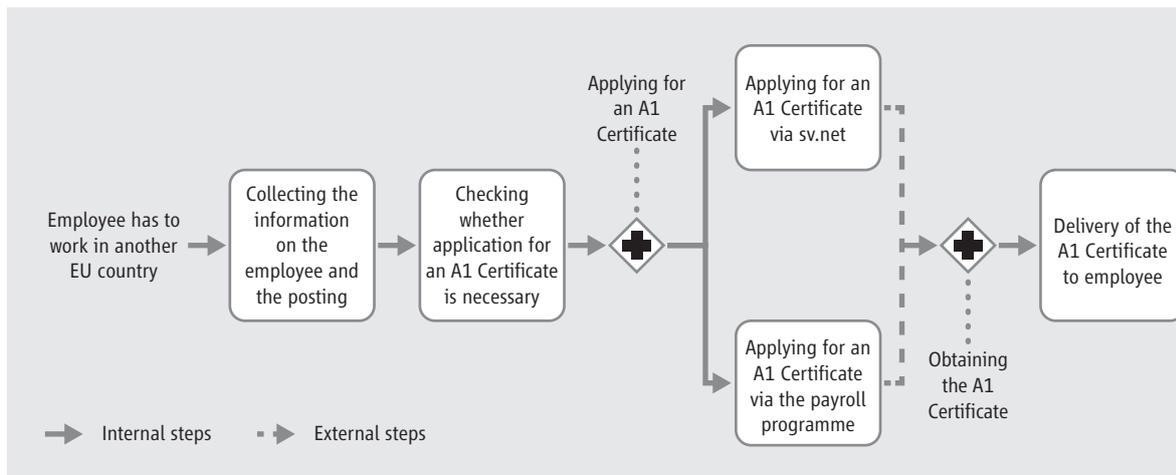
- Automated management of cancellations of postings and anticipated returns,
- The saving of drafts,
- The management of long-term postings (beyond 24 months),
- Prior to the ILASS portals, postings involving multiple employees at once could be managed by sending listings to the local CPAM. As this is no longer possible, the different stakeholders are looking for a solution to mitigate this burden. A potential pathway is to develop an API, which could be linked to company software and allow the automatic postings of a large number of workers. Work in that direction is under way.

general improvement of functionalities in ILASS portal necessary

additional functions for individual changes in ILASS needed

An attention point for the massive requests for A1 Certificates is that it should be possible to re-individualise the management of workers during the course of the postings. Indeed, several workers may be sent at once with a single massive request for A1 Certificates, but they could potentially face individual changes in their postings (e.g. some cancelled, others re-adjusted). Thus, the initial grouped demand should be open to modifications at the individual level afterwards to make the solution relevant.

V. Germany



Section 4 of the Social Code (SGB IV) regulates the application of German social insurance in the case of a posting abroad. § 4 SGB IV regulates the application of German social security regarding a posting outside of Germany if it is only temporary either by the type of posting or by contractual agreement.¹⁸¹ The A1 Certificate stipulates that the employer must inform the social security institution responsible for the employee before an intended posting. Section 106 SGB IV contains regulations on the electronic application for the A1 Certificate as proof of the employee's affiliation to the German social security system.

Taking out social insurance and paying contributions are compulsory. The German social security system is predominantly decentralised, self-governing and operated by several actors, including statutory and private institutions. Most of the population (88.1 %) is covered by statutory insurance, but there are also private insurance schemes. In the case of postings within the EU, the respective institution checks after receipt of the notification whether membership in the German social security system continues for the duration of the posting abroad and issues the A1 Certificate.

Where to apply for the A1 Certificate depends on the insurance status of the person to be posted:

- The responsible statutory health insurance fund (gesetzliche Krankenkasse) for individuals with statutory health insurance,

¹⁸¹ For a detailed description compare Chapter IV in part A of this volume.

- The institutions of the statutory pension insurance (DRV Bund, DRV Knappschaft-Bahn-See or the competent regional institution of the DRV), if the individual has private health insurance,
- The “Arbeitsgemeinschaft berufsständischer Versorgungseinrichtungen e.V.” for individuals who do not have statutory health insurance and are members of a professional pension scheme,
- The GKV-Spitzenverband if a worker is posted to several Member States; in the case of “usual multiple employment” (“gewöhnliche Mehrfacherwerbstätigkeit”), an A1 Certificate can be applied for a period of up to 24 months for all Member States in which the economic activity is to be carried out.¹⁸²

1. Standard application process

The application for employees must be submitted electronically by the employer. Section 106 SGB IV stipulates that the data of the insured employee and the employer for the application must be submitted from an audited programme or by means of an electronically supported, audited completion aid (e.g. electronic payroll accounting). Applications submitted by other means, for instance by e-mail, are rejected. In electronic applications, there are two case groups of secure and encrypted data transmission:¹⁸³ A) Audited payroll accounting programmes such as Lexware or SAP, and B) sv.net, a machine filing tool that encrypts the transmitted social security data of an application and transmits it in the prescribed electronic way. The data required do not differ between the two methods of transmission. For employees, they include information on the employee, the employer and the posting (e.g. location, duration, description of work etc.). For an overview of the total information required, see part A of this study.

While EU legislation obliges Member States to issue A1 Certificates, it does not specify what information Member States can or must request for this purpose. Germany's national legislation goes beyond the EU standards and the national implementation in France, Austria and Italy in its scope by requiring information on the following points:

- Whether the employee was posted to the same EU Member State in the two months preceding the current posting,
- Whether the posted employee is replacing another posted employee; if so, additional information is required.

182 Not only for ordinary workers, but also for certain occupational groups working in a cross-border work environment (e.g. seafarers or airline staff).

183 § 95a (1) SGB IV; Verfahrensbeschreibung für das elektronische Antrags- und Bescheinigungsverfahren A1 nach § 106 SGB IV.

After the insurance institution addressed has established that the application has been correctly completed and submitted and that the employee concerned is liable for social insurance in Germany, it sends the A1 Certificate to the company in the form of an electronic document.

The law sets a deadline of three working days for the insurance institution to check and send the Certificate. If the competent insurance institution cannot issue a proper A1 Certificate, the application is rejected and the employer is informed accordingly.

2. Perceived burdens and compliance costs

Most companies interviewed stated that the initial research to become familiar with the legal regulations and administrative procedure for Portable Document A1 application was very time-consuming (on average several working days up to one working week). Additionally, employees carrying out the process were given training on this topic. The continuous effort for researching changes in the law and processes was estimated at an average of two working days annually.

A one-time registration of the company for e-filing is required both when using the publicly available online portal sv.net (case group A) and a payroll programme (case group B). The time required for the initial registration of the company and the entry of the master data at SV.net was estimated at an average of 120 minutes. In the standard browser-based version of sv.net, company master data is stored in the system, but employee data must be entered manually for each application. There is also a comfort version of sv.net that can be downloaded and installed on the computer. Entered employee data and information on the posting can be saved during the application and be reused. According to the survey, especially smaller companies or companies with a low number of annual applications use the browser-based standard version of sv.net. For each application, information on individual employees has to be researched and manually entered into the web form, which leads to an increased burden. If more than 100 applications are submitted per year, multiple company numbers or multiple user accounts to be set up for, premium access to sv.net is required. The acquisition costs for premium access amount to 54 euros (30 euros user fee/24 euros registration fee) plus VAT. The time required for the initial registration of the company and the entry of the master data was estimated by the companies surveyed at an average of 90 minutes. It was reported that when setting up sv.net premium access, the authentication required before activation by separately uploading the company number and a copy of the ID card causes additional effort.¹⁸⁴ The company master data and the respective employee data are stored in the payroll system.

184 <https://www.itsg.de/produkte/sv-net/premium-zugang-infos-und-preise/>.

The following table lists and describes the standard activities required to apply for an individual Portable Document A1. The time expenditure was estimated in the interviews and then the median value¹⁸⁵ was calculated. A low level of qualification is assumed for the execution of the process steps; accordingly, the time expenditure is multiplied by a gross hourly rate of 23.27 euros.¹⁸⁶

The time the health insurance fund requires to issue the A1 Certificate varies depending on the competent health insurance fund from usually two to three working days. This is within the legally prescribed period of three working days. However, some companies reported that health insurance funds take four to five weeks to issue the Certificate. In this case, companies issue a certificate of notification to their employees as an interim solution. This carries the risk that auditors on site in an EU Member State abroad may doubt the integrity of the Certificate and possibly impose sanctions.

Table 10: Compliance costs for one Portable Document A1 – Germany

Standard Activity	Description	Median time spent (in minutes)	Costs (in EUR)
Gathering the necessary information	Internal information exchange to gather the information necessary for the application	10 (5–30)	3.88
Case group A) Applying for an A1 Certificate via sv.net)	Company master data is stored in the system; employee data must be entered manually for each application	12.5 (10–15)	4.85
Case group B) Applying for an A1 Certificate via the payroll programme	Company master data and employee data are stored in the system	12.5 (10–15)	4.85
Delivery of the A1 Certificate to employees	Employee receives the Certificate as a digital document and provides it to the posted workers by post or e-mail	4 (3–5)	1.55

Similar to the other countries, mainly the larger companies reported having an internal procedure to inform the department or person performing the A1 application about a posting. In larger companies, there is usually an electronic procedure to collect all the necessary information. In smaller and micro or craft enterprises, internal coordination is usually ad hoc. It is also not uncommon for the managing director to apply for the A1 Certificate himself.

¹⁸⁵ The median value is less sensitive to outliers than the average value.

¹⁸⁶ Calculated based on the hourly labour cost for clerical support workers (see Section B.III).

Applying for the A1 Certificate via sv.net or an accounting programme takes on average the same amount of time. An advantage of the premium version of sv.net is that multiple user accounts for the same company can be set up. In practice, this means that applications can be submitted decentrally as opposed to via the HR department. This can reduce the need for coordination and shorten the application process.

The average value between the two case groups is used as the basis for calculating the total compliance costs of the core application procedure (gathering information, application via sv.net or payroll programme, handover of the A1 Certificate to the employee). For an average company, these costs amount to 10.28 euros. The following table extrapolates the total compliance costs for all applications for Portable Documents A1 according to Art. 12 (1) in Germany for the years 2016 to 2019.

Table 11: Portable Documents A1 according to Art. 12 (1) and total compliance costs

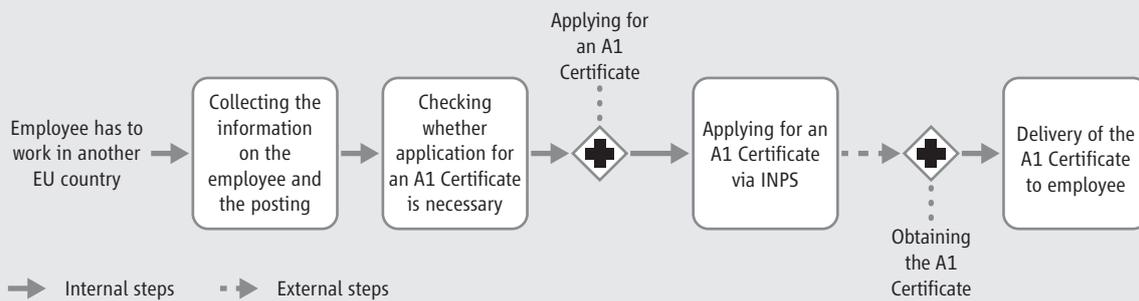
	2016	2017	2018	2019
Number of Portable Documents A1	215,446	319,332	394,408	1,626,990
Total compliance costs in Mio. EUR	2.21	3.28	4.05	16.72

3. Proposals to reduce burdens

The general suggestions of the study participants for reducing regulatory and administrative burdens are summarised in the comparative chapter for all countries studied. A proposal specifically for Germany is the improvement of the web-based portal sv.net. Businesses use the browser-based web portal to apply for A1 Certificates. The portal has been criticised for its outdated web form and vulnerability to system crashes. In addition, only the login data can be saved. For this reason, the wish was expressed to revise the programme, expand the storage capacity and make it more modern. This revision would especially benefit small businesses, which usually have lower posting rates and use audited payroll programmes less frequently.

improvement of sv.net portal highly necessary

VI. Italy



In Italy, the procedure to apply for the A1 Certificate for employees is governed by Circolare No. 86 of 2019 of the National Social Security Institute (INPS). The procedure for self-employed individuals is governed by INPS Message No. 218 of 2016. The competence to issue A1 Certificates lies with the INPS: in particular, its decentralised offices oversee handling the submitted applications and releasing the Certificates.

In Italy, obtaining and contributing to social insurance is compulsory. The social security system is largely centralised: the INPS, which is a public body under the supervision of the Ministry of Labour, insures employees of the private and the public sector, independent and self-employed workers. Other bodies under private law (Casse) oversee managing obligatory social security for some specific categories of workers (among whom are lawyers, doctors, engineers, architects) registered with an ad-hoc pension scheme. In addition, the National Institute for Insurance against Accidents at Work (INAIL) manages an insurance system protecting workers in case of accidents, occupational disease and death at the workplace.

1. Standard application processes

Since September 2019, the application process for A1 Certificates takes place exclusively online. A dedicated area of the INPS website¹⁸⁷ contains the information needed to access the system for registration and request for the A1 Certificate. In more concrete terms, the request for the A1 Certificate is completed by filling in an interactive PDF document.

With regard to employees, the claim for the Certificate must be made by the employer, whereas for self-employed individuals, the claim must be made directly by the person concerned. In practice, the role of applicant can be covered by the employer or the self-employed individual, but also by their legal representatives or other delegated persons. The applicable INPS office is,

187 <https://www.inps.it/NuovoportaleINPS/default.aspx?itemdir=49966&lang=IT>.

for employees, the one at which the employer is registered and, for self-employed individuals, the one at which the individual concerned is registered.

An overview of the total information requested can be found in the legal report of this study. For employees of private companies, the following type of information is required in the A1 Certificate request to be submitted to the INPS:

- Information on the applicant,
- Information on the posted worker (including address in destination country),
- Duration of posting (not longer than 24 months),
- Country of destination,
- Information on the foreign employer, and
- Further information needs to be added, partially exceeding the provisions foreseen in EU legislation. For instance, the form requires a statement that the posted worker does not replace another posted worker whose posting duration has expired and information on some indicators about the employer's activity (e.g. number of employees, turnover, date of company establishment).

After the local INPS office has determined that the application has been filled out and transmitted correctly, it transmits the A1 Certificate to the business. The legislator sets a time frame of 30 days for the evaluation and transmission of the Certificate by the INPS¹⁸⁸. According to evidence gathered from interviewees, local INPS offices display differences in the time required to issue the Certificate. Certain offices took up to 40 days, whereas others needed only few days. Interview feedback, however, points to a recent reduction in the time needed by INPS offices for this step, which generally takes between one and five working days. In limited cases, businesses reported that the issuance of the A1 Certificate from the local INPS office has come to require less than one working day only. If the application is rejected, the employer is respectively informed. However, according to interviewees, rejections are rather infrequent.

Activities related to A1 certification requests are carried out either within companies themselves (with tasks being performed by administrative clerks within HR or administration departments) or, more frequently, by external labour consultants already in charge of handling legal fulfilments concerning labour law and payslips. Typically, the cost of one A1 Certificate application by a labour consultant would be around 25 euros, although variations at the

188 This is the standard period foreseen for the conclusion of administrative procedures in Italy, according to Law 241/1990.

territorial level are reported (with costs in Northern Italy being higher than in the Southern part of the country).

2. Perceived burdens and compliance costs

Interviewed consultancies and business associations mentioned a generally low level of awareness among Italian businesses, especially SMEs, concerning requirements related to postings. Despite awareness campaigns and support measures put forward by business associations, enterprises are reported to frequently ignore the importance of complying with these requirements and underestimate the potential risks related to inspections and sanctions. The following table presents the key steps to apply for an A1 Certificate for Italian companies.

Table 12: Compliance costs for one Portable Document A1 – Italy

Standard Activity	Description	Median time spent (in minutes)	Costs (in EUR)
Retrieving relevant information from existing data	Collecting information required for the Certificate request, i.e. on the worker and the posting	15 (For the first posting: 30–60; after the first posting: 10–20)	4.82 ¹⁸⁹
Filling in the application form	Completing the information using the INPS website	15 ¹⁹⁰ (5–25)	4.82 ¹⁹¹
Delivery of the Certificate	The INPS sends back the Certificate to the company/self-employed individual (or a rejection if legal rules are not respected, e.g. duration/frequency of postings)	No working time; 1–5 days waiting time (reflecting a recent improvement in delivery)	0
Sending/Printing the Certificate	Printing the Certificate that should be handed out to the worker	2	0.64 ¹⁹²

In addition to the steps performed for each A1 Certificate application, companies also preliminarily carry out more horizontal activities. Initially, a time investment is made to familiarise themselves with the obligations and the procedures. Even though this step strongly varies depending on whether the company relies on a labour consultant or not (and which type of

189 Calculated based on the hourly labour cost for clerical support workers (see Section B.III). Based on interview feedback, when activities related to the A1 certification request are carried out within the companies themselves, they are indeed performed by administrative clerks within HR or administration departments.

190 Can vary depending on the company's familiarity with A1 Certificate requests.

191 Calculated with the same approach followed for data collection.

192 Calculated with the same approach followed for data collection.

advisory services the consultant offers), at least some hours are typically spent to acquire at the minimum a basic understanding of the nature of the PD A1 and the required steps to take. In addition, a registration on the INPS portal is necessary to be able to submit A1 Certificate requests online. However, this once-only registration is not perceived as a significant burden by companies and takes approximately 10–20 minutes. An additional element concerns the storing of documents: A1 Certificates should be stored and kept available for potential controls. According to interviewees, this requirement does not translate into a burdensome activity, however.

Based on the analysis of the process (survey results presented in the table) and statistics from the EU institutions on A1 Certificates (Art. 12), it is possible to produce an estimate of the total burdens falling on Italian businesses to fulfil the core steps for the A1 Certificate request (excluding preliminary horizontal steps).

This projection is detailed in the table below:

Table 13: Portable Documents A1 according to Art. 12 (1) and total compliance costs

	2016	2017	2018	2019
Number of Portable Documents A1	90,740	116,237	135,743	161,800
Total compliance costs in Mio. EUR	0.93	1.19	1.40	1.66

Considering the growth of PDs A1 issued in Italy, the total compliance costs borne by businesses can be estimated to exceed 1.6 million euros per year.

In addition to quantifiable aspects, more qualitative feedback on the perceived burdens and problematic issues was collected as well to provide a more nuanced and contextualised analysis. Two aspects, in particular, were highlighted by interviewees, discussed in the following sections.

a) Uncertainty regarding information

In general, retrieving relevant information and filling in the form to request the A1 Certificate is not deemed to be a burdensome activity by interviewees. However, a burden is generated by some of the requested information that can be problematic to provide, as it is, to some degree, open to interpretation. According to interviewees, different interpretations have been

given over time by different INPS offices themselves. At the same time, these discrepancies and uncertainties generally do not lead to the A1 Certificate request being rejected. Three elements were especially singled out by interviewees as relatively problematic:

- **Date of business creation.** In some cases, business creation occurred later than the hiring of the posted worker (for instance in the case of mergers), engendering doubts pertaining to the correctness and consistency of the filled-in information.
- **Data on financial turnover of the company.** The period the financial turnover indication should refer to is not made clear in the application form.
- **Address in the country of destination.** This information is not necessarily known in advance or may be subject to frequent change during the period of stay in the foreign country.

b) Delivery of the A1 Certificate

The timespan required by INPS local offices to issue an A1 Certificate is reported to be a significant burden. In case of urgent need for the Certificate, some businesses also solicit a rapid response from the responsible INPS office. While this is generally successful and the Certificate is then issued shortly thereafter, it can be noted that this implies an additional, though short, activity on the firm's side. Moreover, some interviewees stated that in certain cases, posted workers need to leave for the country of destination without the A1 Certificate and only with the filled-in request form. This contributes to uncertainty in terms of potential sanctions from foreign inspectorates. At the same time, an improvement in the delivery time of A1 Certificates from INPS offices has been reported. While the delivery of a Certificate could take up to 40 days in the past, it currently does not take more than five days. In limited cases, delivery times of less than one working day (i.e. few hours) were reported.

Ultimately, the A1 Certificate request in Italy is not deemed to be burdensome, owing in part to the digital maturity of the process. However, the fact that some of the information requested within the form is open to interpretation contributes to a widespread perception among companies that filling in the form represents a mere bureaucratic burden without a tangible added value.

3. Proposals to reduce burdens

The study participants' general suggestions for reducing regulatory and administrative burdens are summarised in the chapter comparing all countries studied. The suggestions specifically for Italy are:

a) Reducing delivery time of A1 Certificates

The time taken by INPS local offices to issue A1 Certificates (in the past generally a month, recently reduced to one to five working days) is seen as high in itself as well as in comparison with other countries. Even though recent improvements in this regard are reported, interviewees underlined that reducing the delivery time would benefit businesses in terms of reduced uncertainty, reduced risk of sanctions and reduced time spent by the business dealing with administrative procedures. An automatic release of the Certificate would be particularly beneficial to businesses.

automatic release of Certificate needed

b) Linking the A1 Certificate with the Tax and Wage Compliance Certificate

Currently, the A1 Certificate represents a bureaucratic burden which is not the subject of particular checks by the INPS. In fact, filling in correctly some of the information required in the application can be open to interpretation. Nevertheless, despite discrepancies, the INPS generally releases the Certificates (which then have EU-wide validity and cannot be rejected by other countries, as established by the Court of Justice). To strengthen the substantial value of the A1 Certificate, study participants proposed to explore the possibility of making it conditional on the availability of the company's Tax and Wage Compliance Certificate (Documento Unico di Regolarità Contributiva – DURC). The DURC certifies the compliance with the obligation to pay social security, welfare and insurance contributions and is aimed at the repression of illegal work practices. Firms are typically familiar with the DURC. Establishing a linkage between A1 Certificate and DURC could reduce the amount of information required in the A1 Certificate application and facilitate the fight against falsified A1 Certificates. However, such a change would likely be possible only at EU level, not at national level.

streamlining the A1 Certificate process by linkage with Tax and Wage Compliance Certificate

fight against falsified A1 Certificates at EU level necessary

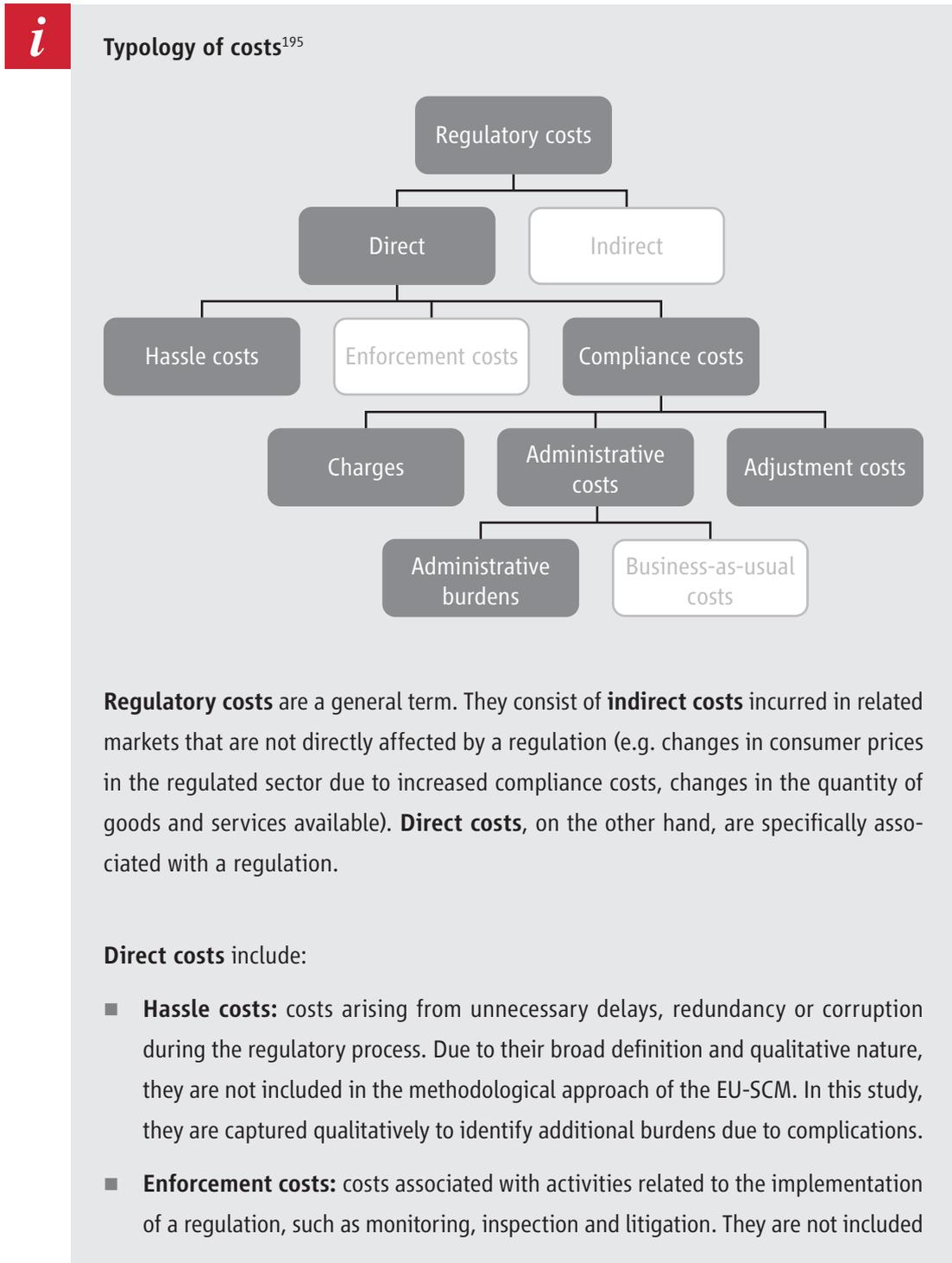
VII. Study approach

1. Methodology

The methodology is based on the concept of “compliance costs” used by the German Federal Government in its regulatory projects.¹⁹³ Compared to the EU Standard Cost Model (EU-SCM), the concept of “compliance costs” is a more comprehensive measure of bureaucracy. To align this concept with EU studies, the cost types are defined following the Better regulation toolbox of the European Commission (see infobox). The methodological approach of the EU-SCM only assesses the costs of the administrative burdens: costs arising from compliance with information obligations under legal regulation. For a comprehensive assessment of the regulatory burdens of the A1 regulation, the methodological approach must also include hassle costs, charges and adjustment costs. Business-as-usual costs, i.e. costs resulting from information

193 See in this regard: Leitfaden zur Ermittlung und Darstellung des Erfüllungsaufwands in Regelungsvorhaben der Bundesregierung (2018).

obligations that companies have to comply with regardless of the existence of the regulation, are not considered in any of the methodological approaches.



194 All definitions originate from the Better regulation toolbox of the European Commission (2021), https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox_en.

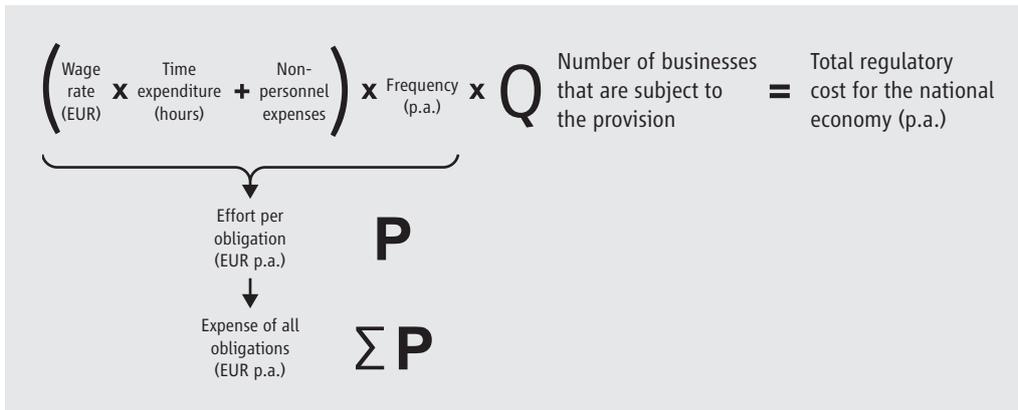
in the EU-SCM or in this assessment, as these costs are borne exclusively by public authorities.

- **Compliance costs:** these costs are borne to comply with the provision of a regulation.

The focus of this study is on **compliance costs**. These consist of:

- **Adjustment costs:** the additional costs of complying with a new regulation. They include the expenses and investments that companies must bear to adapt to the requirements of a regulation.
- **Administrative costs:** these costs are incurred by companies for the administrative activities necessary to comply with the information obligations of a regulation. They consist of administrative costs and business-as-usual costs.
- **Charges:** such as fees, levies and taxes related to the regulation.

a) Compliance costs



Compliance costs are captured at the company level. Rules and regulations force companies to meet certain targets or requirements: for example, applying for certificates, training to achieve a certain level of qualification or providing and sharing information (e.g. labels, applications, documentation). The tasks that companies perform to meet such requirements can be modelled in standard activities. To capture the compliance costs, the average time to perform all activities is multiplied by the average labour cost in euros. One-off compliance costs are multiplied by their annual frequency to obtain annual values. If material and procurement costs are directly incurred to fulfil a requirement, they are added either once or based on an average annual material cost (for continuous tasks). The results are values for an average company that can be extrapolated to the total economic costs of a Member State based on

official statistics. In this study, only the compliance costs for the core activities of the PD A1 application process are used for extrapolation to country level.

If a requirement only applies to companies above a certain size or if, for example, small and medium-sized companies fulfil the requirements manually while large companies use an automatic procedure, different case groups can be formed. For the calculation of compliance costs, it is irrelevant whether the differentiation is based on a different design choice or a different underlying standard.

b) Labour costs

The total labour costs per hours are necessary to financially assess the time required to apply for a Portable Document A1. Information was collected on who carries out the application for the Certificate (in terms of the type of job or positions in the companies). However, information on the salary of the employee could not be collected due to sensitivity and cultural reasons.

To ensure that data on labour costs are coherent across the four countries studied, data from Eurostat were used. While national sources would have provided more detailed information (e.g. in terms of economic sector or professional qualification), a database at European level ensures that the figures cover the same elements and that common definitions are used. This aspect is particularly important as labour costs are dependent on national labour law, tax rules and national contractual arrangements. The use of labour costs makes it possible to overcome the problem of the different distributions of social contributions paid by employers and employees between countries.

Data on labour costs in the four countries were collected as follows:

- “Clerical support worker” was selected as the relevant job title for all four countries. As will be presented in the country-specific chapters, administrative clerks were identified as the employees concretely carrying out the applications for A1 Certificates.
- Data on the gross hourly earnings of clerical support workers by country were extracted from a Eurostat database¹⁹⁵. These data refer to companies in the industry, construction and services sectors having more than ten employees. The most recent data available refer to 2018.

¹⁹⁵ https://ec.europa.eu/eurostat/databrowser/view/EARN_SE518_47__custom_2954071/default/table.

- Data on the share of non-wage labour costs over total labour costs were extracted from a second Eurostat database¹⁹⁶. These data as well refer to companies in the industry, construction and services sectors.
- To calculate the total hourly labour costs of clerical support workers, gross hourly earnings of clerical support workers were divided by the share of wage-related labour costs.

The following table illustrates the results by country.

Table 14: Total hourly labour costs of clerical support workers by country

Country	Gross hourly earnings of clerical support workers (2018) in EUR	Non-wage labour costs (% of total labour costs) (2018)	Wage-related labour costs (2018)	Hourly labour costs of clerical support workers (2018) in EUR
Austria	16.48	26.7%	73.3%	22.48
France	14.1	32.9%	67.1%	21.01
Germany	18.06	22.4%	77.6%	23.27
Italy	13.78	28.5%	71.5%	19.27

Source: Authors' elaboration based on Eurostat data.

The results show that the final hourly labour costs (which will be used later in country-specific chapters for national projections of costs) reflect the expected country ranking in terms of labour costs, with Germany having the highest labour costs in the sample and Italy the lowest¹⁹⁷.

This dataset, based on a common source with common definitions, has clear advantages for comparative analysis. Nevertheless, some limitations have to be acknowledged:

- The weight of non-wage and wage-related labour costs can vary depending on the wage level. The use of a single generic share per country, such as the one extracted from Eurostat, may lead to an underestimation/overestimation of the final hourly labour cost. This appears to be especially the case in France, where clerical support workers, in light of their wage level, have a lower share of non-wage labour costs than the average one (as

196 https://ec.europa.eu/eurostat/databrowser/view/lc_lci_lev/default/table?lang=en and https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Hourly_labour_costs.

197 The use of national averages, however, hides important territorial discrepancies at sub-national level. This is particularly relevant in Italy, where wage levels in the private sector are significantly lower in the Southern part of the country, compared to the North.

suggested by national institutional websites)¹⁹⁸.

- Similarly, the disaggregation of labour costs can vary in each national context depending on the economic sector at hand.

Despite these caveats, the data represent the most accurate approximation of labour costs relevant to this study.

c) Transposition into national law

Additional burdens and costs may result from the transposition of EU law into national law, which may lead to additional regulatory and reporting obligations for companies due to the transposition of national law.



Transposition into national law

Regulations and directives, such as Regulation (EC) No 883/2004 on the coordination of social security systems and Directive (EU) 2018/957 on the posting of workers, are the most common forms of EU legal acts.

Regulations have general application and are directly effective without the need for transposition. Directives do not apply directly at national level. Instead, they specify an objective to be achieved and leave it to individual Member States to decide how to implement their provisions. Due to the transposition of EU law, the national provisions resulting from the same EU legislation may differ between EU Member States. Consequently, this transposition may lead to additional obligations (“gold-plating”). The burdens associated with national transpositions are therefore of particular importance in the context of regulatory burdens and are highlighted qualitatively in this study.

As far as the A1 Certificate is concerned, the EU leaves the decision on the scope of information required in the application process to the national systems. Consequently, the nationally implemented application processes differ in terms of the information required.

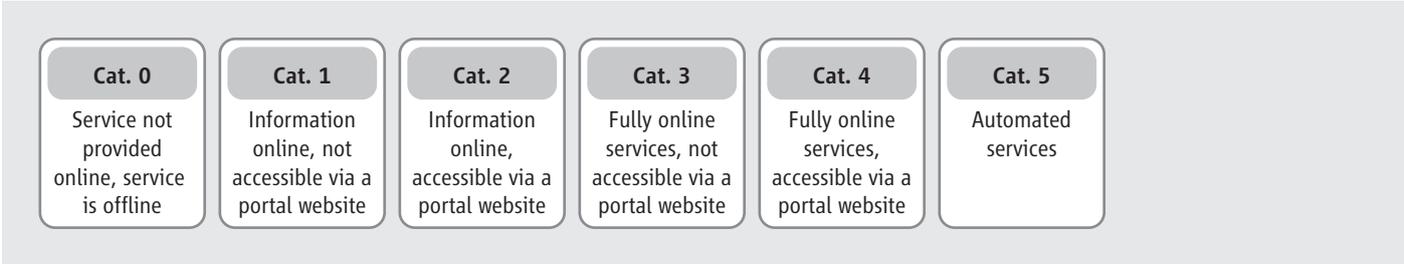
198 According to an online tool made available by a French public authority (<https://entreprise.pole-emploi.fr/cout-salarie/>), the hourly labour costs of employees with the wage level found for clerical support workers would amount to 17.4 euros, i.e. less than the result achieved adopting the share indicated in the Eurostat database. While the issue of lower non-wage labour costs for low wage levels is relevant in other contexts as well (e.g. Italy), similar quantifications are available for France only.

Due to the broad terminology, it is difficult to designate country-specific parts of the required information as “gold-plating”. For the purpose of this study, we used the information required by all national systems as the baseline and considered obligations going beyond this common denominator as indicator of potential gold-plating. For the A1 Certificate, however, most of the additional information is of a technical nature (e.g. to uniquely identify persons) and does not add substantive requirements.

d) Digital Maturity Model

The Digital Maturity Model is based on the eGovernment Benchmark 2018 published by the European Commission.¹⁹⁹ In this study, the online availability of administrative services is assessed based on six availability types, which can be ranked from category zero to category five in the following.

Figure 6: Categories of the Digital Maturity Model



The highest category is automated services (category five), whose use means that users do not have to initiate the service. However, this is not possible when applying for an A1 Certificate, as the application is always initiated by the applicant. The lowest category, on the other hand, describes an offline service (category zero). In between, information on the service is made available online by the public administration, which can be accessed via a website (category one) or a central domain portal (category two), while the service is not available online. The same applies to online services that are available either via a website (category three) or an online portal (category four).

However, the model neglects other important aspects, such as the online processing of the application including all supporting documents or the application of the “once-only” principle for verifications.

199 European Union (2018), eGovernment Benchmark 2018. Securing eGovernment for all. Background Report. Available online: https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=55487 (24.06.2022).

2. Data collection

The data collected is based on standardised interviews with experts and business representatives in Austria, France, Germany and Italy to assess the A1 and posting of workers application process and gain insights into perceived regulatory burdens. In all countries, a similar approach was chosen to recruit qualified interview partners. First, experts from Chambers of Commerce and business associations were interviewed and then acted as intermediaries to contact companies. In the companies, the human resources department was specifically approached, as this is usually where the application processes are handled. The person who carries out the process was interviewed to be able to validly assess the process steps and the effort behind them. In Austria and France, the support of intermediaries (such as Chambers of Commerce, economic development agencies or business associations) yielded limited success in obtaining contacts with companies.²⁰⁰ As a result, the focus of the approach was shifted towards experts with direct experience in how companies manage the administrative procedures for the A1 Certificates and posting of workers. The interviews took place between September 2021 and June 2022.

In Austria, representatives of the Austrian Federal Economic Chamber (WKO) foreign trade department, the regional representatives of the Enterprise Europe Network and the Federation of Austrian Industries were approached for expert interviews. The sample is mainly based on experts with direct experience in handling the application procedure for A1 Certificates and the posting of workers in the companies.

In France, Chambers of Commerce, economic development agencies and business associations were initially contacted. The sample includes consultancies in international mobility (providing advisory services or actually conducting the administrative procedure for the A1 Certificate), lawyers (social security law), sectoral associations and other support bodies in the field (e.g. Chambers of Commerce and Craftsmen, EURES network, EEN). In addition, experts from the academic sector and the institutions that carry out the procedure for obtaining A1 Certificates and registering posting workers were interviewed.

In Germany, business associations, Chambers of Industry and Commerce and Chambers of Skilled Crafts (IHK, HwK) as well as the Regulatory Control Council of Baden-Württemberg (Normenkontrollrat Baden-Württemberg) were initially contacted to conduct expert interviews with their respective representatives and to obtain contacts with companies from their network. The invitations were widely distributed via newsletters and thematic working groups. Other companies throughout Germany were contacted via the networks of the Foundation for

²⁰⁰ Postings in France is a politically sensitive issue, which makes it notoriously challenging to study. In particular, previous studies on the phenomenon reported similar difficulties in exchanging with companies on this topic, such as CREDOC (2021), <https://en3s.fr/recherche-et-publications/etudes-et-projets-de-recherche/etude-sur-le-detachement-entrant/>.

Family Businesses (Stiftung Familienunternehmen). The sample consists of industry experts and predominantly family businesses, including small and medium-sized as well as large companies from various sectors, mainly from Baden-Württemberg. The construction industry and craft businesses are more strongly represented, since the posting of workers is more widespread here.

In Italy, business associations and sectoral associations at national, regional and local level as well as the Italian Trade Agency and Chambers of Commerce were contacted for expert interviews and to obtain contacts with companies. In addition, consultancies in international mobility, with experience in supporting companies in matters related to postings, including A1 Certificate applications, were contacted. The sample consists of business associations (covering large, medium, small and micro enterprises), businesses (located in three different regions and working in various sectors) and international mobility consultancies (having experience in advising thousands of companies in total).

The sample makes it possible to obtain reliable information on the concrete experiences of companies applying for A1 Certificates and to identify case groups (e.g. in terms of sectors, locations etc.) in Austria, France, Germany and Italy.

Table 15: Interviews per country

	Germany	Austria	Italy	France
Businesses	21	3	5	2
Chambers	7	6	-	3
Consultancies	-	2	6	8
Other experts	1	1	11	6 ²⁰¹
Total	29	12	22	19

201 Including sectoral business associations.

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