



POSTED WORKERS TO THE NETHERLANDS

FACTS AND FIGURES

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SEO AMSTERDAM ECONOMICS



Abstract

The Netherlands is one of the main 'receiving' Member States of posted workers within the European Union (EU). It is estimated that between 207,000 and 605,000 Portable Documents (PDs) A1 (based on both Article 12 and Article 13 of Regulation (EC) No 883/2004) have been issued to the Netherlands between 2018 and 2020. Given that some posted workers are sent abroad multiple times per year, this would involve between 132.000 and 404.000 incoming posted workers. Since the introduction of the prior notification tool (*Meldloket WagwEU*), a total of 332,000 and 375,000 incoming posted workers have been notified in advance in 2020 and 2021 respectively. Since there are differences in legal base, area and scope, exemptions, enforcement and several data limitations between PDs A1 and notifications, these figures are not fully comparable and only provide a partial, and somewhat different, picture of the scale, characteristics and impact of intra-EU posting to the Netherlands.

Data from the prior notification tool shows that eight out of ten notified workers are employed in international road freight transport (78%), for whom specific posting rules apply. Almost all notified workers are employees (98%), of whom more than half are nationals from the 'sending' Member State (54%), about one tenth are citizens from other Member States (11%) and more than one third are third-country nationals from outside the European Economic Area (EEA) or Switzerland (35%). Both nationals from the sending Member State and other EU citizens are mainly Polish and Lithuanian workers sent from Poland or Lithuania, while third-country nationals are mainly Ukrainian and Belarusian workers also sent from Poland or Lithuania. The total flow of notified workers as a share of the total stock of employment in the Netherlands is 3.6% and 3.9% in 2020 and 2021 respectively, with a much higher share in road freight transport (41.7% and 38.8% respectively).

Data on the enforcement of the Regulations on the coordination of social security systems (Basic Regulation (EC) No 883/2004 and Implementing Regulation 987/2009) and of the Posting of Workers Directive (Directive 96/71/EC recently amended by Directive (EU) 2018/957) provide some insight in cross-border social fraud, which is sometimes associated with the posting of workers. In 2019, 70 inspections with regard to PDs A1 were conducted, of which in 19 cases (27%) an infringement was detected. A total of 445 (0.2%) and 539 (0.1%) PDs A1 have been withdrawn by issuing Member States at the request of the Dutch authorities in 2019 and 2020 respectively, and a multiple of outstanding withdrawal requests are still pending. In 2020, 107 inspections with regard to the Posting of Workers Directive were conducted, of which in 27 cases (25%) an infringement was detected. This is somewhat lower than the infringement rate found in inspections with regard to other aspects of labour law (43%). However, there is no information on the sectors in which the inspections were carried out and on what the type and gravity of the infringements are.

Although the COVID-19 pandemic seems to have had only a temporary effect on intra-EU posting to the Netherlands, the number of notifications via the prior notification tool, and hence the number of notified workers, is still somewhat below the predictions before the pandemic.

May 2022

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Please refer to this publication as follows:

Heyma, A., Bussink, H. & Vervliet, T. (2022). *Posted workers to the Netherlands: Facts and figures*. Leuven: POSTING.STAT project VS/2020/0499.

Information may be quoted provided the source is stated accurately and clearly.

This publication is part of the POSTING.STAT project. This project has received funding by the European Commission, DG Employment, Social Affairs and Inclusion, within the EU Programme for Employment and Social Innovation (EaSI) under the Grant Agreement No^oVS/2020/0499.

The information and views set out in this paper are those of the author(s) and do not necessarily reflect the official opinion of the European Union. Neither the European Union institutions and bodies nor any person acting on their behalf may be held responsible for the use which may be made of the information contained therein.



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Executive summary

The Netherlands is one of the main ‘receiving’ Member States of posted workers within the EU

Posted workers have become an important channel for cross-border employment within the European Union (EU). A posted worker is an employee who is sent by his employer established in one Member State (i.e., the sending or home Member State) to carry out services in another Member State (i.e., the receiving or host Member State) on a temporary basis. The Netherlands is one of the main ‘receiving’ Member States of posted workers within the EU.¹

The descriptive evidence provided at the EU level reveals only part of the administrative data available in the Netherlands on the posting of workers. This leaves several research questions unanswered and results in an omission of country-specific characteristics of intra-EU posting. This country report, which is conducted within the framework of the *POSTING.STAT* project,² aims to provide additional evidence on 1) the scale, characteristics and impact of intra-EU posting to the Netherlands; 2) the scale and characteristics of infringements related to intra-EU posting to the Netherlands; and 3) the impact of the COVID-19 pandemic on intra-EU posting to the Netherlands.

The available evidence only provides a partial picture of intra-EU posting to the Netherlands

The extent to which the research questions can be answered depends on the availability and accessibility of relevant data. In the Netherlands, data on incoming postings are collected by the Social Insurance Bank (SVB) via the Portable Documents (PDs) A1 that are received from other Member States. However, these Member States are not required to share this information. A PD A1 proves that the social security legislation of the issuing Member State applies and confirms that the person concerned has no obligations to pay social security contributions in another Member State. Additional data on intra-EU posting to the Netherlands are collected by the SVB via the prior notification tool (*Meldloket WagvEU*). Since March 2020, foreign service providers have the duty to notify their services and posted workers via an online notification portal before they start working in the Netherlands.

It should be noted that there are differences in legal base, area and scope, exemptions, enforcement and several data limitations between PDs A1 and notifications.³ When using data on PDs A1 and data from the prior notification tool and interpreting the results presented in this country report, it is important to take these differences into account. Therefore, the data from both sources are not fully comparable and only provide a partial, and somewhat different, picture of the scale, characteristics and impact of intra-EU posting to the Netherlands.

The estimated scale of intra-EU posting to the Netherlands depends on the underlying data source: PDs A1 or the prior notification tool

It is estimated that between 207,000 and 605,000 PDs A1 (based on both Article 12 and Article 13 of the Basic Regulation (BR) (Regulation (EC) No 883/2004)) have been issued to the Netherlands between 2018 and 2020.⁴ This comes down to an estimated share of 7% of the total number of PDs A1 issued by Member

¹ See, for example, De Wispelaere (2021 a).

² *POSTING.STAT* brings together a consortium of universities and research centres from 10 different Member States, supported by several European social partner organisations and public authorities. HIVA – KU Leuven is responsible for the project management and the overall coordination of the project activities. The geographical scope of the project covers the six main ‘sending’ Member States (Germany, Poland, Italy, Spain, Slovenia and Luxembourg) and the six main ‘receiving’ Member States (Germany, France, Belgium, Austria, the Netherlands and Luxembourg) of posted workers. [Link to the publications of the POSTING.STAT project.](#)

³ For example, about 9% of the notified employees in road freight transport and about 5% of the notified employees in the other sectors of employment report that they do not have a PD A1.

⁴ For persons covered under Article 12 BR, the social security legislation of the Member State where the employer normally carries out its activities continues to apply for up to 24 months. Additionally, Article 13 BR lays down special rules for persons who are normally employed, self-employed, or both employed and self-employed in two or more Member States, in order to ensure that the social security legislation of only one Member State is applicable.

States in 2018 and 2019. In 2020, this share was at least 16%, due to the relatively large increase in PDs A1 issued by Germany, while the total number of PDs A1 issued by Member States decreased in 2020.⁵ The number of PDs A1 issued is not necessarily equal to the number of persons involved. The total number of persons posted to the Netherlands with a PD A1 between 2018 and 2020 is estimated at 132,000 to 404,000, of whom 69,000 to 230,000 according to Article 12 BR and of whom 63,000 to 174,000 according to Article 13 BR. Especially workers falling under Article 12 are sent abroad multiple times per year.

Since the introduction of the prior notification tool, a total of 30,000 and 33,000 (an increase of 13%) service providers have made 238,000 and 377,000 (an increase of 58%) notifications, which involved 332,000 and 375,000 (an increase of 13%) posted workers in 2020 and 2021 respectively. These service providers include both employers (76% and 79%) and self-employed workers (24% and 21%), while the vast majority of the notified workers are employees (98%) and only a small fraction is self-employed (2%). Since an employer can send multiple employees in one year, whereas self-employed workers perform the services by themselves, the share of self-employed workers in the total number of notifications is much lower than the share of self-employed workers in the total number of service providers. The notifications include both regular notifications (20% and 23%) and annual notifications (80% and 77%). Annual notifications are made for the provision of multiple services throughout the year, while regular notifications are made for individual services, which may take shorter or longer than one year.

More than half of all notified employees are sent from Poland and Lithuania and eight out of ten is employed in international road freight transport

The largest sending Member State of notified employees in the Netherlands is Poland (37%), followed by Lithuania (15%), Germany (9%), Spain (7%), Romania (6%) and Belgium (5%). Bulgaria (3%), Portugal (3%), Hungary (2%) and Slovakia (2%) are among the largest sending Member States as well. The remaining notified employees (9%) come from 53 other countries. Eight out of ten notified employees are employed in international road freight transport (79%), for whom specific posting rules apply. This relatively large representation of road freight transport in the total number of notified employees might reflect some sector-specific characteristics. For example, the average number of notifications per employer is almost twice as high as in the other sectors of employment (15.7 versus 8.0), while the average number of notified employees per notification is somewhat lower (1.0 versus 1.4). Moreover, notifications only reflect the intention to provide services in a particular year, but not necessarily the actual provision of these services. Besides road freight transport, the largest sectors of employment are construction (7%) and manufacturing (6%), followed by transportation and storage (excl. road freight transport) (3%), agriculture, forestry and fishing (2%) and renting and leasing (1%). The remaining notified employees (3%) work in 16 other sectors of employment.

About one third of all notified employees are third-country nationals, mainly from Ukraine and Belarus and sent from Poland and Lithuania

At the moment, there is discussion about the growing number of third-country nationals who are posted to the Netherlands. This discussion mainly revolves around the social rights and rules for third-country nationals, but a quantitative insight into the scale and the characteristics of this group is still incomplete. More than half of the notified employees is a national from the sending Member State (198,000 or 54%).⁶ About one tenth of the notified employees consists of citizens from other Member States (excl. nationals) (42,000 or 11%), mainly from Poland, Lithuania, Romania, Bulgaria, Hungary and Croatia, and sent from another Member State. The remaining one third of the notified employees consists of third-country nationals (128,000 or 35%), mainly from Ukraine (72,000) and Belarus (30,000) and sent from Poland and Lithuania. When road freight transport is not taken into account, both the share of nationals (59%) and other EU citizens (18%) is somewhat higher, while the share of third-country nationals (22%) is much lower.

⁵ It is unclear what the reasons are behind this large increase in PDs A1 issued by Germany, it may well be due to administrative adjustments.

⁶ A national from the sending Member State refers to posted workers for whom their nationality is the same as the Member State of establishment of the employer.

Employees from Russia, Moldavia, Georgia, Kyrgyzstan and Uzbekistan also constitute a substantial share of the notified third-country nationals who are sent from Poland and Lithuania. Third-country nationals who are sent from other Member States are mainly from Ukraine, Bosnia and Herzegovina, Serbia, Morocco, Belarus and the Philippines.

The share of notified workers in total employment is the largest in road freight transport, followed by energy supply and construction

The total flow of notified workers as a share of the total stock of employment in the Netherlands is 3.6% and 3.9% in 2020 and 2021 respectively, with a much higher share in road freight transport (41.7% and 38.8% respectively). Besides road freight transport, the largest share of workers are notified in electricity, gas, steam and air conditioning supply (7.1%), construction (6.6%), agriculture, forestry and fishing (3.3%), manufacturing (3.0%) and mining and quarrying (2.8%). The limited share of notified workers in agriculture is somewhat remarkable given the relatively large share of labour migrants in Dutch (greenhouse) horticulture. However, those labour migrants may work mainly for Dutch employment agencies, so they are not classified as a posted worker. Overall, these shares give an idea of the relative impact of intra-EU posting on the Dutch labour market. However, when comparing the number of notified workers measured over a full year (flow) with the total employment in the Netherlands measured at one specific moment during the year (stock), the impact on the labour market may result in a slight overestimation. Additionally, the impact of intra-EU posting may also be overestimated if posted workers work less hours on average than regular workers in the Netherlands.

The prior notification tool provides an important instrument to assess compliance with the Posting of Workers Directive

Posting of workers is sometimes associated with cross-border social fraud, also called ‘social dumping’. Inspections on the labour and social security aspects of the posting of workers are mainly carried out by the Social Insurance Bank (*Sociale Verzekeringsbank, SVB*) and the Netherlands Labour Authority (*Nederlandse Arbeidsinspectie, NLA*), which are both part of the Ministry of Social Affairs and Employment (*SZW*). The use of inspection data has limitations that should be taken into account when interpreting the results. Inspection data necessarily gives a limited and selective view of the real share of posting and cross-border social fraud, since inspections will mostly take place based on a risk assessment focused on specific ‘risk sectors’. These risk-based inspections likely yield higher infringement rates and may therefore give a selected view of the actual scale and characteristics of infringements related to intra-EU posting to the Netherlands.

The SVB focusses on the enforcement of PDs A1 of incoming posted workers that are received from the competent authorities in the issuing Member States. In 2019, 70 inspections with regard to PDs A1 were conducted, of which in 19 cases (27%) an infringement was detected. A total of 445 (0.2%) and 539 (0.1%) PDs A1 have been withdrawn by issuing Member States at the request of the Dutch authorities in 2019 and 2020 respectively, and a multiple of outstanding withdrawal requests are still pending. The NLA supervises compliance with several labour laws and regulations, including the Posting of Workers Directive (Directive 96/71/EC recently amended by Directive (EU) 2018/957). The prior notification tool is an important instrument to assess the compliance of employers with this directive. In 2020, 107 inspections with regard to the Posting of Workers Directive were conducted, of which in 27 cases (25%) an infringement was detected. This is somewhat lower than the infringement rate found in inspections with regard to other aspects of labour law (43%). However, there is no information on the sectors in which the inspections were carried out and on what the type and gravity of the infringements are.

The COVID-19 pandemic seems to have had only a temporary effect on intra-EU posting to the Netherlands

The COVID-19 pandemic seems to have had only a temporary effect on intra-EU posting to the Netherlands, although the counterfactual development of incoming posted workers is not known. Between January and February 2020, the number of notifications quickly increased in anticipation to the notification

requirement of the Posting of Workers Directive, which was implemented in March 2020. However, between March and July 2020, this increase was interrupted by the start of the first lockdown presumably, when restrictions on cross-border movements were introduced and several sectors were closed down (which also had an effect on the sectors in which posted workers are employed). Between August and September 2020, when the restrictions started to be eased, a catching-up growth in the number of notifications seems to have taken place. Following the catching-up growth, the number of notifications started to stabilize between October and December 2020. In 2021, the second and third lockdown seem to have had no significant impact on the number of notifications. However, both in 2020 and 2021, the total number of notifications (238,000 and 377,000 respectively) was still below the predicted figure of 450,000 notifications.

The discussion on the posting of workers could benefit from better data collection and exchange for research purposes

This country report provides a first descriptive analysis of intra-EU posting to the Netherlands based on aggregated data from the Dutch prior notification tool as well as on data from public reports on PDs A1 issued by Member States. Although this gives a first quantitative insight into this phenomenon, additional research is necessary to obtain a more detailed and reliable picture of the scale, characteristics and impact of intra-EU posting to the Netherlands. This seems particularly relevant in light of the growing number of posted workers that provide services to the Netherlands and the current policy discussion about the need for and benefits of foreign workers in the Netherlands. Furthermore, future (policy) research could benefit from better data collection and exchange with regard to the posting of workers. For example, by providing the administrative microdata from the prior notification tool through the Remote Access (RA) facilities of Statistics Netherlands (*Centraal Bureau voor de Statistiek, CBS*). This would make the data widely accessible for research purposes and allows for linking information from other data sources. This would enrich the analyses and contribute to the discussion on the posting of workers.

Samenvatting

Nederland is een van de belangrijkste ‘ontvangende’ lidstaten van gedetacheerde werknemers binnen de EU

Gedetacheerde werknemers zijn uitgegroeid tot een belangrijk kanaal voor grensoverschrijdende arbeid binnen de Europese Unie (EU). Een gedetacheerde werknemer is een werknemer die door een werkgever gevestigd in de ene lidstaat (de zendende lidstaat of thuislidstaat) wordt gedetacheerd om op tijdelijke basis diensten te verrichten in een andere lidstaat (de ontvangende lidstaat of gastlidstaat). Nederland is een van de belangrijkste ‘ontvangende’ lidstaten van gedetacheerde werknemers binnen de EU.⁷

De beschrijvende informatie die op EU-niveau beschikbaar is, laat slechts een deel van de administratieve gegevens zien die in Nederland beschikbaar zijn over de detachering van werknemers. Hierdoor blijven verschillende onderzoeksvragen onbeantwoord en worden landspecifieke kenmerken van intra-EU-detachering veelal buiten beschouwing gelaten. Dit landenrapport, dat is opgesteld in het kader van het *POSTING.STAT*-project,⁸ is bedoeld om aanvullende informatie te geven over 1) de omvang, kenmerken en impact van intra-EU-detachering naar Nederland; 2) de omvang en kenmerken van overtredingen bij intra-EU-detachering naar Nederland; en 3) de impact van de COVID-19-pandemie op intra-EU-detachering naar Nederland.

De beschikbare gegevens geven een onvolledig beeld van de intra-EU-detachering naar Nederland

In hoeverre de onderzoeksvragen kunnen worden beantwoord, hangt af van de beschikbaarheid en toegankelijkheid van relevante gegevens. In Nederland worden gegevens over inkomende detacheringen verzameld door de Sociale Verzekeringsbank (SVB) in de vorm van A1-verklaringen die worden ontvangen van andere lidstaten. Deze lidstaten zijn echter niet verplicht om deze informatie te delen. Een A1-verklaring bewijst dat de socialezekerheidswetgeving van de afgevendende lidstaat van toepassing is en bevestigt dat de betrokkene geen socialezekerheidsbijdragen in een andere lidstaat hoeft te betalen. Aanvullende gegevens over intra-EU-detachering naar Nederland worden door de SVB verzameld via het *Meldloket WagwEU*. Sinds maart 2020 zijn buitenlandse dienstverleners verplicht hun werkzaamheden en gedetacheerde werknemers via een online meldloket te melden voordat ze in Nederland aan de slag gaan.

Er dient opgemerkt te worden dat er verschillen bestaan tussen A1-verklaringen en meldingen wat betreft de rechtsgrondslag, het rechtsterrein en -bereik, vrijstellingen, handhaving en diverse databeperkingen. Bij het gebruik van gegevens over A1-verklaringen en meldloketgegevens en bij de interpretatie van de resultaten die in dit landenrapport worden gepresenteerd, moet rekening worden gehouden met deze verschillen. De gegevens uit beide databronnen zijn niet volledig vergelijkbaar en geven slechts een beperkt, en enigszins verschillend, beeld van de omvang, kenmerken en impact van intra-EU-detachering naar Nederland.

De geschatte omvang van intra-EU-detachering naar Nederland hangt af van de onderliggende databron: A1-verklaringen of het *Meldloket WagwEU*

Naar schatting zijn er tussen 2018 en 2020 tussen de 207.000 en 605.000 A1-verklaringen (zowel op grond van artikel 12 als artikel 13 van de basisverordening (BV) (Verordening (EG) nr. 883/2004)) voor Nederland

⁷ Zie bijvoorbeeld De Wispelaere (2021a).

⁸ *POSTING.STAT* brengt een consortium van universiteiten en onderzoekscentra uit 10 verschillende lidstaten samen, gesteund door verscheidene Europese sociale partnerorganisaties en overheidsinstanties. HIVA - KU Leuven is verantwoordelijk voor het projectbeheer en de algemene coördinatie van de projectactiviteiten. Het geografische toepassingsgebied van het project omvat de zes belangrijkste ‘zendende’ lidstaten (Duitsland, Polen, Italië, Spanje, Slovenië en Luxemburg) en de zes belangrijkste ‘ontvangende’ lidstaten (Duitsland, Frankrijk, België, Oostenrijk, Nederland en Luxemburg) van gedetacheerde werknemers. [Link naar de publicaties van het POSTING.STAT-project.](#)

afgegeven.⁹ Dit komt neer op een geschat aandeel van 7% van het totale aantal A1-verklaringen dat in 2018 en 2019 door de lidstaten is afgegeven. In 2020 bedroeg dit aandeel ten minste 16%, door de relatief grote toename van het aantal door Duitsland afgegeven A1-verklaringen, terwijl het totale aantal door de lidstaten afgegeven A1-verklaringen in 2020 juist afnam.¹⁰ Het aantal afgegeven A1-verklaringen is niet noodzakelijkerwijs gelijk aan het aantal betrokken personen. Het totaal aantal personen dat tussen 2018 en 2020 met een A1-verklaring naar Nederland werd gedetacheerd, wordt geschat op 132.000 tot 404.000, waarvan 69.000 tot 230.000 detacheringen op grond van artikel 12 BV en 63.000 tot 174.000 op grond van artikel 13 BV. Voornamelijk werknemers die onder artikel 12 vallen worden meerdere keren per jaar naar het buitenland gedetacheerd.

Sinds de invoering van het *Meldloket WagvEU* hebben in respectievelijk 2020 en 2021 in totaal 30.000 en 33.000 (een toename van 13%) dienstverleners 238.000 en 377.000 (een toename van 58%) meldingen gedaan, waarbij 332.000 en 375.000 (een toename van 13%) gedetacheerde werkenden betrokken waren. Onder deze dienstverleners bevinden zich zowel werkgevers (76% en 79%) als zelfstandigen (24% en 21%), terwijl de gemelde werkenden in overgrote meerderheid werknemers zijn (98%) en slechts voor een klein deel zelfstandigen (2%). Aangezien een werkgever in één jaar meerdere werknemers kan detacheren, terwijl zelfstandigen de diensten zelf verrichten, is het aandeel zelfstandigen in het totale aantal meldingen veel lager dan het aandeel zelfstandigen in het totale aantal dienstverleners. Bij de meldingen gaat het om zowel reguliere meldingen (20% en 23%) als jaarmeldingen (80% en 77%). Jaarmeldingen worden gedaan voor de levering van meerdere diensten gedurende het hele jaar, terwijl reguliere meldingen betrekking hebben op afzonderlijke diensten, die korter of langer dan een jaar kunnen duren.

Meer dan de helft van de gemelde werknemers wordt gedetacheerd vanuit Polen en Litouwen en acht op de tien is werkzaam in het internationale wegtransport

De grootste zendende lidstaat van gemelde werknemers in Nederland is Polen (37%), gevolgd door Litouwen (15%), Duitsland (9%), Spanje (7%), Roemenië (6%) en België (5%). Bulgarije (3%), Portugal (3%), Hongarije (2%) en Slowakije (2%) behoren ook tot de grootste zendende lidstaten. De overige gemelde werknemers (9%) zijn afkomstig uit 53 andere landen. Acht op de tien gemelde werknemers is werkzaam in het internationale wegtransport (78%), voor wie specifieke detacheringsregels gelden. De relatief grote vertegenwoordiging van het wegtransport in het totaal aantal gemelde werknemers weerspiegelt mogelijk een aantal sectorspecifieke kenmerken. Zo is het gemiddeld aantal meldingen per werkgever bijna twee keer zo hoog als in de andere sectoren (15,7 versus 8,0), terwijl het gemiddeld aantal gemelde werknemers per melding iets lager ligt (1,0 versus 1,4). Bovendien geven meldingen alleen de intentie weer om in een bepaald jaar diensten te verlenen, maar niet noodzakelijk de daadwerkelijke levering van deze diensten. Naast het wegtransport zijn de bouw (7%) en de industrie (6%) de belangrijkste sectoren, gevolgd door vervoer en opslag (m.u.v. wegtransport) (3%), landbouw, bosbouw en visserij (2%) en verhuur en leasing (1%). De resterende gemelde werknemers (3%) zijn werkzaam in 16 andere sectoren.

Ongeveer een derde van alle gemelde werknemers zijn derdelanders, voornamelijk afkomstig uit Oekraïne en Belarus en gedetacheerd vanuit Polen en Litouwen

Momenteel is er discussie over het groeiend aantal derdelanders dat in Nederland wordt gedetacheerd. Deze discussie gaat vooral over de sociale rechten en regels voor derdelanders, maar een kwantitatief inzicht in de omvang en kenmerken van deze groep is nog onvolledig. Meer dan de helft van de gemelde werknemers is een ingezetene van de zendende lidstaat (198.000 of 54%)¹¹. Ongeveer een tiende van de gemelde

⁹ Voor personen die onder artikel 12 BV vallen, blijft gedurende maximaal 24 maanden de socialezekerheidswetgeving van de lidstaat waar de werkgever gewoonlijk zijn werkzaamheden verricht van toepassing. Daarnaast bevat artikel 13 BV speciale regels voor personen die gewoonlijk werknemer, zelfstandige of zowel werknemer als zelfstandige zijn in twee of meer lidstaten, om te verzekeren dat de socialezekerheidswetgeving van slechts één lidstaat van toepassing is.

¹⁰ Het is onduidelijk wat de redenen zijn voor deze grote stijging van het aantal door Duitsland afgegeven A1-verklaringen. Het is goed mogelijk dat die het gevolg is van administratieve veranderingen.

¹¹ Een ingezetene van de zendende lidstaat verwijst naar gedetacheerde werknemers voor wie hun nationaliteit hetzelfde is als de lidstaat waar de werkgever gevestigd is.

werknemers bestaat uit ingezetenen van andere lidstaten (42.000 of 11%), voornamelijk afkomstig uit Polen, Litouwen, Roemenië, Bulgarije, Hongarije en Kroatië, en gedetacheerd vanuit een andere lidstaat. Het resterende een derde deel van de gemelde werknemers bestaat uit derdelanders (128.000 of 35%), voornamelijk afkomstig uit Oekraïne (72.000) en Belarus (30.000), en gedetacheerd vanuit Polen en Litouwen. Wanneer het wegtransport buiten beschouwing wordt gelaten, is zowel het aandeel ingezetene van de zendende lidstaat (59%) als andere EU-ingezetenen (18%) enigszins hoger, terwijl het aandeel derdelanders (22%) veel lager is. Werknemers uit Rusland, Moldavië, Georgië, Kirgizië en Oezbekistan vormen ook een aanzienlijk deel van de gemelde derdelanders die vanuit Polen en Litouwen worden gedetacheerd. Derdelanders die vanuit andere lidstaten worden gedetacheerd, komen voornamelijk uit Oekraïne, Bosnië en Herzegovina, Servië, Marokko, Belarus en de Filipijnen.

Het aandeel gemelde werkenden in de totale werkgelegenheid is het grootst in het wegtransport, gevolgd door de energievoorziening en bouwnijverheid

Het aandeel gemelde werkenden in de totale werkgelegenheid in Nederland ligt in respectievelijk 2020 en 2021 op 3,6% en 3,9%, met een veel groter aandeel in het wegtransport (respectievelijk 41,7% en 38,8%). Afgezien van het wegtransport worden de grootste aandelen werkenden gemeld in de energievoorziening (7,1%), de bouwnijverheid (6,6%), landbouw, bosbouw en visserij (3,3%), industrie (3,0%) en delfstoffenwinning (2,8%). Het beperkte aandeel gemelde werkenden in de landbouw is enigszins opmerkelijk gezien het relatief grote aandeel arbeidsmigranten in de Nederlandse (glas)tuinbouw. Deze arbeidsmigranten werken mogelijk voornamelijk voor Nederlandse uitzendbureaus en worden in dat geval niet als gedetacheerde werknemer aangemerkt. Over het algemeen geven deze aandelen een idee van de relatieve impact van intra-EU-detachering op de Nederlandse arbeidsmarkt. Het vergelijken van het aantal gemelde werkenden in een volledig jaar (stroom) met de totale werkgelegenheid in Nederland op één specifiek moment in het jaar (voorraad), kan echter resulteren in een lichte overschatting van het effect op de arbeidsmarkt. Daarnaast kan het effect van intra-EU-detachering ook worden overschat als gedetacheerde werkenden gemiddeld minder uren werken dan reguliere werkenden in Nederland.

Het Meldloket WagwEU is een belangrijk instrument om op de naleving van de detachingsrichtlijn toe te zien

Detachering van werknemers wordt soms in verband gebracht met grensoverschrijdende sociale fraude, ook wel ‘sociale dumping’ genoemd. Inspecties van de arbeids- en socialezekerheidsaspecten van de detachering van werknemers worden voornamelijk uitgevoerd door de Sociale Verzekeringsbank (SVB) en de Nederlandse Arbeidsinspectie (NLA), die beide deel uitmaken van het ministerie van Sociale Zaken en Werkgelegenheid (SZW). Het gebruik van inspectiegegevens kent echter beperkingen waarmee bij de interpretatie van de resultaten rekening moet worden gehouden. Inspectiegegevens geven noodzakelijk een beperkt en selectief beeld van het werkelijke aandeel van detachering en grensoverschrijdende sociale fraude, omdat inspecties meestal plaatsvinden op basis van een risicobeoordeling die is gericht op specifieke ‘risicosectoren’. Deze risicogebaseerde inspecties resulteren waarschijnlijk in hogere overtredingspercentages en kunnen daarom een vertekend beeld geven van de werkelijke omvang en kenmerken van overtredingen die verband houden met intra-EU-detachering naar Nederland.

De SVB richt zich op de handhaving van A1-verklaringen van inkomende gedetacheerde werknemers die worden ontvangen van de bevoegde autoriteiten in de uitgevende lidstaten. In 2019 zijn 70 controles van A1-verklaringen uitgevoerd, waarbij in 19 gevallen (27%) een overtreding is geconstateerd. In totaal zijn in 2019 en 2020 respectievelijk 445 (0,2%) en 539 (0,1%) A1-verklaringen door de uitgevende lidstaten ingetrokken op verzoek van de Nederlandse autoriteiten, terwijl nog meer uitstaande intrekkingverzoeken in behandeling zijn. De NLA houdt toezicht op de naleving van diverse arbeidswetten en -regels, waaronder de detachingsrichtlijn (Richtlijn 96/71/EG en Richtlijn (EU) 2018/957). Het Meldloket WagwEU is een belangrijk instrument om op de naleving van deze richtlijn door werkgevers toe te zien. In 2020 zijn 107 inspecties met betrekking tot de detachingsrichtlijn uitgevoerd, waarbij in 27 gevallen (25%) een overtreding is geconstateerd. Dit is iets lager dan het overtredingspercentage dat werd vastgesteld bij

inspecties van andere aspecten van het arbeidsrecht (43%). Er is echter geen informatie beschikbaar over de sectoren waarin de inspecties uitgevoerd zijn en over de aard en de ernst van de overtredingen.

De COVID-19-pandemie lijkt slechts een tijdelijk effect te hebben gehad op de intra-EU-detachering naar Nederland

De COVID-19-pandemie lijkt slechts een tijdelijk effect te hebben gehad op de intra-EU-detachering naar Nederland, hoewel de ontwikkeling van het aantal inkomende gedetacheerde werknemers in de afwezigheid van de pandemie onbekend is. Tussen januari en februari 2020 nam het aantal meldingen snel toe, vooruitlopend op de meldingsplicht in het kader van de detacheringsrichtlijn, die in maart 2020 geïmplementeerd werd. Tussen maart en juli 2020 werd deze stijging echter onderbroken. Vermoedelijk was dit het gevolg van het begin van de eerste lockdown, toen beperkingen op grensoverschrijdend verkeer werden ingevoerd en verschillende sectoren stil kwamen te liggen (wat ook gevolgen had voor de sectoren waarin gedetacheerde werknemers werkzaam zijn). Tussen augustus en september 2020, toen begonnen werd met het versoepelen van de beperkingen, lijkt zich een inhaalslag in het aantal meldingen te hebben voorgedaan. Na deze toename begon het aantal meldingen zich tussen oktober en december 2020 te stabiliseren. De tweede en derde lockdown in 2021 lijken geen grote invloed te hebben gehad op het aantal meldingen. Zowel in 2020 als in 2021 lag het totale aantal meldingen (respectievelijk 238.000 en 377.000) echter nog onder het voorspelde aantal van 450.000 meldingen.

De discussie rondom de detachering van werknemers kan worden versterkt door een betere dataverzameling en -uitwisseling voor onderzoeksdoeleinden

Dit landenrapport biedt een eerste beschrijvende analyse van intra-EU detacheringen naar Nederland op basis van geaggregeerde gegevens uit het *Meldloket WagvEU* en openbare rapportages over A1-verklaringen die zijn afgegeven door lidstaten. Alhoewel dit een eerste kwantitatief inzicht in dit fenomeen geeft, is aanvullend onderzoek nodig om een gedetailleerder en betrouwbaarder beeld te krijgen van de omvang, de kenmerken en de impact van intra-EU detachering naar Nederland. Dit lijkt bijzonder relevant in het licht van het groeiende aantal gedetacheerde werknemers dat diensten verleent aan Nederland en de huidige beleidsdiscussie over de behoefte aan en voordelen van buitenlandse werknemers in Nederland. Verder heeft toekomstig (beleids)onderzoek baat bij een betere dataverzameling en – uitwisseling van gegevens met betrekking tot intra-EU detachering. Bijvoorbeeld door de administratieve microdata uit het *Meldloket WagvEU* beschikbaar te stellen via de Remote Access (RA) faciliteiten van het Centraal Bureau voor de Statistiek (CBS). Dit maakt de gegevens breed toegankelijk voor onderzoeksdoeleinden en maakt het mogelijk om informatie uit andere databronnen te koppelen. Dit zou de analyses verrijken en de discussie rondom de detachering van werknemers versterken.

1. Introduction

1.1 Background

Posted workers have become an important channel for cross-border employment within the European Union (EU). A posted worker is an employee who is sent by his employer established in one Member State (i.e., the sending or home Member State) to carry out services in another Member State (i.e., the receiving or host Member State) on a temporary basis. The Netherlands is one of the main ‘receiving’ Member States of posted workers within the EU.¹² The vast majority of posted workers to the Netherlands is employed in international road freight transport – according to data from the recently implemented prior notification tool (*Meldloket WagnEU*).¹³ The current discussion about the posting of workers mainly revolves around the social rights and rules for posted workers – as set out in the recently amended Posting of Workers Directive (Directive 96/71/EC amended by Directive (EU) 2018/957) – and infringements of these rights and rules.¹⁴ For posted workers who are employed in the European road transport sector,¹⁵ a specific set of rules apply that depend on the particular transport operation (Directive (EU) 2020/1057).¹⁶ Additionally, there is discussion about the growing number of third-country nationals from outside the European Economic Area (EEA) or Switzerland who are posted within the EU, including the Netherlands.¹⁷ However, a quantitative insight into the scale, characteristics and impact of intra-EU posting is still fragmented and incomplete. Additional descriptive evidence at the national level could provide a better insight into this phenomenon and further guide the discussion on intra-EU posting.

1.2 Research questions

The descriptive evidence provided at the EU level reveals only part of the administrative data available in the Netherlands on the posting of workers.¹⁸ The objective of this country report is to discuss this evidence and complement it with additional administrative data from the competent Dutch authorities. This will provide a more detailed picture of the phenomenon of intra-EU posting to the Netherlands. The research questions that are covered in this country report are:

1. What are the scale, characteristics, and impact of intra-EU posting to the Netherlands? (*Chapter 2*)
2. What are the scale and characteristics of infringements related to intra-EU posting to the Netherlands? (*Chapter 3*)
3. What has been the impact of the COVID-19 pandemic on intra-EU posting to the Netherlands? (*Chapter 4*)

For the first research question (*Chapter 2*), the main focus is on the volume of incoming posted workers, the countries where foreign service providers are established and where the posted workers are sent from, the sectors in which these posted workers are employed, the nationality of incoming posted workers, and the average duration of the posting activities. Additional attention is paid to the impact of intra-EU posting on the Dutch labour market in terms of total employment as well as on the import of services in the Dutch road freight transport sector.

¹² See, for example, De Wispelaere (2021a).

¹³ See <https://english.postedworkers.nl/online-notification-portal> and <https://meldloket.postedworkers.nl/>.

¹⁴ See, for example, Van Nuffel & Afanasjeva (2019) and Rocca (2019).

¹⁵ It is estimated that a third of all international transport operations in the EU are subject to the Posting of Workers Directive (Directive 96/71/EC) as EU-13 hauliers carry out considerably more cross-trade and cabotage operations (De Smedt & De Wispelaere, 2020).

¹⁶ See, for example, Bednarowicz & Zwanenburg (2019) and Van Overbeeke (2021).

¹⁷ See, for example, Lens et al. (2021) and Cremers (2021).

¹⁸ See the annual reports that provide data on PDs A1 (De Wispelaere, 2019, 2020, 2021a) and the annual report that provide data from the prior notification tools (De Wispelaere, 2021b). See also the report on infringements related to the issuance of PDs A1 (Jorens & De Coninck, 2019).

The second objective is to obtain a better view on the scale and characteristics of infringements related to intra-EU posting to the Netherlands (*Chapter 3*). The posting of workers is sometimes associated with cross-border social fraud, also called ‘social dumping’.¹⁹ Currently, little administrative data from labour authorities on the volume and type of infringements related to intra-EU posting is publicly available. The aim is to provide information on the inspections and other activities that are carried out by the Social Insurance Bank (*Sociale Verzekeringsbank, SVB*) and the Netherlands Labour Authority (*Nederlandse Arbeidsinspectie, NLA*) with regard to compliance with posting rules as well as the results of these activities.²⁰

The third and final objective of this report is to assess the impact of the COVID-19 pandemic on intra-EU posting to the Netherlands (*Chapter 4*). There is a lack of timely and accurate data at the EU level on the impact of COVID-19 on all kind of forms of intra-EU labour mobility. The available monthly data on the development of the number of incoming posted workers to the Netherlands during the COVID-19 pandemic provides insight into the pandemic’s impact on intra-EU posting to the Netherlands.

1.3 Research methodology

In order to answer the research questions, a descriptive analysis of the available administrative data on intra-EU posting to the Netherlands from the competent authorities is conducted.

1.3.1 Data availability

The extent to which the research questions can be answered depends on the availability and accessibility of relevant data. This is not trivial as the data collection on the posting of workers is still in its early stages in many Member States, including the Netherlands. Despite the availability of administrative microdata at the national level, this data is not directly accessible due to the General Data Protection Regulation (GDPR), which requires a valid legal basis for processing the data.

In the Netherlands, data on incoming postings are collected via the Portable Documents (PDs) A1 that are received from other Member States, who are not required to share this information. A PD A1 proves that the social security legislation of the issuing Member State applies and confirms that the person concerned has no obligations to pay social security contributions in another Member State. The form is generally required for employers or intermediaries based outside of the Netherlands who intend to have an employee working for them in the Netherlands on a temporary basis and for self-employed workers on assignment in the Netherlands, while based in their own country (*see subsection 1.3.1.1*).²¹ The registration of PDs A1 may be shared between competent authorities within the EU and are received by the SVB in the Netherlands. Additional data on intra-EU posting to the Netherlands is collected via the prior notification tool (*Meldloket WagnEU*), which is also technically administered by the SVB. Since March 2020, foreign service providers have a duty to notify their work and posted workers via an online notification portal before they start working in the Netherlands (*see subsection 1.3.1.2*).²²

This country report is mainly based on aggregated data from the Dutch prior notification tool for the reference years 2020 and 2021, as well as on data from public reports on PDs A1 issued by Member States in the reference years 2018, 2019 and 2020.²³ Unfortunately, it was not possible to directly access and analyze administrative microdata on PDs A1 issued to the Netherlands and from the prior notification tool within the timeframe of this research project due to GDPR-regulations. Instead, aggregated data from the prior notification tool for the reference years 2020 and 2021 was provided by the Dutch Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid, SZW*). The public reports on PDs A1 uses administrative data on PDs A1 issued by Member States. Based on both data sources, it is possible to provide

¹⁹ See, for example, Cremers et al. (2007), Cremers (2016) and Novitz & Andrijasevic (2020).

²⁰ Before 2022, the Netherlands Labour Authority (NLA) was called the Inspectorate SZW (*Inspectie SZW*).

²¹ The legal framework of PDs A1 is discussed in more detail by De Wispelare et al. (2021a).

²² The use of prior notifications tools by Member States is discussed in more detail by De Wispelaere et al. (2021b).

²³ See De Wispelaere et al. (2019, 2020, 2021a).

an answer to the research question about the scale, characteristics, and impact of intra EU-posting to the Netherlands (*Chapter 2*) and the one related to the impact of the COVID-19 pandemic on intra-EU posting to the Netherlands (*Chapter 4*). However, both data sources have their limitations, which should be taken into account when interpreting the results of this country report (see *subsection 1.3.2*).

In order to obtain a view on the scale and characteristics of infringements related to intra-EU posting to the Netherlands (*Chapter 3*), information on inspections and other activities with regard to compliance with posting rules is gathered from the annual reports of the SVB and NLA and from parliamentary briefings related to the posting of workers. Additional information is gathered from interviews with the NLA and during the working group on Cross-border Enforcement, in which SZW, the NLA, the Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen, UWV*), and the Dutch Tax and Customs Administration (*Belastingdienst*) discuss joint efforts on several enforcement issues, including those with regard to the posting of workers.

1.3.1.1 Legal framework of Portable Documents A1

According to the Social Security Coordination (SSC) regulations, the social security legislation of the Member State in which an employee or self-employed worker is employed applies.²⁴ However, for persons covered by Article 12 of the Basic Regulation (BR) (Regulation (EC) No 883/2004), there is an exception to this principle given that the social security legislation of the Member State where the employer normally carries out its activities continues to apply for up to 24 months. The purpose of this provision is to avoid an administrative burden for workers, employers and social security institutions when temporary services are provided abroad. In addition, it protects posted workers by keeping their insurance record stable. Furthermore, Article 13 of the Basic Regulation lays down special rules for persons who are normally employed, self-employed, or both employed and self-employed in two or more Member States, in order to ensure that the social security legislation of only one Member State is applicable. Finally, Article 16 (1) of the Basic Regulation permits the competent authorities of two or more Member States to reach agreements dealing with exceptions to the rules governing the applicable legislation.

1.3.1.2 Description of the prior notification tool

Following the revised Posting of Workers Directive, the Netherlands imposed a notification requirement for foreign service providers and implemented a prior notification tool for incoming posting activities. Since March 2020, employers and self-employed workers from other countries within the European Economic Area (EEA) or Switzerland have to electronically notify their posting services via the online notification tool: *Meldloket WagvEU* (<https://meldloket.postedworkers.nl/>), which is technically administered by the SVB. This notification requests the information that is listed in Article 9 (1) (a) of the Enforcement Directive (Directive 2014/67/EU), including:

- the identity of the service provider;
- the anticipated number of clearly identifiable posted workers;
- the identity of the person to liaise with the competent authorities in the host Member State in which the services are provided and to send out and receive documents and/or notices, if need be;
- the identity of the contact person acting as a representative through whom the relevant social partners may seek to engage the service provider to enter into collective bargaining within the host Member State, in accordance with national law and/or practice, during the period in which the services are provided;
- the anticipated duration, and the envisaged beginning and end data of the posting;
- the address(es) of the workplace; and
- the nature of the service justifying the posting.

²⁴ The Social Security Coordination (SSC) regulations include Regulation (EC) No 883/2004 and Regulation (EC) 987/2009.

The prior notification tool may assist the competent authorities in identifying both posted employees and self-employed workers. In the Netherlands, self-employed workers are only required to notify if they are active in one of the following sectors: construction, cleaning, food industry, metal industry, healthcare, window-cleaning, agriculture and horticulture. Additionally, certain posting activities that have a limited duration are exempted from notification. For example, there is no duty to report that employees are working on an assignment in the Netherlands if the employees perform certain types of occasional work, such as participating in business meetings, carrying out urgent maintenance or repairs or attending conferences. If one of the following situations applies, the foreign service providers has a limited reporting obligation. First, the service provider has a small business (0-9 employees), is established within 100 km of the Dutch border, and regularly takes on assignments in the Netherlands in a sector for which a duty to report applies. Second, the service provider is a self-employed foreign national, established within 100 km of the Dutch border, and regularly takes on assignments in the Netherlands in a sector for which the duty to report applies. Third, the foreign service provider (both employers and self-employed) is active in road freight transport and carries out cross-trade or cabotage operations. In these cases, they only need to report activities once a year.²⁵

Since February 2022, service providers in road freight transport who fall under the specific rules on the posting of drivers (Directive (EU) 2020/1057) can declare their posting activities via the Road transport posting declaration portal (<https://www.postingdeclaration.eu/landing>) instead of the national notification tools. This will likely have large consequences for the Dutch prior notification tool once the Posting of Drivers Directive is implemented in Dutch law, which is expected for 2023. Nevertheless, there are still some transport operations for which service providers remain under obligation to notify their services and posted drivers via the prior notification tool.

Box 1. Explanation of the concepts of the prior notification tool

An understanding of the different concepts of the prior notification tool is crucial for the interpretation of the data that is presented in this country report:

- **Service provider:** An employer who sends posted workers to provide services or a self-employed worker who provides services in the host Member State;
- **Notification:** A notification made by a service provider using the prior notification tool of the host Member State. In the Netherlands, a single notification may include only one posting activity, but several posted workers;
- **Posting activities:** The period of time during which a worker is posted by the service provider to temporarily work abroad. A worker can be posted several times a year;
- **Posted worker:** An employee or self-employed worker registered in the prior notification tool who has worked at least one day in the reference year as a posted worker in the host Member State. It is possible that the worker has been posted several times during the reference year. In that case, the worker should only be counted once as a posted worker.

An example: On March 1st, a service provider makes a declaration in the Dutch prior notification tool. The notification includes 10 posted workers. On September 1st, the same service provider makes another declaration in the Dutch prior notification tool regarding services performed by the same 10 workers. As a result, two notifications, two posting activities and 10 posted workers will be counted for this service provider in the reference year.

²⁵ This arrangement does not apply to temporary employment agencies.

1.3.2 Data limitations

When using and interpreting data on PDs A1 and from the prior notification tool, it is important to take into account their differences in terms of legal base, area and scope, exemptions and enforcement (see *Table 1*). Moreover, there are several limitations on using data on PDs A1 (see *subsection 1.3.2.1*) and from the prior notification tool (see *subsection 1.3.2.2*), which are also important to take into account when interpreting the results of this country report. The data from both sources therefore only provide a partial, and somewhat different, picture of the scale, characteristics and impact of intra-EU posting to the Netherlands.

Table 1. Limitations of using data on PDs A1 and from the prior notifications tool

	Data from PDs A1	Data from the prior notification tool
Legal base	<ul style="list-style-type: none"> Basic Regulation (EC) No 883/2004 Implementing Regulation (EC) No 987/2009 	<ul style="list-style-type: none"> Directive 2014/67/EU Directive 96/71/EC
Area	<ul style="list-style-type: none"> Social security 	<ul style="list-style-type: none"> Terms and conditions of employment
Scope	<ul style="list-style-type: none"> Determined by Article 12 BR 	<ul style="list-style-type: none"> Determined by Article 3(1) of the Posting of Workers Directive
Exempted	<ul style="list-style-type: none"> Persons active in two or more Member States (Article 13 BR); Posting activities lasting longer than 2 years; Repetitive posting activities. 	<ul style="list-style-type: none"> Several categories (e.g., self-employed workers in certain sectors and persons attending business meetings or participating in seminars and lectures).
Enforcement	<ul style="list-style-type: none"> In some cases, posting activities may take place without the institutions being informed. Moreover, a PD A1 can also be awarded with retroactive effect. 	<ul style="list-style-type: none"> Implementation of a prior notification tool and sanctions in the event of non-registration.
Limitations	<ul style="list-style-type: none"> Underestimates the number of incoming postings since a PD A1 is not obligatory; Having a PD A1 does not necessarily equate to actually being posted to the Netherlands; For PDs A1 issued according to Article 13 BR, there is no data available with regard to the receiving Member State; The year of issuance does not necessarily correspond to the year of employment. 	<ul style="list-style-type: none"> Underestimates the number of incoming postings since self-employed workers in certain sectors are exempted from the duty to notify; Underestimates the number of incoming postings if foreign service providers do not fulfil their duty to notify posted workers; Overestimates the number of incoming postings since a notifications does not necessarily equate to being posted to the Netherlands. Only the intention to post workers to the Netherlands is notified. Self-reporting on postings (e.g., sector of employment) may differ from the actual situation.

1.3.2.1 Limitations of using data on PDs A1

There are differences between the notion of ‘posted’ used by the Basic Regulation and the one used by the Posting of Workers Directive. Consequently, persons may be ‘posted’ under the Basic Regulation but not in the sense of the Directive. For instance, self-employed persons falling under Article 12 (2) of the Basic Regulation are not covered by the Posting of Workers Directive. In addition, workers who are sent to work in another Member State temporarily, but do not provide services there, are not covered by the Posting of Workers Directive. This is the case, for example, for workers on business trips (when no service is provided), attending conferences, meetings, fairs, following training etc. Conversely, persons might also be posted under the Posting of Workers Directive and not under the Basic Regulation. For instance, workers (e.g., international truck drivers) who pursue an activity in two or more Member States (Article 13 of the Basic Regulation) may fall under the terms and conditions of the Posting of Workers Directive. Furthermore, according to the EU rules on social security coordination, workers who are posted at the outset for a period of more than two years fall outside of the posting provisions of the Regulation. In such a case, they need to be socially insured in the host Member State, unless a specific agreement under Article 16 of the Basic Regulation is concluded. Hence, in the absence of such an agreement, these workers no longer need a PD

A1 and will not appear in the related data. In this regard, data on incoming posting activities and posted workers registered by national notification tools may complement the data on posting provided by the A1 certificate. Since 2018, this type of data is collected at the EU level.

Additionally, a service provider who posts a worker to another Member State, or the person himself/herself if it concerns a self-employed person, must contact the competent institution in the sending Member State should do so in advance of the posting whenever possible. This obligation is defined by Article 15 (1) of the Implementing Regulation. Nonetheless, in some cases, a posting may take place without the institutions being informed or the PD A1 is awarded retroactively. This creates a discrepancy between the number of PDs A1 issued according to Article 12 and the actual number of persons sent abroad on the basis of Article 12. However, some Member States, such as France and Austria, recently seem to have become much stricter in requiring a PD A1 as a condition for being legally posted.²⁶ They have implemented sanctions when no PD A1 could be showed and/or have increased the inspection rate on PDs A1. Since the costs of administrative sanctions if no proof can be provided are often high, this might be an incentive for service providers to request a PD A1. This also applies to business trips. The above measures may have a positive impact on compliance with Article 15 of the Implementing Regulation. As a result, the discrepancy between the number of PDs A1 issued and the actual number of mobile persons covered by Articles 12 or 13 of the Basic Regulation is likely to have decreased (slightly) over the past few years.

1.3.2.2 Limitations of using data from the prior notification tool

An important note to the reported figures from the prior notification tool is that this data only reflect the intention to provide services in the host Member State. Indeed, it is not known whether these services have actually been provided. Additionally, one should be aware that Member States' policies on exempting service providers from notification have a significant impact on the mapping of the phenomenon of 'posting'. In this respect, figures from the prior notification tools only provide a partial picture of the scale, characteristics and impact of intra-EU posting.

In *subsection 2.1.3*, the data from the prior notification tool is compared to the data on incoming postings from the A1 report for the reference year 2020. For various reasons, the two databases are not fully comparable. The notion of a 'posted' worker/person is used both in the Regulations on the coordination of social security systems (determining the applicable social security regime of the posted worker) and the Posting of Workers Directive (determining the terms and conditions of employment for the posted worker). However, the personal scope is not the same (see *subsection 1.3.2.1*). As workers may be posted to the same Member State more than once per year, a person can apply for an A1 certificate that is then used on more than one occasion during its validity period. Therefore, while EU data will count one posting (only one A1 certificate is issued), national data could count two or three postings, for example, depending on the number of declarations made prior to the posting.

²⁶ See, for example, De Wisepelaere (2021a).

2. The scale, characteristics and impact of intra-EU posting

This chapter reports on the scale, characteristics and impact of intra-EU posting to the Netherlands.

2.1 Volume of intra-EU posting to the Netherlands

The starting point of this country report is a comparison between the number of persons involved in the PDs A1 issued to the Netherlands between 2018 and 2020 and the number of notified workers in 2020 and 2021. These numbers are based on public reports on PDs A1 issued by Member States, which uses administrative data on PDs A1 for the reference years 2018, 2019 and 2020²⁷, and on internal reports on the prior notification tool for the reference years 2020 and 2021. This provides a first, but still incomplete insight into the scale and impact of intra-EU posting to the Netherlands, given the limitations discussed in the previous chapter (see *subsection 1.3.2*).

2.1.1 Number of issued PDs A1 and persons involved

Table 2 shows the number of PDs A1 issued to the Netherlands compared to the number of PDs A1 issued by Member States between 2018 and 2020. The total number of PDs A1 issued by Member States between 2018 and 2020 is 3.0 to 3.8 million, including 1.8 to 2.4 million according to Article 12 and 1.1 to 1.2 million according to Article 13 of the Basic Regulation (BR). Between 2018 and 2020, about 0.7% of PDs A1 under Article 12 and about 36.7% to 49.1% of PDs A1 under Article 13 are issued for activities in road freight transport in the EU/EFTA. This reflects the transnational character of road freight transport, since these workers are often active in two or more Member States (and therefore fall under Article 13 BR). Road freight transport is a particularly relevant sector for the Netherlands, since the majority of posted workers to the Netherlands (who are notified in advance) is employed in this sector.

The total number of PDs A1 issued to the Netherlands is not known, since there is only data available on the number of PDs A1 issued according to Article 12 BR. The number of PDs A1 issued to the Netherlands between 2018 and 2020 under Article 12 is 126,342 to 390,002. This means an increase of 74% and 78% in the number of PDs A1 issued under Article 12 in 2019 and 2020 respectively.²⁸ There is no data available on the number of PDs A1 issued to the Netherlands according to Article 13 BR, since no information is produced concerning the place of cross-border activities under Article 13. Therefore, it is here assumed that the share of PDs A1 issued to the Netherlands under Article 13 is equal to the share of PDs A1 under issued to the Netherlands Article 12 in the total amount of PDs A1 issued by Member States under the respective articles (7-16% between 2018 and 2020). This is a very rough estimate in the absence of more accurate information.²⁹ It means an estimated number of 76.540 to 199.506 PDs A1 that has been issued to the Netherlands under Article 13 between 2018 and 2020. In total, the number of PDs A1 issued to the Netherlands between 2018 and 2020 can then be estimated at 206.735 to 604.671. Under these assumptions, this comes down to an estimated share of 7% of the total amount of PDs A1 issued by Member States in 2018 and 2019. In 2020, this share was at least 16%, due to the relatively large increase in PDs A1 issued by Germany, while the total number of PDs A1 issued by Member States has decreased in 2020.³⁰

27 See De Wispelaere et al. (2019, 2020, 2021a).

28 This increase in PDs A1 according to Article 12 BR is mainly driven by the increase in PDs A1 according to Article 12 BR issued by Germany.

29 Note that all italicized numbers in *Table 2* are estimates of the number of PDs A1 issued to the Netherlands.

30 It is unclear what the reasons are behind this large increase in PDs A1 issued by Germany, it may well be due to administrative adjustments.

Table 2. Estimated number of PDs A1 issued to the Netherlands, 2018-2020

	Issued by EU Member States			Issued to the Netherlands			Issued to the Netherlands		
	2018	2019	2020	2018	2019	2020	2018	2019	2020
PDs A1 (Article 12 BR)	1,814,129	3,208,235	2,426,979	126,342	219,276	390,002	7.0%	6.8%	16.1%
Road freight transport	12,699	22,458	16,989	<i>884</i>	<i>1,535</i>	<i>2,730</i>			
Other sectors	1,801,430	3,185,777	2,409,990	<i>125,458</i>	<i>217,741</i>	<i>387,272</i>			
PDs A1 (Article 13 BR)	1,099,035	1,361,460	1,241,521	<i>76,540</i>	<i>93,053</i>	<i>199,506</i>			
Road freight transport	539,626	499,656	589,722	<i>37,581</i>	<i>34,150</i>	<i>94,765</i>			
Other sectors	559,409	861,804	651,799	<i>38,959</i>	<i>58,902</i>	<i>104,740</i>			
PDs A1 (other)	55,323	80,047	94,360	<i>3,853</i>	<i>5,471</i>	<i>15,163</i>			
Total PDs A1	2,968,487	4,649,742	3,762,860	<i>206,735</i>	<i>317,800</i>	<i>604,671</i>			
Road freight transport	552,325	522,113	606,711	<i>38,466</i>	<i>35,685</i>	<i>97,495</i>			
Other sectors	2,416,162	4,127,629	3,156,149	<i>168,270</i>	<i>282,115</i>	<i>507,176</i>			

Note: Italicized numbers are estimates of the number of issued PDs A1.

Source: De Wispelaere et al. (2021), based on administrative data PD A1 Questionnaire 2018, 2019 and 2020

In practice, the estimated share of PDs A1 issued to the Netherlands may deviate from the actual share of PDs A1 issued to the Netherlands for several reasons. In the Netherlands, the share of notified workers in road freight transport is much larger than in other sectors of employment (see *subsection 2.1.2*). Since these workers are often active in two or more Member States (and therefore fall under Article 13 BR), the share of PDs A1 issued to the Netherlands under Article 13 would be also much higher than the share of PDs A1 issued under Article 12. Moreover, at the EU level also a much larger share of PDs A1 is issued by Member States under Article 13 to road freight transport (37-49%) compared to the share of PDs A1 issued under Article 12 to road freight transport (0.7%).

Therefore, the estimated share of PDs A1 issued to the Netherlands is compared to the share of the import of services by the Netherlands in the total export of services by Member States between 2018 and 2020 (see *Table 3*). This gives an idea to what extent the share of PDs A1 issued to the Netherlands relate to the share of services exported to the Netherlands. In total, about 10% of the services exported by Member States between 2018 and 2020 were imported by the Netherlands, with a slightly higher share for services relating to road freight transport (about 13%). These shares are slightly higher than the shares of PDs A1 issued to the Netherlands in 2018 and 2019. Remarkably, the relatively large increase in PDs A1 issued by Germany in 2020 is not reflected in a similar increase in the import of services by the Netherlands. This is also not the case when looking specifically at the change in the import of services from Germany (-1.2%) between 2019 (22,530 million euro) and 2020 (22,266 million euro). This casts doubt on the validity of the (increase in the) administrative number of PDs A1 issued by Germany.

Table 3. The import of services by the Netherlands as a share of the export of services by Member States, 2018-2020

	Export of services by EU-27 (in million €)			Import of services by the Netherlands (in million €)			% EU-27		
	2018	2019	2020	2018	2019	2020	2018	2019	2020
Road freight transport	57,414	63,225	59,409	n/a	8,217	7,844	n/a	13.0%	13.2%
Other services	870,916	949,141	793,270	n/a	88,969	79,855	n/a	9.4%	10.1%
Total services	928,330	1,012,366	852,679	90,476	97,186	87,699	9.7%	9.6%	10.3%

Source: Eurostat [bop_its6_det]

As mentioned earlier, the number of PDs A1 issued according to Article 12 BR is not necessarily equal to the number of persons involved. The number of individual persons involved is about 55% to 60% of the

number of PDs A1 issued for these persons between 2018 and 2020.³¹ This means that one person falling under Article 12 is sent abroad 1.7 to 1.8 times per year on average. Also the number of PDs A1 issued according to Article 13 BR is not necessarily equal to the number of persons involved. Several PDs A1 could be issued to the same person during the reference year. In addition, as Article 13 sets no maximum period for the employment or self-employment in two or more Member States, a person could be active in two or more Member States for several years. This shows that both the number of PDs A1 issued to persons covered by Article 13 and the number of PDs A1 in circulation for this group of people are interesting indicators. The number of individual persons active in two or more Member States is about 82% to 87% of the number of PDs A1 issued for these persons between 2018 and 2020.³² This means that one person falling under Article 13 receives about 1.1 to 1.2 PDs A1 per year on average.

These figures are important for calculating the impact on national employment, since they constitute a better numerator than the number of forms granted. Moreover, it is also useful to make an estimation of the total number of individual persons involved. *Table 4* shows the estimated number of individual persons involved in PDs A1 issued by Member States compared to the estimated number of persons involved in PDs A1 issued to the Netherlands between 2018 and 2020.³³ The total number of persons who received a PD A1 between 2018 and 2020 is estimated at 1.9 to 3.1 million, of which 1.0 to 1.9 million according to Article 12 BR and 0.9 to 1.2 million according to Article 13 BR. These numbers are obtained by applying the average share of persons involved in 22 Member States (see paragraph above), for which these figures are reported, to the total number of PDs A1 issued by Member States. The total number of persons posted to the Netherlands with a PD A1 is estimated at 132,251 to 403,671 between 2018 and 2020, of which 69,488 to 230,101 according to Article 12 BR and 62,763 to 173,570 according to Article 13 BR.

Table 4. Estimated number of persons involved in PDs A1 issued to the Netherlands, 2018-2020

	From EU Member States			To the Netherlands		
	2018	2019	2020	2018	2019	2020
Persons involved (Art. 12)	<i>997,771</i>	<i>1,924,941</i>	<i>1,431,918</i>	<i>69,488</i>	<i>131,566</i>	<i>230,101</i>
Road freight transport	<i>6,984</i>	<i>13,475</i>	<i>10,023</i>	<i>486</i>	<i>921</i>	<i>1,611</i>
Other sectors	<i>990,787</i>	<i>1,911,466</i>	<i>1,421,894</i>	<i>69,002</i>	<i>130,645</i>	<i>228,490</i>
Persons involved (Art. 13)	<i>901,209</i>	<i>1,170,856</i>	<i>1,080,123</i>	<i>62,763</i>	<i>80,025</i>	<i>173,570</i>
Road freight transport	<i>442,493</i>	<i>429,704</i>	<i>513,059</i>	<i>30,817</i>	<i>29,369</i>	<i>82,446</i>
Other sectors	<i>458,715</i>	<i>741,152</i>	<i>567,065</i>	<i>31,946</i>	<i>50,656</i>	<i>91,124</i>
Persons involved (other)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Total persons involved	<i>1,898,980</i>	<i>3,095,797</i>	<i>2,512,041</i>	<i>132,251</i>	<i>211,591</i>	<i>403,671</i>
Road freight transport	<i>449,478</i>	<i>443,179</i>	<i>523,082</i>	<i>31,303</i>	<i>30,290</i>	<i>84,056</i>
Other sectors	<i>1,449,502</i>	<i>2,652,618</i>	<i>1,988,959</i>	<i>100,948</i>	<i>181,301</i>	<i>319,615</i>

Note: Italicized numbers are estimates of the number of incoming posted workers.

Source: De Wispelaere et al. (2019), based on administrative data PD A1 Questionnaire 2018, 2019 and 2020

2.1.2 Number of service providers, notifications and notified workers

Figure 1 shows the total number of service providers (both employers and self-employed workers), notifications (both regular and annual notifications) and notified workers (both employees and self-employed workers) for 2020 and 2021 respectively, based on data from the prior notification tool. The total number of service providers who used the prior notification tool is 29,680 in 2020 and 33,049 in 2021. The total number of notifications of services that are registered in the tool is 238,108 in 2020 and 377,260 in

31 This percentage is an average based on the figures reported by 22 Member States on the number of individual persons involved in PDs A1 issued according to Article 12 BR.

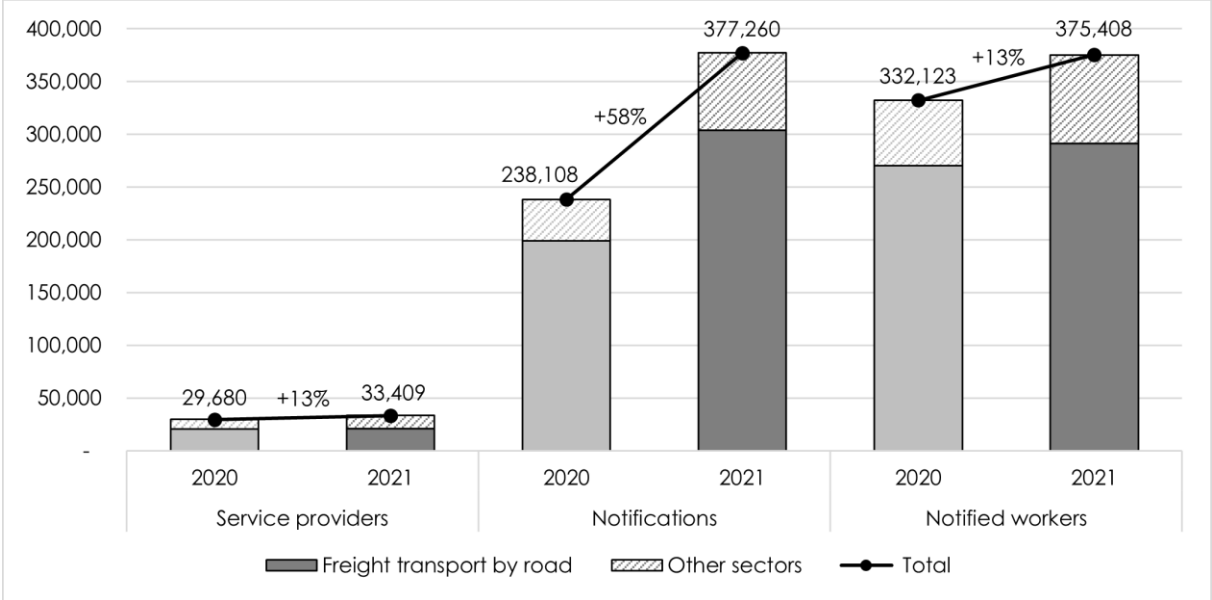
32 This percentage is an average based on the figures reported by 22 Member States on the number of individual persons involved in PDs A1 issued according to Article 13 BR.

33 Note that all italicized numbers in *Table 3* are estimates of the number of individual persons involved in PDs A1 issued by Member States and the number of persons involved in PDs A1 received by the Netherlands.

2021. This means an increase in the number of notifications by about 139,000 (an increase of 58%), while the number of service providers has increased only by about 3,700 (an increase of 13%). So, the average number of notifications per service provider has increased substantially between 2020 and 2021, while the number of service providers has remained rather stable.

A simple explanation for this increase could be that more services are provided per service provider in 2021. However, several other explanations are possible as well, such as more accurate notification behaviour by service providers since the introduction of the prior notification tool in 2020. The total number of posted workers notified is 332,123 in 2020 and 375,408 in 2021.³⁴ This means an increase in the number of notified workers by about 43,000 (an increase of 13%), while the number of notifications has increased by about 139,000 (an increase of 58%). So, the average number of posted workers per notification is much larger in 2020 than in 2021. Again, there could be several explanations for this difference between 2020 and 2021, which are not clear beforehand without additional information on the behaviour of service providers. Overall, by far the largest share of service providers (63-70%), notifications (81-84%) and notified workers (78-81%) are registered in road freight transport in 2020 and 2021. Therefore, all of the following tables and figures in this chapter are broken down by road freight transport and other sectors of employment.

Figure 1. Total number of service providers, notifications and notified workers, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

2.1.2.1 Service providers

Table 5 shows the total number of service providers, notifications and notified workers in the Netherlands for 2020 and 2021, broken down by sector of employment and employment status. When looking at the number of service providers, the breakdown between employers and self-employed workers is particularly interesting, both between and within sectors of employment. Service providers in road freight transport consist of a relatively large share of employers (small share of self-employed workers), while service providers in the other sectors of employment consist of a more equal share of employers and self-employed workers. This could be explained by the fact that self-employed workers who are employed in road freight transport are sometimes exempted from the duty to notify their services (see subsection 1.3.1.2). In particular, the total number of service providers is 29,680 in 2020 and 33,409 in 2021, of which 22,705 and 26,306 is

³⁴ The annual reports of 2020 and 2021 on the prior notification tool provided by the Ministry of Social Affairs and Employment (SZW) only report the number of notified employees. The number of notified self-employed workers are in this country report equated with the number of self-employed service providers since they have to perform the services by themselves.

an employer (76% and 79%) and 6,975 and 7,103 is self-employed (24% and 21%) respectively. Since an employer can send multiple employees within a year, whereas self-employed workers perform the services by themselves, the share of self-employed workers in the total number of notifications and notified workers is much lower than the share of self-employed workers in the total number of service providers (see *subsection 2.1.2.2 and 2.1.2.3*).³⁵ The number of service providers in road freight transport is 20,628 in 2020 and 20,914 in 2021, of which 85% and 92% is an employer and 15% and 8% is self-employed respectively. The number of service providers in the other sectors of employment is 9,052 in 2020 and 12,495 in 2021, of which 58% and 57% is an employer and 42% and 43% is self-employed respectively.

Table 5. Total service providers, notifications and notified workers, 2020 and 2021

	2020						2021					
	Road freight transport		Other sectors of employment		Total		Road freight transport		Other sectors of employment		Total	
Total service providers (A)	20,628	100%	9,052	100%	29,680	100%	20,914	100%	12,495	100%	33,409	100%
Employers	17,483	85%	5,222	58%	22,705	76%	19,165	92%	7,141	57%	26,306	79%
Self-employed workers	3,145	15%	3,830	42%	6,975	24%	1,749	8%	5,354	43%	7,103	21%
Total notifications (B)	198,849	100%	39,259	100%	238,108	100%	304,121	100%	73,139	100%	377,260	100%
By employers	193,222	97%	30,782	78%	224,004	94%	300,854	99%	57,313	78%	358,114	95%
Regular notifications	15,579	8%	24,758	80%	40,337	18%	25,615	9%	45,807	80%	71,422	20%
Annual notifications	177,643	92%	6,024	20%	183,667	82%	275,239	91%	11,506	20%	286,692	80%
By self-employed workers	5,627	3%	8,477	22%	14,104	6%	3,267	1%	15,826	22%	19,063	5%
Regular notifications	865	15%	7,434	88%	8,299	59%	706	22%	15,045	95%	15,751	82%
Annual notifications	4,762	85%	1,043	12%	5,805	41%	2,561	78%	781	5%	3,312	18%
Total notified workers (C)	270,157	100%	61,966	100%	332,123	100%	291,268	100%	84,140	100%	375,408	100%
Employees	267,012	99%	58,136	94%	325,148	98%	289,519	99%	78,786	94%	368,305	98%
Nationals	154,880	58%	33,188	57%	188,068	58%	151,728	52%	46,574	59%	198,302	54%
EU citizens (excl. nationals)	28,921	11%	10,581	18%	39,502	12%	27,188	9%	14,542	18%	41,730	11%
Third-country nationals	83,211	31%	14,367	25%	97,578	30%	110,603	38%	17,670	22%	128,273	35%
Self-employed workers	3,145	1%	3,830	6%	6,975	2%	1,749	1%	5,354	6%	7,103	2%
Average notifications (B/A)	9.6		4.3		8.0		14.5		5.9		11.3	
Employers	11.1		5.9		9.9		15.7		8.0		13.6	
Self-employed workers	1.8		2.2		2.0		1.9		3.0		2.7	
Average notified workers (C/B)	1.4		1.6		1.4		1.0		1.2		1.0	
Employees	1.4		1.9		1.5		1.0		1.4		1.0	
Self-employed workers	0.6		0.5		0.5		0.5		0.3		0.4	

Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

2.1.2.2 Notifications

When looking at the number of notifications in *Table 5*, the breakdown between regular and annual notifications is especially relevant, both between and within sectors of employment. Notifications in road freight transport have a relatively large share of annual notifications, while notifications in the other sectors of employment have a relatively large share of regular notifications. This implies that services are more repetitive throughout the year in road freight transport, and more incidental in the other sectors of

³⁵ Similar figures are only available for Belgium, Denmark and Slovenia (see De Wispelaere et al., 2021b). In Belgium the share of self-employed workers in both notifications and posting activities and among posted workers was quite similar in 2019. About 17% of the notifications and posting activities involved self-employed workers and 14% (86%) of the incoming posted workers were self-employed (employee). In Denmark, however, the share of self-employed workers in notifications, posting activities and among posted workers differed considerably in 2019. About 33% of the notification and about 14% of the posting activities involved self-employed workers, while about 8% of the incoming posted workers were self-employed. In Slovenia, incoming posted workers were almost all employee in 2019, since only 0.1% was self-employed.

employment. In particular, the total number of notifications is 238,108 in 2020 and 377,260 in 2021, of which 48,636 and 87,173 (20% and 23% respectively) are regular notifications and 189,472 and 290,004 (80% and 77% respectively) are annual notifications. Annual notifications are made for the provision of multiple services throughout the year, while regular notifications are made for each individual service, which may take shorter or longer than one year. The number of notifications in road freight transport is 198,849 in 2020 and 304,121 in 2021, of which 8% and 9% are regular notifications and 92% and 91% are annual notifications respectively. The number of notifications in the other sectors of employment is 39,259 in 2020 and 73,139 in 2021, of which 82% and 83% are regular notifications and 18% and 17% are annual notifications respectively.

The average number of notifications per service provider is much larger in road freight transport and among employers than in the other sectors of employment and among the self-employed. This suggests that in one year time, more distinct service-worker combinations are involved in road freight transport and among employers than in the other sectors of employment and among the self-employed. In particular, the average number of notifications per service provider is 8.0 in 2020 and 11.3 in 2021. However, there are large differences between employers and self-employed providers, because an employer can send multiple workers within a year, whereas self-employed workers perform the services themselves. In 2021, an employer made 13.6 notifications on average, while a self-employed provider made only 2.7 notifications on average. There are also differences between road freight transport and other sectors of employment. In road freight transport, the average number of notifications is 9.6 in 2020 and 14.5 in 2021, of which 11.1 and 15.7 per employer and 1.8 and 1.9 per self-employed worker. In the other sectors of employment, the average number of notifications is 4.3 in 2020 and 5.9 in 2021, of which 5.9 and 8.0 per employer and 2.2 and 3.0 per self-employed worker.

2.1.2.3 Notified workers

When looking at the number of notified workers in *Table 5*, the breakdown by employment status and nationality is particularly interesting, both between and within sectors of employment. This section only highlights the main findings, *section 2.2* discusses these characteristics of notified workers in more detail. In sum, the total number of notified workers is 332,123 in 2020 and 375,408 in 2021, of which a vast majority of 98% is an employee and only a small fraction of 2% is self-employed. Of the employees, more than half are nationals from the sending Member State (58% and 54%),³⁶ about one tenth are citizens from another Member State (excl. nationals) (12% and 11%), mainly from Poland, Lithuania, Romania, Bulgaria, Hungary and Croatia and sent from another Member State, and about one third are third-country nationals (30% and 35%), mainly from Ukraine and Belarus and sent from Poland and Lithuania (see *subsection 2.2.4*).

In road freight transport, notified workers are almost all employees (99%), while notified workers in the other sectors are more often self-employed (6%). In particular, the number of notified workers in road freight transport is 270,157 in 2020 and 291,268 in 2021, of whom almost all are employees (99%) and only a few self-employed (1%). This might be due to the fact that self-employed workers who are employed in road freight transport are sometimes exempted from the duty to notify their services (see *subsection 1.3.1.2*). Notified employees in road freight transport are also more often third-country nationals (31-38%) than in the other sectors of employment (25-22%). In particular, more than half of all posted employees in road freight transport is a national from the sending Member State (58% and 52%), about one tenth is a citizen from another Member State (11% and 9%) and about one third are third-country nationals (31% and 38%). In the other sectors of employment, the number of notified workers is 61,966 in 2020 and 84,140 in 2021 (see *subsection 2.2.2*), of whom still a vast majority is an employee (94%), but also including some self-employed (6%). Of the employees, almost three out of five is a national from the sending Member State (57% and 59%), almost one fifth is a citizen from another Member State (18%) and up to a quarter is a third-country national (25% and 22%).

³⁶ A national refers to posted workers for whom their nationality is the same as the Member State of establishment of the employer.

The average number of notified employees per notification is somewhat higher in the other sectors of employment than in road freight transport. However, these sectors also have a somewhat smaller share of employees than road freight transport. In particular, the average number of notified employees per notification is 1.4 in 2020 and 1.0 in 2021. This means that a single notification may include several posted workers. In road freight transport, the average number of notified employees is 1.4 in 2020 and 1.0 in 2021, while this number is 1.6 and 1.2 in the other sectors of employment respectively.

2.1.3 Comparison between data on PDs A1 and data from the prior notification tool

In this subsection, the data from the prior notification tool is compared to the data on PDs A1 issued to the Netherlands for the reference year 2020. As mentioned earlier, the two data sources are not fully comparable for various reasons that have to do with the legal base, area and scope, exemptions, enforcement and several data limitations (see *subsection 1.3.2*). These reasons could cause differences between the total number of persons involved in PDs A1 issued to the Netherlands and the total number of notified workers. Therefore, both type of figures only provide a partial, and somewhat different, picture of the scale of intra-EU posting to the Netherlands.

Nonetheless, when comparing the number of notified workers (see *Figure 1*) with the number of individual persons with a PD A1 (see *Table 4*), it becomes clear that these numbers do not match. There seem to be much more notified workers than workers who received a PD A1 in road freight transport, while the opposite holds for the other sectors of employment. In particular, there are 332,123 notified workers compared to an estimated 403,671 individual persons who received a PD A1 in 2020. This means that there are about 72,000 fewer workers who were notified in advance than workers who received a PD A1 in 2020. In road freight transport, on the contrary, there are more notified workers than workers who received a PD A1. In this particular sector, there are 270,157 notified workers compared to an estimate of 84,056 individual persons who received a PD A1, which means a difference of about 186,000 individuals. In the other sectors of employment, however, there are 61,966 notified workers compared to an estimate of 319,615 individual persons who received a PD A1, which means a difference of almost 258,000 individuals.

As mentioned, these differences largely reflect differences in legal base, area and scope, exemptions, enforcement and several data limitations. Also, the assumptions made when estimating the number of individual persons involved in a PD A1 play a role.³⁷ However, there may be several other explanations for these differences as well. First, the number of PDs A1 only reflects the number of PDs A1 that are issued in the reference year. However, PDs A1 can have a maximum duration of 24 months in case of Article 12 and no maximum duration at all in case of Article 13. This means that the number of notified workers in one year could match the number of PDs A1 of multiple years. Second, notifications only reflect the intention to provide services in a particular year, but not necessarily the actual provision of these services. Third, workers may be notified multiple times within a year, while using the same PD A1 issued in prior years. Hence, there can be multiple notifications throughout the duration of one PD A1. As a result, the number of PDs A1 and individual persons involved in a particular year do not necessarily match the number of notifications and notified workers in that same year.

2.2 Characteristics of intra-EU posting to the Netherlands

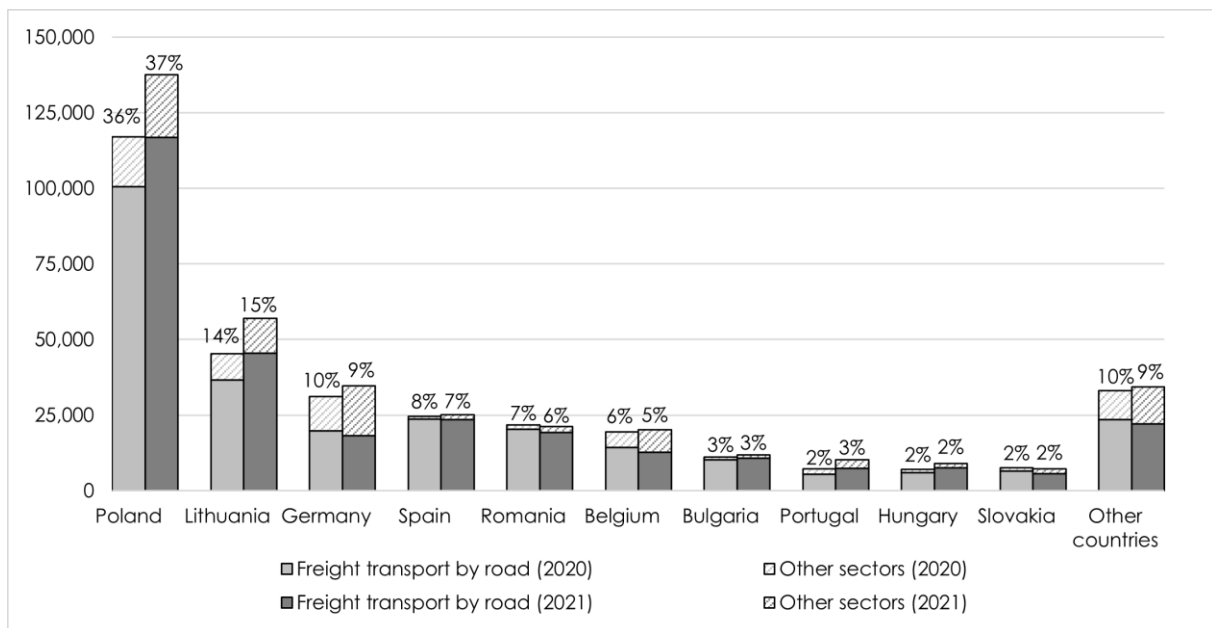
This section discusses the characteristics of intra-EU posting to the Netherlands, including the countries where foreign service providers are established and where the posted workers are sent from, the sectors in which these posted workers are employed, the nationality of incoming posted workers, and the average duration of the posting activities.

³⁷ It is assumed that the share of PDs A1 under Article 13 issued to the Netherlands is equal to the share of PDs A1 under Article 12 issued to the Netherlands in the total amount of PDs A1 issued by Member States under the respective articles (7-16% between 2018 and 2020). This is because there is no data available on the number of PDs A1 issued to the Netherlands according to Article 13 BR, since no information is produced concerning the place of cross-border activities under Article 13.

2.2.1 By sending country

Figure 2 shows the number of notified employees according to the main sending Member States of posted workers to the Netherlands, which accounts for 98% of all notified workers. The largest sending Member State is Poland (37%), followed by Lithuania (15%), Germany (9%), Spain (7%), Romania (6%) and Belgium (5%). Although Germany is the third largest sending Member State, one would expect a larger share given the relatively large increase in PDs A1 issued to the Netherlands in 2020 (see subsection 2.1.1). As mentioned earlier, this casts doubt on the validity of these administrative numbers. Also Bulgaria (3%), Portugal (3%), Hungary (2%) and Slovakia (2%) are among the largest sending Member States. The remaining employees (9%) come from 53 other countries. In almost all main sending Member States, the largest share of notified employees is in road freight transport (73-94%). In Germany (52%), and to a lesser extent also in Belgium (63%), the share of employees in road freight transport is almost similar to the share of employees in the other sectors of employment (see subsection 2.2.3).

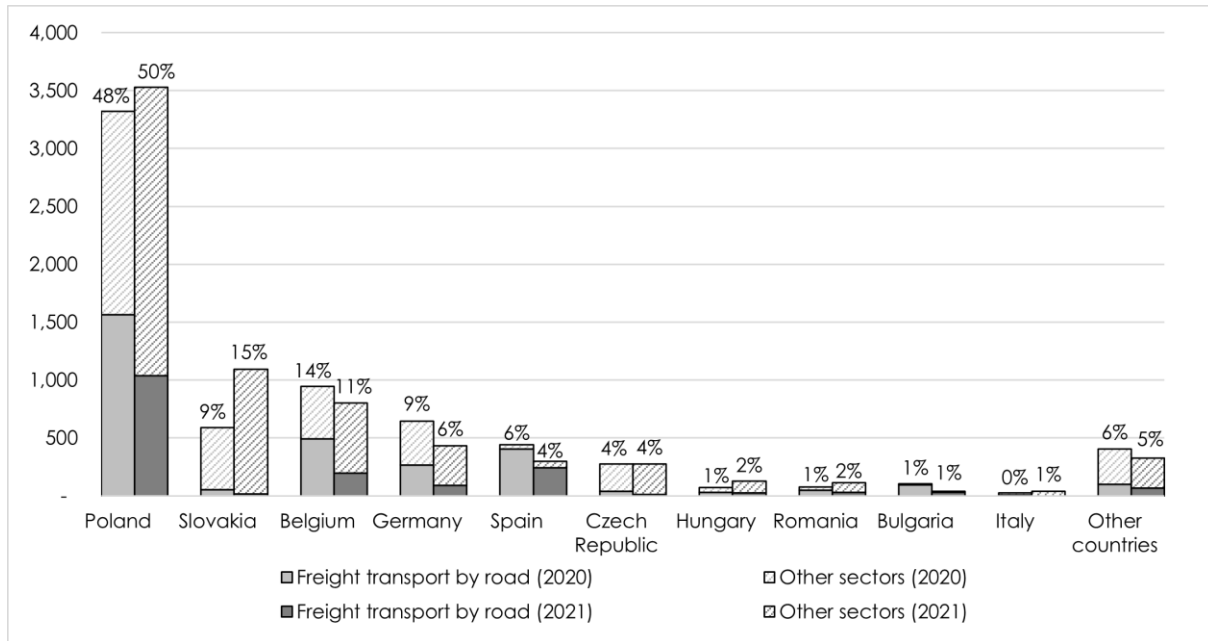
Figure 2. Number of notified employees by top 10 sending Member States, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

Figure 3 shows the number of notified self-employed workers according to the main sending Member States of posted workers to the Netherlands, which accounts for only 2% of all notified workers. Once again the largest sending Member State is Poland (50%), followed by Slovakia (15%), Belgium (11%), Germany (6%) and Spain (4%). Also Czech Republic (4%), Hungary (2%), Romania (2%), Bulgaria (1%) and Italy (1%) are among the largest sending Member States. The remaining self-employed workers (5%) come from 28 other countries. In contrast to notified employees, in almost all main sending Member States, the largest share of self-employed workers is in other sectors of employment (71-100%). Spain is the only exception with the largest share of self-employed workers in road freight transport (81%).

Figure 3. Number of notified self-employed workers by top 10 sending Member States, 2020 and 2021



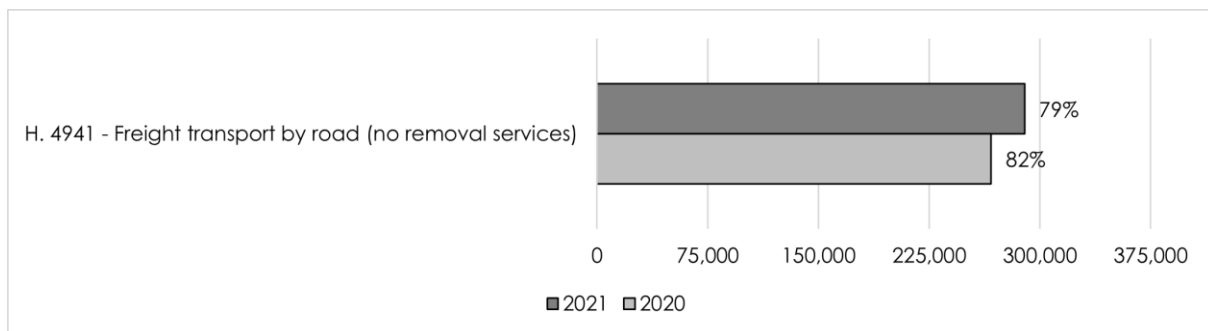
Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

2.2.2 By sector of employment

This subsection discusses the number of notified workers by sector of employment. In *section 2.3*, these numbers are compared to the total number of employed persons in these sectors to gain insight into the impact of intra-EU posting to the Netherlands on the Dutch labour market.

Figure 4 shows the number of notified employees in the main receiving sector of employment: road freight transport. As mentioned earlier, a vast majority of 79% of notified employees is employed in road freight transport. Although the number of notified employees has increased between 2020 and 2021, the share of notified employees in road freight transport has slightly decreased. This is due to the fact that the number of notified workers in other sectors of employment has increased more than in road freight transport, resulting in a decrease in its share in the total number of notified workers.

Figure 4. Number of notified employees in road freight transport, 2020 and 2021

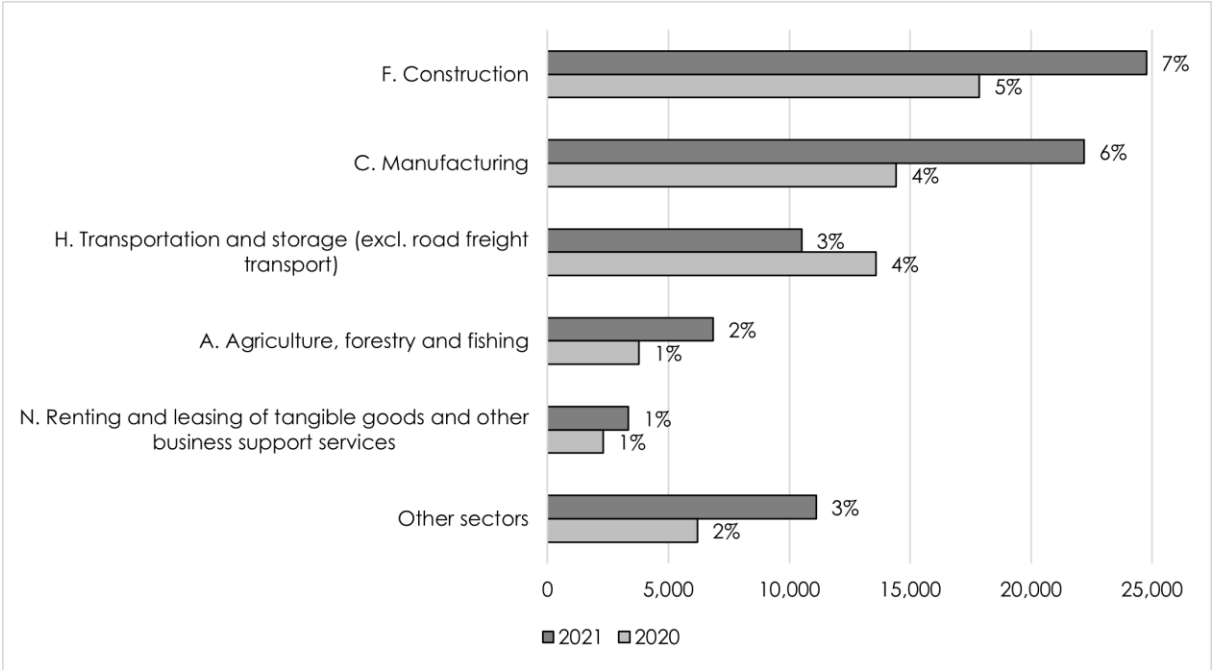


Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

Figure 5 shows the number of notified employees according to the main receiving sectors of employment, excluding road freight transport. Besides road freight transport, the largest sectors of employment are construction (7%) and manufacturing (6%), followed by transportation and storage (excl. road freight transport) (3%), agriculture, forestry and fishing (2%) and renting and leasing (1%). The remaining

employees (3%) work in 16 other sectors of employment. Both the number and the share of notified employees in these sectors have almost all increased between 2020 and 2021, except in transportation and storage (excl. road freight transport).

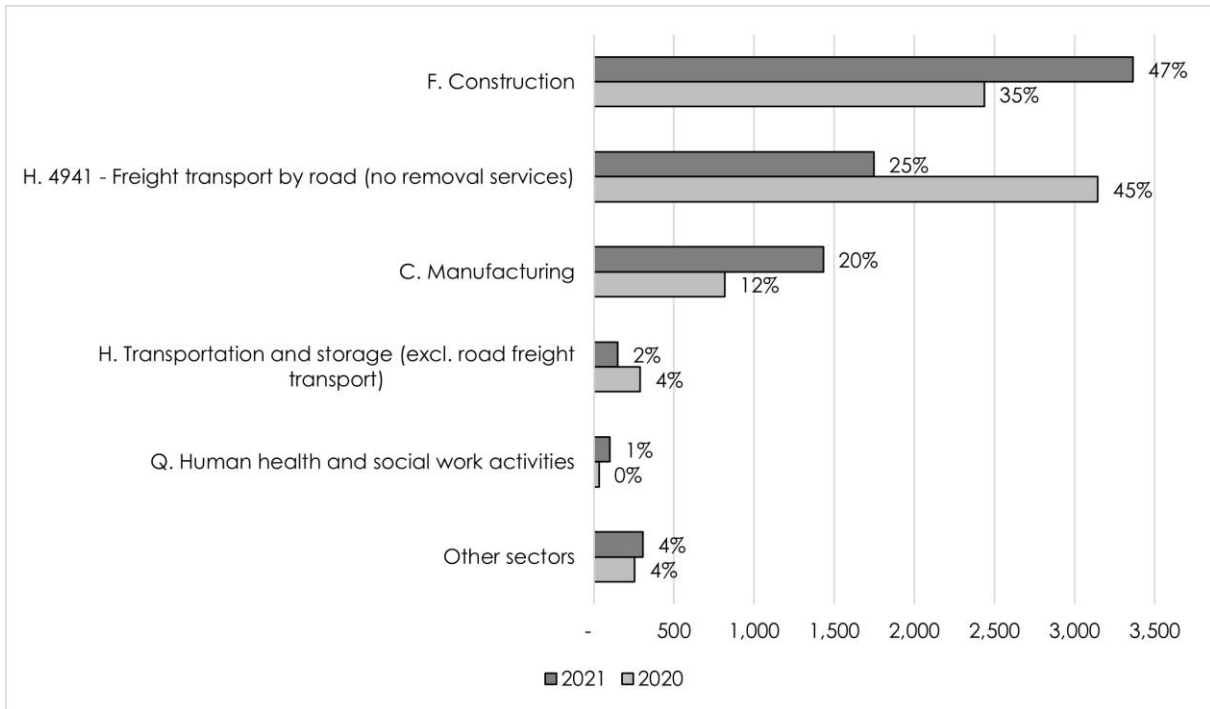
Figure 5. Number of notified employees by top 5 sectors of employment (excl. road freight transport), 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

Figure 6 shows the number of notified self-employed workers according to the main sectors of employment. Almost all self-employed workers are employed in only three sectors: construction (47%), road freight transport (25%) and manufacturing (20%). This is in contrast to what is observed for notified employees, for whom road freight transport is by far the largest sector of employment (79%). However, this might be due to the fact that self-employed workers who are working in road freight transport are sometimes exempted from the duty to notify their services (see subsection 1.3.1.2). Transportation and storage (excl. road freight transport) (2%) and human health and social work activities (1%) are also among the main sectors of employment. The remaining self-employed workers (4%) work in 15 other sectors of employment. Both the number and share of self-employed workers in these main sectors have almost all increased between 2020 and 2021, except in road freight transport and in transportation and storage (excl. road freight transport). In these sectors, both the number and share of self-employed workers have decreased over time.

Figure 6. Number of notified self-employed workers by top 5 sectors of employment, 2020 and 2021

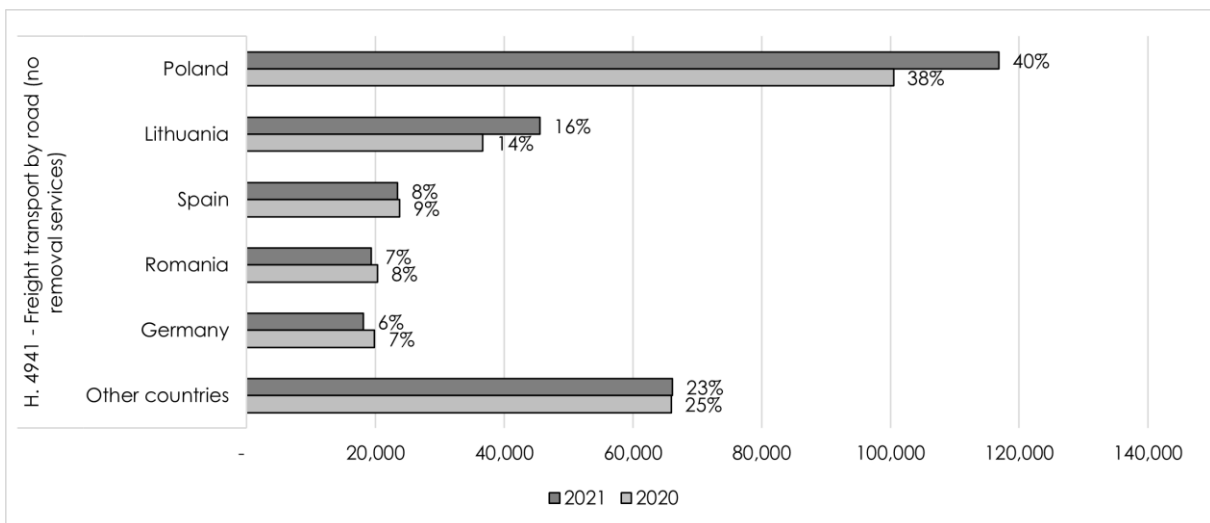


Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

2.2.3 By sending country and sector of employment

Figure 7 shows the number of notified employees in road freight transport according to the main sending Member States of posted workers in this sector. The largest sending Member State in road freight transport is Poland (40%), followed by Lithuania (16%), Spain (8%), Romania (7%) and Germany (6%). The remaining employees (23%) come from 34 other countries. Given that road freight transport is the main sector of employment, this also largely explains why Poland and Lithuania are the main sending Member States of posted workers to the Netherlands.

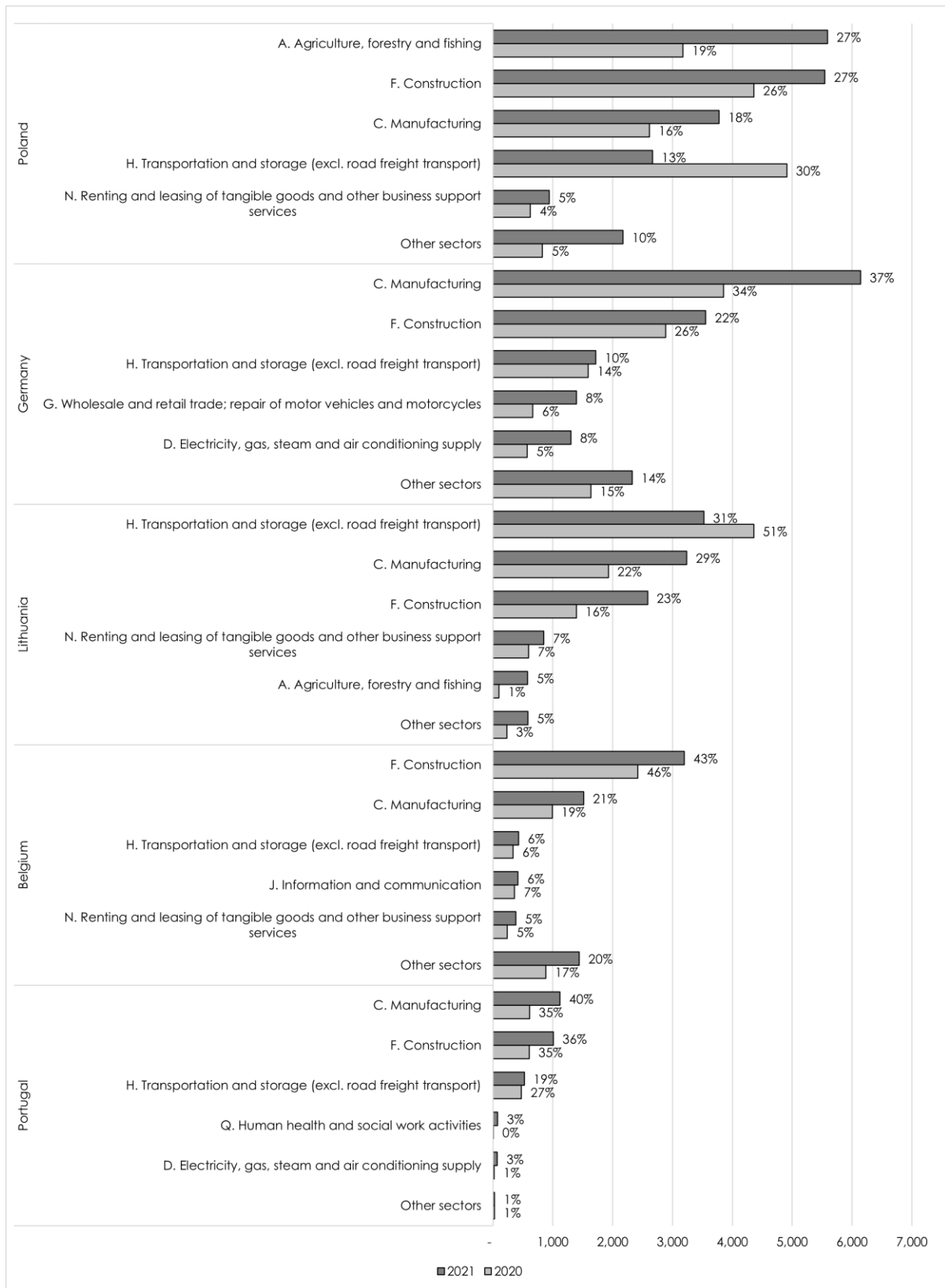
Figure 7. Number of notified employees in road freight transport by top 5 sending Member States, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

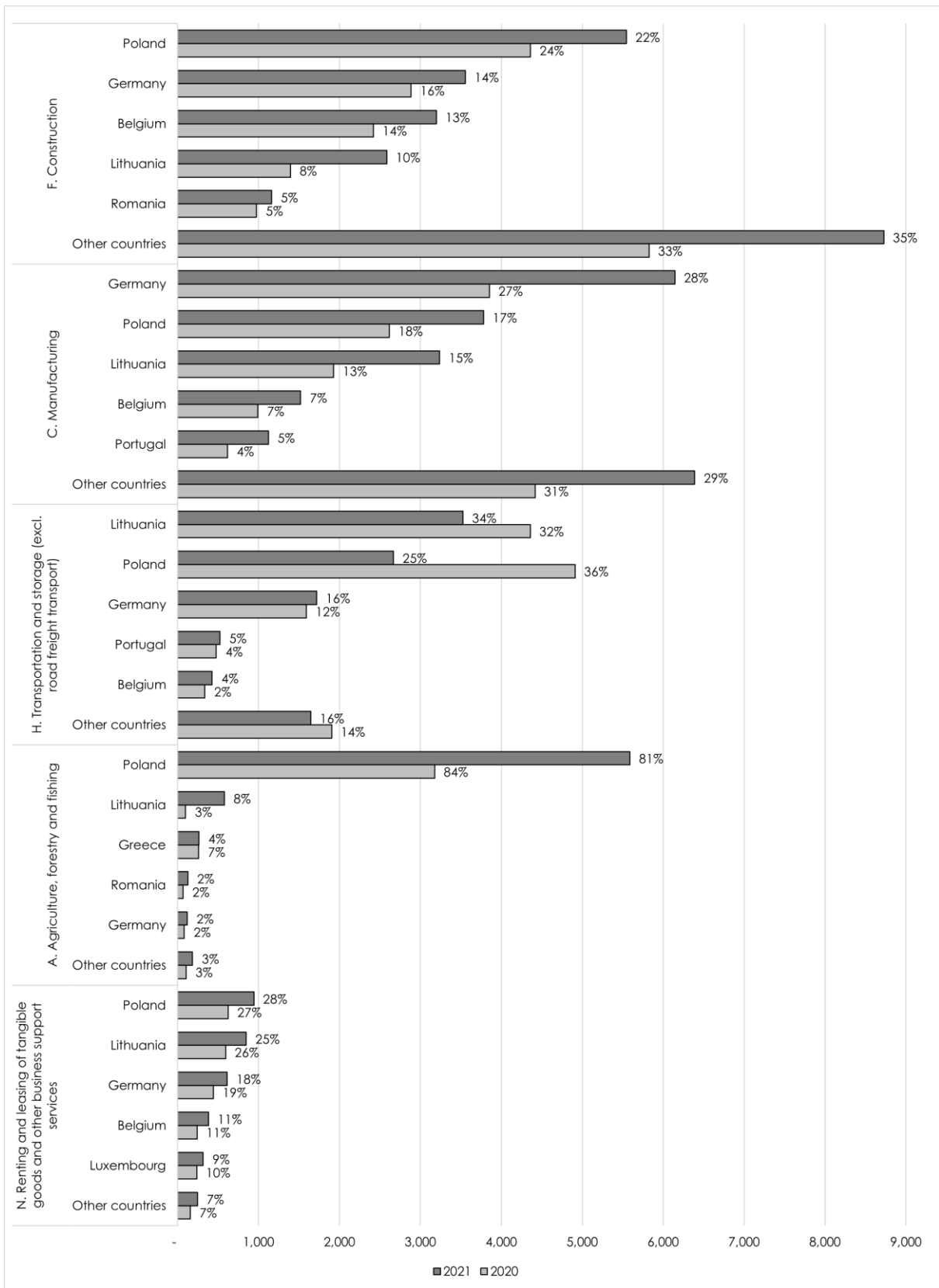
Figure 8 shows the number of notified employees in the main sending Member States, ordered by the main sectors of employment. The largest share of notified employees from Germany, Lithuania, Belgium and Portugal is employed in manufacturing (37%, 29%, 21% and 40% respectively), construction (22%, 23%, 43% and 36% respectively) and transportation and storage (excl. road freight transport) (10%, 31%, 6% and 19% respectively). Only notified employees from Poland are more often employed in agriculture, forestry and fishing (27%) than in construction (27%), manufacturing (18%) or transportation and storage (excl. road freight transport) (13%). Alternatively, *Figure 9* shows this information the other way around, i.e. the number of notified employees in the main sectors of employment, ordered by the main sending Member States.

Figure 8. Number of notified employees by top 5 sending Member States and top 5 sectors of employment (excl. road freight transport), 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

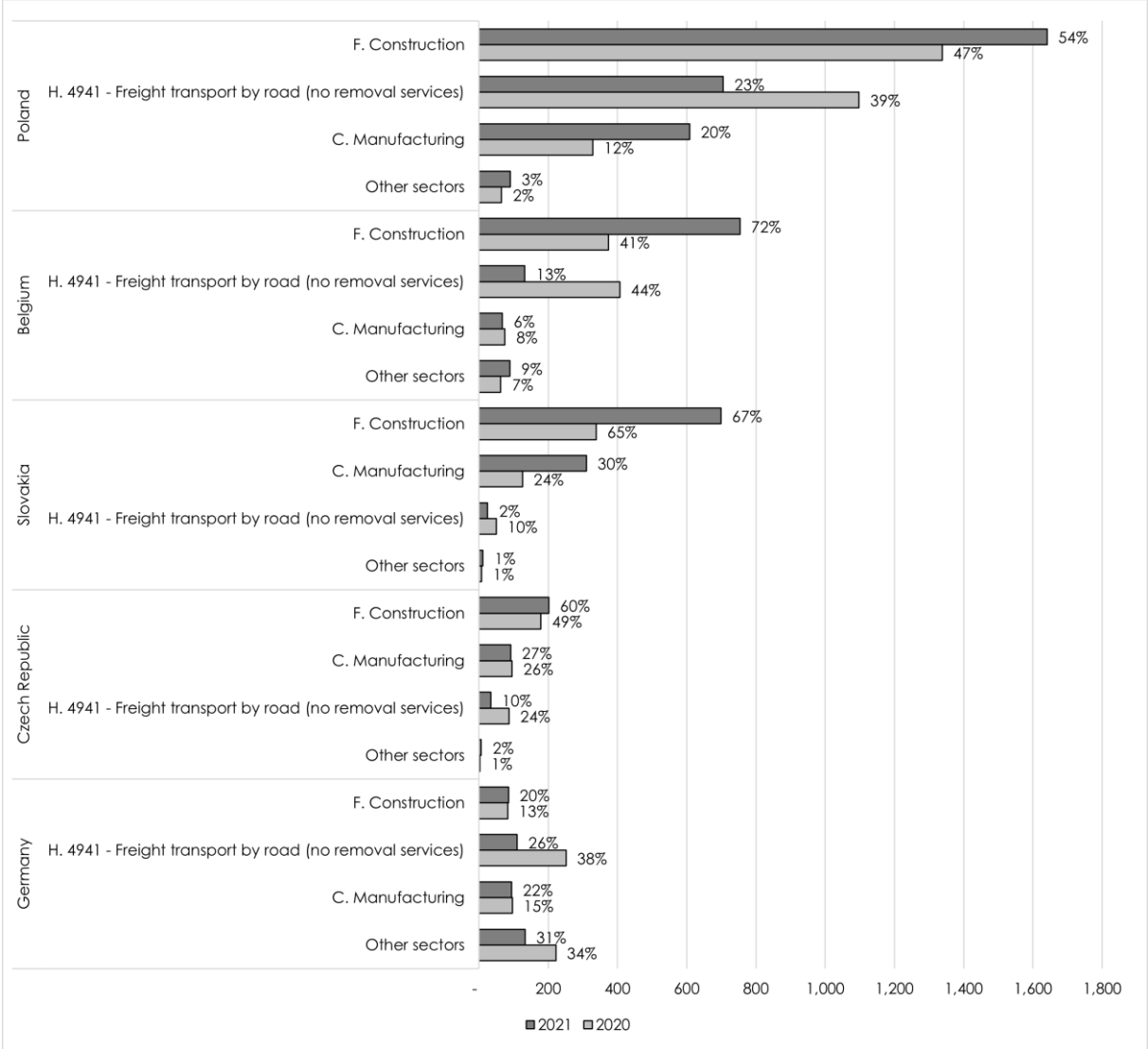
Figure 9. Number of notified employees by top 5 sectors of employment (excl. road freight transport) and top 5 sending Member States, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

Figure 10 shows the estimated number of notified self-employed workers in the main sending Member States, ordered by the main sectors of employment. This number is an estimate since only the number of notifications by self-employed workers is known by sending country and sector of employment. Therefore, the number of notifications is multiplied by the average share of self-employed workers per notification by sending country, which is known. The largest share of self-employed workers from all main sending Member States (Poland, Belgium, Slovakia, Czech Republic and Germany) is employed in construction (54%, 72%, 67%, 60% and 20% respectively), road freight transport (23%, 13%, 2%, 10% and 26% respectively) or manufacturing (20%, 6%, 30%, 27% and 22% respectively).

Figure 10. Estimated number of notified self-employed workers by top 5 sending Member States and top 3 sectors of employment, 2020 and 2021



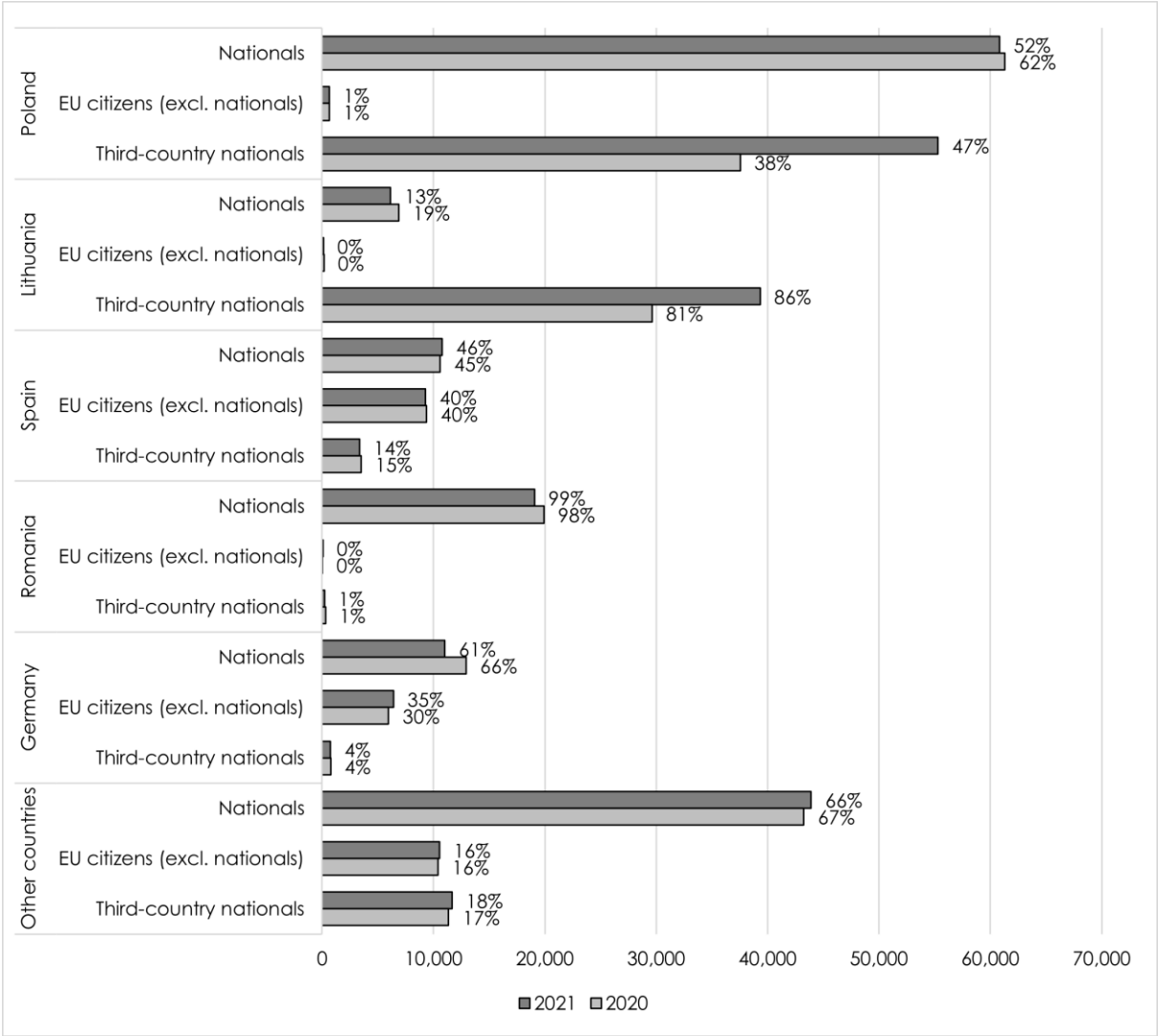
Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

2.2.4 By country of establishment and nationality

Figure 11 shows the number of notified employees in road freight transport according to the five main countries of establishment of the employers (Poland, Lithuania, Spain, Romania and Germany) and nationality of the employees (nationals, EU citizens (excl. nationals) or third-country nationals). A relatively

large share of notified employees from Lithuania (86%) and Poland (47%) are third-country nationals, while notified employees from the other countries are mainly nationals from the sending Member State (46-99%) or other EU citizens (excl. nationals) (0-40%), mainly from Poland, Lithuania, Romania, Bulgaria, Hungary and Croatia and sent from another Member State.

Figure 11. Number of notified employees in road freight transport by top 5 countries of establishment of the employer and nationality, 2020 and 2021



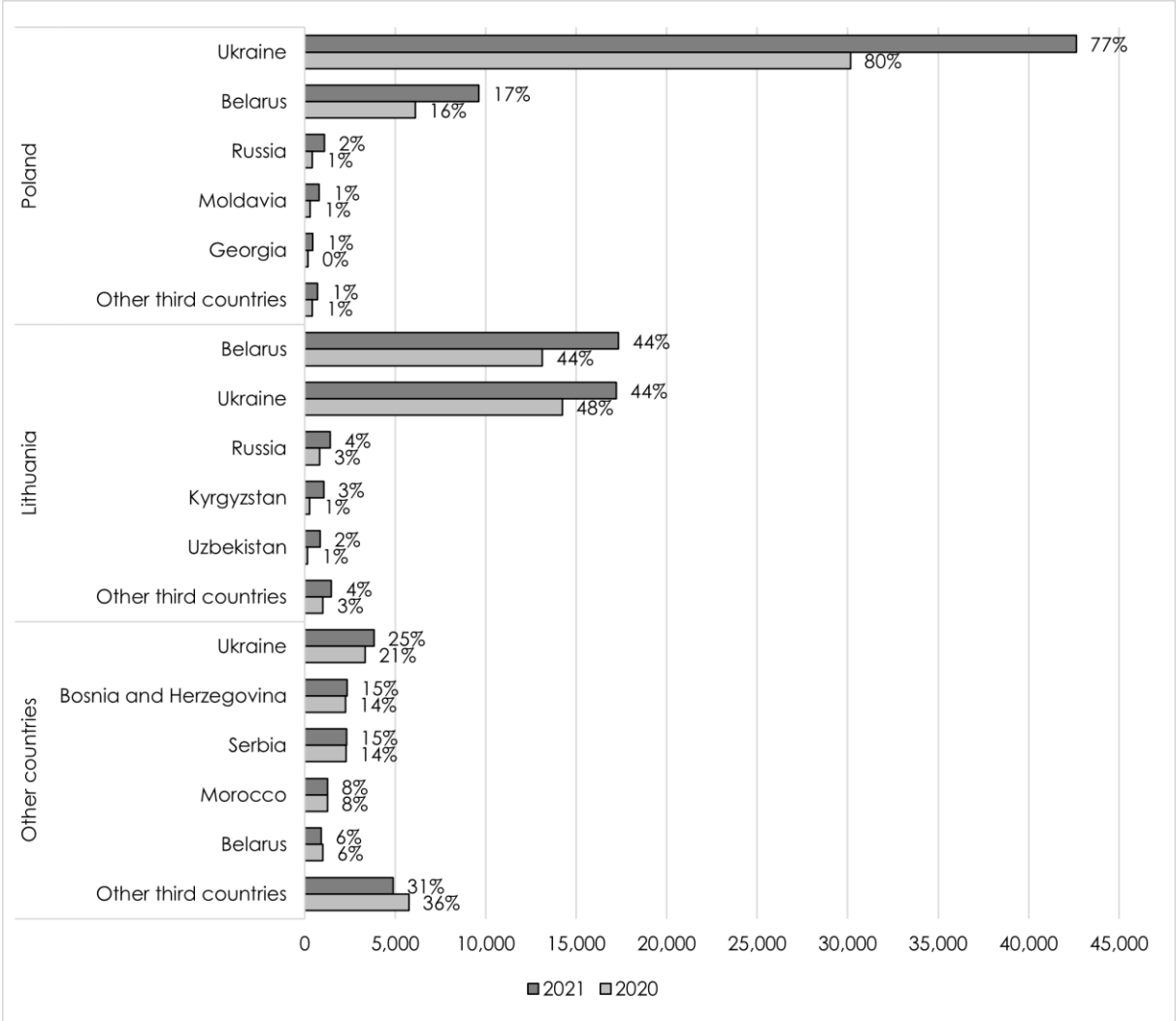
Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

At the moment, there is discussion about the growing number of third-country nationals who are posted to the Netherlands.³⁸ This discussion mainly revolves around the social rights and rules for third-country nationals, but a quantitative insight into the scale and the characteristics of this group is still incomplete.³⁹ Figure 12 shows the number of notified third-country nationals in road freight transport according to the two main countries of establishment of the employer (Poland and Lithuania) and nationality of the employees. The largest share of third-country nationals who are sent from Poland and Lithuania come from Ukraine (77% and 44% respectively) and Belarus (17% and 44% respectively). This comes down at almost

³⁸ See, for example, [Kamerbrief regulering arbeidsmigratie en detachering derdelanders | Kamerstuk | Rijksoverheid.nl](#).
³⁹ See, for example, Cremers (2021) for the legal framework and practice of posting and short-term migration of third country nationals in the Netherlands.

42,500 and 17,000 Ukrainians and 9,500 and 17,500 Belarusians in road freight transport who are sent from Poland and Lithuania respectively. Employees from Russia, Moldavia, Georgia, Kyrgyzstan and Uzbekistan also constitute a substantial share of notified third-country nationals who are sent from Poland and Lithuania. Third-country nationals who are sent from other countries are mainly from Ukraine (25%), Bosnia and Herzegovina (15%), Serbia (15%), Morocco (8%) and Belarus (6%). The remaining third-country nationals (31%) come from 143 other countries.

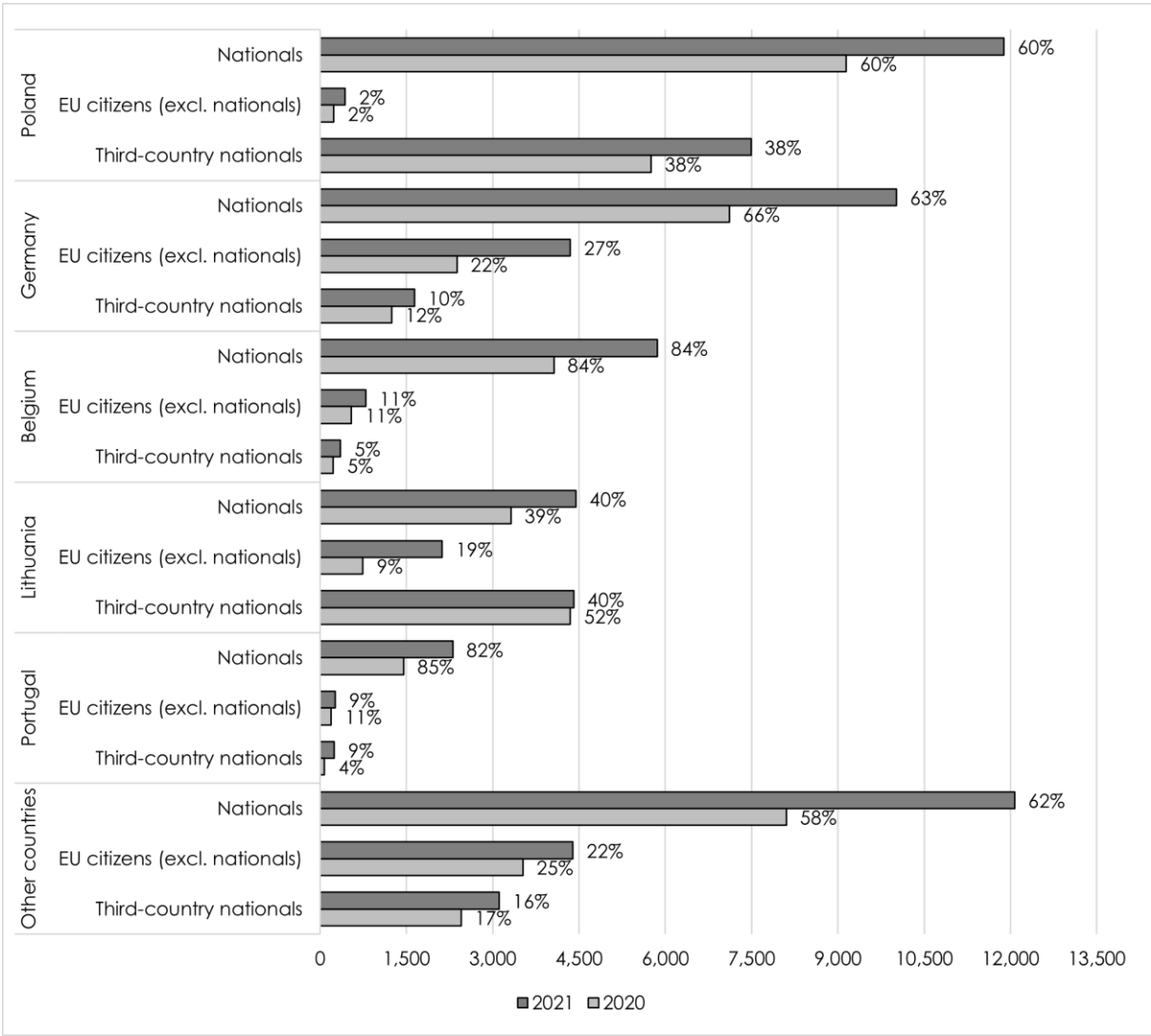
Figure 12. Number of notified third-country nationals in road freight transport by top 2 countries of establishment of the employer and nationality, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

Figure 13 shows the number of notified employees in the other sectors of employment according to the main countries of establishment of the employer (Poland, Germany, Belgium, Lithuania and Portugal) and nationality of the employees (nationals, EU citizens (excl. nationals) or third-country nationals). Also in these sectors a relatively large share of notified employees from Lithuania (40%) and Poland (38%) are third-country nationals, although this is less pronounced than in road freight transport. Notified employees from the other countries are mainly nationals from the sending Member State (62-84%) or other EU citizens (excl. nationals) (9-27%), also mainly from Poland, Lithuania, Romania, Bulgaria, Hungary and Croatia and sent from another Member State.

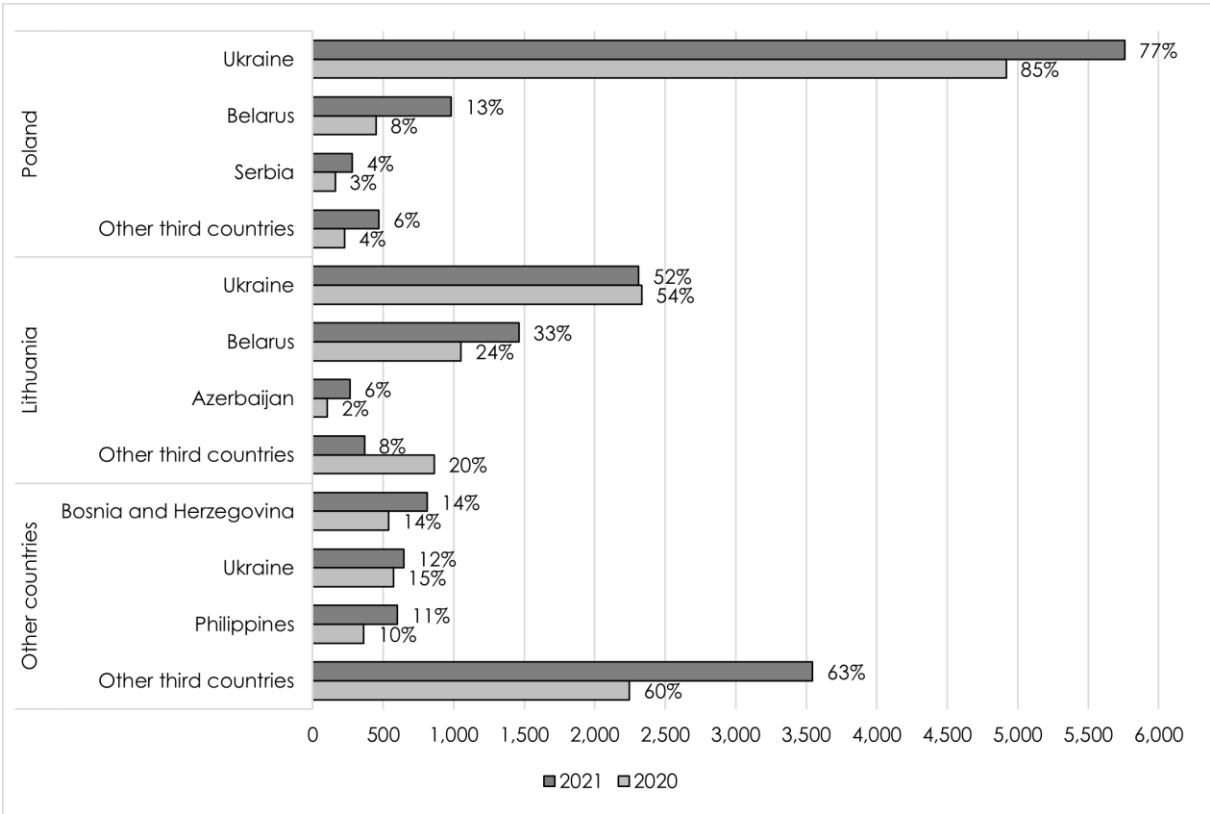
Figure 13. Number of notified employees in the other sectors of employment by top 5 countries of establishment of the employer and nationality, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

Figure 14 shows the number of notified third-country nationals in the other sectors of employment according to the two main countries of establishment of the employer (Poland and Lithuania) and nationality of the employees. The largest share of third-country nationals who are sent from Poland and Lithuania are once again from Ukraine (77% and 52% respectively) and Belarus (13% and 33% respectively). This comes down at almost 6,000 and 2,500 Ukrainians and 1,000 and 1,500 Belarusians in the other sectors of employment who are sent from Poland and Lithuania respectively. Third-country nationals who are sent from other countries are mainly from Bosnia and Herzegovina (14%), Ukraine (12%), and the Philippines (11%). The remaining third-country nationals (61%) come from 144 other countries.

Figure 14. Number of notified third-country nationals in the other sectors of employment by top 2 countries of establishment of the employer and nationality, 2020 and 2021

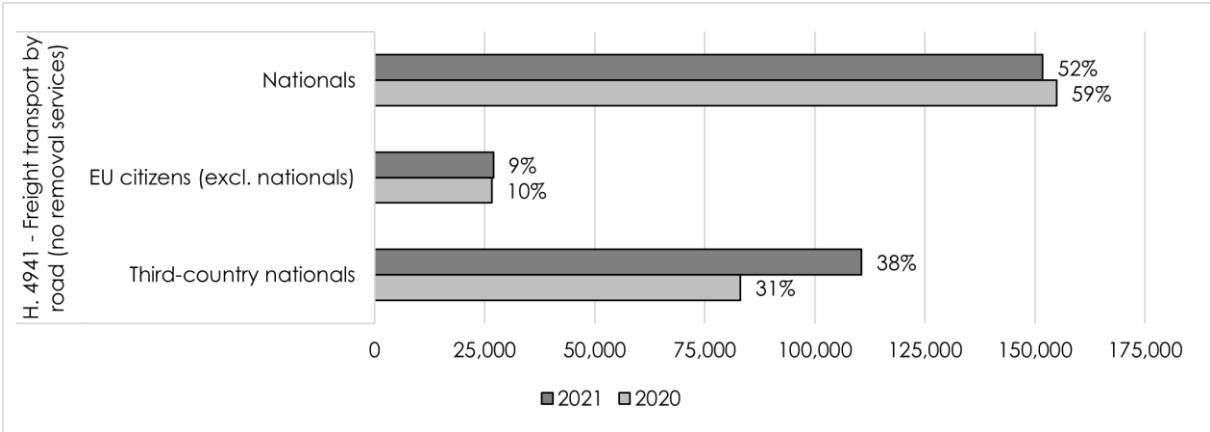


Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

2.2.5 By sector of employment and nationality

Figure 15 shows the number of notified employees in road freight transport according to their nationality (nationals, EU citizens (excl. nationals) or third-country nationals). The majority of notified employees in road freight transport are nationals from the sending Member State (52%), but there is also a relatively large share of third-country nationals (38%). The remaining employees (9%) are other EU citizens (excl. nationals), mainly from Poland, Lithuania and Romania and sent from another Member State.

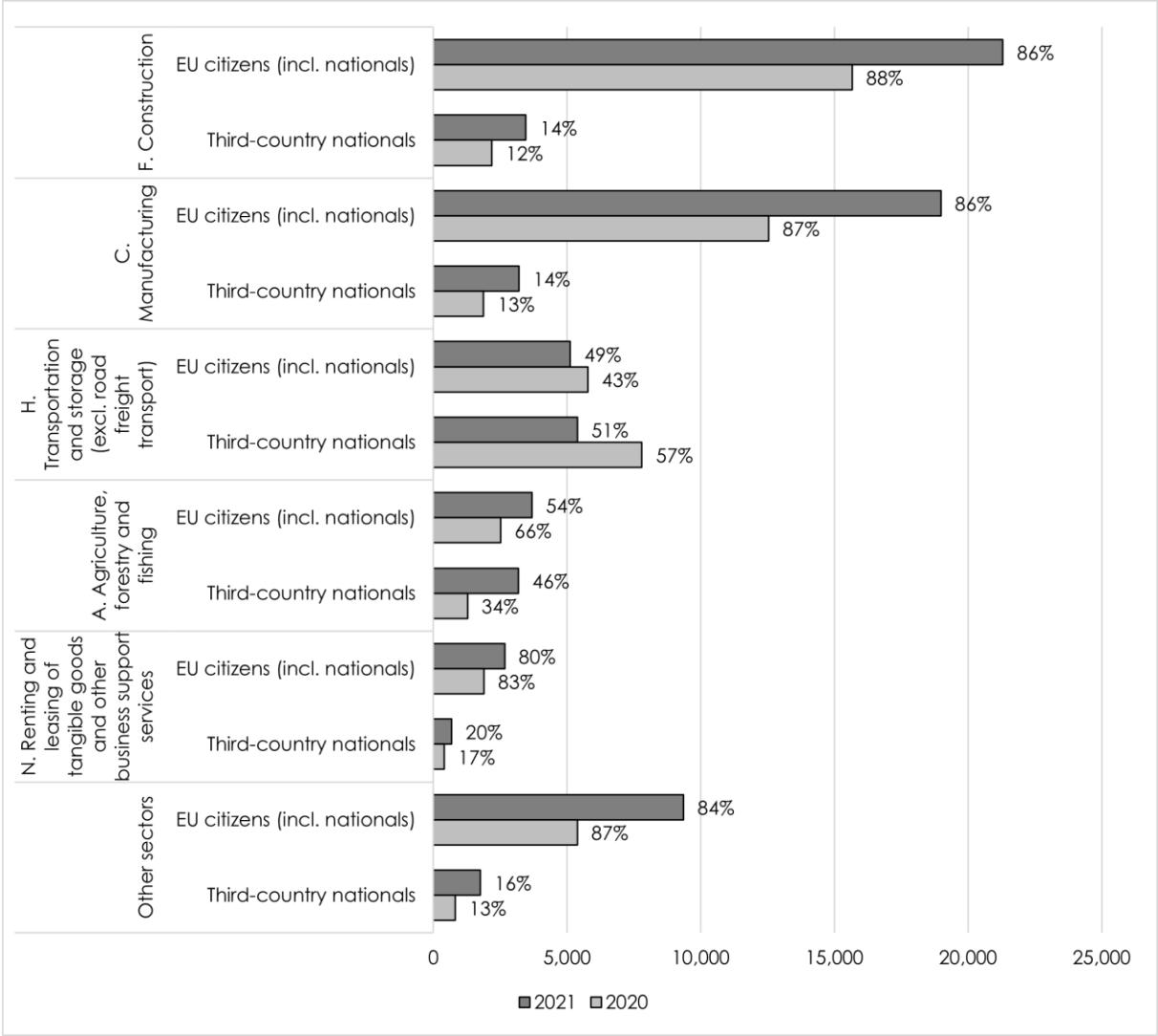
Figure 15. Number of notified employees in road freight transport by nationality, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

Figure 16 shows the number of notified employees in the top 5 sectors of employment (excl. road freight transport) according to their nationality (nationals, EU citizens (excl. nationals) or third-country nationals). A relatively large share of notified employees in transportation and storage (excl. road freight transport) (51%) and agriculture, forestry and fishing (46%) are third-country nationals, while notified employees in the other sectors of employment are mainly EU citizens (both nationals and other EU citizens) (80-86%).

Figure 16. Number of notified employees by top 5 sectors of employment (excl. road freight transport) and nationality, 2020 and 2021



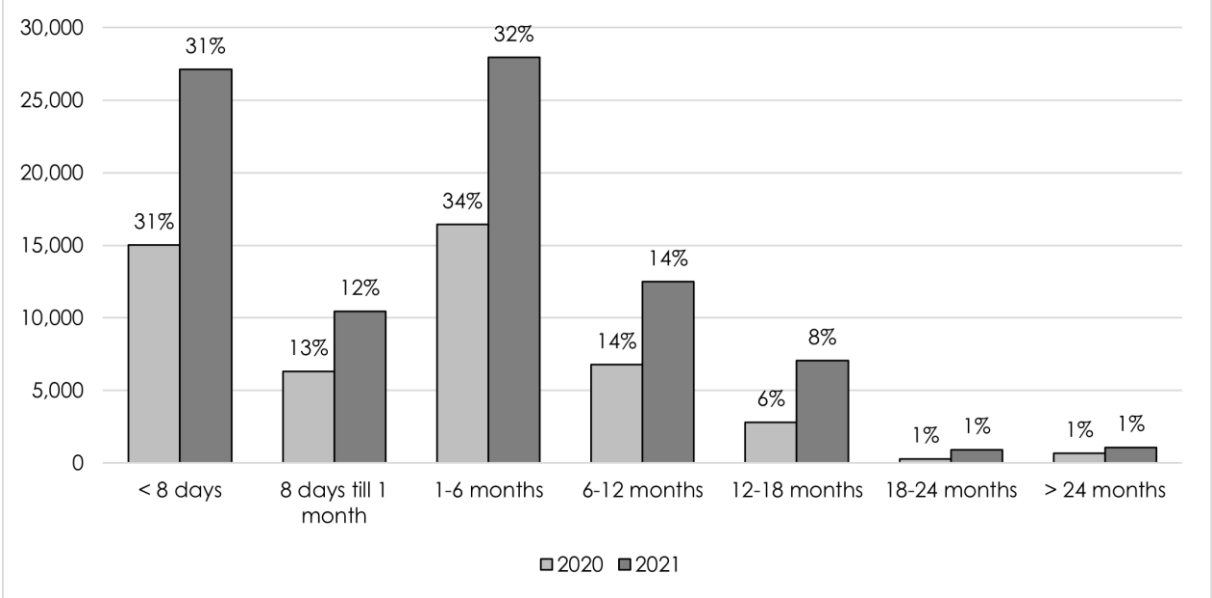
Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

2.2.6 By average duration

Figure 17 shows the number of notifications according to the average duration of the posting activities. Note that the figure only includes regular notifications, since the average duration of the posting activities is not available for annual notifications. This means that road freight transport is hardly represented in these average durations of posting activities and these figures mainly represent posting activities in the other sectors of employment. The largest share of regular postings have a very short duration of less than 8 days (31%) or an average duration of 1 to 6 months (32%), followed by an average duration of 8 days to 1 month (12%) or between 6 and 18 months (22%). Only a small fraction of regular postings have an average duration

of more than 18 months (2%). Since most regular postings have a relatively short duration (less than 6 months), it can be expected that multiple regular notifications per PD A1 are issued to the Netherlands in a particular year.

Figure 17. Number of regular notifications by average duration, 2020 and 2021



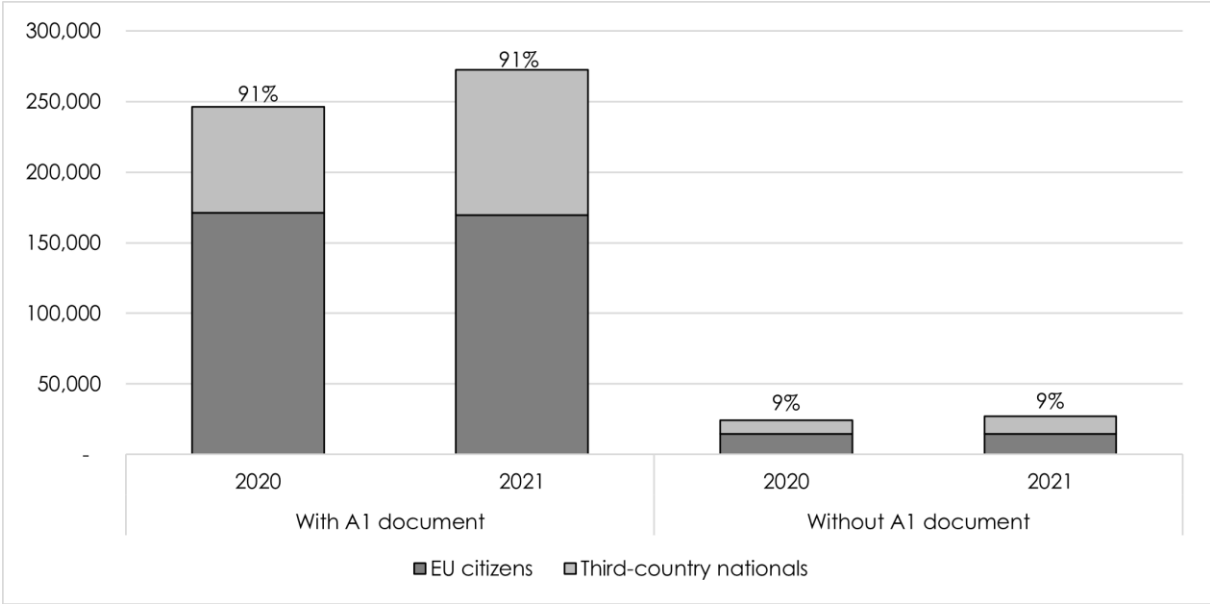
Note: This figure only includes regular notifications, annual notifications are not available.
 Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

2.2.7 By A1 Portable Document

Figure 18 and Figure 19 show the number of notified employees in road freight transport and the other sectors of employment respectively, according to the availability of a PD A1 and nationality.⁴⁰ Note that the availability of a PD A1 is self-reported by service providers, so these figures do not necessarily reflect the actual share of posted workers with a PD A1. In both road freight transport (91%) and the other sectors of employment (95%), almost all notified employees report to be in possession of a PD A1. Differences between EU citizens and third-country nationals are only found in road freight transport. In this sector, 8 percent of EU citizens and 11 percent of third-country nationals state that they have no PD A1 (compared to 5 percent in the other sectors of employment).

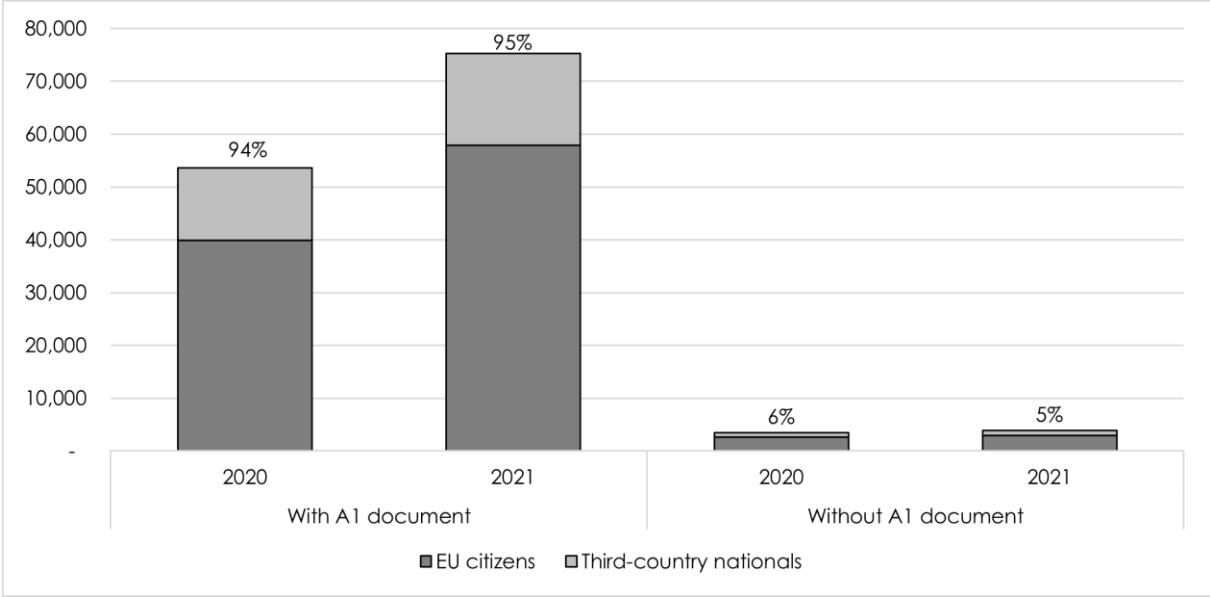
⁴⁰ This information is not reported for self-employed workers.

Figure 18. Number of posted employees in road freight transport by PD A1 and nationality, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

Figure 19. Number of posted employees in other sectors of employment by PD A1 and nationality, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

2.3 Impact on the Dutch labour market

The total number of notified workers in *Table 5* (see *subsection 2.1.2.3*) can be compared to the total number of employed persons in the Dutch labour market (*Table 6*). This gives an idea of the relative impact of intra-EU posting on the Dutch labour market. Since the comparison is between the number of notified workers measured over a full year (flow) and the total employment in the Netherlands measured at one specific moment during the year (stock), the impact on the labour market may result in a slight overestimation.

Additionally, the impact of intra-EU posting may also be overestimated if posted workers work less hours on average than regular workers in the Netherlands.

Table 6 shows the share of notified posted workers in total employment for 2020 and 2021 respectively, according to sector of employment (road freight transport versus other sectors of employment) and employment status (employees versus self-employed workers). The share of notified posted workers is 3.6% to 3.9% of total employed workers in 2020 and 2021 respectively. However, this share is as large as 41.7% and 38.8% in road freight transport, and only 0.7% and 0.9% in the other sectors of employment in 2020 and 2021 respectively. With regard to notified employees, the share of total employees is 4.2% and 4.5% in 2020 and 2021 respectively, with also a relatively large share in road freight transport and only a limited share in the other sectors of employment. With regard to notified self-employed workers, the share of total self-employed workers is only 0.5% in 2020 and 2021, with also a larger share in road freight transport. Overall, notified posted workers in road freight transport constitute a much larger share of the total of employed workers than in the other sectors of employment, which is true for notified employees especially.⁴¹

Table 6. Share of notified workers in total employment, 2020 and 2021

	2020			2021		
	Road freight transport	Other sectors	Total	Road freight transport	Other sectors	Total
Total notified workers (A)	270,157	61,966	332,123	291,268	84,140	375,408
Employees	267,012	58,136	325,148	289,519	78,786	368,305
Self-employed workers	3,145	3,830	6,975	1,749	5,354	7,103
Total employed workers (B)	377,000	8,574,000	8,951,000	459,000	8,796,000	9,255,000
Employees	337,000	7,084,000	7,421,000	405,000	7,405,000	7,810,000
Self-employed workers	41,000	1,489,000	1,530,000	53,000	1,392,000	1,445,000
% Notified workers (A/(A+B))	41.7%	0.7%	3.6%	38.8%	0.9%	3.9%
% Employees	44.2%	0.8%	4.2%	41.7%	1.1%	4.5%
% Self-employed workers	7.1%	0.3%	0.5%	3.2%	0.4%	0.5%

Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool; CBS Statline – Werkzame beroepsbevolking; bedrijf⁴²

Table 7 shows the number of notified posted workers as a share in total employment according to all sectors of employment (in ascending order of the number of notified workers) and employment status (employees versus self-employed workers). As noted, the largest share of notified posted workers is in road freight transport (38.8%), which is mainly driven by the relatively large share of notified employees who are employed in this sector (41.7%). Besides road freight transport, the largest share of workers are notified in electricity, gas, steam and airconditioning supply (7.1%), construction (6.6%), agriculture, forestry and fishing (3.3%), manufacturing (3.0%) and mining and quarrying (2.8%). The limited share of notified workers in agriculture is somewhat remarkable given the relatively large share of labour migrants in Dutch (greenhouse) horticulture. However, those labour migrants may work mainly for Dutch employment agencies, so they are not classified as a posted worker. Overall, the relative impact of intra-EU posting on total employment is the largest in these sectors of employment, although they somewhat deviate from the main sectors of employment in absolute terms.

⁴¹ The smaller share of self-employed workers in total self-employment might also due to the fact that self-employed workers in certain sectors, including road freight transport, are exempted from the duty to notify their services (see subsection 1.3.1.2).

⁴² The number of employed workers in sector H. Transportation and storage (excl. road freight transport) cannot be specifically distinguished from the number of employed workers in subsector H. 4941 – Road freight transport (no removal services). Therefore, only the total number of employed workers is reported, resulting in an underestimation of the actual share of notified workers in this subsector.

Table 7. Share of notified workers in total employment by employment status and sector of employment in 2021

	Number of notified workers (A)			Number of employed workers (B)			Share of notified workers in total employment (A/(A+B))		
	Employee	Self-employed	Total	Employee	Self-employed	Total	Employee	Self-employed	Total
H. 4941 – Road freight transport (no removal services)	289,519	1,749	291,268	405,000	53,000	459,000	41.7%	3.2%	38.8%
F. Construction	24,769	3,365	28,134	273,000	123,000	397,000	8.3%	2.7%	6.6%
C. Manufacturing	22,192	1,434	23,626	723,000	49,000	772,000	3.0%	2.8%	3.0%
H. Transportation and storage (excl. road freight transport)	10,507	149	10,656	405,000	53,000	459,000	2.5%	0.3%	2.3%
A. Agriculture, forestry and fishing	6,858	64	6,922	108,000	94,000	202,000	6.0%	0.1%	3.3%
N. Renting and leasing of tangible goods and other business support services	3,346	21	3,367	362,000	68,000	430,000	0.9%	0.0%	0.8%
D. Electricity, gas, steam and air conditioning supply	3,042	81	3,123	40,000	1,000	41,000	7.1%	7.5%	7.1%
G. Wholesale and retail trade; repair of motor vehicles and motorcycles	2,840	11	2,851	1,286,000	160,000	1,446,000	0.2%	0.0%	0.2%
M. Consultancy, research and other specialised business services	1,053	38	1,091	523,000	279,000	802,000	0.2%	0.0%	0.1%
J. Information and communication	999	26	1,025	321,000	88,000	410,000	0.3%	0.0%	0.2%
E. Water supply; sewerage, waste management and remediation activities	752	14	766	42,000	1,000	42,000	1.8%	1.4%	1.8%
I. Accommodation and food service activities	680	11	691	324,000	56,000	379,000	0.2%	0.0%	0.2%
S. Other service activities	369	17	386	122,000	76,000	198,000	0.3%	0.0%	0.2%
B. Mining and quarrying	368	4	372	12,000	2,000	13,000	3.0%	0.2%	2.8%
Q. Human health and social work activities	299	100	399	1,412,000	156,000	1,568,000	0.0%	0.1%	0.0%
K. Financial institutions	287	3	290	237,000	45,000	282,000	0.1%	0.0%	0.1%
R. Culture, sports and recreation	228	9	237	124,000	85,000	208,000	0.2%	0.0%	0.1%
L. Renting, buying and selling of real estate	82	3	85	61,000	14,000	74,000	0.1%	0.0%	0.1%
U. Extraterritorial organisations and bodies	49	0	49	1,000	0	1,000	4.7%	-	4.7%
P. Education	32	2	34	624,000	73,000	698,000	0.0%	0.0%	0.0%
O. Public administration, public services and compulsory social security	22	0	22	627,000	3,000	630,000	0.0%	0.0%	0.0%
T. Activities of households as employers	12	2	14	13,000	1,000	13,000	0.1%	0.2%	0.1%
Total	368,305	7,103	375,408	7,810,000	1,445,000	9,255,000	4.5%	0.5%	3.9%

Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool; CBS Statline – Werkzame beroepsbevolking; bedrijf⁴³

⁴³ The number of employed workers in sector H. Transportation and storage (excl. road freight transport) cannot be specifically distinguished from the number of employed workers in subsector H. 4941 – Road freight transport (no removal services). Therefore, only the total number of employed workers is reported, resulting in an underestimation of the actual share of notified workers in this subsector.

3. The scale and characteristics of infringements related to intra-EU posting

This chapter reports on the scale and the characteristics of irregular intra-EU posting to the Netherlands.

3.1 Introduction

The main objective of this chapter is to provide information on the inspections and other activities that are carried out by the Social Insurance Bank (*SVB*) and the Netherlands Labour Authority (*NLA*) with regard to compliance with posting rules and on the outcomes of these activities. The collection of such data enables a preliminary assessment of the extent to which the posting of workers to the Netherlands is affected by infringements related to the labour law and social security law aspects of posting. As mentioned, the use of inspection data has limitations that should be taken into account when interpreting the results. Inspection data necessarily gives a limited and selective view of the real share of posting and cross-border social fraud, since inspections will mostly take place based on a risk assessment focused on specific ‘risk sectors’. These risk-based inspections are likely to yield higher infringement rates and may therefore give a selected view of the actual scale and characteristics of infringements related to intra-EU posting to the Netherlands.

3.1.1 National authorities and programmes

Inspections of the labour and social security aspects of the posting of workers are mainly carried out by the SVB and the NLA, which are both part of the ministry of Social Affairs and Employment (*SZW*). These inspections are carried out individually or in joint cooperation with the Tax and Customs Administration and the Employee Insurance Agency (*UWV*). Since 2017, a multidisciplinary team (14 FTE since 2018) at the SVB is dedicated to the enforcement of received PDs A1 of incoming posted workers according to the SSC regulations.^{44,45} Additionally, the programme Notifications and Prevention of Unfair Work (*Meldingen en preventie oneerlijk werk*, *MPO*) at the NLA focusses on the risks of underpayment, working hours and illegal employment, including those related to the Posting of Workers Directive. Furthermore, several sectoral programmes of the NLA focus on specific ‘risk sectors’ with a relatively large share of posted workers with regard to working conditions and fair work. Investigations by the NLA are carried out under the direction of the Public Prosecution Service (*OM*). Infringements with regard to labour and social security laws may lead to administrative fines or in some cases to judicial prosecution.

3.1.2 Types of infringements

When assessing the scale and characteristics of infringements related to intra-EU posting, a distinction could be made between the labour law and social security law aspects of posting. With regard to the application of the SSC regulations, types of infringements may include non-compliance with the posting conditions as well as not paying the correct social security contributions (Jorens & De Coninck, 2019). With regard to the application of the Posting of Workers Directive, types of infringements may include bogus self-employment and failure to respect the Dutch employment conditions, but also non-compliance with administrative obligations, such as the notification requirement via the prior notification tool. Additionally, infringements related to intra-EU posting may also concern migration law. An example is the posting of third-country nationals from one Member State to another without these workers having a valid place of residence or work permit. Another example would be setting up a letterbox company to circumvent several aspects of

44 The Social Security Coordination (SSC) regulations include Regulation (EC) No 883/2004 and Regulation (EC) 987/2009.

45 See Kamerstukken II 2019/20, 35358, nr. 24: [Kamerstuk 35358, nr. 24](#) | [Overheid.nl > Officiële bekendmakingen \(officielebekendmakingen.nl\)](#).

the law applying to the posting of workers. Finally, infringements related to intra-EU posting may in some case be linked to criminal activities.

3.1.3 Assessment of infringements

The assessment of the infringements related to intra-EU posting are based on information on the number of inspections and other activities that are carried out by the SVB (see *section 3.2*) and the NLA (see *section 3.3*) with regard to compliance with posting rules and on the outcomes of these activities. Reference is made to the annual reports of these authorities and to parliamentary briefings related to the posting of workers, in which most of the numbers on inspections and infringements with regard to received PDs A1 and (cross-border) social fraud are reported. Additional information is gathered through interviews with the NLA and during a session of the working group on Cross-border Enforcement, in which SZW, the NLA, UWV, and the Tax and Customs Administration discuss joint efforts on several enforcement issues, including those with regard to the posting of workers.

3.2 Social Insurance Bank (SVB)

The SVB is the national social security service provider and part of the Ministry of Social Affairs and Employment (SZW). The SVB implements social insurance schemes, such as government pensions, child benefits and survivor benefits. Additionally, the SVB issues PDs A1 for outgoing posted workers and receives PDs A1 for incoming posted workers from the competent authorities in the issuing Member States.

3.2.1 Portable Documents A1

The SVB focusses on the enforcement of PDs A1 of incoming posted workers that are received from the competent authorities in the issuing Member States. In 2019, the SVB conducted in total 70 inspections (covering 5,589 posted employees), in which in 19 cases (covering 802 posted employees) an infringement related to fraud was detected (see *Table 8*).⁴⁶ Compared to the total number of 325.000 notified employees in 2020, the inspections cover only a small fraction (1.7%) of all notified employees. However, there is no information on the sectors in which the inspections were carried out and on what the type and gravity of the infringements are. Furthermore, these figures are not yet available for 2020.

Table 8. The number of inspections and infringements with regard to PDs A1, 2019 and 2020

	2019		
	Cases	Cases with an infringement	Infringement rate
Inspections	70	19	27%

Source: Kamerstukken II 2019/20, 35358, nr. 24

In 2019, the authorities in the issuing countries withdrew an total of 445 PDs A1 issued to the Netherlands at the request of the SVB (see *Table 9*). At the end of the year, the SVB still had 2,153 outstanding requests to withdraw issued PDs A1 (1.0% of all PDs A1 issued to the Netherlands). In 2020, a total of 539 PDs A1 were withdrawn by authorities in the issuing countries and 1,653 outstanding requests were still pending (0.4% of all PDs A1 issued to the Netherlands). As a result of the enforcement of PDs A1 by the SVB, the Tax and Customs Administration was able to levy 1.8 million euros in premiums. This breaks down to an average of 3.340 euro per withdrawn PD A1.

⁴⁶ See Kamerstukken II 2019/20, 35358, nr. 24: [Kamerstuk 35358, nr. 24](#) | [Overheid.nl > Officiële bekendmakingen](#) ([officiëlebekendmakingen.nl](#)).

Table 9. The number of issued and withdrawn PDs A1, 2019 and 2020

	2019			2020		
	Issued PDs A1	Withdrawn PDs A1	Withdrawal rate	Issued PDs A1	Withdrawn PDs A1	Withdrawal rate
PDs A1 (Art. 12 BR)	219,276	445	0.2%	390,002	539	0.1%

Source: Kamerstukken II 2019/20, 35358, nr. 24 & Sociale Verzekeringsbank (2021)

Additionally, the SVB has invested in cooperation with other national authorities over the past three years. Case studies are discussed and relevant information is requested from and shared with the Tax and Customs Administration, the NLA, the Human Environment and Transport Inspectorate (*Inspectie Leefomgeving en Transport, ILT*) and UWV. For example, the SVB and the Tax and Customs Administration conduct joint investigations in case of (signs of) irregularities with regard to PDs A1. At the end of 2018, they also completed a pilot regarding the inspection of PDs A1 issued by the SVB. This pilot has provided insight into the unused information that the SVB can use for assessing PD A1 requests. For instance, it was concluded that more useful information is available from the policy administration (*polisadministratie*) of the Tax and Customs Administration. The SVB and UWV are working on further agreements on better data exchange between the two authorities. As a result of this first pilot, a second pilot was conducted concerning incoming posted workers. This pilot examined how risk-oriented enforcement with regard to PDs A1 received by the SVB from authorities in issuing countries can be designed.

3.2.2 Posting of Workers Directive

The SVB also technically administers the prior notification tool (*Meldloket WagvEU*) for incoming posted workers, which was implemented in accordance with the revised Posting of Workers Directive. Since March 2020, service providers and self-employed workers have to notify their posted workers to the Netherlands in advance (see *subsection 1.3.1.2*). This provides the SVB with more instruments for supervision and enforcement. As a result, the Dutch employment conditions can be better enforced and it can be determined more accurately if posted workers should be socially insured in the Netherlands. The data from the prior notification tool is also shared with the Tax and Customs Administration and the NLA for the purposes of the National Insurance Basic Administration (*Basisadministratie Volksverzekeringen, BAV*) and enforcement activities (see *section 3.3*).

3.3 The Netherlands Labour Authority (NLA)

The NLA is the national labour authority and also part of the Ministry of Social Affairs and Employment (*SZW*).⁴⁷ The NLA works to achieve fair, healthy and safe working conditions and socio-economic security in the Netherlands. The NLA supervises employers and employees to ensure that they comply with the various laws, decrees and regulations in the field of labour. Additionally, the NLA investigates fraud, exploitation and organised crime within the area of work and income. In the field of social affairs and employment, the NLA monitors developments and risks and reports on them to the stakeholders. Supervision and investigations are deployed for the most persistent issues and with the highest potential impact. The NLA takes a risk-based, programme-driven approach based on risk analyses and environmental analyses.

In particular, the NLA supervises compliance with several labour laws and regulations, including the Posting of Workers Directive. The supervision is exercised in collaboration with other national authorities, the Tax and Customs Administration, the UWV and the SVB. The tasks of the NLA include investigating labour exploitation, human trafficking and large-scale social fraud in the field of social security. Investigations by the NLA are carried out under the direction of the Public Prosecution Service (*OM*). The

⁴⁷ See [What does the Netherlands Labour Authority do | Publication | Netherlands Labour Authority \(nlabourauthority.nl\)](#).

NLA monitors and reports developments and risks in the field of social affairs and employment to stakeholders.

3.3.1 Posting of Workers Directive

The MPO-programme focusses on the risks of underpayment, working hours and illegal employment, including those related to the Posting of Workers Directive. According to this directive, posted workers in the Netherlands are entitled to certain employment conditions. The prior notification tool is an important instrument to assess compliance of employers with this directive. During the first six months after implementation, the NLA has conducted research and intervened in some cases, but those interventions were aimed at facilitating the transition, not at enforcement. Service providers and self-employed workers were not fined in case of violation of the notification requirement.⁴⁸ Since October 2020, after a habituation period of six months, the notification requirement came into effect, including enforcement in case of violations of the Posting of Workers Directive.

In 2020, the MPO-programme examined 267 cases in total, including 155 inspections, 5 re-inspections and 107 inspections related to the Posting of Workers Directive (*Table 10*). In the 155 inspections, a total of 170 employers were involved and 67 cases (43%) were processed because of an infringement: 29 related to the Foreign Nationals Employment Act (*Wet arbeid vreemdelingen, WAV*)⁴⁹, 24 related to the Minimum Wage and Minimum Holiday Allowance Act (*Wet minimumloon en minimumvakantiebijslag, WML*)⁵⁰ and 14 related to the Working Hours Act (*Arbeidstijdenwet, ATW*)⁵¹. There is no information on the sectors in which the inspections were carried and on what the type and gravity of the infringements are. In the 107 cases related to the Posting of Workers Directive, employers were approached with a questionnaire about the awareness of and compliance with the directive. A total of 100 out of the 107 employers completed the questionnaire, of which 20% made use of posted workers. At 60% of these employers, all posted workers had been notified in advance via the prior notification tool as required. At 10 employers, a total of 27 infringements were identified (25%), of which 25 would have been prosecuted if there had been no habituation period. This figure is somewhat lower than the infringement rate found in inspections with regard to other aspects of labour law (43%). The figures are not yet available for 2021.

Table 10. The number of inspections and infringements related to (cross-border) social fraud, 2020 and 2021

	2020		
	Cases	Cases with an infringement	Infringement rate
Inspections	155	67	43%
Re-inspections	5	n/a	n/a
Posting of Workers Directive	107	27	25%
Total	267	94	35%

Source: Netherlands Labour Authority (2021)

Additionally, a survey was conducted among more than 11,000 employers at the beginning of 2020. The aim was to gain insight into the knowledge level of employers about the Posting of Workers Directive. It showed that only 15% of the employers were well informed about the notification requirement. About 40% to 45% had insufficient or no knowledge about the notification requirement. The NLA has sought cooperation with the SVB, which technically administers the prior notification tool, to share information

⁴⁸ Pursuant to Article 6 of the Policy rule on fines of the Employment Conditions (Posted Workers in the European Union) Act of 2020.

⁴⁹ The Foreign Nationals Act (*Wet arbeid vreemdelingen, WAV*) set out the rules for permitting foreign nationals to work in the Netherlands.

⁵⁰ The Minimum Wage and Minimum Holiday Allowance Act (*Wet minimumloon en minimumvakantiebijslag, WML*) regulates the minimum remuneration for work that is carried out in employment in the Netherlands.

⁵¹ The Working Hours Act (*Arbeidstijdenwet, ATW*) and the Working Hours Decree (*Arbeidstijdenbesluit*) regulates the hours that employees are permitted to work within a given period of time and their rights to take a break or period of rest.

and to jointly inspect compliance with the Posting of Workers Directive. In 2021, the NLA increased awareness of the rules through information and communication. Again, a survey was conducted among employers to gain insight into the knowledge level of employers about the Posting of Workers Directive. This time, more employers were well informed about the notification requirement (compared to only 15% in 2020), but the exact figures have not been presented yet by the NLA. Additionally, enforcement-oriented checks were carried out on the basis of risk analyses, of which the results will be included in the NLA's annual report later this year. Also, consultations have been initiated with the SVB to start cooperation in the field of risk analysis and possibly operational cooperation as well.

In 2022, the NLA will focus on improving compliance with the Posting of Workers Directive. The aim of the activities is to encourage as many employers as possible to notify their posted workers via the prior notification tool. This will give the NLA the opportunity to take more targeted enforcement actions if employers fail to comply with the Dutch labour and social security laws. In particular, the NLA will focus on specific sectors of employment with a relatively large share of posted workers through the sectoral programmes Transportation and Logistics (*Transport en logistiek*), Construction and Infrastructure (*Bouw en infrastructuur*) and Industrial Labour (*Industriële arbeid*). These sectoral programmes are focused on 'risk sectors' with regard to working conditions and fair work.

At the EU level, the European Labour Authority (ELA) assists national labour authorities with issues related to cross-border labour mobility, including the enforcement of PDs A1. For example, the ELA assists in setting up joint inspections by national authorities.

3.3.2 Work permits and migrant arrangements

Additionally, the NLA focusses on third-country nationals who are active in the Dutch labour market via illegal means or with a legally unclear status through the thematic programme Spurious Labour Contracts, Collective Labour Agreement Compliance and Fraud (*Schijnconstructies, cao-naleving en fraude*). The NLA has found that some Dutch employers recruit third-country nationals with a work permit issued in a country within the EEA through a foreign branch.⁵² In that case, the Dutch employment conditions would apply to these workers. However, employers sometimes evade legal minimum wage rules and collective bargaining agreements by using fraudulent labour contracts that pretend that the employment conditions of another country apply to these workers in cooperation with the ELA. In 2022, the NLA will increase its focus on third-country nationals with regard to the posting of workers. Additionally, the NLA will focus on gaining more insight into the problems surrounding letter box companies.

⁵² See Inspectie SZW (2019).

4. The impact of the COVID-19 pandemic on intra-EU posting

This chapter reports on the impact of the COVID-19 pandemic on intra-EU posting to the Netherlands.

4.1 Introduction

There is a lack of timely and accurate data at the EU level on the impact of COVID-19 on all kind of intra-EU labour mobility. For the Netherlands, for instance, there is no data available on the number of incoming posted workers before the COVID-19 pandemic, since the prior notification tool became effective only two months before the start of the pandemic in January 2020. Therefore, this section focusses on monthly data on the development of the number of incoming posted workers during several stages (i.e., lockdowns) of the COVID-19 pandemic to obtain an insight into the pandemic's impact on intra-EU posting to the Netherlands.

4.2 Development of incoming posted workers during COVID-19 pandemic

Figure 20 shows the number of notifications per month in road freight transport during 2020 and 2021. Between January and February 2020, the number of notifications quickly increased in anticipation of the notification requirement of the Posted Workers Directive, which was implemented in March 2020. However, between March and July 2020, this increase was interrupted presumably due to the start of the first lockdown, when restrictions on cross-border movements were introduced and several sectors were closed down (which also had an effect on road freight transport). Between August and September 2020, when the restrictions started to be eased, a catching-up growth in the number of notifications seems to have taken place. A similar pattern is observed for the influx of regular labour migrants to the Netherlands in agriculture, horticulture and the meat industry during the COVID-19 pandemic (Heyma et al., 2020). Following the catching-up growth, the number of notifications in road freight transport started to stabilize around 25,000 notifications per month on average between October and December 2020.

In 2021, the number of notifications in road freight transport keeps fluctuating around 25,000 notifications per month on average. However, the second and third lockdown seemed to have no significant impact on the number of notifications. So, the COVID-19 pandemic seems only to have had a temporary impact on intra-EU posting to the Netherlands in 2020, although the counterfactual development of incoming posted workers is not known. However, both in 2020 and 2021, the total number of notifications (238,108 and 377,260 respectively) was still below the predicted figure of 450,000 notifications.⁵³

⁵³ See Sociale Verzekeringsbank (2021). These predictions are based on the number of notifications made using the Belgian prior notification tool in the preceding years.

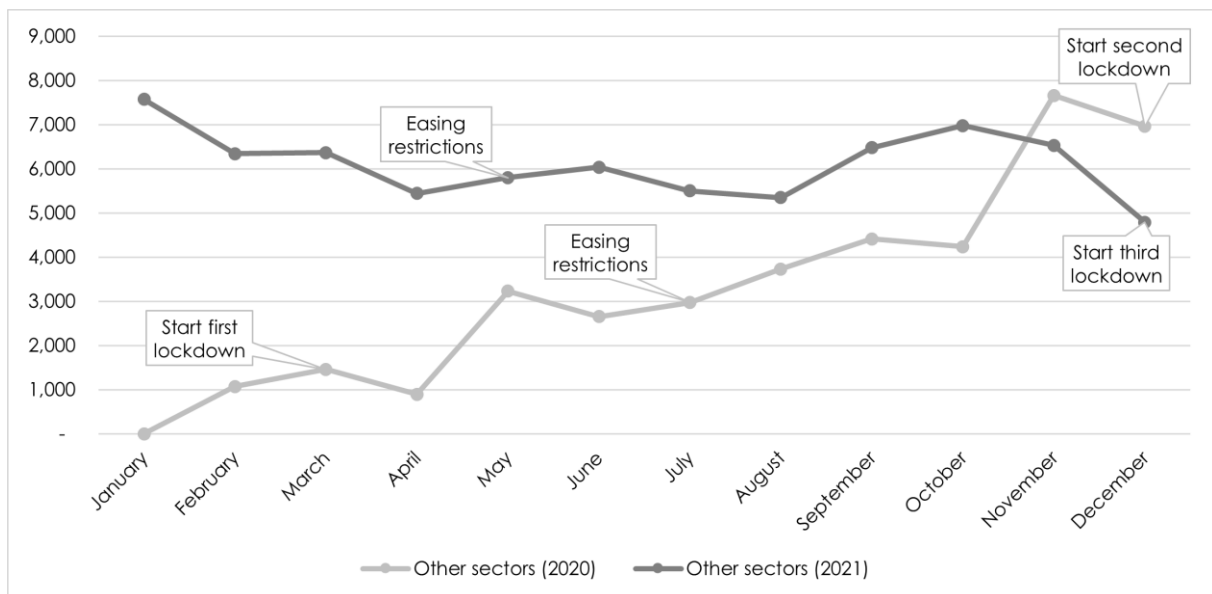
Figure 20. Number of notifications per month in road freight transport, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

Figure 21 shows the number of notifications per month in the other sectors of employment during 2020 and 2021. A somewhat similar pattern of delayed growth is observed for the number of notifications in the other sectors of employment in 2020. In 2021, it stabilizes at a much lower level than in road freight transport at 6,000 notifications per month on average.

Figure 21. Number of notifications per month in other sectors of employment, 2020 and 2021



Source: Sociale Verzekeringsbank (SVB), based on data from the prior notification tool

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