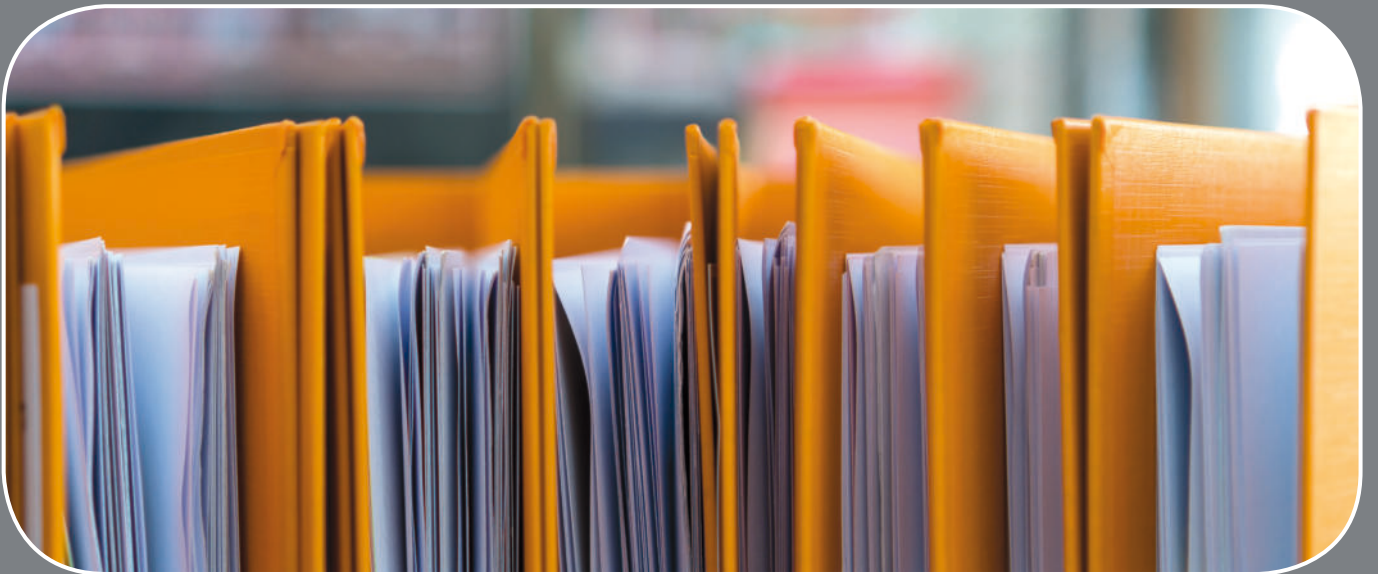




Foundation for
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Regulatory and financial burdens of EU legislation in four Member States – a comparative study

Vol. 1: Regulatory and financial burdens arising from the A1 Certificate



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Summary of main results

Key findings of the legal study (cep)

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

Each Member State asks for additional information.

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

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

*streamlined and
simple application
procedures needed*

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

Approach

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

Current practice

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

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

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

Proposals for reducing administrative burdens

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

*leanest processes in
Austria and France*

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

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

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