

EARTO Paper on A1 Certificates and the Posting of Workers in EU Regulations: Exemption Needed for Researchers and Science-associated Staff

8 November 2019

EARTO hereby voices its concerns regarding the Regulations on the Coordination of Social Security (Reg. (EC) 883/2004, Reg. (EC) 987/2009) and the Directives on the posting of workers (96/71/EC, 2014/67/EU, 2018/957/EU). We call on the European Commission, the European Parliament and the Council of the European Union to ensure that applications for A1 certificates for business trips should be necessary only when the business trip is longer than two weeks, uniformly throughout the EU. Secondly, we call on the EU institutions to ensure that researchers and science-associated staff are exempted from the general posting of workers regulations, uniformly throughout the EU.

Most of Research & Technology Organisations (RTOs) in Europe receive public funding and hence must ensure that the specific legal requirements for employment conditions are met and reported.

A significant number of European RTOs has implemented a “Human Resources Strategy for Researchers”, based on the “EU-Charter for Researchers and Codex for the recruitment of researchers” that was issued in 2005 including recommendations on mobility. Accordingly, many of them have already received the EU “HR Excellence in Research” Logo. Also, the EU is funding several mobility programs for researchers within and outside Europe (e.g. Marie-Sklodowska-Curie-Actions) that promote international mobility. In this context, EARTO members very much support the European agenda to promote a high degree of international mobility of researchers.

With reference to our previous warnings¹ on the EU Regulation 883/2004 and in advance of the Trilogue negotiations next week, we would like to reiterate the urgency of our concerns. When looking at the European Commission’s guidance document published in September 2019 aiming at helping workers, employers and national authorities in understanding the rules on posting of workers², EARTO appreciates the European Commission’s efforts in reforming this legal framework in order to ensure the fair exercise of the freedom to provide services and to enhance workers’ protection throughout the EU.

However, the employees of RTOs cannot be equated with “workers” in general. The legal framework for the posting of workers within the EU was mainly created in order to protect workers in economic/private sectors. The overall labour market for workers differs a lot from the labour market for employees in Higher Education, Research and Technology working for organisations with non-profit public missions. This can clearly be demonstrated, among others, by the creation in 2005 of a European Charter for Researchers³ which deals with the specific framework conditions for researchers in the EU. **It is therefore essential that researchers and science-associated staffs are exempted from the general posting of workers regulations.**

The EU has recognised the need to prioritise and support research and innovation when addressing the challenges our society is facing. We appreciate that the EU is actively communicating about the importance of investing in knowledge and innovation as a priority of the new European Commission in programming the new Horizon Europe, Digital Europe, Space and Defense programmes.

The specific characteristics of the professional fields of Education, Science, Research and Technology and their workers are reflected in the article 179 of the Treaty on the Functioning of the European Union (TFEU). The treaty states the objective for the Union to strengthen its scientific and technological bases by creating an area in which ‘researchers, scientific knowledge and technology circulate freely’. It is further stated in the same article that the EU shall encourage undertakings, including RTOs in their efforts to cooperate freely across borders, and will support the removal of legal and fiscal obstacles to that cooperation.

All the objectives mentioned above are confirmed and elaborated on in the European Charter for Researchers. The Posted Workers Directive today restricts the freedom to cooperate freely in the fields of

¹ [EARTO open letter to Commissioner Marianne Thyssen](#)

² [Posted workers: Commission reports better enforcement - Employment, Social Affairs & Inclusion](#)

³ [Charter & Code for Researchers - EURAXESS](#)

education, science, research and technology: the registration obligation, which is outlined in the Enforcement Directive 2014/67/EU, is particularly restrictive.

We would like to emphasise two key issues:

- **Applications for A1 certificates for business trips should only be necessary when the business trip is longer than two weeks, uniformly throughout Europe.** A corresponding clarification should be included in Regulation 987/2009. This would exclude regular business trips from the scheme, significantly reduce bureaucratic hurdles while focusing on the issue of posting targeted by the Regulation.
- The requirements of the different legislative acts (Terms and conditions of employment of posted workers - Posting of Workers Directives 96/71/EC, 2014/67/EU, 1024/2012/EU and 2018/957/EU on the one side, Coordination of Social Security Systems - Regulations (EC) No. 883/2004 and (EC) No. 987/2009 on the other) unfortunately differ significantly when it comes to labour law on one side and social security law on the other. This inevitably results in huge efforts trying to reconcile those and bring uncertainty to our members as employers. In this context, a uniform standard exemption for EU researcher mobility should be created across the various legislations. **Therefore, we need a general exemption for researchers and science-associated staff to be implemented uniformly throughout the EU, crossing over the administrative (social security / A1-form) and labour law obligations (notification requirements) and to be introduced for short assignments abroad of up to two-week-long.**

In addition, viewing the Directive 2018/957/EU's requirements, the EU Institutions should ensure harmonised reporting rules and procedures in order to reduce the enormous bureaucratic burden that EARTO members will face. Harmonised digital reporting platforms in English, such as a European database for national salaries and labour law provisions and a flat rate pay calculator would be the minimum requirements in order to be able to cope with the EU directive's demands. Such digital tools should be produced by the newly created ELA (European Labour Authority) before the 2020 implementation deadline for the new Posting of Workers Directive.

We call upon the EU Institutions to support the future of mobility of researchers in Europe, avoiding creating further mobility's barriers. We hope that our proposed solutions will be picked up in the negotiations on the revision of Regulation No. 883/2004 as well as in the evaluation processes regarding the Directives on the posting of workers.

EARTO remains at your disposal for any further inputs you may require on those issues.

RTOs - Research and Technology Organisations

From the lab to your everyday life. RTOs innovate to improve your health and well-being, your safety and security, your mobility and connectivity. RTOs' technologies cover all scientific fields. Their work ranges from basic research to new products and services' development. RTOs are non-profit organisations with public missions to support society. To do so, they closely cooperate with industries, large and small, as well as a wide array of public actors.

EARTO - European Association of Research and Technology Organisations

Founded in 1999, EARTO promotes RTOs and represents their interest in Europe. EARTO network counts over 350 RTOs in more than 20 countries. EARTO members represent 150.000 highly-skilled researchers and engineers managing a wide range of innovation infrastructures.

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