

Dutch online registration system for international assignments live as of March 1, 2020

As of June 18, 2016, the provisions of Enforcement Directive 96/71/EG were interposed in the Posted Workers in the European Union Act (*Wet arbeidsvoorwaarden gedetacheerde werknemers in de Europese Unie*; or WagwEU). The aim of WagwEU is to ensure that assignments really are temporary, that the self-employment is authentic and that the sending company has substance. Until now, the obligations arising from WagwEU were limited to having certain documents (e.g. an A1 certificate, pay slip) pertaining to the assignee available at the workplace. The online registration system was not yet operational. However, as announced on December 19, the online registration will go live on March 1, 2020 (notifications with an effective date after March 1 will be able to be entered into the system from February 1). The registration can be done in Dutch, English or German.

WagwEU applies to employees (as well as self-employed persons but these are not discussed further here) who are temporarily seconded to the Netherlands to provide cross-border services. "Cross-border services" relate to three situations:

- (1) where, for the account and risk of the sending company, an employee is made available to the receiving company in another Member State;
- (2) where an employee is made available to another entity of the employer or another entity belonging to the same group of companies;
- (3) where the sending company, for a fee, makes the employee available to the receiving company to work under that company's supervision.

The Decree dated December 3, 2019 lists the reference points that the authorities should take into account to determine if an employee is indeed temporarily assigned to work in the Netherlands and, as such, falls under the scope of the Act. Examples of these reference points are: duration and commencement date, will the assignee return to their home country, do they normally work in the home country, the nature of the activities performed in the host country, proof that the assignee will continue to fall under the social security regime of the home country, etc. According to the Decree, business travelers do not have to register if they travel to the Netherlands to attend business meetings or conclude contracts and if the duration of their stay does not exceed 13 consecutive weeks within a 52-week period. (NB: these business travelers should be in possession of an A1 certificate). Other specific exemptions may also apply.

To enable employers to comply with WagwEU, the sending company should register via the central website <https://www.postedworkers.nl>. The website allows for registration in English, German or Dutch. There is no need to upload documents. The receiving company should verify if the sending company has complied with its reporting obligation (otherwise the receiving company may also be held liable for penalties). The sending company must send the receiving company a copy of the registration. If the sending company has not or not fully met its obligations, the receiving company should report this to the authorities before the work commences.



De in dit memorandum opgenomen informatie is van algemene aard en heeft geen betrekking op de specifieke omstandigheden van een bepaald individu of een bepaalde entiteit. Hoewel bij de totstandkoming van dit memorandum de grootst mogelijke zorgvuldigheid is betracht, kunnen wij niet garanderen dat de daarin opgenomen informatie op de datum van ontvangst juist en volledig is of dat in de toekomst zal blijven. Op grond van deze informatie dient geen actie ondernomen te worden zonder adequate professionele advisering na een grondig onderzoek van de specifiek van toepassing zijnde situatie.