



EMECs Country report Poland

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The opinions hereby expressed reflect only the authors' view.

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Introduction

This report was produced as part of the 'European market environment in the construction sector - Enhancing the free movement of posted workers in EU' project (EMECs), co-funded by the European Commission, and addressing the impact of the COVID-19 pandemic on mobility, working conditions and social protection of posted workers in the construction sector.

By means of a set of research and mutual learning activities, the project aims at delivering proposals to better support posted workers in case of future pandemics.

The report is part of a series addressing the different countries covered by the project, namely: Germany, Italy, Spain, Poland, Portugal, and Romania.

The study combines desk research with interviews to stakeholders to provide a sound background information for the rollout of the project.

More specifically, following a common questionnaire, the report departs from contextual information, addressing measures restricting free movement of workers and production, to detail: the actual impact of the pandemic on posting as per available figures and evidences; problems encountered by companies involved in posting (e.g. in arranging mobility of workers or in providing adequate accommodation); problems encountered by posted workers (e.g. remaining blocked in the host country or facing difficulties in accessing social benefits and aids); evidences of COVID-19 outbreaks in construction sites, including related information on geographical areas affected and involvement of posted workers.

The Annexes provide the list of interviewees referred in the text, and other relevant sources used for the report or suggested for further reading.

Contextual information

The first case of COVID-19 in Poland was found on 4 March 2020. In the period from 14 to 20 March 2020, the state of epidemic threat was in force in Poland, and on 15 March 2020 a sanitary cordon was introduced at the borders of Poland, significantly limiting border traffic. From 20 March 2020 to 15 May 2022, in accordance with the regulation of the Minister of Health, the state of epidemic was in force, replaced again, from 16 May 2022, by the state of epidemic threat. In addition to lockdown in some sectors, provisions adopted during the state of the epidemic included the obligation to disinfect public places, the obligation to wear protective masks in schools, commercial establishments, health care facilities, and public transport. In the period of the greatest intensity of the epidemic, it was also obligatory to use masks in all spaces apart from the place of residence. It was up to the employer to make wearing of masks and other special precautions obligatory. The employer also decided to introduce remote work and possible downtime. Vaccination was absolutely not compulsory at any time during the epidemic (only partially and to a limited extent in the medical, military and police sectors). However, people who had not been vaccinated since autumn 2020 had limited access to travel and many public services. Testing was not compulsory in most sectors, with the exception of some public services.

For what concerns more specifically cross-border movement, the following restrictions were introduced from the beginning of the pandemic until 2021: a sanitary cordon was introduced at the borders of Poland on 15 March 2020. Air and rail traffic was suspended, passport controls were introduced at all land borders, and only Polish workers and citizens were allowed to enter the country. A 14-day quarantine upon entrance was introduced. Restrictions on the freedom of movement for posted workers (border cordons) lasted a short time in the spring 2020. Periodically in

2020 and 2021 restrictions were introduced for crossing borders (compulsory examinations, quarantine, vaccination certificates). Later, in 2021, and in early 2022 (until 28 March 2022), there was a 10-day (reduced to 7-day) quarantine obligation for people crossing the border.

Table 1: Chronology of main restrictions to tackle the pandemic (2020)

Date/Period	Measure
14-15 March 2020	Introduction of the state of epidemic threat, of the sanitary cordon, and of a 14-day quarantine upon entry.
20 March 2020	Official announcement of the epidemic state in Poland. During the epidemic, a number of restrictions were introduced. All pandemic regulations and restrictions applied to both Polish and foreign workers.
24 March 2020	Introduction of further restrictions: limitation of assemblies to max. 2 people (except for families, religious gatherings and workplaces), limiting travel to essential (except for family matters and work reasons).
31 March 2020	Introduction of further restrictions: children under the age of 18 were not allowed to leave the house without a guardian; hairdressing and beauty salons were closed; hotels could only operate if guests were quarantined or were there for professional work, such as medics or construction workers ; the obligation to keep a distance of 2 meters from each other was introduced, with the exception of caregivers of children under 13 years of age.
9 April 2020	The closure of educational institutions and international transport was extended until 26 April, the borders were closed until 3 May, and persons crossing the Polish border were subject to a 14-day quarantine.
16 April 2020	Introduction of compulsory covering of the nose and mouth in public places.
May – June 2020	Lifting of certain restrictions
8 August 2020	Re-introduction of regular restrictions - division of local administrative units (<i>poviats</i>) according to different colour codes: red, yellow and green (where red marked the largest scope of restrictions - including ban on the organization of fairs, congresses , cultural events, sports events with the participation of the public, and green the smallest scope).

24 October 2020	All Poland declared red zone. Reintroduction of the obligation to wear masks in public areas. Closure of shopping centers, restaurants, bars and hotels (only available for business trips). Lessons in primary schools for grades IV-VIII were remote.
9 November 2020	Re-closure of primary and secondary schools in Poland

Restrictions lasted until the end of March 2021 and were then gradually lifted (and periodically restored in case of pandemic relapses). After the introduction of vaccination certificates against COVID-19, workers crossing the borders with the certificate were released from quarantine.

Regulations concerning the functioning during a pandemic were introduced primarily by the Act of 2 March 2020¹ on special solutions related to the prevention, counteraction and combating of COVID-19, other infectious diseases and the crisis situations caused by them. These included:

- the possibility of ordering remote work in workplaces during quarantine or epidemiological supervision in connection with the suspicion of COVID-19;
- the possibility of derogation from the provisions of the construction law, provisions on planning and spatial development and on the protection of monuments and the care of monuments in the design, construction, reconstruction, maintenance and demolition of buildings in connection with counteracting COVID-19;
- the right to impose on a local government unit by the prime minister, at the request of the minister of health, a specific task in relation to counteracting COVID-19;
- the right of the Council of Ministers to counteract COVID-19 to transfer, by regulation, planned budget expenditure between parts and sections of the state budget, taking into account the amount and type of necessary support and the ongoing execution of expenditure in individual parts and sections of the state budget.

The government has also taken measures to support companies and employees affected by the pandemic (in several rounds, according to the intensity of the pandemic). In these so-called anti-crisis shields², the following measures have been planned for companies: several monthly exemptions from social security contributions for employees (3 months) and reliefs on payment of arrears in social security contributions, wage subsidies and the temporary abolition of the arrears in payments of payroll taxes and personal income tax on wages for employees. Write-offs of some outstanding taxes were also introduced. Enterprises have also been able to deduct the loss from 2020 from their income from 2019.

The possibility of obtaining a low-interest loan for micro-entrepreneurs from the Labour Fund, co-financing of standstill benefit for people running a business (3 months), subsidizing part of the

¹ Available at: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20200000374> .

² For more information, see: <https://www.gov.pl/web/tarczaantykrzysowa/wyszukaj-wsparcie-dla-swojej-firmy> .

remuneration costs for their employees (for 3 months) and a revolving loan to finance salaries was introduced.

At the same time, regulations were introduced allowing employers to shorten working time. However, these regulations could only be introduced with the consent of the trade union or employee representatives (in the absence of a trade union organisation in a given company). Periodic health and safety trainings validity has been extended.

In Poland, the lockdown mainly affected the restaurant and bar industry, cultural institutions, periodically schools and kindergartens, as well as the tourist and hotel sector. **The construction sector has not been included in a lockdown and has been operating throughout the entire pandemic period without significant restrictions for the performance of construction works.**

After the initial period of disorganisation, the pandemic's impact on supply chains and subcontracting was not noticed (mainly because basic building materials companies were also not locked down and operated normally).

Starting from May 2022, the first statistical studies (Central Statistical Office) have appeared on the impact of the pandemic on the economy in Poland, including the construction sector³.

The years 2018-19 were years of high construction boom in Poland. In 2020, after a short period of disruptions in supply and subcontracting chains, the economic situation remained fairly positive. In practice, there has been no increased in bankruptcies, neither in unemployment in the industry during pandemic (2020-2021). In 2021, the construction sector functioned practically without disruptions, only with the introduction of a number of precautionary measures. In the real estate sector, from the very beginning of the pandemic, remote work for building administration (as in public administration) and restrictions on direct contacts were introduced. Only building maintenance and renovation services were exposed to direct contact with clients, and this group of employees was diagnosed with the highest number of cases, according to interviewed stakeholders. Despite the initial disturbing signals, no major violations of the labour law, neither drastic restrictions on the activities, or reductions in working hours and wages have been reported among the largest construction companies. Interestingly, in the second half of 2020 and in 2021, a significant increase in revenues was achieved by smaller and micro renovation companies due to the rapidly growing demand for renovation works, including renovation of apartments and private premises. There was no decline in the number of workers in the construction sector during 2020 and 2021 (but no increase in employment either).

The impact of restrictions on the posting of workers

As other EU countries introduced restrictions on border traffic relatively quickly, for some time (especially in the period of the highest waves of disease) the flows of migrant workers (including posted workers) were stopped. Polish posted workers were not allowed to move between the sending and the host country. In practice, some posted workers remained in the host countries, and some of them could not reach the host country. However, this situation lasted for a relatively short time. Performing work in the construction industry as part of the provision of services covered by the

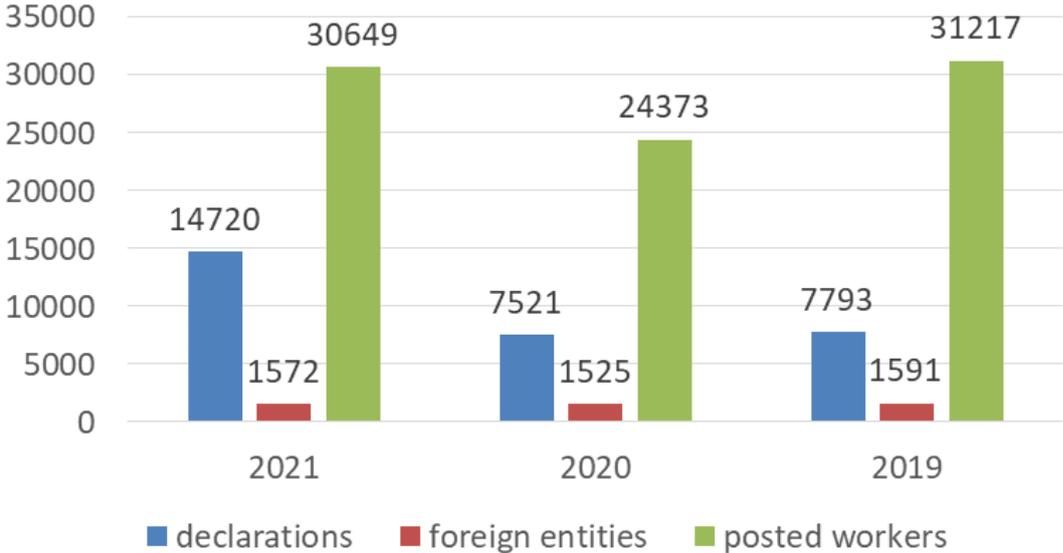
³ See: <https://stat.gov.pl/obszary-tematyczne/koniunktura/koniunktura/wplyw-pandemii-covid-19-na-koniunkturę-gospodarczą-oceny-i-oczekiwania-dane-szczegolowe-oraz-szeregi-czasowe-aneks-do-publicacji-marzec-2022,6,18.html> .

rules on posting was not possible in many EU countries also because a significant part of these countries periodically introduced lockdowns, which also affected the construction sector. Countries such as Belgium or Germany, however, developed quite quickly clearly defined procedures for legal entry into their territories. As a result, foreign firms, including construction companies, could continue to post workers as long as construction works were allowed.

The uninterrupted activity of the sector did not change the number of people posted to Poland in the construction industry. In the first half of 2020, difficulties occurred mainly in the posting of workers from third countries, such as Ukraine, due to radical restrictions in border traffic. Ukrainian workers posted to Poland (mainly through temporary employment agencies) to a large extent remained in Poland after the introduction of restrictions on cross-border mobility. Some of them changed the type of employment after the end of the posting period, obtaining an immigrant visa (the so-called 'employment on the basis of the employer's declaration of the intention to entrust work to a foreigner'). This situation changed only after the beginning of the war in Ukraine. From the end of February 2022, at least 80,000 construction workers (men) left Poland and returned to Ukraine, according to estimates of the interviewed employers' organisations. Posting of workers from Ukraine to Poland via temporary employment agencies has also practically stopped.

All appropriate special regulations during the pandemic also applied to posted workers and migrant workers legally employed from other countries. At the time of the epidemic, following interpretation by the National Labour Inspectorate (PIP), posted and migrant workers were recognised the same rights guaranteed not only by the labour code and collective agreements, but also in internal company rules concerning employees.

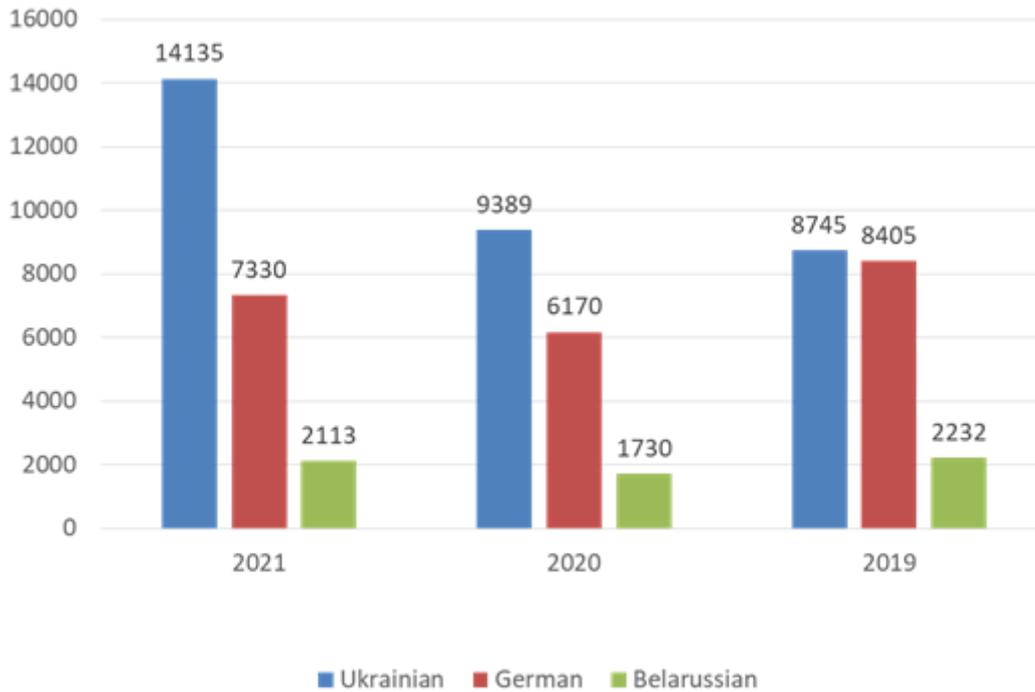
Fig. 1: Employees posted to Poland in 2019-2021



Source: PIP and Department of Foreign Pensions at the Social Insurance Institute (ZUS)⁴

⁴ Information provided by Dariusz Górski, Director of the Department of Legality of Employment of the National Labour Inspectorate, presentation May 2022. Source: Department of Foreign Pensions at the Social Insurance Institution (ZUS).

Fig. 2.: Posted workers to Poland by nationality



Source: PIP⁵

In 2020, there was an initial decrease in the number of people posted from Poland to other EU countries. This situation began to change in 2021, when the number of posted people practically returned to the 2018-2019 level. The number of posted workers in the construction industry did not change as well, remaining at a high level. The pandemic only limited posting initially. The National labour inspectorate and Liaison office (PIP) received numerous queries concerning the obligation to quarantine for posted workers after crossing the borders. The pandemic coincided with ongoing efforts to digitalise some of the processes, including circulation of documents and handling of formalities online. For instance, the Social Insurance Institute (ZUS) has implemented an A1 Certificate Application Creator facilitating applying for an A1 certificate. From 1 April 2022, the A1 document can only be obtained via the electronic application.

ZUS issued over 676.7 thousand A1 certificates in 2021. This is an increase compared to 2020 by 9.56%, when over 617.7 thousand A1 certificates were issued⁶.

⁵ Information provided by Dariusz Górski, Director of the Department of Legality of Employment of the National Labour Inspectorate, presentation May 2022.

⁶ Source: ZUS.

Table 2: Number of A1 documents issued in 2021

Number of PD A1 issued according to Regulation (EC) No 883/2004 on the coordination of social security systems	
Categories	Number of PD A1 issued
Posted worker who pursues an activity as employee (Article 12.1)	210 307
Employed person who pursues an activity in two or more Member States (Article 13.1)	384 113
Self-employed posted worker (Article 12.2)	12 986
Self-employed who pursues an activity in two or more Member States (Article 13.2)	59 139

Source: PIP⁷ and ZUS

No detailed data were obtained on employees posted from Poland to work in the construction industry. It is estimated that, as in the years before the epidemic, they constituted the largest group of posted workers in EU (up to 30% -35% of the total number of posted workers). According to ZUS, the largest groups of workers posted from Poland in the construction industry were sent to: Germany, Belgium and France.

Problems encountered by companies involved in posting

A general observation of both interviewed employers' organisations and trade unions, but also of the government itself, was that public administrations and employers were not prepared to act during the pandemic. There were no procedures appropriate to the scale of the COVID-19 phenomenon, neither draft legal acts or procedures for coordinating activities or services. Therefore, we can talk about an initial organisational chaos and a gradual overcoming of this chaos by taking ad hoc measures and the express introduction of new legal provisions (sometimes with a dubious legal basis).

According to the employers' organisation associating large construction companies (Confederation of Building and Real Estate), at the beginning of the pandemic, the biggest problem occurred in the area of accommodation of employees (including primarily employees who are not Polish citizens). Many private landlords lending their properties to construction companies refused to accept migrant workers. There have also been problems with the provision of security measures in these facilities. These problems were overcome around mid-2020 (when the Ministry of Health introduced detailed guidelines). Initially, companies faced difficulties in guaranteeing safe transport of employees to the workplace, but this was also resolved in spring 2020 after the introduction of regulations on the transport of workers.

The government (Ministry of Development and Technology) consulted companies, employers' organisations, and trade unions on precautionary measures and organisational solutions to be

⁷ Information provided by Dariusz Górski, Director of the Department of Legality of Employment of the National Labour Inspectorate, presentation May 2022.

introduced in construction sites during the pandemic. As a result, the recommendation was based on a study prepared by the so-called 'Agreement for Safety in Construction' (supported by trade unions). Recommendations have been made available in Polish, English, Russian and Ukrainian languages.

The Agreement for Safety in Construction is in fact an organisation of large construction companies, which issued guidelines in 2020 for precautionary measures on construction sites. These guidelines (detailed and prepared also in graphic format), mainly concern:

- distance of 1.5 meters between work stations whenever possible;
- daily disinfection of common areas;
- distance and disinfection at the entrance of the construction site;
- taking every second seat in vehicles on the way to work in vehicles with 7-9 seats;
- organization of meal breaks at different time intervals;
- limitation of training trips and direct meetings;
- provision of information, posters and disinfectants;
- provision of detailed sets of personal protective equipment and disinfectants;
- information obligations of top and middle site management;
- responsibility of testing and dealing with people with symptoms of infection;
- special rules for on-the-job training of employees and limits for other in-person training.

The introduction of the recommendation did not have a significant impact on the process of posting employees to Poland. Employers in large companies conducted a training process in this area for foreign and posted workers in the languages of the main groups of mobile workers or with training translation. Information on recommendations (which were obligatory in large companies) was also available in the form of posters at construction sites and online in the languages of the main foreign groups.

According to interviewed stakeholders, sending undertakings from Poland have adapted to the requirements related to combatting the pandemic of the host countries. In the case of the construction sector, in 2020 a delay in the performance of certain contracts was observed in some host countries (which resulted in a postponement of the end of posting). Due to the fact that sending undertakings and host companies usually cooperate for a longer period of time, long-lasting disturbances in the posting process have not been observed. In the first period of the pandemic, sending undertakings had problems organising the return of posted workers to the country and providing them with accommodation while they were waiting for their return.

In the economic situation surveys published by the Central Statistical Office in May 2022⁸, construction companies that indicate a negative impact on the company's operations across December 2021 and February 2022 indicate sickness absences as a significant element influencing the company's situation.

⁸ See: <https://stat.gov.pl/obszary-tematyczne/koniunktura/koniunktura/wplyw-pandemii-covid-19-na-koniunkturę-gospodarczą-oceny-i-oczekiwania-dane-szczegółowe-oraz-szeregi-czasowe-aneks-do-publicacji-marzec-2022,6,18.html> .

Among negative effects of the COVID-19 pandemic observed in the three covered months, the most relevant to construction companies was lack of employees.

Table 2: Share of construction companies reporting 'lack of employees' among negative effects of COVID-19 by size (%)

Description of the negative effect	Company size				
	Total	Micro	Small	Medium	Large
lack of employees (quarantine, illness, nursing leaves)	35,2	29,8	38,2	40,7	31,0

Source: Central Statistical Office

It should be emphasized, however, that among the negative effects of the pandemic, companies indicated more often an increase in costs (64.3 %) and a disruption in the supply chain (38.9 %).

Employers' organisations interviewed for the EMEds project (the Polish Association of Construction Employers and the Confederation of Construction and Real Estate) indicate that the biggest problem for companies related to the pandemic was the departure of some construction workers from Poland to Ukraine in the first half of 2020 and the total stoppage of the flow of mobile workers (including posted workers) from Ukraine during the period of border closure. This problem intensified after Russia's aggression against Ukraine in 2022.

Problems encountered by posted workers

According to interviewed stakeholders, in the initial period of the pandemic (March - May 2020), employees posted to Poland (mainly from third countries) had limited access to information (similarly to their employers, who indicate the initial information chaos and the lack of detailed binding interpretations of emergency acts). However, there were no problems with the access of posted workers to healthcare services. The possibility for foreigners to perform preventive vaccinations was made available with a delay. Large companies have implemented their own employee protection systems (covering also posted workers). Employers from small and medium-sized enterprises usually did not avail of posted workers.

The possible reduction of working hours (and of wages) has been among the main concerns for unions. However, the lack of lockdown in construction has ruled out these concerns for the sector at hand. In other sectors, trade unions accepted the principles of agreements on temporary changes in the organisation of work in companies and supported government solutions for guaranteeing social benefits. Both unions and employers point out that rules on remote work have not been regulated yet in Poland (which especially concerns the real estate sector).

Posted workers from Poland in the initial period of the pandemic (spring 2020) reported problems related to return to the country after the posting period and accommodation while waiting for return. These problems concerned also the introduction of a lockdown in construction in some countries. No such problems were reported in the later pandemic period. The duration of posting was also affected, as prorogations of works were necessary due to restrictions in the movement of workers, problems with the supply of materials, as well as due to lockdowns in the construction industry in some countries.

Access to information was a significant problem for employees posted to and from Poland in the first period of the pandemic. Initially, Polish sources of information about the conditions of posting, restrictions and conditions for organising work on construction sites were not sufficient and hardly available in languages other than Polish.

Information for Polish posted workers was provided by PIP during the pandemic, acting also as Liaison office. This information also concerned employees posted to Poland and the principles of labour law applying to them during the pandemic⁹. From the beginning of the pandemic, there is also a governmental website informing about travel restrictions for mobile workers as well as the website of the State Sanitary Inspectorate¹⁰. Information on the rules for posting to Poland is also provided in the portal hosting the national web-site on posting¹¹ targeting requirements for enterprises (covering aspects concerning taxation, employment, pandemic related measures, remote work, protective measures, etc...).

In the area of social insurance during the pandemic, posted workers can obtain information on the ZUS website¹². Information is also available in Ukrainian.

In the second year of the pandemic (2021), access to information for posted workers improved significantly. The problem remains that full information is usually available in Polish, English, Ukrainian and Russian. Access to information in other languages of posted workers is still insufficient. According to trade unions, in the spring of 2020, both posting entities from Poland and posted workers drew attention to the shortcomings in access to information in the host countries.

Trade unions, employers' organizations and companies indicate that the pandemic did not directly affect the activity of the construction industry, but after two years its indirect impact on the sector is visible. Even before the war in Ukraine (which radically disrupted supply chains, prices of raw materials and energy), the investment process in Poland was disrupted. While large public investments financed from the state budget are still implemented, the number of construction investments carried out by local governments has significantly decreased. Local governments have had to spend a large part of their resources on counteracting COVID-19, while losing a significant share of tax revenues from sectors in lockdown. This pandemic effect will have a long-term negative impact on the construction industry in Poland. The pandemic also raised the production costs of certain building materials, which affected construction prices. It was the first stage of the increase in the prices of building materials, multiplied by the effects of the war in Ukraine.

These obstacles to construction activities may trigger an increased interest of companies and employees in working abroad.

Evidences of COVID-19 outbreaks in construction sites

There is no information that any construction was stopped in Poland due to COVID-19 cases. However, according to employers' organisations, large construction companies reported delays in the implementation of some works due to a shortage of workers (due to the lack of some specialists and of migrant workers).

⁹ See: Delegowanie pracowników do Polski w ramach świadczenia usług w czasie epidemii wirusa SARS-CoV-2 (29 October 2020): <https://www.pip.gov.pl/pl/informacje-dla-obcokrajowcow/covid-19-informacje-dla-cudzoziemcow/110164,delegowanie-pracownikow-do-polski-w-ramach-swiadczenia-uslug-w-czasie-epidemii-wirusa-sars-cov-2.html> .

¹⁰ See: <https://www.gov.pl/web/coronavirus/temporary-limitations> .

¹¹ See: <https://www.biznes.gov.pl/en/firma/doing-business-in-poland/posting-of-workers-to-poland> .

¹² See: <https://www.zus.pl/pracujacy/pracujacy-w-ue-eog-szwajcarii/delegowanie/pracownicy-delegowani> .

Until July 2022, 6,032,078 cases of SARS COV-2 infection were recorded in Poland and 116,470 deaths were registered. The highest increases in the incidence rate were recorded in the following months: October - December 2020, April 2021, November - December 2021 and February 2022. The largest number of cases of COVID-19 occurred in the regions of Silesia and Mazovia.

According to the reports of employers and of their organizations, the diffusion of the disease was not significant in the assembly and renovation sector (compared to other sectors). Some construction companies have reported cases of transmission of infections in the collective accommodation of workers. Housing cooperatives also reported an increased number of cases in the group of property restorers and installers who had direct contact with residents. However, there are no statistical data and detailed research data on this subject.

Annex 1 - List of interviewees

Position	Organisation	Date
President of Trade union structure	Branch of international construction company (HOCHTIEF)	May 2021, March 2022
Director	Polish National Labour Inspectorate (PIP), Department of Legality of Employment (Liaison office)	July 2022
President	Confederation of Building and Real Estate (employers' organisation)	May 2022
Vice-president, 3 member company representatives	Sectoral Council on Competences in the Construction Industry	May 2022
Member of Board	Finishing Works Specialists Association (association representing small companies)	May 2022

Annex 2 - Relevant sources

Polish government website on the COVID-19 pandemic:

<https://www.gov.pl/web/koronawirus> (regulations, actual and historical data – country and regional)

Polish government website on the COVID-19 pandemic – Section on legal regulations (Anti-crisis Shield):

<https://www.gov.pl/web/tarczaantykrzysowa>

Polish National Labour Inspectorate:

<https://www.pip.gov.pl/en/legality-of-employment/65535,information-on-posting-of-workers.html>

Website and info-desk of the AKTYWATORWLKP project:

<https://www.migrant.info.pl/>

Polish official national web-site on posting:

<https://www.biznes.gov.pl/en/firma/doing-business-in-poland/posting-of-workers-to-poland>

Office for Foreigners:

<http://archiwalna.udsc.gov.pl/en/cudzoziemcy/coronavirus-outbreak/>