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SOCIAL IDENTITY CARDS

in the

EUROPEAN CONSTRUCTION INDUSTRY

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FINAL REPORT

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0 Foreword

This report is the outcome of a European project of the European social partners of the construction industry: the European Federation of Building and Woodworkers and the European Construction industry Federation, funded and supported by the European Commission.

Without the active involvement of the national social partners of the construction industry in the targeted countries, namely Belgium, France, Denmark, Sweden, Luxembourg, Spain, Lithuania, the Netherlands, Germany, Finland, Romania and Italy this report would never have been possible. We are grateful for the work and the patience that many national social partners have demonstrated during the 1st phase (collection of information) and the 2nd phase (checking the collected information) of the project. The meticulous work to transform the bulk of available information and know-how into readable and accessible national reports was done by a team of nationally appointed experts, which you will find at the end of the report. They have demonstrated a high commitment and were always ready to reply to the questions, which were raised by the paritarian steering group members. The European coordinators of the project, on behalf of the European Association of Paritarian Institutions of Social Protection (AEIP), Mr Francesco Briganti and Ms Magdalena Machalska, ensured the difficult coordination between the demands of the steering group and the fieldwork of the national experts.

Prof. dr. iur Heinz-Dietrich Steinmeyer, was willing to share his legal knowledge and experience and, in between his other teaching and research occupations, patiently took the time to listen to the legal questions raised by the steering group and tried to answers them as exhaustively as possible.

A final utmost recognition is attributed to the members of the steering group, who intensively guided and monitored the whole project. On behalf of the employers' side they were: Mrs Maria Angeles Asenjo, Mr Domenico Campogrande, Ms Katrin Kandaouroff, Ms Laura Lammel, Mr. Claes Rydin and Mrs Djani Antova. On behalf of the workers side they were: Mr Tom Deleu and Mr. Frank Schmidt-Hullmann. The European Commission was represented by Mr. Sjoerd Feenstra.

Werner Buelen
Project manager

1 Introduction

The aim of the project was to map existing social ID card schemes or similar instruments, which exist in the European construction industry. At the same time the report also assesses the discussions which took place, but which did not lead to the creation of a social ID card scheme. In order to be complete the report also includes ongoing discussions which aim at setting up a social ID card or a similar scheme.

What do we mean by the term “social ID card”? Based on the findings of the project we defined social identity cards: *“as an individualized worker certification tool which contains visible and safely stored electronic data that aims to attest that specific social and/or other (e.g. professional qualifications, OSH training, social protection/security issues, ...) requirements have been met by the worker’s employer and/or the worker him/herself”*.

Social ID card schemes aim to create more transparency as to compliance with targeted social requirements and are aimed to improve the functioning of the labour market. The cards could also serve additional purposes: Depending on the scope, the schemes could also be used to store data like such as the actual working time or used as an electronic key to access external databases regarding social security or as a tool to document the employment periods of highly mobile workers for the purposes of pension schemes etc.

It is important to note that any Social ID Card scheme is merely one of the available tools in combination with other controlling instruments. In particular, it should be noted that Social ID Card schemes can never replace physical checks at the workplace. Both systems should be seen as complementary. This means that Social ID Card schemes should be on-site “readable” and connected to up-to-date databases.

Until now, 9 countries have introduced and accepted a national Social ID Card scheme in the construction industry, namely Finland, Sweden, Denmark, Belgium, Spain, France, Romania, Lithuania and Italy. It should be noted that Luxembourg has set up a comparable scheme and that discussions are ongoing in several Member States either to introduce new schemes or to strengthen the ones already in place. Since all schemes have been (or are being) developed following the specific needs linked to specific national contexts, they therefore all have different features and respond to national priorities, according the national situations.

All existing national social ID card schemes are either directly developed and managed by the sectorial social partners of the construction industry or developed and managed in very close collaboration with the sectorial social partners of the construction industry.

The specific features and particularities of the construction industry, as may be for other sectors, namely the complex structure of temporary and mobile worksites with sometimes complicated and

very diverse chains of subcontracting, the high incidence of work related accidents and the prevention and combat of social fraud, may justify the introduction of a national Social ID Card scheme as an additional tool to improve checks and controls. These construction features justify the need for more transparency of those who are on a building workplace and at the same time the setting-up of a performant system of data exchange and matching.

It seems that there is a shifting trend towards and increased use of national Social ID Card schemes as a tool for more secure worksites, to improve health and safety conditions, and to better prevent, control and sanction undeclared labour on the labour market.

2 The discussion of “social identity cards” at European level

Since the creation of the European Economic Community (EEC) in 1957, the fundamental free movement principles of goods, persons, services and capitals have represented the primary pillars of the creation of a wide single European market. The approach of the Community was therefore mainly economic, even if the six founding States of the Community did not neglect, the social aspects of the future Community: they initially mainly relied on the conviction that a dual system with a EEC in charge of the creation of a single market and the member states keeping their different national social systems would have mutually improved both the economic development and social model in Europe. However, since then much has changed: the enlargement of the EU, the liberalization of the markets, the increase of migrant workers and a substantial rise of social competences at EU-level. A particular trend that merits attention is the European drive to abolish red tape and replace them by “smart instruments”, such as unique card schemes containing electronic data, unique identification numbers ... Hereafter are two notable examples (although not directly related to the scope of the project).

- In 2004 the EU gradually phased in the introduced European Health Insurance Card (or EHIC). A “smart tool” which allows anyone who enjoys a social security scheme of the EU (plus EEA countries and Switzerland) to receive medical treatment in another member state, if that treatment becomes necessary during their visit (for example, due to illness or an accident), or if they have a chronic pre-existing condition which requires care. According to the latest figures available for 2013, almost 200 million Europeans already have the EHIC.
- In order to facilitate back transfers and payments the EU introduced a Single Euro Payments Area (SEPA), which resulted from 1 February 2014 in the mandatory introduction of International Bank Account Numbers (IBAN), which are unique bank account numbers.

Because of the specific peculiarities of the construction industry (such as the high level of mobility, its labour intensive nature, the specific and complex production process, the numerous working places, the high incidence of accidents and forms of social fraud), the construction sector is undoubtedly one of the sectors, which requires an efficient check of the observance of social security obligations, working conditions, and the compliance with the necessary health and safety tools and training of

the worker. New effective European tools aimed at better identifying the mobile workers and the companies could be a solution to this problem. However, definitive, real and effective solutions have not been found, yet.

Since the adoption of the EU Directive 89/391/EEC, also called the OSH (Occupational Health and Safety) "Framework Directive" and in particular the Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites, much has changed on our building sites. The latter Directive lays down minimum safety and health requirements for temporary or mobile construction sites i.e. any construction site at which building or civil engineering works are carried out and intends to prevent risks by establishing a chain of responsibility linking all the parties involved. This development has triggered a greater awareness of employers and workers to improve the health and safety conditions on our building sites. Within this culture several countries have created Social ID card schemes, which are aimed to control, improve and ensure that the health and safety standards are respected. The Spanish and UK social ID card schemes were one of the first to introduce social ID card schemes with a strong focus on OSH training.

Since the obligation to ensure that all OSH rights and obligations are generally applicable to all employers and workers and taken into consideration that these provisions are all public policy matters, more and more countries have also (rightfully) justified their national social ID scheme as an instrument to ensure that the OSH rules are better controlled and imposed.

The EU coordination of the social security systems, which are strictly independent as for their national structure and organization, has been a major challenge from a practical point of view.

With this regard, a recent development which merits special attention is the recently adopted Enforcement Directive 2014/67/EU, which establishes a common framework of a set of appropriate provisions, measures and control mechanisms necessary for better and more uniform implementation, application and enforcement in practice of Directive 96/71/EC, including measures to prevent and sanction any abuse and circumvention of the applicable rules. The Directive, which still needs to be implemented in most Member States, encourages the MS to set up effective monitoring procedures of posted workers and the companies. Important is that the Directive sets a stringent legal framework in which the national control measures should fit. Thus the national control measures (1) should be appropriate for securing the attainment of the objective pursued, (2) can't go beyond what is necessary to attain it, (3) must be proportionate and finally (4) justified. In light of the Directive, a social ID card scheme aimed at preventing and combating fraud, if proposed in "mutual cooperation between the Member States, the European Institutions and other actors such as the Social Partners", could be adopted in accordance with the main guiding spirit of the new Enforcement Directive.

As to the cross-border recognition of skills and qualifications, at the moment there are various initiatives, though these take different forms. Chief amongst them are the European Qualifications Framework (EQF), the European Credit System for Vocational Education and Training (ECVET) and

European Skills/Competences, Qualifications and Occupations (ESCO). But, none of these directly involves cards. All these tools are intended to enhance the transparency and comparability of qualifications, thereby increasing the effectiveness of mobility and the quality of labour across Europe. They are, however, at relatively early stages of implementation.

More pertinent to the use of 'social cards' is the European Skills Passport, or Europass, launched in 2012, though under development for many years preceding this. It is an online folder where people can upload files (e.g. diplomas) testifying to the acquisition of various skills and qualifications. In addition to this, the Europass Experience, was launched in 2013, integrated to the European Skills Passport portfolio, consisting of a new document recording skills acquired through formal, non-formal and informal learning experiences, and intended to provide a step towards recognition of different times of learning settings.

In order to improve the functioning and better control the construction labour market, several national social partners followed this trend by introducing Social ID card schemes or similar tools. Whereas the first generation of cards mainly aimed to check compliance with occupational health and safety standards and the professional qualifications, the second generations of cards are mainly introduced to facilitate the control of working conditions and social protection.

Meanwhile, Spain, Italy, Lithuania, the United Kingdom, Luxembourg, Sweden, Denmark, Finland, Romania, France, Belgium have introduced a Social ID Card or similar scheme at national level. In some countries there is an ongoing process to introduce similar schemes or to strengthen schemes that are already in place, e.g. by making them mandatory. At the same time, we can also observe a growing interest of countries to join forces and a willingness to cooperate intensively: BeNeLux and the Nordic Countries.

Hereafter we have listed some European initiatives, which directly or indirectly are referring to the use or the option of social identity cards.

As one of the first initiatives in this context is the declaration of 2010 jointly adopted by the European Federation of Building and Woodworkers (EFBWW) and the European Construction Industry Federation (FIEC) underline the legal difficulties to face the problem of bogus self-employment due to the national differences and, more in general, the complex industrial processes and labor organization within the construction industry. According to the joint declaration, the E(101) forms are not sufficient to determine the employment status (as opposed to the EU case law¹) because they can be easily falsified (as actually underlined in some of the aforementioned studies and reports), and because the legal classification of an employment status is not linked to an E101 form, but to the existence of an employer/employee relationship between the two parties. In order to facilitate the transparency on the construction sites, a solution such as a Social ID-card is mentioned.

¹ Case C-178/97 "Banks" case; and case C-2/05 "Herbosch Kiere case".

At EU-level a new network has been established: “Convergence of Inspectorates Building a European Level Enforcement System (CIBELES)”, which aims at ensuring enhanced cross border enforcement and mutual assistance in inspections and sanctioning proceedings. Within this context, CIBELES made a report in November 2011 proposing an integrated information system on posting of workers to design inspections. More specifically, the CIBELES project clearly proposed to introduce an EU common instrument for the identification of the posted workers. Four ideas have been proposed, including using of a “Posting identification card”, with the personal picture, and delivered by one authority of the sending State.

The Euro Posting project² is an initiative taken under the patronage of the European Union aiming at improving the mutual cooperation through exchange of good practices and information with regards to the situation of mobility of workers in the framework of a posting situation. The documents produced within the project are short national reports, listing the common practices used in the different member states in order to assure the compliance with the national legislation in case of posting. According to the findings, ID cards seem to play an important role in better monitoring and ensuring the compliance with the national legislation. The recommendations emerging from this project are substantially consistent with the ones listed in the previous reports and encourage, among other things, the use of information technology (internet, databases, and chips in the cards if existing) in order to better cross-check the data and make the controls more effective.

Furthermore, the Own-Initiative Report of the European Parliament on effective inspections as a strategy to improve working conditions in Europe (2013/2112(INI); Rapporteur: Jutta Steinruck) represents a very significant political initiative aimed at tackling the problems of the irregular work in Europe. The report focuses on inspections carried out at national level and the European cross-border level,, by providing recommendations aimed at promoting cross-border cooperation among the national authorities, and new legal initiatives addressed to strengthen the labor inspections. Indeed, when referring to the cross-border situations, the report highlights the difficulties for national authorities of the “host state” to access important information from the authorities of the country of origin, as well as to understand the employment relation that is often embedded in long subcontracting chains. Among the proposed solutions to face these challenges is the adoption of a European social security card or other EU-wide electronic document (paragraph 43) where all the necessary data such as working time or social security are stored.

The Report of the Single Market Observatory of the European Economic and Social Committee (EESC) “The workings of the services directive in the construction sector” underlines several critical aspects of the cross-border mobility in the construction sector, and gives some proposals to overcome those issues. In particular, among its main findings, the report stresses that card system seem to be a practical option for better monitoring. Indeed, in order to solve the risk of A1 forms being falsified or containing errors and going unchecked, the Report recommends that the determination of the

² www.eurodetachment-travail.eu

employment status should be the legal responsibility of the country in which the work is done. It must decide whether compliance/monitoring are apparent from the working circumstances and the contractual terms. Therefore, the card scheme could prove useful in dealing with the risk of fraud. As for the specific matter concerning the card schemes, the report notes some shortcomings to which it tries to give possible solutions. As for the shortcomings:

- A. the data protection issue appears to be problematic (or to be a vicious circle) since it might prevent access to certain pieces of information;
- B. the card does not prevent fraud e.g. counterfeiting or duplication (but makes it more difficult);
- C. the cards would have limited advantages as many posted workers have very short contracts;
- D. they require computer-based declaration but these are in paper form;
- E. the existing card schemes in the Member States have different purposes.

The possible solutions to the aforementioned shortcomings of the card schemes are:

- A. use of ID or passport as a practical fallback allowing the competent authorities to carry out the checks;
- B. the cards could contain a standard body of information, and other information could be optional (e.g. the holder's professional qualifications);
- C. cross –border interoperability of the card schemes would be essential;
- D. the “traffic light principle” of the different qualities/features of the cards in the different Countries could be implemented.

Finally, we would like to refer to the budget opinion of the Committee on Employment and Social Affairs of the European Parliament on the general budget of the European Union for the financial year 2015 (August 2014). Indeed, in its suggestion number 12, the Committee “*proposes to launch a pilot project on European worker's e-card to investigate the benefits of introducing, and – if appropriate – to make available, a forgery-proof European electronic document containing social security details of the worker*”; the scope of this card, as stated in the text, would be distinct from the European Health Insurance Card and it should not be mixed. In order to get the necessary knowledge, “*the Commission should initiate a comparative analysis on the different social security systems within the EU-28*”.

3 National country reports

3.1 Belgium

3.1.1 Description of tools/instruments and mechanisms in place or being discussed

The social partners of the Belgian Construction Industry have charged the Social Security Fund of the Construction Industry, fbz-fse Constructiv, with the coordination, organization and practical implementation of a new identification tool on construction sites, the ConstruBadge.



All institutions of Belgian Social Security, including fbz-fse Constructiv, share information through a network, called the Crossroads Bank of Social Security. Each institution is considered to be the authentic source of certain data, and has to share this information with other institutions for which this information might be relevant. This implies that the employer has to declare this specific information only once.

Fbz-fse Constructiv electronically receives all relevant data about the construction workers which are available in the network. Those are quarterly declarations of wages and activity of domestic workers by the employers (DmfA), daily declarations of IN/OUT of domestic workers by employers (Dimona), daily declarations of occupation of posted foreign workers (Limosa) and a photo from the National Register of eID. Social Security Funds have received a general authorization to receive and treat data from the Social Security network, but are submitted to severe regulation concerning the protection and use of these data. This regulation is controlled by a qualified Security Officer.

The ConstruBadge is issued in a fully automated process. This process is started for the domestic workers when they appear in the Dimona or DmfA-data. Their photo is obtained from the National Register of eID. Data are collected and prepared at a central point (fbz-fse Constructiv) and are sent to a central production point (Syx Graphics) via a secured webservice. All steps in the process of data collection and transmission are checked and controlled by automatic procedures. The process of production, personalization and shipping of the ConstruBadge takes place in a secured environment. Syx Graphics is a specialized firm using fraud-resistant techniques: They use a special ink, microtext printing and a hologram. The background is incorporated in production. Electronic data are stored using highest security-level encryption.

Once the card is issued, it is sent to the worker's home address. The costs of the whole process are covered by the quarterly contributions the Belgian employers pay to fbz-fse Constructiv. The process is slightly different for foreign workers and is initiated by a LIMOSA-declaration. The foreign employer is automatically contacted by fbz-fse Constructiv. They are requested to pay a unitary cost per card that covers all expenses of the ConstruBadge (including shipment) and to indicate a shipment address in Belgium. They also have to upload an ID-photo of their worker on the web-

application of fbz-fse Constructiv. Once these formalities are completed, the ConstruBadge is instantly issued and sent to the address indicated by the foreign employer.

Checks and controls take place during the whole production process. Fbz-fse Constructiv carries out validity checks of the data. The communication process between fbz-fse Constructiv and Syx Graphics is monitored by fbz-fse Constructiv. Syx Graphics checks the quality of the printed data during the printing and personalization process and also checks the data stored on the ConstruBadge.

The ConstruBadge is valid for one year. In case it is lost, stolen or broken the employer has to inform fbz-fse Constructiv via a web-application. The card will be disabled and a new one will be issued. For the time being, (besides the card ID-number) only name and ID-number in the social security of both worker (plus photo) and employer are printed and stored on the ConstruBadge. If one of those data is updated (e.g. update of the ID-number of the worker) a new ConstruBadge is issued. In case additional applications of ConstruBadge will be activated, which is most likely, the electronic chip on the card will be automatically updated with new data when the RFID-antenna of the card is passed before an active reader that is connected to the databases of fbz-fse Constructiv.

The ConstruBadge is not yet mandatory.. However, the social partners of the Construction Industry intend to have the use of an identification tool imposed by the National Legislation for Well-Being at Work. In that case the ConstruBadge would be mandatory for all construction workers who work actively on a construction site in the framework of public and private works.

The social partners have signed a joint statement, called the Strategic Plan for the Belgian Construction Industry, which has been sent to the heads of the political parties, with the intention of getting their support for the measures.

Since August 2013 fbz-fse Constructiv has started a major test phase on eight construction sites of variable size and activity. The pilot sites have been chosen with regard to the type of activity on the construction site (residential project, renovation of a hospital, infrastructure works, etc.), the number of (co)contractors on the construction site (less than 5 to over 500) and the mobility of the construction site (residential projects and dynamic projects such as road works). Approximately 8,000 ConstruBadges have been issued to the workers on these sites. The primary purpose of this test phase is to determine the quality of the social ID card, the technical possibilities and limitations, and the logistic flows for developing, dispatching and delivery.

On 15 September 2014 the ConstruBadge was officially be introduced on all construction sites. Indeed, on September 15th fbz-fse Constructiv has done a massive mailing to all construction workers under Belgian construction companies. In total 138,405 “national” ConstruBadges have been released at that date. Since then almost 20,000 additional ConstruBadges have been issued by fbz-fse Constructiv. Those ConstruBadges are widely used on (larger) construction sites, although there is not yet a legal obligation. However, the new Belgian government has the firm intention to make the ConstruBadge mandatory for all construction workers, national and foreign.

The reason why the ConstruBadge is already widely used, is because many “third parties³” have integrated the ConstruBadge in software-applications that are used in the construction industry (e.g. access control, track&trace, declaration of presence to the Belgian Social Security).

At this time (17 December 2014), over 160,000 “national” ConstruBadges have been released. By the end of the year 2014, all Belgian (approximately 170,000) construction workers will receive their personal ConstruBadge which will be valid till the end of 2015. As for the foreign workers, the potential number of ConstruBadge will reach about 5.000 by the end of the year.

Further information is available in Dutch and French at www.construbadge.be.

3.1.2 Aim and objective of the tools, instruments and mechanism

The purpose of the card is to identify construction workers visually. It can be used in “third party” registration-systems in the context of the mandatory registration of presence on building sites with a value over 800,000 Euros. Cards can also contain 28 different sets of data for additional purposes, e.g. branch-related data such as training, safety certificates, career in the Construction Industry, specific individual data such as driver’s license and specific applications such as track and trace systems, access to buildings.

Cards are applied to fight against social fraud. The intention of the social partners of the Construction Industry is to impose the ConstruBadge on all building sites.

3.1.3 Impact assessment

In the past, the Social Partners of the Construction Industry carried out other projects to identify workers on sites.

From 1990 to 1994, they issued an individual card for visual identification in order to fight social fraud which had been organized on a very wide scale by mafia-connected persons. The project was carried out in partnership with the National Office of Social Security. It was very effective: This type of social fraud has been eradicated.

Afterwards, there was a Social Identity Card Type A from 1995 until 1998. It was also a visual identification to fight social fraud caused by undeclared work. This project was again carried out in cooperation with the National Office of Social Security.

Another card, the Nominative Unemployment Benefit Card C 3.2 A, has been established together with the National Office of Unemployment and is used as a fraud-resistant document to avoid misuse and social fraud since 1999.

³ A third party means a software developer/solutions provider who offers systems in the field of access control, time registrations, track & trace applications ... etc. Since the introduction of the ConstruBadge, several of these third parties have made their system compatible with the ConstruBadge, so that the construction workers can use their ConstruBadge to “activate” the systems.

The results of the two projects mentioned last are difficult to appreciate. As the costs for all the projects were paid by quarterly contributions of Belgian employers there is no data available on the overall costs.

3.2 Denmark

3.2.1 Description of tools/instruments and mechanisms in place or being discussed

In Denmark, there is no mandatory identification tool for construction sites. A company which is owned by a Norwegian company has introduced its own ID card inspired from the Norwegian system.

The Trade Union 3F and the Confederation of Danish Constructors Dansk Byggeri have introduced voluntary cards regarding education. They are called Uddannelseskort (UD-Cards). The social partners introduced the initiative in 2013. The phasing in was accompanied by advertising in newspapers, websites, articles, etc. on national basis.



Workers can order their UD-cards on the website www.bygd.dk. This website is operated by an organization called Byggeriets Uddannelser which is established and owned by the social partners. Byggeriets Uddannelser develops new trainings and offers administrative services for different paritarian educational councils.

UD-Cards are based on the Danish identification system. Access to the website will only be granted via a secure login called NemID. NemID consists of a user ID, a password and a code card containing one-time codes. It is the key to nearly all personal information in the public system in Denmark. The administrator of the NemID database is a private operator owned by an American investment fund and the Danish state.

Only people with a Danish identification number called Central-Personal-Number (CPR-No.) can get a NemID number card. People registered as living in Denmark will automatically get a CPR-No. Workers who are employed in Danish companies but do not have their principal residence in Denmark are not provided with an CPR-Nr, but a tax identification number called a "Kildeskattenummer" (Pay-As-You-Earn-Number – PAYE-No) and this number gives no rights to get a NemID. Foreign workers employed in Danish companies can therefore not get an UD-Card.

Visible information on the credit card size card is the worker's name, date of birth and photo, and a QR-Code. Via the QR-Code the validity can be checked. The card invisibly contains data on the Danish education: professional skills and training, health and safety training. The data on the card is provided on a voluntary basis by educational institutions in Denmark, e.g. technical schools. The information is directly connected to the database of these institutions. Cards are updated via the

database every time the worker attends training. Therefore, UD-Cards do not expire; checks and controls are not necessary. Sanctions or fines are not needed either. Misuse cannot be prevented, but as the cards contain a photo of the worker, the risk is regarded as rather low.

All authorities have access to all kind of data. All data are more or less electronic and the majority of data is automatically delivered to the user. From 1 November 2014 every person with a CPR-Nr. in Denmark must be able to receive digital post. It is possible to apply for an exception if you are e.g. an old person, but in principle Denmark will be digitalized from 1 November.

Byggeriets Uddannelser bears for the costs of the cards and until now the investment was about DKK 15 million. For the introduction, the card is given to workers for free. If a worker loses it, it will cost DKK 85.00 to order a new card.

Further information is available in different languages at www.businessindenmark.dk, www.at.dk, www.byggesikkerhed.dk and www.icitizen.dk.

3.2.2 Aim and objective of the tools, instruments and mechanism

The UD-Card documents education. If authorities want to check the education, the card can be used, but only regarding Danish education.

3.2.3 Position of the concerned social partners

The introduction of a mandatory social ID card on national level has been a politically controversial issue between the trade union and left-oriented political parties in favor of it and the employers association and right-oriented parties against it. It was a political problem, because the leading employers' associations in Denmark always try to avoid any administrative burden for companies in Denmark.

Currently, it has been decided by the Danish Government and two left-oriented political parties (Enhedslisten and SF) to introduce a mandatory ID card for the construction sector from 1 April 2015. A working group with participation from different ministries will be established to develop and present a proposal.

It is not known yet how the card will look like or which functions it will have, but the parties behind the decision see it as an important tool to fight social dumping and to ensure better security on Danish construction sites. According to the published information the new card shall contain the names of worker and employer as well as information about the social security, the obligatory industrial injury insurance and a possible commercial insurance. It shall be applicable to Danes and foreigners.

3.2.4 Impact assessment

It is too early to assess, but at the moment the UD-Cards are not widely spread. The use is voluntary and workers without residence in Denmark cannot use it as it is based on the NemID system and on information from educational institutions in Denmark. All in all there are 5,000 cards in circulation.

The total amount of employees in the Danish construction sector is about 145,000 persons. This means that less than 4 % use the card at the moment.

3.3 Finland

3.3.1 Description of tools/instruments and mechanisms in place or being discussed

All individuals working on shared building sites in Finland are required to wear name tags with photo and tax numbers and keep them visible. The tags must be kept visible for example on helmet or clothes. Almost all construction sites are covered because in most cases at least two companies work on a site. The obligation applies to “traditional” workers as well as guards, architects, self-employed persons and investor’s representatives. It is compulsory even if they are working on the site for a very short period (even less than an hour). People temporarily carrying goods to the site are not covered. Furthermore, sites are exempted if they are owned by natural persons who are building a house for their own use.



Since the beginning of 2006 the workers must follow the requirements of section 52 a, Occupational Safety and Health Act (738/2002) to wear name tags with photos. The Act requires that they do not only show the workers' names and photos but also whether an employer/employee relationship exists or whether they are self-employed independent contractors. The cards must indicate the worker's and the employer's names, and since September 2012 also the workers' tax numbers which is a 12-character string of numbers that does not reveal the individual's age, sex or date of birth. If operations on a construction site had started before September 2012, a six-month transition period was allowed to phase in the new name tags on the site. The end date of the transition period was 1 March 2013. There are no formal requirements for the cards' appearance. They can even be printed in the construction companies.

The Finnish Construction Trade Union had the idea to require the tax number on the card. Together with the Confederation of Finnish Construction Industries they convinced the authorities and politics to adopt the idea.

The employer delivers the minimum data (name of the worker, tax number, name of the employer and photo) and prepares the cards. Because cards can be produced by anyone, the law does not require any control at this time. The cheapest cards only cost few euros. It is the employers' obligation to bear the costs. They are also responsible of the security of information and data. The data must be updated every time it changes. The tax number does not change, but when the employer changes, the ID-card must be renewed. The new employer is always responsible. If the card is lost, stolen or broken, it has to be replaced. The card in general does not contain classified data, which could be misused.

The main contractor supervises that workers wear the tag. They have to control name, photo and tax number before the workers enter the construction site. With the National ID card or the passport, the tax number can be checked online from the taxpayer database of the Tax Administration. The main contractor and the employer are both responsible of the data and the registration. Sometimes also the investor can be responsible.

The OSH inspectors (labor inspectors) are the supervisors. Sometimes they make joined inspections with the police and tax authorities. If the labour inspectors discover workers without Social ID-cards/or with false information on sites, they fine the responsible persons. The fines are not imposed on the company; they are personal. The Finnish Construction Trade Union officials sometimes control the tax numbers, too. But they do not have any possibility to fine employers or workers.

Foreign individuals working on construction sites have to get a Finnish personal identity code and tax number from the tax office. In the construction industry, the citizens of non-EU and non-EEA countries can work in Finland without residence permits if they work in a temporary subcontract assignment which they perform as permanent employees of a company domiciled in another country of the EU/EEA and if they have valid residence permits and work permits in the other EU/EEA country concerned. These permits must continue to be in force even after the date when the assignment in Finland is completed. Work without a residence permit is allowed for a maximum of three months in the course of a six-month period. As of 1 March 2013 the Tax Administration is authorised to issue Finnish personal identity codes to citizens of other countries regardless of the length of their stay. After receiving a Finnish personal identity code and tax number, the worker has to pass the number to the employer and he has to produce or order the card. Workers are not allowed to start to work prior to this.

Since 1 July 2014 each employer has to provide information on the company's employees working on a shared site monthly. Self-employed persons have to provide this information themselves. The main contractor or supervisor submits the data monthly to the Tax Administration. The contractor is now also obliged to notify the contract and the paid compensation. They have to submit monthly notifications of the paid amounts for the construction work to the Tax Administration. The requirement to notify contract volumes does not only refer to shared sites but applies to all construction works.

3.3.2 An example of a Social ID Card used in Finland- Valtti-älykortti

There are several other kinds of ID cards as some of the construction companies have made their own cards and there are also a few commercial card providers. But in general those cards are quite simple ones. In March 2014, the members of the Confederation of the Finnish Construction Companies decided to require another card, the Valtti-älykortti, on their construction sites in the future. They intend to make Valtti-älykortti the standard Social ID-card in Finland. Most of the biggest main contractors do already require it.

On the Valtti-älykortti, the card provider can add more electronic data than required by law such as work permit or license to work with asbestos. The information can be updated by the employer or

sometimes it is collected directly from the official authority's database. In that case the data can be updated monthly and the main contractor can rely on it. The card is valid for five years and uses high encryption as it is provided by Suomen Tilaaajavastuu Oy which also produced Finnish driving licenses.

Valtti-älykortti can be used with different electronic measures (gates, special machines and cellphones) and costs max. 24 €. Evidence shows that the main constructors use more and more electronic gates (closed construction sites and electronically control access) and "stamping machines" to ensure every person signs "in" and "out". By using developed VALTTI ID-cards the employee can add more information to the card and it can be used as an electronic key to the construction site. It can have data about the worker's skills, too.

The price of the card is not considered to be an issue because using developed ID-cards employers can control working time of the individual workers. In other words, the card allows to control working time as major contractors use more electronic gates and electronically controls access for entering construction sites. Therefore, it allows them to control working time on their site; the information the contractors have to report monthly to the Tax Authority. Whereas before, it was more difficult to control the working time on construction sites.

The running costs differ depending from the machines used to electronically control access. There are no additional costs in the subcontracting chains than the obligation of acquirement of ID-cards for every worker.

The protection of personal data has been taken into account. The card provider has discussed with the Finnish Data Protection Ombudsman and confirmed to comply with the Finnish regulation.

3.3.3 Aim and objective of the tools, instruments and mechanism

The main purpose is to identify people and employers working on the construction site. In case a work permit is needed an additional purpose is to get to know the worker's nationality.

The pictorial identification card ensures that the main contractor and the persons in charge of the construction site are able to identify all the persons working and all the companies operating on the construction site.

The intention of the mandatory tax numbers on the card is to ensure that all the construction workers as well as the companies paying the workers' wages obey the Finnish tax legislation and pay income taxes to the Finnish tax authorities. Different countries have different tax agreements with Finnish Tax Administration and due to this, citizens of different foreign countries might become tax liable in Finland after a different time period. As there is a co-work between the Finnish and foreign tax authorities, the companies or workers cannot benefit from not paying taxes. The employees have to pay taxes in Finland or in their home country. The foreign countries benefit from the use of the tax numbers, too, because they will receive information of their citizens working abroad.

With the monthly notifications to the Tax Administration controls of social payments and taxes can take place. The authorities will know who is working on a site and what is paid to the companies. With the data the Tax Authorities can crosscheck the information given by the companies themselves.

3.3.4 Impact assessment

Prior to the new Tax Number Rule, the legislation of Social ID-card wasn't efficient. Even if the labour inspector discovered workers without Social ID-card on site, the prosecutors did not begin any trials. Since the new TN came into force, the legislation has been efficient. The Tax Authorities have verified that since September 2012 the tax revenues in the past 18 months have increased almost 500 million Euros. For example salary payments increased in January 2014 almost 9 % from January 2013. At the same time construction business has been decreasing. This shows that the new law is effective. The introduction led to a decrease of black/grey economy because the construction companies are more aware of who is working on construction sites.

Since July 2014, the supervisor of a construction site is obliged to notify the persons and employers working on a shared construction site. They shall monthly submit the names of all persons and companies that have worked on the construction site and their personal data to the Tax Administration. Accordingly, the employers operating on the site shall submit the data on their employees to the project supervisor.

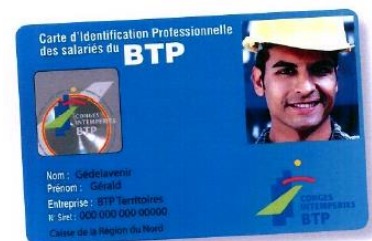
The construction contractor will also become liable to notify the paid wages and compensations to the Tax Administration monthly. This requirement does not only refer to shared construction sites but it shall be applied to all construction works. The earlier duty to notify on voluntary basis will thus be laid down by law. The Tax Administration has set a limit of 15,000 Euros for the notification obligation.

3.4 France

3.4.1 Description tools (instruments and mechanisms in place or under discussion)

Controlling the subcontracting and services involving the posting of foreign workers were identified in 2005 as two priority areas in the fight against illegal work which resulted in the introduction of new regulations.

These developments have led seven professional organizations (CNS BTP, CNATP, CAPEB, EGF BTP, FFB, FNTP, and Federation of SCOP BTP) to conceive, in cooperation with the trade union federations and the Interministerial Delegation against Illegal Work, a "Construction Charter" with the main applicable recommendations / best practices for the sector stakeholders. The Charter and particularly its section on "best practices" recommend identifying employees at the construction site, including wearing a badge. The charter has been subsequently updated in 2010.



In this context, a specific BTP Card for the construction sector was created at the initiative of professional organizations representing the construction industry in 2006. The card is managed by the Union des Caisses de France du Réseau Congés Intempéries BTP (UCF CIBTP) in partnership with Caisses CIBTP that are members of UCF CIBTP. BTP card is conceived at national level and is delivered locally by each Caisse de Congés Intempéries BTP, directly to companies affiliated to them that requested such the BTP Card.

The BTP Card is not mandatory, as no text so far, being a law or a regulation, imposes this card in the construction industry. However, some owners (public included) or contractors require wearing the BTP card on construction sites and even impose the card as one of the conditions for awarding contracts.

Currently, the construction ID card is only granted to employees of companies that are established in France, regardless their nationality. In fact, the French system is conceived on contributions paid to Paid Holidays Fund. The fact that posted workers do not pay contributions to the fund lead to exclusion of posted workers from the BTP Card scheme. The French system is therefore not adequate to meet the problems with posted workers.

An extension of the BTP Card Scheme was intended for employees posted to the France by foreign companies, in light of the transposition of the Directive implementing the Directive 96/71/EC on the posting of workers in the framework of the provision of services. However, this proposal was not accepted, as there was no consensus on this among social partners of the construction sector.

The data retrievable on the Social ID Card, relating to the identification of the employee (name and date of birth, photo) and company (name and number Siret logo), are provided by the company to the Caisses CIBTP to which it adheres. The fund adds its institutional logo and name on the back. The cards are then sent to the company that is responsible for pasting the picture of the employee (if it is not already printed) and close the plastic film that makes it impossible to falsify.

During an inspection, the BTP card can be checked using a specific phone number – AZUR – that gives access to a dedicated voice server. The AZUR number is provided to those identified as a competent authority to carry out inspections. This system has been operational since spring 2010.

If the BTP Card is lost, stolen or damaged, the employee sends a declaration to its Caisse CIBTP and notifies his employer. In case of loss or theft some *Caisses* also require a copy of a declaration to the gendarmerie or the police. The fund then invalids the card. If damaged, the employee gives the card back to the employer, who forwards it to the Caisse. The latter establishes and sends a new card to the employee.

The implementation of the BTP Card required a specific statement to the National Commission on Informatics and Liberties (CNIL), the UCF CIBTP and all funds in accordance with the system of protection of personal data defined by the law n ° 78-17 of 6 January 1978 related to computers, files and freedoms.

3.4.2 Purpose and Objectives of tools, instruments and mechanisms

The main objective of the card is to allow a reliable identification of employees on construction sites and in this way, actively fight against illegal work.

3.4.3 The positions of the social partners

FFB (Fédération Française du Bâtiment – Employers)

The social identification card is part of a broader movement aimed at making concrete and effective identification of persons at the construction sites, using modern technologies. This approach serves for both the effectiveness of controls on illegal work as well as accidents prevention. It also reflects the will of public authorities to strengthen prevention and education in order to promote the "good" and anti-fraud behavior. To this end, the card can also play a role in changing attitudes.

The implementation of this system was an important step in the fight against illegal employment in the construction sector. The card can quickly identify companies that "play the game" and comply with regulations and to concentrate resources over other companies. In addition, the BTP card being a proof of belonging to the construction industry, it lets using the benefits granted by paid holidays funds, to fight against a phenomenon often described as particularly affecting the sector..As long as it remains voluntary, the cost increase is gradual and based on the initiative of companies, builders, project managers, and health and safety coordinators. Therefore it is desirable to make it compulsory to accelerate expected results.

FNTF (Fédération Nationale des Travaux Publics – Employers)

The National Federation of Public Works has never been in favor of involving public authorities in the enforcement of the BTP Card, spreading this card by the public authorities, nor to the obligation to disseminate it. It considers in particular that it does not meet the conditions of open public construction sites. The freedom to use this card has been left to small enterprises which are a small minority of Public Works.

CFDT Public Works – Trade union

The card is a useful tool for raising awareness on the fight against "national" illegal work only. But the construction sector also suffers from transnational illegal work, particularly in the context of posted workers. These workers are expected to benefit from a set of work rules of their host countries but must pay (through their employers) social security contributions in their home countries. The current card is therefore not effective in order to check the legality of the employment of employees residing in a country other than France and posted in France, neither for independent or pseudo independent workers. If the card was mandatory, it would designate "in fact" posted workers not having such a card, even though they might comply with regulations. In brief, it would be necessary that the device is mandatory and harmonized across Europe (it gives the same information) to be useful without being stigmatized. The current card makes sense only if it is a first step towards a European scheme. CFDT supports a card system including all construction workers in the country, not just the French.

3.4.4 The positions of other stakeholders

Labor inspectorate:

The scheme provides for a rapid assistance in the collection of data on the identity of the employee and his employer, and constitutes a support for inspections. The card is not a tool to control the illegal work but to prevent it. Possession of such a card is a guarantee of quality and regularity of the company's social legislation and thus it would be valued if the card is generalized and required for bids.

Meantime, employees in possession of the identification card comply with the employment requirements of URSSAF.

3.4.5 Impact assessment

Depending on the number of cards already issued since its implementation in 2006, the cost is around 1.5 euros per card, including shipping to the company (scheme and operating costs included). To estimate the overall cost the FNTF considers it necessary to take into account all costs reported by UCF at the end of 2013, in other terms, 7 million Euros (UCF 2014/2015 budget) and the population "requesting" cards is about 1.2 million employees in the building (all personnel on the site on average over the period) and 50,000 for Public Works (number of cards currently valid in public works). Total expenditure of the card for an average population of 1,250 000 "applicants" therefore represents 5.6 euros per person. The costs are borne by the UCF only, including operating costs from employer contributions.

3.4.6 Recent Developments

Recently (27.10.2014) the French Minister of labour, F. Rebsamen, declared that he would be in favor of a mandatory extension of the existing BTP Card to all workers of the construction industry. The announced policy fits within the implementation of the Enforcement Directive.

3.5 Germany

3.5.1 Description of the tools (instruments and mechanism in place or being discussed)

Indeed, in Germany a national Social Security card was issued for many years. Its sense was to confirm that the owner of this card is member in the national social insurance. Given that this card was easy to falsify, it was abolished.

Besides, there had been intensive discussions in Germany in the past to introduce a Social ID card in order to fight illegal work in the construction sector. In the end it was found by the Federal Government that the Customs Administration – in charge of controlling construction sites – has access to all necessary data and would not need an additional



access to a database but rather a tool to speed-up controls. It was considered that a personal ID should be enough. The Government also brought up legal issues with regard to the Services Directive, Article 16 Section 2 Subsection 3e) in light of which a Social ID Card is considered as an obstacle to the freedom to provide services. At least the Government decided to introduce the obligation in the construction sector (and other sectors) to carry the passport or a foreign ID card for non-Germans on construction sites. It has become effective in January 1, 2009. It is based on an Act of 2008. The initiative for this act is based on a pressure of the social partners since it is in the interest of the government and its social security system as well as in the interest of employers and trade unions to fight illegal labour and to make this fight more efficient.

Besides there had been intensive discussions to introduce a “Baucard” on a federal level in Germany. Two pilot projects were in their beginnings but they never got finalized on federal level after the Federal Government declared the ID solution was the only option for them and that they would not replace the old, abolished Social ID card.

The identification card is used in public and private works. The individual has to apply for the card. The requirement applies to domestic as well as foreign construction workers. The legal requirements applied to the national ID cards and Passports are those of the *Schwarzarbeitsbekämpfungsgesetz* (Act on Fighting Illegal Work) dealing with the visual data and the Regulation 2252/2004/EC concerning cards with biometric information. This is also the case for ID cards for Third Country Nationals following Regulation 380/2008/EC.

It is not allowed to use the electronic data for other purposes than checking the identity of the individual and the authenticity of the document. Personal data may only be used by police (criminal cases) or in case of customs and border control. Like in all EU countries also in Germany the EU Directive on Data Protection is applicable. This means that the same rules apply in all relevant countries. In addition data protection in Germany even may go beyond that standard and could be even stricter.

Since the necessary documents have to be presented to the authorities by the individual the authorities will have to verify the authenticity of the documents. When it comes to passports and ID cards the local authorities are responsible for issuing. This also applies to special ID cards for foreigners (Third Country Nationals). Temporary posted workers from other EU countries have to carry their personal ID from their country. Workers from other EU countries may not need German national ID but use the ID from their country of origin. Workers from a non-EU-country need a special ID card regarding their stay and their status – according to European law.

The holder of a passport or ID card is required to report all relevant changes to the authorities. In case of non-reporting the loss of passport or personal ID, change to foreign citizenship or joining on a voluntary basis foreign military service of a country of which the individual is holding citizenship, sanctions are applicable.

In case of not-complying with the legal requirements (an administrative offence) a penalty goes up to 5,000 € for the individual. The employer has the obligation to inform the individuals about this

requirement and in case of non-fulfillment this is also understood as an administrative offence with a penalty of up to 5,000 €. All this is enforced by customs administration.

ID cards and passports have a certain expiration date which is usually 10 years according to German law and may differ in other countries. Since the tool in Germany is not a specific tool on construction industry but general ID cards are used the validity and the expiration date depends on the legal rules for these tools. If the card is lost, stolen or broken the individual has to report to the local authorities to obtain a new ID. In case it is lost or stolen this very fact will be reported to police and will be available in case of control.

The social partners are not involved in issuing the identification tools but an Alliance against Illegal Work (Bündnis gegen Schwarzarbeit) constitution of public institutions as well as the social partners has positively discussed the obligation to carry ID. Besides this there is no cross-border cooperation between the social partners.

There are websites which provide information concerning the public ID cards(www.posting-workers-eu and www.zoll.de)

3.5.2 Aim and objective of the tools, instruments and mechanism

The Federal Government conducted a research study which identified as the main purpose of a social card the speeding up of data retrieval. In consequence the following functions should be met by such a card

- Legitimacy: The card should prove that the worker examined is working legally; the problem usually is that the correctness of data on the card is not guaranteed.
- Identification a special card like a social card seems not to be necessary since this function can be served also by an ID card or passport.
- Data storage: not possible to store up-to-date information on the card permanently. Not all necessary information is available electronically.

This shows that in Germany the aim associated with such a card is on fighting illegal work and preventing misuse of social benefits.

3.5.3 Positions of the concerned social partners

The social partners think that a social card could possibly serve a number of purposes such as fighting illegal work and misuse of social benefits. But this depends on a lot of factors.

The trade union pointed out that such a card could possibly serve as a mean to control working hours as data storage and data transmission technology has been improved compared with the situation ten years ago when such possible use was regarded as not feasible by the experts of the authorities in a pilot project. From the unions' point of view it also might be used for documentation (e.g. "employment history" and relevant training measures). The employer's side pointed out that the card could perhaps have an additional benefit in the fight against illegal work. A social card may not fulfill all aims but will perhaps help in pursuing the tasks. The card might therefore be used by the

public authorities but also by enterprises. Employers argue in this context in favor of information on the employer in case of sub-contracting. A social card which improves the access of the employer to data like the minimum wage, social security contributions etc. might improve the situation.

Both social Partners are in favour of a way to ensure that the duty of SOKA-BAU contribution and notification has been met. The problem of data retrieval is that national facts and information might be available but not those on foreign countries since the interoperability is still under development. In case non-public authorities should get access to the data, personal data protection should be ensured. An important aspect – pointed out by both sides – is to include the EU forms A1 and E 101 (old) on the card since this might fight considerable misuse. Also the work permit and may visa information might be included.

3.5.4 Impact assessment

It is difficult to exactly evaluate the value of introducing the duty to carry ID in Germany. Nevertheless it can be seen that the number of cases where illegal work has been asserted has not been changed in the last years. It may also be possible that the number of asserted cases has been increased due to control efforts and that illegal works as such has been reduced. But generally illegal work is still very widespread and requires improved efforts. It for sure has helped to fight illegal labour more seriously but the problems employers as well as trade unions are faced with in the construction sector have not been solved. There are still problems of undetected illegal work, of non-compliance with social security contributions as well as contributions to SOKA-BAU.

3.6 Italy

3.6.1 Description of tools/instruments and mechanisms in place or being discussed

In Italy, an identification card is required for all staff on construction sites, including self-employed workers and posted workers. It is required in the framework of both public and private works by provisions of the law integrated in the National Collective Agreement in the construction sector.



The social partners and the Ministry of Labour had started the initiative. The obligation has been introduced on 1 October 2006, under Law No. 248 of 4 August 2006 (Law 248/2006). The subsequent laws, the Legislative Decree No. 81/2008 (Code on Health and Safety at Work, Articles 18, 20, 21, and 26) and Law No. 136/2010 (Article 5), define the contents of the card and the expected penalties for non-compliance. Posted workers are covered as well. In addition to the provisions in law, regional collective labour agreements across the construction industry regulate the mandatory cards.

The employers are obliged to supply their workers with identification cards and the workers have to wear them. The ID card is issued by the employer or in some cases by the Construction Workers'

Welfare Funds (Casse Edile) which are owned by the social partners. According to union agreements the Casse Edili provide the service of preparation of ID cards. Otherwise, the company uses its own supplier to print the worker's photo and details on a card in credit card size.

The costs of issuing the card are usually borne by the employer. The costs are less than € 2 per card as the organizational and administrative services are borne by the Casse Edili or the local paritarian organization on accident prevention (CPT – Comitato contro gli infortuni sul lavoro). In some regions, the Cassa Edili or CPT supply construction companies or building contractors with ID cards free of charge.

If an employer does not issue the ID card they will receive an administrative fine of € 109.60 to € 548 per worker. A worker who does not show their card is fined between € 54.80 and € 328.80.

The card contains the employee's personal data and photo, the current employer's name, the hiring date, the taxpayer's code of the employer or of the self-employed worker for their precise identification and the date of the authorization of subcontracting if the employees work for a subcontractor or the principal's name in case of self-employment. The data is delivered by the general contractor, the subcontractor or the self-employed workers.

All data is visible on the card. There are no guarantees for fraud-resistance but the card can be voluntarily linked to a magnetic badge which is linked to a database. As the data are almost exclusively personal they do not need to be updated. The only data that have to be updated are those related to the contractor or to subcontracting. The card has to be substituted in case of a new employer or if the employer's data change. Cards are replaced, if they are lost, stolen or broken. The employer takes care of it.

Labour inspectors and other public supervisory bodies perform checks on construction sites to verify that ID cards are actually used and that the data on the card matches the identity of the staff.

It had been regarded as an issue of data protection to publish the worker's date of birth on the card but the Ministry of Labour clarified that this does not violate the Personal Data Protection Code.

3.6.2 Aim and objective of the tools, instruments and mechanism

ID cards are used to check that the staff on the construction site have been regularly hired and declared with the aim of combatting undeclared and off the books employment in the construction sector.

3.6.3 Impact assessment

The ID card is a valid instrument for access controls on construction sites. The managers in charge of organisational aspects and health and safety can check the workers' identity easier and faster and verify immediately that there are no other workers than provided for in the safety plan. The possible sanctions for employers and workers made contractors more careful about the arriving workers on a construction site within a subcontracting arrangement.

Though, the cards could benefit from a more formal nature through issuance by an independent body rather than by the employer. Links to databases with further information such as the workers' education could also be advantageous. Moreover, the cards could substitute the presence register and thus support the accounting practice on sites.

A project on Automatic Presence Registration on Building Sites (REPAC) has started in 2011. It is about an IT system that records the entrance and exit of each worker to and out of the construction site. On a trial basis the use of the system is voluntary for workers. It has been organized by OO.SS. (Fillea GCIL, Filca- CISL e Feneal-UIL), the trade unions of the construction sector in partnership with the Local Health Authority of Bologna, the Italian Health & Safety Authority, main contractors and subcontractors. It has been financed by the Italian Health & Safety Authority and the companies involved in the works.

The card identifies the worker authorized to enter the construction site. It is equipped with a RFID data transmission chip and also contains the worker's picture. For the issuance of the card, the data collected include the workers' personal data such as birth date and place, the employers' data and the role and task the workers will perform on the construction site. After the issuance, an accreditation procedure follows. This is aimed at activating the ID card in particular to give the worker access to the specific construction site and to match the RFID chip with a secured code which is unique for each worker. The code is created by a system which also links the ID card (and its RFID chip) to the fingerprints of the worker. The accreditation procedure thus makes it almost impossible to perform any fraud: The ID card cannot be counterfeited nor can it be used by any other subject other than its owner.

The access recording device records through the RFID chips all entries and exits to and from the building site for all the workers provided with the ID card. The system also activates the turnstiles or locked doors for the accredited persons. Finally, whenever a person enters and exits a given door or entrance, the system takes a real-time picture of the person. The picture can thus be compared (also from remote) with the one stored in the central database at the moment of issuing the ID card.

The project has been used on some large construction sites in the Bologna Province, i.e. the Unipol Tower and some public works on the local highway (VAV - Variante di Valico). It mainly involved large works financed by public authorities. All staff working on the building site was involved (both blue collar and white collar workers). Today, it is used in various construction sites in the Emilia Romagna Region. It aims at fighting against black labour, unfair competition and possible mafia involvements within the various types of works, subcontracting and supplies on building sites. The IT system is always linked to public inspectorates.

The system has not yet delivered the expected results and has often been attacked by the workers. The data are not entirely reliable. Though the idea is good, the project did not achieve its goals because those involved (both employers and employees) showed a lack of commitment to the project. It might also be possible that the project failed because the data were linked to the public

inspectorate database. Given the poor results achieved, the resources committed to the projects have been too high. For the success of such a system, it is essential that those involved are better informed and engaged with the project, also through incentives.

A project on Safety on building site systems (SISCA) has started in 2011. The project is about an IT system that records the entrance and exit of each worker to and out of the building site. The system also allows monitoring the use of personal protective equipment. It is financed by the Italian Health & Safety authority. The system is based on:

- **THE ID CARD (BADGE):** identifies the worker authorized to enter the building site. The ID Card is equipped with a RFID data transmission chip. For the ID Card to be issued, the data collected for the workers include their personal data (birth date, place of birth, etc.), their organization's data (name of employer, institutions, etc.), the role and task they will perform on the building site. After the issuance procedure, an accreditation procedure follows. This is aimed at activating the ID Card (in particular to give the worker access to the specific building site) and the RFID chip is matched to a secured code (unique for each worker).
- **THE ACCESS RECORDING DEVICE:** records through the RFID chips all entries and exits to and from the building site for all the workers provided with the ID card. The system also activates the turnstiles or locked doors for the accredited persons.
- **SENSORS ON PERSONAL PROTECTIVE EQUIPMENT:** Thanks to sensors in the personal protective equipment it is possible to signal dangers to workers and to monitor from remote the correct use of the equipment. This system has been used on some large and medium-sized building sites in the Naples Province, i.e. some public works in the city center of Naples and on the local highway. The system has been organized and carried out by the local paritarian organization on accident prevention (CPT of Naples) which consists of the local Association of construction employers (ACEN) and the local Trade Unions (FENEAL-UIL, FILCA – CISL, FILLEA-CGIL) in partnership with the local health authority of Naples, the Italian Health & Safety authority, the University of Naples, main contractors and subcontractors.

3.7 Lithuania

3.7.1 Description of tools/instruments and mechanisms in place or being discussed

There are 3 different tools conceived in Lithuania to verify the identity of construction workers. These are the Social Insurance Certificate, the Employee's Identity Certificate and the Employee's ID Card. All these apply to domestic and foreign workers.

3.7.1.1 Social Insurance Certificate

At the beginning of 2003, the government introduced its initiative on Social Insurance Certificates. Required possession of such a certificate became mandatory at national level for all workers according to the National Labour Law. To apply, the employers have to provide the data to the Social Insurance Office. The data shall be transferred on

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the first day of employment and be updated once per year by the employer. Self-employed persons need to apply and provide the data themselves.

The certificate is issued by the Social Security Office. It contains visual information. At the moment of issuance the social security officer and the employee verify the data. Once the certificate is issued, there are no more checks and controls. Fraud-resistance can be ensured by checking the data at the e-system of the Social Security Office.

The government manages the security of the database which contains name, surname and personal code of the employees. The employer is responsible for the data. The database can be consulted by the Labour Inspection. The data is verified by the Social Insurance Office and the Labour Inspection.

Mandatory updates are triggered if name or personal code change. The Social Insurance Certificate does not expire. In case it is lost, stolen or broken, it needs to be replaced. Notification and application for a new card shall be submitted to the Social Insurance Office.

3.7.1.2 Employee's Identity Certificate

At the same time, the government introduced another tool, the Employee's Identity Certificate. The certificate contains the company name, employee's name, job title, photo, contract number and date, seat of the company, the employer's position, signature and name, certificate issuance and expiration date. It is also regulated in Labour Law and is mandatory for all workers. The employer shall issue the certificate on the first day of employment. The employees have to carry or store the certificate in a place specified by the employer. The certificate has to be registered in the Registration Book of Employee's Identity Cards; information about the employment must be provided to Social Security Office one day before the start of the duties. Checks are carried out by the Labour Inspection. The employer is responsible in case of non-respect of obligations and can be fined with 145 to 1,448 EUR.

The database of personal data includes name, surname and personal code of the employees. The employer manages the security of the data and is responsible for the information. The database can be consulted by the Labour Inspection which controls the data.

Mandatory updates are required if there are changes of name, personal code, labour contract data (position, term) or employer. In case it is lost, stolen or broken the employer shall issue a new certificate. The validity is terminated at the end of the employment contract.

3.7.2 Employee's ID Card

Additionally, some main contractors or customers want the employees on their sites to wear Employee's ID Cards. This kind of cards is not required by law. The application and conditions are agreed on contractual basis. These cards are usually used in specific industries (like nuclear power stations or chemical industry projects) or special purpose projects (harbours, airports, etc.) or in big construction projects. They normally include name, surname, photo and some additional information like project name, ID number, client name, etc. The main contractor or customer provides the data

and issues the card. The data on the card can be visual and/or electronic. Checks and controls can be carried out by the main contractor or the client. Fines can be given in accordance to the agreement. The terms of updates may also be regulated in the contract. Cards are usually valid till the end of the contract but this may be set in the contract, too. If a card is lost, stolen or broken the main contractor or customer can issue a new card.

Companies have to apply and register at the Personal Data Protection Inspectorate if they collect and transfer personal data of non-employees such as subcontractors, consultants or suppliers. Employers collecting and transferring data of their own employees do not need to register.

3.7.2.1 Aim and objective of the tools, instruments and mechanism

The Social Insurance Certificate proves that a person is registered in the social insurance system and allowed to work in Lithuania. The Employee's Identity Certificate demonstrates that a person is officially employed in a company.

Employee's ID Cards are used for internal and work safety purposes. It can be used for the daily check-in and check-out registration of each employee and subcontractors' employees on the construction sites for example.

3.7.2.2 Impact assessment

The Employee's Identity Certificate and the Employee's ID Card helped to ensure better order and transparency in labour market and also in construction sector. There are no official statistics how many construction companies are using the voluntary Employee's ID Cards on construction sites.

Currently, there is a discussion in Lithuanian Builders Association about the need of implementing an identification tool which could be a main source for reliable personal information for administrative and tax purposes as well as in case of accidents. It could be a reference about education, work experience, safety at work trainings and special qualifications. It could also contain information about the worker's health status.

The introduction of such an identification tool would improve the situation for the construction sector. More transparency and order would make it easier to combat illegal work. Additional information for the site personnel would help to ensure more safety at work and a better management of health issues. The efficiency would increase if all needed information was available on the site. This would make the construction sector more attractive for employees, especially young ones.

In fact, different ID tools being used in Lithuania, one would wonder to combine all three to come out with the unique one. However, the possibility of combining the three existing tools has never been considered.

3.8 Luxembourg

3.8.1 Description of tools/instruments and mechanisms in place or being discussed

The Inspection du Travail et des Mines (ITM) decided upon approval from the Luxembourgish Labour Minister to introduce the e-Détachement application and the Badge social. After some preparatory reunions and consultations with the social partners during 2013, a test phase for the new Badge social started on the whole territory of the Grand Duchy of Luxembourg in the last trimester of 2013. The official launch took place on 1 January 2014.



The badge social applies to posted workers in the framework of public and private works in all sectors. It is mandatory, except for the self-employed.

According to Article L.142-2 of the Luxembourgish Labour Code, posting companies are obliged to inform the ITM on the posting of its workers to Luxembourg. The legal basis of the Badge social is Article 3 of the Loi du 17 juin 1994 fixant les mesures en vue d'assurer le maintien de l'emploi, la Stabilité des prix et la compétitivité des entreprises.

The posting company is responsible for the application. It creates an account on the electronic platform e-Détachement (<https://guichet.itm.lu/edetach/>) and enters all the necessary data online. The required documents are a residence and work permit for third country nationals, a copy of the working contract, an A1 certificate, a health and fitness certificate, possibly a Luxembourgish VAT-number for the company and a proof of the advance notice of their occasional and temporary services in Luxembourg to the General Directorate for SMEs and Entrepreneurship from businesses from the craft or industrial sector in the EEA or Switzerland. Then the company itself prints the badge on paper and provides each posted worker with their own personal badge.

Exceptionally, if the posting company has no possibility to access this electronic platform, it has to fill in and send the form "Posting of Workers Information" to receive the Badge social for its posted workers. The form is available in French, English and German at <http://www.itm.lu/home/formulaires/communication-de-detachement-de.html>.

The Badge social identifies the posted worker by their name and employer. The QR code on it grants access to more detailed information on the electronic platform e-Détachement. The data can be accessed by the posting company and the Labor Inspectors from the ITM.

E-Détachement includes information on the posted worker and their employment status, their country of origin, the residence permit, the current employer, the provision of services and professional skills and training. The application is managed by ITM; the security audit is by the CTIE and Govcert Luxembourg. The ITM relies on the information given by the employer, which ITM checks with the posted worker in the context of a possible control on the working site. Should there be any discrepancies or doubts between the declarations of the employer and the posted worker,

the ITM will ask for the official documents and also eventually ask the foreign competent authority via the IMI system if the documents presented are valid and authentic.

The data stored on the Social Badge can be updated by the posting company itself or the “Posting” Back Office from the ITM. The posting company has to update its electronic account each time the posting situation changes (e.g. new posting to Luxembourg, change of location, duration or services, posting of new workers). The Badge social remains valid as long as the employee stays under contract with his employer. If the card is lost, stolen or broken it is sufficient to reprint it from the online application.

At the moment of issuing, the application itself controls the format of the data and the “Posting” Back Office also checks the authenticity of the attached documents. In case of non-respect of obligations the ITM will order the company to comply at first. In case the company still does not comply, it risks an administrative fine from 25 € up to 25,000 €.

The ITM supervises and verifies the data registered by the posting company in the e-Détachement application. The “Posting” Back Office and the Labour Inspectors of ITM carry out controls on site. There are no special anti-fraud measures on the badge as it is only a key or link to a database record and does not contain itself a complete identification of the posted worker. The identity of the posted worker is verified on the site by checking the ID card for example. Sanctions for the responsible company depend on the nature of the offence or missing document.

Data protection has been addressed: The application was approved by the Luxembourgish National Commission for data protection and the data collected is restricted to the information requested in the Labour Code for the posting of workers.

The development of the Badge social took approximately 300 man-days. There are no costs for the employer except for the paper and ink to printout the Badge social.

Further information is available in French and German language at <http://www.itm.lu/home.html>. A user manual is available in French, German and English at <https://guichet.itm.lu/edetach/>.

3.8.2 Aim and objective of the tools, instruments and mechanism

The introduction of the Badge social aims at combatting social dumping and illegal work by clearly identifying posted workers and linking them to the notifications in e-Détachement.

The use of the Badge social is meant to facilitate checking working conditions, social security matters, health and safety matters (A1 available?), fiscal and tax matters (Luxembourgish VAT-number available?), professional qualification, work and residence permits and the proof of the advance notice of their occasional and temporary services in Luxembourg to the General Directorate for SMEs and Entrepreneurship from businesses from the craft or industrial sector in the EEA or Switzerland.

3.8.3 Impact assessment

This electronic notification has the advantage that it can be done 24/7 and that the information transmitted by the posting company is immediately reflected in the system. So even a last minute job to Luxembourg can directly be registered by the posting company and the information will be simultaneously visible for the inspectors.

Controls on sites can be carried out faster and more effective via scanning the QR Code on the Badge social to get immediate access to the relevant information registered in the application. It is easier to identify the workers on the construction sites.

Since the system has only been introduced at the beginning of this year, it is still too early to judge if the practices on the labour market have changed. But it seems as if posting companies in general are more eager to declare the posting of their workers or keep the information updated with this simplified electronic tool.

3.9 The Netherlands

3.9.1 Description of tools/instruments and mechanisms in place or being discussed

At the end of 2013 the Dutch Tax and Customs Administration called upon the Social Partners of the Construction Industry concerning a joint exploration of the possibilities of a sectorial ID card. As a result, the Social Partners of the Collective Agreement decided to conceive a survey, aiming at mapping the potential introduction of a sectorial card.

A working group was appointed to conduct the survey. The working group is composed of construction industry employer and employee representatives and is supported by the Technisch Bureau Bouwnijverheid (administrative office of the social partners in the construction industry and the sectoral funds in question).

In the first orientation phase (end of 2013 – June 2014) four questions were answered, i.e.: (1) what is the legal context of the introduction of a Construction Industry ID card? (2) Which details would have to be stated on the Construction Industry ID card or be included in the system? (3) What should be the arrangement regarding the ownership of the Construction Industry ID? (4) What are the costs involved in the introduction of a Construction Industry ID card? Several additional questions arose while answering these four questions as thoroughly as possible. The social partners in the Construction Industry decided that further survey and preparation was required before proceeding to the introduction of a Construction Industry ID card. These additional questions were answered in the second orientation phase (October – December 2014). For an update on recent developments, see section 3.9.5.

A Construction Industry ID card would apply to any construction site in the Netherlands, for both public and private tendered works. Although the Construction Industry ID card will possibly be

introduced in the construction industry sector (possibly a Collective Agreement-based mandatory participation), its eventual expansion to other sectors active on building sites is envisaged.

On its introduction the ID card will apply to main contractors, subcontractors, workers and independent workers without employees.

The ID cards are likely to be distributed through the IT implementing body directly to the employees, indirectly via the employer or via the employer and employee representatives. The data will be collected centrally.

A foundation with legal control over the Construction Industry ID card and ancillary data processing is to be established. This foundation will commission an (IT) implementing body to develop the IT system for the storage and administration of the data and to produce and distribute the Construction Industry ID card. The parties leading the project –social partners- will likely be represented in the foundation. In addition, funds and social partners of ancillary sectors will possibly take a seat in the foundation. This foundation will have an Advisory Council composed of, in any case, the Dutch government (Ministries of Finance, and Social Affairs and Employment).

In the orientation phase of the introduction of a Construction Industry ID card, consideration was given to the legal context. Legal advice was sought and as a result it was decided to minimize the personal details on the card and to store the details in a central database. The identifying details will therefore be electronic where possible, with the exception of a number of basic details (such as name and personal number).

The protection of personal data must be taken into account. It was sought to impose certain conditions laid down by the national law (Personal Data Protection Act) and the European law (European regulation with regard to the processing of personal data). Issues of particular interest are the following:

- Personal details: cannot be processed, unless the person involved gives explicit and unequivocal permission to that end. (Religious or personal beliefs, race, political inclination, health, sexual preferences, membership of a trade union and criminal personal details.
- Numbers, prescribed by law, that provide for the identification of individuals: cannot be processed unless there is a legal basis to do so
- Technical and organizational measures: will have to be implemented to secure personal data against loss and any kind of wrongful processing.
- The party responsible for the data processing: must be registered with the Dutch Data Protection Authorities [CBP]
- Draft a protocol / agreement: will set out how to deal with privacy in a prudent manner

3.9.2 Aim and objective of the tools, instruments and mechanism

The working group, consisting of construction industry employer and employee representatives, which took the initiative towards a possible introduction of a Construction Industry ID card in the Netherlands, has worded it as follows: “The purpose of putting a Construction Industry ID card into

use in the building sector is to contribute to the safety and craftsmanship in the construction industry and to counter sham arrangements. It will yield added value for Funds in the construction industry and facilitate collective agreement enforcement. As a result the Construction Industry ID card will contribute to a level playing field and social security”.

The Social ID Card envisaged objectives are the following:

- Working conditions: The ID card could primarily be used to give an indication on hours worked/ resting time of employees.
- Social security matters/contribution: The data collected at a central level would be provided to employees so they would use it as a basis for their social security rights.
- Social fund contributions: Funds (e.g. pension or education funds) might be one of the stakeholders interested in seeing whether necessary contributions have been made.
- Health and Safety matters: The Social ID card would show whether the employee checking in at the construction site has the appropriate and valuable certificates to be allowed (1) on to the construction site and (2) to do the work he or she is going to do. Inspectors at the project site might use mobile apps to scan the ID card and check whether the employee holds the appropriate and valuable certificates.
- Fiscal and/or Tax matters: The Dutch government in particular is interested in seeing whether right tax payments have been made. Thus, the tax office is one of the stakeholders interested in exaggerating data from the central system.
- Professional qualification: The Social ID Card would be used to determine whether an employee is qualified to (1) be on the construction site and (2) do the kind of work she/he is going to do (by checking certificates and expiration dates either locally through apps or on check-in before entering the construction site).

3.9.3 Position of stakeholders

Sectorial social partners:

A card is intended to have a number of purposes. Firstly, a sectorial Construction Industry ID card is to counter unauthorized work and sham arrangements with (mala fide) employment agencies in the building sector and subcontractors. In addition, the card would offer a means to anticipate on pending legislation in the Netherlands (Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act) [de Wet Ketenaansprakelijkheid]; which seeks to give contractors a clear picture of the employees working on their building projects. A sectorial card would enable supervision on the people present on the building site and for whom they are responsible; this is not only important for safety reasons, but in terms of liability as well. Thirdly, the Dutch working group sees opportunities in the field of safety and professional competence in the sector, as certificates of competence can be linked to the card. Finally, the card would simplify enforcement of the collective agreement and mandatory participation in the pension fund. In short, the Dutch working group believes this card could yield added value for employers, employees, parties to the Collective Agreement and Funds in the Construction Industry; as it contributes to social security and a fair playing field. Parties to the Collective Agreement in the Construction Industry have already indicated a sectorial card would have to meet reliability standards (fraud resistance), feasibility, sustainability and be payable.

3.9.4 Impact assessment

The Dutch survey is oriented towards cooperating with relevant parties at an early stage. Not only the parties to the collective agreement, consisting of employers' organizations and employees' organizations, are working together; the Construction Industry Pension Fund joined in as well. In addition, there is a close cooperation with the Dutch Tax and Customs Authorities and the Ministerial of Social Affairs and Employment Inspectorate, which conducts checks in respect of labour market fraud, and safety issues. Involving Training Institutes would enable verification of diplomas and competency certificates, so this is looked into as well. Although the Construction Industry parties took the initiative for the card, contacts are made with adjoining industries (such as the Finishing Industry and the Painters and Decorators Industry) because they are directly linked to the work on building sites. The (possible) introduction of an ID card in the construction industry should have a broad approach and parties in this sector as well as other interested parties must be involved at an early stage in order to have a broad base of support when the process of introduction, maintenance and improvement is begun.

3.9.5 Recent developments

In June 2014 the orientation regarding the possible implementation of a sectorial ID card was submitted by the working group. The orientation concluded with seventeen questions, which still needed to be answered. For example, how can it be made sure that the proposed personal details which are collected for the ID card are authentic? How exactly will the (IT) system for ID cards function and how can it be made as fraud resistant as possible? And: Which parties can aid in financing the ID card system and will the proposed financial support cover the costs of the system? The working group worked together with the government (project ID12- an initiative of the Ministry of Finances and the Ministerial Social Affairs and Employment Inspectorate) to answer these additional questions. As a result of this second orientation phase (October – December 2014) the design of the ID card system was further developed with special attention to possible risks and fraud. Furthermore, issues regarding financing, validation of details, ownership and legal issues were dealt with. The working group reported its findings on 17 December 2014. Social partners decided to proceed with the orientation and asked the working group to draw up an action plan for implementation – in continued collaboration with the government.

In January 2015 the working group will start drawing up its action plan. In this phase, steps will be taken to develop and prepare the ID card for (possible) implementation. The preparation phase is scheduled to last until March 2015, and consist for example of writing an implementation plan (possibly starting with smaller testing projects), conducting a private impact scan and drawing up a programme of requirements for the ICT party.

3.10 Romania

3.10.1 Description of tools/instruments and mechanisms in place or being discussed

The Romanian social partners FGS (union) and ARACO (employer) intend to introduce a social ID card at national level. They created the Self-Regulatory System in Construction (the Romanian abbreviation is SASeC) in order to handle and control the system including the ID Card. The card will be cobranded by a bank and by SASeC. It will be regulated by a sectorial social agreement. The initiative started in 2009 and the last three years have been devoted to designing (hardware, software, HRM, financial dimension, etc.) .



The SASeC General Secretariat including all other Houses which are part of SASeC will run the contracts and agreements. All of these Houses are run paritarian by the social partners and work independently of each other. As their activities were designed to be complementary, the SASeC General Secretariat is harmonizing their activities and flow of money to avoid unnecessary internal competition. The “Casa Sociala a Constructorilor” – CSC (The Builder Social House) mainly provides a winter time allowance. The “Casa de Meserii a Constructorilor” – CMC (The Builder Vocational Training School) provides vocational training, recruiting and evaluating. The “Casa de Siguranta in Mediul de Munca a Constructorilor” – CASIMMCO (The Health & Safety House of Builders) is responsible of conciliation, consultancy, inspection, expertise and also vocational training. The “Comitetul Paritar pentru Muncitori Mobile, Detasati si Migranti” – MM (The Paritarian Committee for mobile, posted and migrant workers in the construction industry) is competent of providing expertise, consultancy, studies, databases etc. for the sector. The “Comitetul Paritar pentru Trusturi Transnationale” – TT (The Paritarian committee for Multinationals) provides data for the sector and facilitates contracts on the subcontractor chain, etc. The “Casa de Concedii a Constructorilor” – 3C, (The Holiday Builders House) is settled but not yet functional.

The SASeC General Secretariat will be responsible of issuing the cards. The Ministry of Labor, Ministry of Education, Labour Inspectorate and the National Authority for Qualifications will not play a direct role in issuing the card, but they are seen as partners.

Workers will need to apply for their cards by filling in the appropriate forms and signing them. The application will be possible at central or local offices (four by now) and online. The required documents are: the national ID or passport, a residence permit if necessary, an evidence of health insurance and copies of working contract, diplomas and certificates. When passing through the exigencies of CMC each person has a file containing at least photocopies of passport, diplomas, certificates of studies, the evaluations of non-formal education and their acceptance for data handling. The diplomas and certificates are only provided by a legal entity which has previously been appointed by the Ministry of Labor and Ministry of Education as able to issue such documents.

The co-branded card will contain, apart from its financial functions, visible and invisible data. The visible data will include the worker's name, country of residence and (SASec) ID number, the issuing bank, the card's validity, the logos of SASec and of the Bank, techniques to avoid falsification, the name of the current employer, the temporary or permanent residence permit, benefits such as winter time allowances, professional skills and training as well as health and safety training. Information on holidays will be introduced later by the 3 C House of SASec. The invisible content will be a scan of the national ID card containing ID number, gender, address, name of parents, etc.

Prior to get the SASec ID Card the worker must sign a document allowing the use of their data from the SASec Main Server. The IT officer of SASec manages the security of information in the database and is also, co-working with the administrator of SASec Main Server, responsible for the data. The collected data in the database are diplomas, certificates, evaluations, photocopy of national ID, etc., according to the rules of SASec. By introducing the digits display on the ID card, the worker's profile can be accessed online from the SASec Main Server. The card holder, the SASec administrator and all those allowed by the card holder, may have access to the personal data. For more details, two collateral services are to be put in place: a free call center and SMS on demand. The CMC is in charge with all controls, checking and validation of the database. Furthermore, there will be an online remote access to the data on name, country of residence, (SASec) ID number and the issuing bank in the database for the Labor Inspectorate, CASIMMCO, police, border police, etc.

The issue concerning data protection is the use of the national registration number visible on the card. This is why SASec plans to introduce its own ID number for each workers (nine digits). This is still under discussion.

The card will be used by all members of SASec in all public and private sectors. It will be applicable to all domestic and foreign workers in the country. But as SASec is a voluntary scheme, the card will start as a voluntary project, too.

It is intended that the cards will not expire. The planning of updates depends from the budget. At the moment a minimum yearly updating is foreseen. Updates will also be triggered if new skills are available. If a card is lost, stolen or broken, it will be replaced on request, as a duplicate. The owner has to send a form and explain the reason (also electronically via internet).

In case of fraud, justice will take the necessary steps. In any other circumstances, the SASec rules will continue to regulate the situation. All verifications take place before the card is being issued.

The estimated overall costs (concept, training, software, hardware, pilot project for 5,000 members) may rise to some two to three million Euros.

Information on the Romanian construction sector is available at www.casoc.ro, www.cmc.ro, www.picas.ro, www.cale.ro, www.casimmco.ro, www.araco.ro and www.fgs.ro.

3.10.2 Aim and objective of the tools, instruments and mechanism

The SASec Card is designed to identify skills by providing information on professional training and to fight irregular work in cooperation with inspectorates which will check the workers' identity by their social ID cards. Another purpose is to improve the work force's education and information.

Working conditions, social security matters, social fund contributions, health and safety matters as well as fiscal and tax matters will all benefit from the use of the cards.

3.10.3 Impact assessment

The pilot project is expected to take about two or three years; provided that the system is working, optimized and improved. A large scale implementation at national level and continuous improvement is foreseen for five to ten years.

As the ID card will start as a voluntary project the project will cover 25% of the work force in construction. There is lobbying for the introduction of a law at national level.

3.11 Spain

3.11.1 Description of tools/instruments and mechanisms in place or being discussed

The Tarjeta Profesional de la Construcción (TPC) has been introduced by means of the national Construction Industry Collective Agreement in 2007. The social partners of the construction sector, CNC as employers' organization and FECOMA-CCOO and MCA-UGT as trade unions were responsible for the initiative. They designed and agreed upon the card system.

The TPC is regulated by the national Construction Industry Collective Agreement on the basis of a legal mandate included in Law 32/2006 of Subcontracting in Construction Sector. The cards apply on a voluntary basis to any domestic and foreign worker in the framework of the Collective Agreement no matter if public or private works.



The system is managed by a foundation created by the social partners through the Collective Agreement: the Fundación Laboral de la Construcción.

The workers have to apply for their TPC, workers who work or have worked for companies under the scope of application of the national Construction Industry Collective Agreement. The application must be presented at the Fundación Laboral de la Construcción, with the National ID Card and documents which prove that the applicant works or has worked in the construction sector (labour contract, salary receipt) including an official report (working overview) issued by the Social Security.

With regard to the training, the applicant has to provide diplomas and certificates issued by a recognized entity. Authorized personnel of the Fundación check the data. After verifying that the applicant can be considered a construction worker and has at least the minimum required health and safety training, the Fundación issues the TPC and creates the electronic file in the database. There is a sanction system for the recognized training entities, in case they do not comply with the training regulations. The social partners collaborate by collecting workers application and data, so they proceed through preliminary check of information and then forward it to the Fundación.

The visible content of the TPC is the worker's name and photo, the validity of the card and the identification number which is also invisible on the magnetic band. Via remote access to the database all other personal data, photo, validity, country of origin and residence, professional experience, skills and training as well as health and safety training can be retrieved.

Updates are not mandatory; they are up to holder request. Any update or modification of data must be notified by the holder to the Fundación, which will check it. The holders themselves can only modify the postal and e-mail address or phone number through the website. In any case, the holder must renew the TPC every five years, accrediting that they are still a construction worker. Cards which are lost, stolen or broken will be replaced. It must be taken into account that the use of the TPC is linked to the database.

The Fundación Laboral de la Construcción is responsible for the data in the database and manages the security of information. The database contains personal data (name, date and place of birth, address, phone), professional experience and professional training. It can be consulted by the card holder and, if they agree, by the current employer.

Data protection has been taken into consideration: The application form includes a consent clause according to the law.

The overall investment costs for the introduction were about 1 million €. They are borne by the Fundación, which is financed by all employers through a compulsory fee, according to the national collective agreement. There are no costs for the concerned persons.

Further information in Spanish language can be found at www.trabajoenconstruccion.com. A brochure is available at www.trabajoenconstruccion.com/resources/descargas/00071436archivodescarga.pdf.

3.11.2 Aim and objective of the tools, instruments and mechanism

The purpose of the TPC is to enable workers to prove, among other information, their training on health and safety in accordance with the mentioned Collective Agreement, their experience in construction industry and their professional qualification.

Apart from the smart card, its online accreditation system allows the workers to download digital certificates, which totally or partially accredit all the information registered in the TPC, so that every worker can easily demonstrate their professionalism.

The TPC can be requested by all employees working for any company in the area of application of the Collective Agreement of the Construction Industry. TPC can also be applied by unemployed workers that credit at least thirty days of effective work in companies covered by the area of application of the Collective Agreement, within the period of thirty six months previous to the date of the request.

3.11.3 Position of the concerned Social Partners

The main objective of introducing the system was the accreditation of the workers' health and safety training. That meant that previously the health and safety training required for the different jobs had to be defined, clarified and established as compulsory in the national Collective Agreement. That definition has a value in itself.

The accreditation of the health and safety training by the TPC system is legally recognized although it is not the only way of accreditation. Public authorities appreciate that a specialized body ensures an integrated and reliable accreditation system.

For the employers, the introduction of the TPC has brought about an improvement in worker productivity and in the quality of work carried out, as well as an improvement in worker safety. The system certifies which workers have received specific occupational health and safety training in the construction sector, as well as the workers' level of responsibility, their experience, and their periods of employment in the construction sector. This generates more security for companies and workers.

For the workers, the system provides a professional accreditation tool which is updated, available and accessible at any moment. The TPC allows the actual construction workers to demonstrate their professionalism. For this reason more than 700,000 workers have already applied, although the cards are not mandatory.

3.11.4 Impact assessment

The system has made possible to sort out the health and safety training offer, because the courses included in its framework are higher valued. This improvement in the training offer, joined by an important activity of visiting worksites jointly by trade unions and employers representatives, has resulted in a significant decrease of accident rates in the construction sector. In the last ten years, the incidence rate of total accidents (index of the number of accidents at work per 100.000 workers) has fallen about 66% (from 142.78 in 2003 to 57.93 in 2013).

Though the TPC are voluntary, the market actually requires their use. The tool makes it easy to check workers' data in recruitment. The employer is better secured because the system ensures the truth of data regarding professional training and experience.

The system has enabled workers to receive more and better training in the construction sector. This has resulted in lower costs for businesses as the TPC certifies when the workers already have training in the area of occupational health and safety in the construction sector. It also certifies experience in other companies in the construction sector and the workers' level of responsibility. Before the existence of this card, companies had to train workers from scratch, even if they already had previous training but lacked the training certificates, which required time and money.

3.12 Sweden

3.12.1 Description of tools/instruments and mechanisms in place or being discussed

The ID06 is used as an operational identification tool in Sweden. After a couple of years of planning the cards have been introduced in 2007 by a forum of branch organizations consisting of the Swedish Electrical Contractors Association (EIO), the Association of the Glaziers' Business, the Swedish Earth Moving Contractors, the Swedish Association of Painting Contractors, the Employers' Association of the Swedish Plate Works, the Swedish Construction Federation and the Swedish Association of Plumbing and HVAC Contractors. The government had put pressure on them to do something about economic crime in the construction industry.



The use of the ID06 is not mandatory as there is no legislation or collective agreement. Instead unions and employer associations designed a "general provision" that could be used as a contractual term between principal and contractor. Every principal has to decide whether to adopt the "general provision" and on which sites to use it. In case of adoption the ID06 is mandatory for all personnel on the site. The contractor can impose a fine on companies with employees not wearing their cards.

When ID06 was introduced the large contractors demanded them in their general agreements with subcontractors. The phasing-in took place site by site. When a new site was established the card was introduced there.

The social partners are the "owners" of the ID06. The Swedish Construction Federation as head of Byggbranschen i Samverkan (Construction Industry in Cooperation) manages the daily business around the card and gives accreditations to different card suppliers which issue the ID06. They also obtain a list of valid cards and blocked cards.

The ID06 applies to domestic and foreign construction workers and is used on public and private construction sites. The sites are often well-defined construction areas with fences and gates. It is seldom used on small construction sites and by homeowners.

The employer orders the ID06 on behalf of the worker. Different procedures are possible. The most common is via a web shop where the employer must be registered with formal information and documents. Another procedure is that a (large) company can become an accredited card supplier for its own employees. When the worker receives the card, they must sign a written consent to accept the use of the card.

The accredited card supplier checks the data on the card at the moment of issuing. They are also responsible in case of non-respect of the obligations and can thus lose their accreditation. Once the card is issued there are no specific checks except for the blocking list, the employer's control and the verification with the national ID or the passport at the construction site.

The employer provides the data. The card itself has visual and in a passkey protected chip hidden data. Name, photo, current employer including VAT-number and card number are visual. The social security number and the visual information excluding the photo are hidden in the chip. The data in the chip is mainly used to speed up the registration process and make it more accurate. The site administration can choose between an electronic or manual registration of presence. There are some visual features to avoid copying, for example a pattern and a metal-foil, but also hidden information. The chip has read-/write-keys.

There is a centralized database of blocked and valid card numbers. But every connected construction site has its own database with the site's personnel. The data security is managed by the supplier or the construction company. The site administration is responsible for the data. The collected data are the person's card data (name, social security number, company, VAT-No) and the person's usage of the card (entering, leaving, opening gates and containers, etc.). It can be consulted in real-time by the site administration. The tax authority and security personnel can look in the log file. For site administration it is prohibited to read log files and control (specific) worked time due to data protection. The data is updated by usage of the RFID-card. The database is not verified.

The card is valid for a maximum of five years. If data regarding employment or person significantly changes (e.g. a new name) or if the card expires, it has to be replaced by a new card. The employer will order the new card following the procedures for new cards. Cards expire after a maximum of five years. Lost, stolen or broken cards will also be replaced with a new card with a new card number. The old card will be blocked in the central blocking list.

The employer bears the costs of issuing the card. The external costs are € 10 per card. This does not include the employer's administration cost for ordering and managing the card (e.g. when a person leaves the company). Additionally, there is an initial fee of € 60 per company and a yearly fee of € 55 for each company. There has not been a central budget for the overall investment costs for the introduction.

Further information is available in English language at http://www.id06.se/in_english.

3.12.2 Aim and objective of the tools, instruments and mechanism

The main purpose of the ID06 is to prevent illegal labour and economic crime and to promote competition on equal terms where every company works according to regulations, pays taxes etc. Pre-registration, compulsory proof of identity and attendance reporting make it more difficult for unauthorized persons to be present on the building site. It brings order to the management of foreign labour regarding social security matters. Tax authorities can get information on who is working on a site. Using that information they can control taxes and fees. It also makes the construction place more secure. It is possible to restrict access to areas and machines. In case of an accident it is possible to determine who is on a site at a given moment.

3.12.3 Impact assessment

The card is widely spread and well-accepted even though there is no law and it is not mandatory. It indicates that the cardholder is a professional in the construction business. It contributes to bring a fairly good order to foreign workers. It is an important tool in the transformation towards a better control of who is engaged on the construction site. Since it is widely spread several spin-off solutions have been introduced: e.g. energy optimization based on presence, machine control on lifts. A proposal for legislation is on its way.

Despite all advantages, there is still room for improvement: The framework around ID06 should loosen up to minimize the restraints around the usage of the card. Today the framework puts hard limitations to the usage and also restricts the software needed to handle the card. Furthermore, the card needs a technical update.

In 2013, the Swedish Construction Federation started another project: the Skills Database (Kompetensdatabasen). It is meant to be an easy, centralized way to check professional qualifications and skills by listing the skills of the construction workers and make the information accessible for site management and administration. There are no results yet as the project is still ongoing.

3.13 The United-Kingdom

3.13.1 Description of tools/instruments and mechanisms in place or being discussed

The majority of UK commercial construction projects require CSCS (Construction Skills Certificate Scheme) cards to be held by construction site workers. Home owners would hardly ever (never?) ask for CSCS cards for their repair and maintenance work. They simply wouldn't know about it.

CSCS was created by its owners, the main UK construction industry federations and trade unions, in 1995. The use of the CSCS card is enforced by the social partners collective agreement.



The Scheme is not regulated under UK law. In Scotland, however, it is referenced within public sector construction procurement guidelines. Guidance for England and Wales does not include a reference but this is currently being reviewed as part of the Government's Industrial Strategy for Construction.

The card is issued by a commercial directorate within CITB (Construction Industry Training Board) who provide CSCS's card application and contact center services. CITB is an agency operated at arms' length by the government with responsibility for ensuring that the construction sector can access suitable training and funding.

The CSCS SmartCard technology platform is provided by an independent specialist supplier who works closely with CSCS and CITB. There are also 10 schemes affiliated or linked to the main CSCS scheme, all of which maintain databases of those working in construction that have achieved, or are committed to achieving, a recognized construction related qualification. There are approximately 1.9 million valid CSCS cardholders of which 500,000 are issued by affiliated schemes. All these schemes' cards carry the CSCS hologram logo on them.

To apply for a CSCS card workers can phone the CSCS Contact Centre or download an application form from the website and post it signed to the Contact Centre. Applicants must provide their contact details including name, address, telephone number, email and national insurance number for identity purposes. Details for a current or previous employer are also required. If the applicant does not have a current or previous employer they may use a JobCentre Plus (JCP) Advisor. JCP is a Government agency which provides services to those attempting to find employment and to those needing financial unemployment benefits. The applicants have to prove that they have achieved a recognized qualification or training course needed to undertake the type of work they carry out on a construction site. Additionally, they have to pass the relevant CITB Health, Safety and Environment Test. Then the card is issued including a photo taken at the test center.

In some instances contractor applies for cards on behalf of their employees using the Employer Application form. Individual site workers' cards are sent to the card holder's home address and not to the employer's address.

The card applies to domestic as well as foreign construction workers. All applicants are treated the same way regardless of their nationality. For qualifications obtained outside of the UK applicants should contact UK NARIC (National Recognition Information Centre for the UK) which is the national agency responsible for information provision on international education and qualifications. It provides recognition service and comparability information for international qualifications from 183 countries worldwide mapped against qualifications from the UK.

Cards can be visually checked (name, CSCS card registration number, Card expiry date, hologram and H&S test foil). However, CSCS main scheme cards also contain smart technology using NFC (Near Field Communication). With an inexpensive card reader, smartphone, or tablet device with the relevant app, cards can be checked and data recorded within seconds. When a CSCS SmartCard is

read using a card reader or a smart device, it links with a secure online website containing the CSCS database. CSCS data is accessible only by using readers with appropriate software and cards can only be updated via the synchronisation service. The CSCS software is downloadable free of charge from its SmartCard website. All data transfers between the chip and the card reader are securely encrypted. There is no ability to write data to the CSCS cards using the readers. The only way SmartCards can be updated is via a pc/laptop internet connected card reader which updates them with any changes from the CSCS database, via the synchronisation service. Fraudulent cards are identified instantly as they cannot be read.

Card checking is usually carried out by a representative of the lead contractor. Some constructors also use CSCS cards as combined access control cards for construction site entry gates and turnstiles. The technology then records who is on site and stores their training history.

When the CSCS Contact Centre is made aware that a card has been lost/stolen/broken it is cancelled on the database and this in turn cancels the record on the CSCS SmartCard system. If someone tries to use a card which has been cancelled it will not show as valid on CITB's online card checker. If the card is read using the smart technology it will show that the card is cancelled and the reason why.

CSCS cards are valid for 5 years, except red cards which are for those undertaking training, which are valid for between one and four years. A card renewal notice is sent to the cardholder approximately 6 months prior to the card's expiry date. The applicant is responsible for renewing the card by its expiry date and ensuring that CSCS has the latest information about the qualifications that they have achieved. If the applicant's qualification information is not held by CITB then the card applicant must provide a copy of their qualification certificates either by post or email.

The CITB Health and Safety test must also be taken if it has not been passed by the applicant within 2 years of their application.

The CSCS card is paid for either by the employer or the individual card applicant. It costs £30 and the CITB Health, Safety and Environment Test is £17.50. There may be some additional costs if the lead contractor wishes to integrate the CSCS SmartCard technology with their own in-house IT systems for example to record training records or link the SmartCard to their construction site access control system.

Further information can be obtained at: www.cscs.uk.com

3.13.2 Aim and objective of the tools, instruments and mechanism

CSCS is operated for the benefit of the UK construction industry and all those who work on construction sites. The cards are used as a means to verify that individuals who wish to work on construction sites have the necessary training and qualifications for the type of work they carry out. The card also verifies the individual's identity.

When a CSCS cardholder arrives at a construction project, the lead contractor has duties under UK legislation to check that this person is appropriately trained and skilled to carry out his/her work. The

CSCS card provides a means for lead contractors to carry out this check quickly and simply. The majority of UK lead contractors are stringent with their checking, however mid and small size construction projects can be less rigorous in how they carry out these checks.

3.13.3 Impact Assessment

According to the annual statistics the number of fatalities and serious incidents on UK construction sites has reduced. The use of CSCS cards is by no means the only reason for this. The wider industry has worked hard together to improve UK construction health and safety and to ensure that those who work on sites are appropriately trained and qualified. Lead contractors in particular have improved their systems and processes considerably. CSCS is one part of a much bigger picture.

The CSCS card system purely deals with records of training and qualifications. It does not store any social security data, health insurance etc. In that sense it is not a “Social ID card”, it’s a “Training ID card”.

From July 2014 CSCS introduced new qualification requirements for its green card which is meant for those working in labouring occupations. The green card was also renamed to ‘Labourer’ from ‘Construction Site Operative’. The qualification required is the ‘Health and Safety in a Construction Environment Award’ or a recognized equivalent which are listed on the CSCS website. This is to ensure that green card applicants can demonstrate they have the knowledge and understanding of the key issues affecting safe working practices on UK construction sites. This requirement replaced the previous Construction Site Operative green card which only required the CITB Health, safety and Environment Test to be passed and supported the application to be supported by an employer’s recommendation.

By initiating this change the aim is to encourage a construction workforce fully trained and qualified for the job for which they are employed, holding the right CSCS card for the work they undertake, and for construction contractors and clients to maximize potential benefits and cost savings an appropriately trained and qualified workforce can bring to their business.

4 Summary and an overview of the existing Social ID schemes in place

4.1 *Typology of Social ID Cards*

Social ID Cards can be divided in a number of groups according to different criteria. This chapter provides for an overview of the different dimensions (variables) along which cards can be grouped.

- **Participation** [voluntary/mandatory]: Social ID Cards can either be mandatory or voluntary, according to the different regimes which establish them. Where voluntary, the card can become compulsory on a given construction site, if the main constructor decides so or such requirement is included in the tender specifications.
- **Legal basis** [agreement of social partners /collective agreement/ law]: this variable provides for the legal basis of the Social ID cards in the different countries analysed (i.e. collective agreements, simple agreement by social partners, law).
- **Responsible actors** [social partners/paritarian institutions/public authority]: this variable identifies the actors in charge of managing the scheme and issuing the cards. According to the different responses, it emerges that the responsible actors can either be the social partners, the employer itself, a paritarian institution, a public authority or a mix of these.
- **Costs supported by** [employer/paritarian institutions/social partners/individual]: this variable identifies the actor which bears the cost of the scheme and of issuing the cards.
- **Applied to posted workers** [yes/no]: according to the different responses received, cards can either be applicable to national workers, posted workers or both.
- **Visual information** [yes/no]: this variable states whether a card portrays visual information (such as ID picture, name and surname of the worker).
- **Data Chip** [yes/no]: this variable states whether a card is equipped with a Data Chip.
- **Fraud resistant** [yes/no]: this variable states whether a card is equipped with some type of anti-fraud system/device, such as watermarks, holograms etc..
- **Issuance** [centralised/decentralised]: this variable provides information about the way the scheme is managed and the card is issued. In some countries the card can be issued by different authorities or actors; in some other countries only a central (national) authority or actor is in charge of issuing the cards.

	Social ID Card	Participation	legal basis	responsible actors	costs supported by	applied to posted workers	visual information	Data Chip	Intended to be fraud resistant	Issuance (printing and delivery)
Belgium	yes	voluntary	agreement of social partners	social partners	employer	yes	yes	yes	yes	centralised
Denmark	yes	voluntary	agreement of social partners	social partners	paritarian training institution	no	yes	yes	yes	centralised
Finland	yes	mandatory	law	employer	employer	yes	yes	no	yes ⁴	decentralised
France	yes	voluntary	agreement of social partners	Employer (l'Union des caisses de France du réseau Congés Intempéries BTP)	Employer	no	yes	no	yes	decentralised
Italy	yes	mandatory	law + regional collective labour agreements	paritarian institution or employer	paritarian institution or employer	yes	yes	no	no	decentralised
Lithuania	yes (Employee's Identity Card ⁵)	voluntary	agreement of social Partners	employer or customer	employer ⁶ or customer	yes	yes	no	no	decentralised

⁴ The social ID cards used in Finland can have Data chip, but it's not obligatory. Moreover, the card is fraud resistant per se as it is an electronic key used at a construction site for identification purpose and which can be easily identified as fake.

⁵ In Lithuania there are 3 different ID tools applied in the construction sector: these are (1) the social security certificate, (2) the employee's identity certificate and (3) the Employee's ID Card. As for the purpose of this project, the chart refers only to the employee's ID Card.

⁶ When the request of introducing the Employee's ID card on a given construction site comes from the customer, the costs are borne by the customer. Otherwise, the costs are borne by the employer (main or sub - constructor)

	Social ID Card	Participation	legal basis	responsible actors	costs supported by	applied to posted workers	visual information	Data Chip	Intended to be fraud resistant	Issuance (printing and delivery)
Spain	yes	voluntary	collective agreement ⁷	paritarian institution (Fundacion Laboral)	paritarian institution (Fundacion Laboral)	no ⁸	yes	no	yes	centralised
Sweden	yes	voluntary	contractual term between principal and contractor	social partners	employer	yes	yes	yes	yes	both (centralised) and decentralised
UK	yes	voluntary	agreement of social partners	Paritarian institution (Construction Industry Training Board))	employer or individual	yes	yes	yes	yes	centralised
Luxembourg⁹	yes	mandatory ¹⁰	law	Public authority	employer/posting company	yes	yes	no server)	yes	centralised
Romania¹¹	yes	voluntary	agreement of social partners	Social Partners trough SASeC	(stage 1) Pilot Project FSE financed (stage2) Paritarian Funds through SASeC	yes	yes	yes	yes.	centralised

⁷ The TPC scheme is introduced by the National Construction Industry Collective Agreement on the basis of a legal mandate included in Law 32/2006 of Subcontracting in Construction Sector

⁸ The TPC card applies to construction workers who work of have worked for companies under the scope of application of the National Construction Industry Collective Agreement.

⁹ The Luxembourg authorities have introduced a so-called "de-detachment" platform for posted workers who, after having filled the registration procedures receive a social badge.

¹⁰ The E-detachement scheme is applicable only to posted workers.

¹¹ Following an agreement between the social partners in the construction sector in Romania as social identity card was conceived for construction workers. The social partners intend to introduce de Social ID Card at national level.

4.2 Social ID cards in a cross-border context

According to the data collected through the national questionnaire, the social ID card requirement is generally applicable to foreign companies and posted workers. With the exception of France, Denmark and Spain, all the countries analyzed allow or require foreign companies to apply for the social ID card. As for Germany, there is no such a Social ID card for construction workers, but the authorities had introduced a requirement to carry the passport or a foreign ID card on construction sites. Regarding the Netherlands, no data on these particular aspects are available, either because the introduction of such card is still under discussion (Netherlands).

The French exception is worth further investigation as, according to the responses collected, the card aims explicitly at fighting against undeclared or illicit employment and the applicability of the social ID card to posted workers had been foreseen at the time of the transposition of the Posting of Workers directive (96/71/CE), even though this decision was eventually dropped.

Regarding to Spain, it is important to bear in mind that the workers who can apply for the card have to be working or have worked for companies that are under the scope of application of the National Construction Industry Collective Agreement. This does not apply to posted workers to Spain by a foreign company established in another country, although a series of provisions of the Spanish legislation/collective agreements have to be fulfilled by these foreign companies according to the national Law on posting.

The other case where the social ID card is not applicable to foreign companies and posted workers is Denmark. This might be due to the fact that the Danish social ID card has not been conceived as a tool aimed at identifying the worker. In Denmark indeed there is no mandatory identification tool for construction sites. The Social ID card (“Uddannelseskort”), which has been introduced in 2013, instead focuses only on education, professional skills and training, and constitutes a voluntary practice agreed upon by the social partners.

Quite interestingly, Luxembourg has put in place a social ID card which is specifically dedicated to foreign companies and posted workers. Indeed, the social ID card works as a key/link to access the electronic platform “e-Détachement” containing the information about the posted worker, his employer and the provision of services in Luxembourg. This system has been established by the public authority (Inspection du Travail et des Mines (ITM)) in January 2014 and is mandatory for all posted worker.

	Participation	applied to posted workers	PURPOSE				
			Worker ID	OSH ¹²	Training / education	Sectorial working experience ¹³	Undeclared or illicit employment
BELGIUM	voluntary	yes	yes	no	no	no	yes
DENMARK	voluntary	no	no	no	yes	no	no
FINLAND	mandatory	yes ¹⁴	yes	no	no	no	yes
FRANCE	voluntary	no	yes	no	no	no	yes
ITALY	mandatory	yes	yes	no	no .	no	yes
LITHUANIA	voluntary	yes	yes	no	no	no	yes
LUXEMBOURG	mandatory ¹⁵	yes	yes	no	yes	no	yes
ROMANIA¹⁶	Voluntary	yes	yes	no	yes	yes	yes
SPAIN	voluntary	no ¹⁷	yes	yes	yes	yes	no
SWEDEN¹⁸	voluntary	yes	yes	no	no	no	yes
UK	voluntary	yes	yes	no	yes	yes	no

¹² Occupational Safety and Health (OSH)

¹³ The knowledge acquired by a person related to the practice of the profession in a given sector

¹⁴ A posted worker before starting to work on a construction site must get from the Tax Administration a Finnish Social Security Number and a Tax Identification Number. The mandatory badge at construction sites must have the Tax Identification Number printed on it . This regulation is mandatory both for Finnish and posted workers.

¹⁵ The e-detachment scheme applies only to posted workers

¹⁶ Following an agreement between the social partners in the construction sector in Romania a social identity card was conceived for construction workers. The social partners intend to introduce de Social ID Card at national level.

¹⁷ The TPC card applies to construction workers who work or have worked for companies under the scope of application of the National Construction Industry Collective Agreement.

¹⁸ A new law on electronic presence monitoring will be introduced throughout the Swedish construction industry from 1 January 2016. The act states that the developers shall notify the Tax Agency when and where construction activities begin and provide equipment so that an electronic staff ledger can be kept. (More: Ch5: Further Developments)

4.3 Social ID cards and the recognition of professional and vocational training and sectorial working experience

The starting point of any discussion on the classification of social ID cards with the purpose of the recognition of professional and vocational training and sectorial working experience is to know what the vocational training means. Responses collected via the questionnaire did not allow drawing a clear distinction between what is generally understood as training on occupational health and safety and vocational training. For this reason the cards established in Denmark, the UK and Spain should be considered under both occupational health and safety and vocational training scopes.

The CSCS card for construction workers designed in the United-Kingdom aims at verifying that individuals who wish to work on construction sites have the necessary training and qualifications for the type of work they carry out. The CSCS card system purely deals with records of training and qualifications. It does not store any social security data, health insurance etc. In that sense it is rather a Training ID Card than a Social ID Card.

The Danish UD-Cards have been introduced regarding education and are used to prove professional skills. The card can be ordered via a specific identification number NemID on a website managed by Byggeriets, an organisation owned by social partners and which develops new training and offers administrative services for different paritarian educational councils. The UD-Cards are based on the Danish identification system called Central-Personal-Number (CPR-No.). Therefore, the users have to be registered as living in Denmark.

Regarding Spain, the TPC scheme certifies that workers have received specific health and safety training in the construction sector, as well as any other type of training received the workers' professional level, their experience, and their periods of employment in the construction sector. For the workers, the system provides a professional accreditation tool which is updated, available and accessible at any moment.

4.4 Social ID cards and the recognition of OSH training

Identification of construction workers with the aim of demonstrating the occupational health and safety skills towards specific construction ID cards are those conceived in Denmark, Spain and the UK. Both, CSCS and TPC cards are enforced by the collective agreement of the concerned social partners.

The Construction Industry Professional Card (Tarjeta Profesional of Construction - TPC) is regulated by a national Construction Industry Collective Agreement on the basis of a legal mandate included in Law 32/2006 of Subcontracting in Construction Sector.

The Construction Skills Certification Scheme (CSCS) is not regulated under UK law. In Scotland, however, it is referenced within public sector construction procurement guidelines. Guidance for England and Wales does not include a reference but this is currently being reviewed as part of the Government's Industrial Strategy for Construction.

Both, TPC and CSCS cards are used on a voluntary basis. However, the UK majority of lead contractors and major homebuilders do require CSCS cards for all on-site construction workers as this helps them meet the requirements of the Health and safety at Work Act and Construction (Design and Management) Regulations.

The purpose of the TPC is to enable workers to prove, among other information, their training on health and safety in accordance with the above mentioned National Collective Agreement in the Construction Sector.

Before introducing the TPC scheme, the health and safety training required for the different jobs had to be defined, clarified and established as compulsory in the national Collective Agreement. The accreditation of the health and safety training by the TPC system is legally recognized.

Regarding the UK, the CSCS application procedure requires the candidate taking a CITB Health, Safety and Environment Exam to be granted the CSCS card. The CSCS card will not be provided unless the examination succeeded. From July 2014 CSCS introduced new qualification requirement for its green card which is meant for those working in laboring occupations. The requirement replaced the previous Construction Site Operative Green Card which only required the CITB Health, safety and Environment Test to be passed.

4.5 Social ID cards and the prevention/detection/sanction of undeclared or illicit employment

Among the cases analysed, some respondents assert that the introduction of the Social ID Card in their country aimed at tackling the undeclared/illicit employment issue (Finland, France, Italy, Lithuania, Luxembourg, Romania and Sweden). All these countries indeed match this purpose with the “worker ID” function of the card, meaning that the Social ID Card is used as an identification tools during checks and controls.

On the other hand, there are countries that have no social ID card but had introduced the requirement to carry national ID cards or passports on construction sites. This is the German case.

However, it should be highlighted here that there seems to be a discrepancy between the fact that the social ID card for construction workers aims at tackling the issue of illicit employment and its implementation (mandatory Vs voluntary). Indeed, in some countries that introduced the card in order to tackle the illicit job issue, it should be worth investigating further why they did not choose a mandatory participation to the regime.

In most countries the cards are equipped with different types of fraud-resistant systems, i.e. holograms or watermarks, ID chips. It should be noted that in almost all countries where the card aims at tackling illicit employment, cards have been equipped with such anti-fraud systems. This is not the case in for Finland and Italy. In these countries the card can indeed be printed with a normal printer and its issuance is decentralised (i.e. the employer is entitled to produce the card).

5 Future Developments

Although most EU-countries didn't created Social ID Cards for construction workers, other countries which have no scheme, are seriously considering introducing a scheme or would like to do so.

The countries, which have set up a national social ID scheme, use it for different purposes, either as a tool for OSH or professional training certification or as tool to prevent fighting illegal/undeclared work on construction sites.

Belgium is such an example of a country where the construction worker identification card is still under development. Although introduced on all construction sites, its purpose is likely to evolve and thus it may, in the future, serve beyond a simple identification of workers, and include branch-related data such as training, safety certificates or career in the Construction Industry, specific individual data such as driving license and specific applications such as track and trace systems or access to buildings. In addition, it should be noted that the Belgian card is not mandatory. However, the social partners intend to have the use of the social identification card imposed by the National Legislation for Well-Being at work.

Meanwhile, the Danish voluntary ID-Card scheme, intended as a tool for training and certification checks, seems to be used only by the companies for which security is the priority. There are 5,000 cards in circulation, compared to the total of 145,000 employees in the Danish construction sector, which means that less than 4% use the card at the moment. Taking this into account, the Danish Government decided to introduce an obligatory ID-Card for the building sector in Denmark as of 1st April 2015, which will serve as a tool to fight social dumping and to ensure better security on the Danish construction sites. The card will likely be mandatory for both Danish and foreign construction workers and will contain information on the name, the employer, and also on social security, obligatory industrial health insurance and possibly commercial insurance.

In addition, discussions continue in the Netherlands concerning the sectorial card for construction workers. A survey was carried out by the social partners to identify possible targets of such a card. The orientation process concluded with seventeen questions which needed to be answered by the social partners, in cooperation with Ministries of Finance and Social Affairs, as well as the Employment Inspectorate. Finally, the working group in charge of the survey reported its findings on 17 December 2014. Social partners decided to proceed with the orientation and asked the working group to draw up an action plan for implementation – in continued collaboration with the government.

Furthermore, an electronic presence monitoring will be introduced throughout the Swedish construction industry from 1 January 2016. The act states that the developers shall notify the Tax Agency when and where construction activities begin and provide equipment so that an electronic staff ledger can be kept. The electronic ledger shall be kept by the developer and include necessary identification details of the contractors and the individuals who are active in the construction site. The Act does not apply if the total construction cost of the construction site is assumed to be less than 178.000 SEK (roughly £19.000) or if

the client is a consumer. The Tax Agency can inspect the electronic staff ledger through unannounced visits to the construction site. If the developer does not provide equipment so that electronic staff ledger may be kept the fee is 10.000 SEK. The fine for each individual that is present on site during an inspection, but not in the electronic staff ledger is 2.000 SEK per individual and day. If notification not is made to the Tax Agency the fee is SEK 25.000 SEK. The law applies to all new projects beginning after January 1, 2016 .

Recently (27.10.2014) the French Minister of labour, F. Rebsamen, declared that he would be in favor of a mandatory extension of the existing BTP Card to all workers of the construction industry. The announced policy fits within the implementation of the Enforcement Directive.

Based on these trends, we can expect that the number of national Social ID card schemes will grow in the future and that existing card schemes will be strengthened.

6 Social ID cards and its compatibility with primary and secondary EU law¹⁹

6.1 Introduction

The Social ID Card shall function as an individualized worker certification tool that contains visible and sagely stored electronic data. These should attest that specific social and other requirements – for example professional qualifications – have been met by the worker’s employer or the worker himself. With these Social ID Cards more transparency as to compliance with social requirements should be created. Social ID schemes may also be used to store data like for example the actual working time or as an electronic key for the access to external databases regarding social security or as a tool to document the employment periods of highly mobile workers for the purpose of for example pension schemes. The relevant data generally may be vocational and professional training of workers, occupational safety requirements, applicable working conditions, social security/ protection provisions by the workers, social security/protection by their employers and other social and fiscal data of the employer.

By this instrument of a Social ID the initiators intend to improve the situation and move from a situation of Social ID cards in some but not all Member States to a more generalized application of the card and by that providing a tool to address major problems and issues of the construction industry.

Before dealing with the legal issues in detail it should be noted that the Social ID card is a project in development. This means that a number of legal issues can only be answered more generally since legal details may depend upon the exact design and use of the card.

6.2 Legal Issues

From a legal point of view this project leads to a number of questions.

6.2.1 Legal Instruments

It is assumed that generally the Social ID scheme should be organized by the social partners of the construction industry. But nevertheless this has to be seen in relation to the aims of the project in general and thus generally the ways under European law should be observed, i.e. the kind of legal instrument to be used.

To put things in practice on the EU level a number of different approaches may be used. There may be legislative actions by the European legislator or agreements by the social partners or some forms combining both approaches.

¹⁹ Author : Prof. dr.iur Heinz-Dietrich Steinmeyer, Westfälische Wilhelms-Universität – Institut für Arbeits-, Sozial- und Wirtschaftsrecht II. remains responsible for the views expressed in this chapter, which do not necessarily reflect those of the Social Partners of the construction industry (EFBWW or FIEC) or the European Commission.

This might be either a directive or a regulation – and in case of a directive – either a “usual” one by European Parliament and Council or one based on Art. 155 of the Treaty on the Functioning of the European Union (TFEU). Here a directive might be preferable and could be introduced by the general way or an agreement of the social partners formally accepted by the European Parliament and Council and thereby transformed into European Law. So there is one way via the European legislature.

Art. 155 TFEU also deals with agreements between social partners – being a contractual thing – and being in the sole competence of the social partners.

So there is a way via the European legislature and a way via agreements among the social partners.

When it comes to agreements between social partners this have to be the social partners on the EU level being mandated by their members accordingly. It is assumed that the social partners of the construction industry on the European level intend to conclude those agreements. In this case it has to be referred to Art. 155 TFEU which provides that should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements. In this case there are two ways to set such an agreement into practice. One is to implement it in accordance with the procedures and practices specific to management and labour and the Member States which means that it has to be done in accordance with the national collective labour law of the Member States. In this case the social partners may ask their national authorities to transform them into national law in order to achieve union-wide results. There are no specific limits with regard to the topics covered – but generally those agreements have to be in accordance with EU law and national law – if applicable.

The other way is in matters covered by Article 153 TFEU, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission. The European Parliament shall be informed. This usually leads to a directive. But this way is only possible if one of the subjects of Art. 153 TFEU is in charge which depends on the exact scope of the Social ID scheme.

All these approaches are generally possible; the use of them very much depends upon what functions of the social card to be addressed and what the intentions of the actors are.

6.2.2 Functions of the Social ID card scheme

Social ID cards are already in use in a number of countries observed in the project. The exact functions differ – at least to a certain extent – from country to country. The report shows the variety of approaches and functions. In order to make a European approach out of national efforts and experiences common approaches or function across Member States have to be defined. A certain focus on health and safety obligations and labour and social requirements like professional and vocational training but also tackling the undeclared/illicit employment issue can be observed.

6.2.3 Main Legal issues

Over all there are at least two main legal issues which have to be addressed in order to deal with the main legal challenges related to the introduction and use of the Social ID card.

One issue is what the possibilities are to implement/foster mutual recognition mechanisms in order to improve the functioning of the internal market. The other is if there are specific rules as to the collection, access, storage, use and exchange of personal information/data of the concerned workers.

6.2.3.1 Mutual Recognition

Following the Cassis de Dijon Doctrine the use of the card has to be accepted in the other Member States if it is officially accepted in one Member State and serves the same purpose. If something according to the law is accepted in one Member State it is also accepted in the others. This is a main principle and ensures and enables the functioning of the Internal Market. Here the issue might be whether also rules set up by the social partners have to be accepted in the same manner. It might be argued that the principle of mutual recognition means that all rules and also services and goods etc. deemed to be in accordance with the law in one of the Member States should also be accepted by any other Member State or its legal system.

But this would in the first place only mean that in the other Member States the Social ID card of one country would be accepted as a legal means. So based on this it may be used as proof of professional qualifications and other information of this kind.

Another issue is whether this also could be used for requiring to present the SID card on a construction site which would mean the case that a company and/or workers from another Member State might be required to use SID of the host state. This might not be a matter of mutual recognition but rather of the local (national) law at the construction site. If this is a collective agreement it has to be verified if this is applicable on foreign companies which is a matter of national law. Generally this means that the social partners have to agree upon a certain use of the card for example use for proof of professional qualifications.

It has to be observed that ways towards mutual recognition are more easily to be achieved if the Social ID is just used as an ID to be presented or to prove professional qualifications. It also might be used to certify medical examinations being passed or to certify occupational safety and health training and by that also might ease cross-border providing of services.

It is far more complicated in case the card should also be used as access to a database with personal information. A database with other information than personal data might present less of a problem.

A way to achieve this might be to conclude agreements under Article 155 TFEU.

Generally mutual recognition can be achieved via agreements.

6.2.3.2 Rules on Data Protection

When it comes to the specific rules as to the collection, access, storage, use and exchange of personal information/data of the concerned workers the issue of data protection is concerned.

The general rule here is that use of personal data is only possible either after consent by the person whose data are concerned or if there are specific reasons fixed by law. Here the current data protection

directive²⁰ as well as the new regulation²¹ and directive²² have to be taken into account. The new rules are not yet effective but very likely to be implemented.

The current directive applies to the processing of personal data wholly or partly by automatic means, and to the processing otherwise than by automatic means of personal data which form part of a filing system or are intended to form part of a filing system.

Here Article 6 of the present directive states:

1. Member States shall provide that personal data must be:

- (a) processed fairly and lawfully;
- (b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes. Further processing of data for historical, statistical or scientific purposes shall not be considered as incompatible provided that Member States provide appropriate safeguards;
- (c) adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed;
- (d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified;
- (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed. Member States shall lay down appropriate safeguards for personal data stored for longer periods for historical, statistical or scientific use.

Article 7 defines the limits of processing data and states:

Member States shall provide that personal data may be processed only if:

- (a) the data subject has unambiguously given his consent; or
- (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract; or
- (c) processing is necessary for compliance with a legal obligation to which the controller is subject; or
- (d) processing is necessary in order to protect the vital interests of the data subject; or
- (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed; or
- (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by the third party or parties to whom the data are disclosed, except where such interests are

²⁰ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

²¹ Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) COM (2012) 11 final

²² Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, COM (2012) 10 final

overridden by the interests for fundamental rights and freedoms of the data subject which require protection under Article 1 (1).

Concerning these provisions ECJ has made clear “that Directive 95/46 is intended to ensure free movement of personal data while guaranteeing a high level of protection for the rights and interests of the individuals to whom such data relate. Consequently, it follows from the objective of ensuring an equivalent level of protection in all Member States that Article 7 of Directive 95/46 sets out an exhaustive and restrictive list of cases in which the processing of personal data can be regarded as being lawful. That interpretation is corroborated by the term ‘may be processed only if’ and its juxtaposition with ‘or’ contained in Article 7 of Directive 95/46, which demonstrate the exhaustive and restrictive nature of the list appearing in that article.”²³

When it comes to the Social ID card the main issues are what kind of data will be used on the card, the way the data is used and the institutions using the data. In the center of this is what exactly the relevant data are and in what case there is a relevant processing of the data. The directive on data protection defines 'personal data' as any information relating to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity. The directive defines 'processing of personal data' ('processing') as any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

So it depends on what information should be on the Social ID Card and how it should be used. It means that the use of the card as an ID with information about SSN and professional qualifications is less difficult than the use of the card as access to a database with sensible information to be qualified as personal data. There it also depends on who will be allowed to gain access to the database by using the card and the exact content of the database.

6.2.3.3 Freedom of Services

All measures planned have also to be in accordance with free movement of services which is one of the basic freedoms of the European Treaties. This for example means that there should be no additional requirements for service providers from other countries. This has to be observed when imposing the requirement to present Social ID by foreign companies and workers. Here especially a decision of the ECJ²⁴ has to be taken into account which banned a practice of the Belgian authorities required in the security business that undertakings from other Member States were required to obtain authorization, for the purpose of which no account is taken of the evidence and guarantees already presented by it for the pursuit of its activity in the Member State of establishment; the persons wishing to exercise a security activity or provide an internal security service in Belgium to be issued with an identification card in

²³ Joined Cases C-468/10 and C-469/10 of 24 November 2011 (ASNEF and FECMD v. Administración del Estado)

²⁴ of 9.3.2000 - Case C-355/98 – Commission vs. Belgium

accordance with that Law. It was clear in that case that this was discriminatory with regard to persons and undertakings from other Member States. This was especially due to the fact that this practice has put additional burden on foreign providers. That legal problem can be avoided here by applying the same rules for foreigners as well as nationals and by accepting cards from other countries.

A similar issue is that on Article 16 Section 2 Subsection 3 e) of the Service Directive²⁵ which says: “2. Member States may not restrict the freedom to provide services in the case of a provider established in another Member State by imposing any of the following requirements: ... e) an obligation on the provider to possess an identity document issued by its competent authorities specific to the exercise of a service activity.” This might sound as if an ID document as discussed here is banned under the Service Directive. But the aim of this provision is to make sure that no additional administrative procedures shall be imposed on providers of services from other Member States. So already from that it seems to be no problem if it is a European-wide requirement and the card / document maybe used anywhere in the EU. In such a case a discrimination based on nationality seems to be not the case so that an obligation imposed on anybody will not violate this provision of the Service Directive.

6.3 Legal conclusions

All this has shown that also from a legal point of view the use of a Social ID card is possible and makes good sense. There are different ways to introduce such a card but also certain limits imposed by European law. Overall this means that the Social ID card is a possible tool to fulfill its functions provided that the limits – but also the chances – of European law are taken into consideration.

²⁵ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, O.J. L 376/36

7 Overall project conclusions

Social ID card schemes are: *“individualized worker certification tools, which contain visible and safely stored electronic data that aim to attest that specific social and/or other (e.g. professional experience and/or qualifications, OSH training, social protection/security issues ...) requirements have been met by the worker’s employer and/or the worker him/herself”*.

Based on the findings of the study it became obvious that over the years the national social partners of the construction industry have observed the added value of social ID card or similar schemes. This awareness is stimulated by the persistent challenge to improve and better control the functioning of the national construction labour market and the need to create smart and efficient tools. This explains why over the last decade we have observed a growing number of social ID schemes in the construction industry. Looking towards the future it seems that within several Member States there is a tendency to strengthen the existing social ID card schemes and in others to introduce a scheme.

It should be noted that each national Social ID card scheme was created either directly by the national social partners of the construction industry or indirectly with a strong involvement from their part. Based on the fact that a national social ID scheme needs to take into account the labour market specificities, the strong involvement of the sectoral social partners is one of the determining elements for success.

Since the national labour market challenges and requirements and the possibilities of the social partners are often very distinctive - as they are based on the different labour markets models and needs - we observe a variety of national social ID card schemes. This colour palette of social ID cards may look a bit awkward in a European context, but it is completely justified by the fact that existing social ID card schemes are tailor made to the typical features and needs of the national labour markets.

Based on the available assessments of the existing national social ID schemes, we have observed that most schemes clearly fulfil the needs for which they have been set up. At the same time we also observe an ongoing trend in several Member States aimed at strengthening existing social ID schemes.

A positive trend is that social partners from different countries are increasingly learning from each other and are gradually implementing systems that have common elements or goals. In line with this trend and the growing number of migrant workers there is also a common desire to strengthen the cross-border cooperation between the different national schemes; a notable example exists within the Nordic countries between Sweden and Finland and a political intention of the BeNeLux countries.

A key question, which was raised during the project proceedings and which, regrettably, could not be resolved within the scope of the study, relates to the use, storage and processing of personal data. This question should be seen in relation to the various objectives of the social ID card schemes and the possibility to exchange (cross-border) data.

Any possible EU-initiative related to the social ID card schemes should only serve as a complementary tool to the existing national social ID schemes and must demonstrate a clear added value to the national scheme. The existing national social ID card schemes should under no circumstances compulsory be replaced by a European standard nor should they have to be adapted to fit such a European standard. Of course, this does not exclude any voluntary efforts of the national social partners themselves to make their own existing system compatible with those of other Member States or with an European standard.

In order to achieve the best results, within the context of the specific objectives of the national social ID card scheme, the project led to the overall recommendation that a national social ID card scheme should be applicable to all workers, who are employed in the construction industry, regardless of the employment relationship and their country of origin.

8 Overview of the involved project partners and the team of experts

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