



SOCIAL SECURITY COORDINATION

SOCIAL SECURITY OF POSTED WORKERS

The European Commission's proposal reinforces the rules on social security coordination for posted workers. It offers national authorities better tools to verify the social security status of such workers and sets clearer procedures to address potentially unfair practices or abuse.



WHAT ARE THE CURRENT RULES AND WHAT IS THE COMMISSION PROPOSING TO CHANGE?

CURRENT SITUATION

If you are posted for no longer than 24 months, and if you don't replace another posted worker, you can remain insured in your home country.

No details are given on the specific obligations of the issuing country or the timeframe for its response, in case a host EU country has a doubt about the social security documents of a posted worker.

If you are employed in more than one Member State and you don't carry out any substantial activity in your home country, you fall under the legislation of the Member State where your employer is established.

UNDER THE NEW PROPOSAL

The 24-months rule is unchanged. The requirement that in order to remain insured in the sending country you must not replace another posted worker will also cover self-employed workers sent to another EU country.

The sending country issuing the social security documents of a posted worker must properly assess the relevant facts and guarantee their correctness. The A1 form is only valid if filled out correctly.

The sending country has clear deadlines to respond to a host country's request to verify the documents. The sending country keeps the right to revoke the A1 form.

In case of fraud, the withdrawal of a document will have retroactive effect.¹

In order to avoid abuse, the legislation of the Member State of the employer will only apply in such a case if that employer carries out substantial activity in the Member State where it is established. This reduces the risk of letter-box companies being utilised to circumvent the rules.

¹ The posted worker would be regarded as being insured in the receiving Member State (B) from the date when he started to work there. The sending Member State would be required to transfer to Member State B social security contributions received for that period (minus the cost of any benefits paid). Both the worker and the employer would be required to make up any shortfall.

WHAT THE NEW RULES MEAN FOR YOU

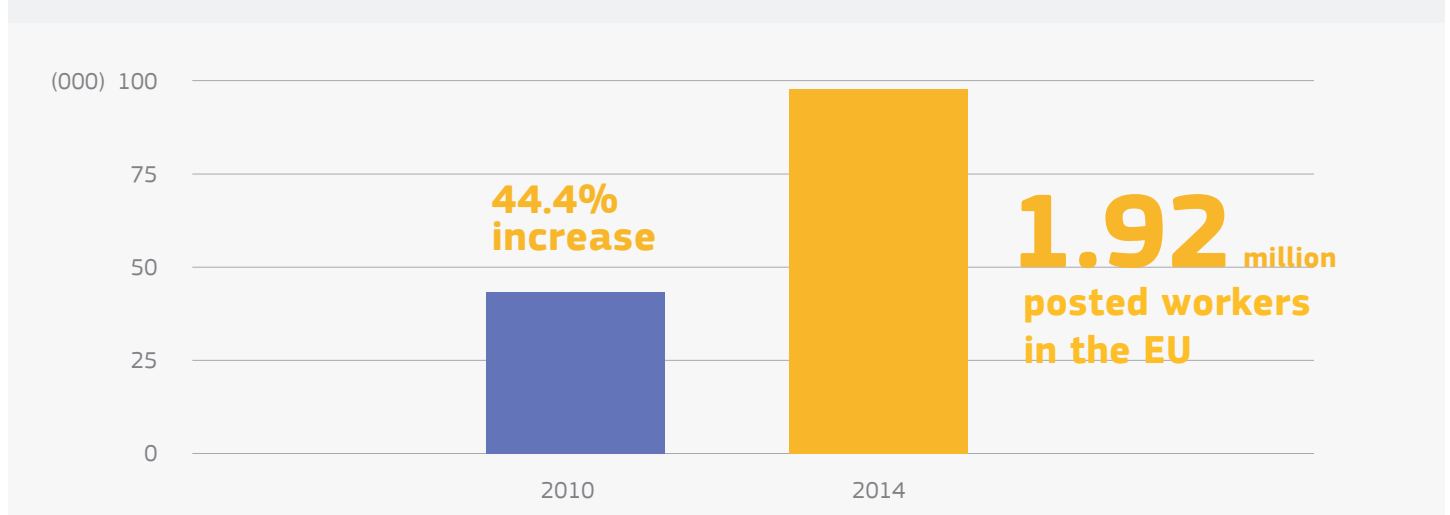
You live and work in Luxembourg and are posted by your employer to work in Germany on a temporary assignment. You or your employer will have to apply for a so called “Portable Document A1” certifying that you remain insured and continue to pay social security contributions in Luxembourg for the duration of your posting. The national authorities in Luxembourg will need to carefully assess your application to ensure the criteria for posting are satisfied, in particular concerning your affiliation to the social security scheme, the intended duration of the posting and whether it appears that you are replacing another posted or sent worker. If the authorities in Germany have doubts about whether the criteria for issuing a Portable Document A1 are satisfied, they can write to their Luxembourgish counterparts to verify the situation. These will have 25 days to respond to either affirm or withdraw the Portable Document A1. In the case of fraud, the withdrawal of a Portable Document A1 will have retroactive effect. Only the issuing country, Luxembourg in this case, can revoke the A1 document.



HOW MANY PEOPLE ARE AFFECTED?

In 2014 there were **1.92 million posted workers** in the EU. The number of posted workers has **increased by 44.4%** between **2010 and 2014**. The percentage of posted workers in the workforce **remains low** (on average **0.7%** of total employment), however, the concentration of posted workers in some sectors is high. The construction sector for example makes up about **43.7%** of the total posted workers.² The average duration of posting is four months.

Number of posted workers in the EU, 2010–2014



The percentage of posted workers in the workforce



² Pacolet, J. and De Wispelaere, F. (2015), Posting of Workers. Report on A1 portable documents issued in 2014, Network Statistics FMW&SSC, European Commission. The data include postings to single Member States (according to art. 12 of Regulation 883/2004) and postings to multiple Member States (article 13 of Regulation 883/2004). The data also includes the self-employed (on average 8% of total postings) which are not covered by the posting of Workers Directive. Because no data is available on the destination of postings to multiple Member States, the total figure of sent posted workers (1.92 million) is higher than that of received posted workers (1.45 million, in 2014).