



Questions and answers on the Commission's report on enforcement of EU posting rules

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What is posting of workers?

Posted workers are workers who are sent by their employer to work temporarily in another EU country to provide a cross-border service. This is different from long-term mobile workers, who live and work for an indefinite period in another Member State, or cross-border workers, who live in Member State A but work in Member State B.

In 2017, 2.8 million postings took place in the EU. The average duration for such postings is less than 4 months. Given the short duration of most postings, this amounts to only 0.2% of total EU employment when converted into full-time jobs.

The number of postings issued in the EU has increased by 83% between 2010 and 2017. Most posted workers are employed in the construction sector (46.5%). Other sectors include services (26.7%), industry (25.9%) and agriculture (0.9%).

Why is posting necessary?

The freedom to provide services across EU Member States is one of the cornerstones of the Single Market. It means that companies can provide a service in another Member State without needing to establish themselves in that country. To do that, they must be able to send their employees to another Member State to carry out the tasks required. Putting in place and enforcing rules on posting is essential for the protection of workers and for the smooth functioning of the Internal Market.

How does the EU ensure a climate of fair competition and respect of the rights of posted workers?

The European Union has several pieces of legislation in place to protect the rights of posted workers and to prevent social dumping when companies use the freedom to provide services.

The rules are set out in the [Posting of Workers Directive \(96/71/EC\)](#), [Directive \(EU\) 2018/957/EU amending the Posting of Workers Directive](#) and the [Enforcement Directive on Posting of Workers \(2014/67/EU\)](#). [Regulation 883/2004](#) governs the rules on social security coordination for posted workers.

The Juncker Commission has promoted fair labour mobility and fought social dumping throughout its mandate, taking several important initiatives:

- Revision of the [Posting of Workers Directive \(96/71/EC\)](#). [Directive 2018/957/EU amending the Posting of Workers Directive](#) confirms the Commission's key principle of equal pay for equal work at the same place.
- Facilitation of the implementation of the [Enforcement Directive \(2014/67/EU\)](#), giving more powers to national authorities to combat cases of abuse and to coordinate their activities.
- Proposal to modernise [EU rules for the coordination of social security systems \(883/2004\)](#), to facilitate labour mobility, ensure fairness for those who move and provide better tools for cooperation between Member State authorities.
- The new [European Labour Authority](#), to ensure that EU rules on labour mobility are enforced in a fair, simple and effective way.

What is the role of the 2014 Enforcement Directive on the Posting of Workers?

Directive 2014/67/EU, also known as the 'Enforcement Directive', provides key tools to fight circumvention and abuse of EU rules on posting of workers, and to improve administrative cooperation and exchange of information between Member States to this end. A correct transposition of the Enforcement Directive is therefore essential to tackle fraud and abuse in the area of posting of workers, in the interest of all Member States, companies and workers.

In particular, the Enforcement Directive:

- increases the awareness of posted workers and companies about their rights and obligations;
- improves cooperation between national authorities in charge of posting;
- addresses 'letter-box' companies that circumvent the law;
- defines Member States' responsibilities to verify compliance with the rules on posting of workers;
- sets requirements for posting companies to facilitate transparency of information and inspections;
- empowers trade unions and other parties to lodge complaints and take legal and/or administrative action against the employers of posted workers, if their rights are not respected;
- ensures the protection of posted workers' rights in subcontracting chains;
- ensures the effective application and collection of administrative penalties and fines across the Member States if the requirements of EU law on posting are not respected.

How has cooperation between the Member States increased?

The report on the application and implementation of the Enforcement Directive shows a clear increase in the number of information exchanges in the Internal Market Information System. Cooperation has steadily increased since 2017. Whereas there were 873 exchanges in the last quarter of 2017, the number increased to 1214 in the last quarter of 2018. Access to information has also improved through the single national official websites with information, often also available in other languages.

Does this mean that the abuse and circumvention of rules has increased?

No. It shows that administrative cooperation between the national authorities responsible for checks and controls of posted workers is working better.

One of the aims of the Enforcement Directive is to enhance administrative cooperation, which is carried out using the Internal Market Information System (IMI). The system allows for communication between authorities in different Member States without language barriers.

The increase in the number of information exchanges does not mean that there is abuse or circumvention involved in each of these cases. Instead, it shows that the relevant authorities, the labour inspectors, are aware of this system for cooperation and are using it more and more to help them in their daily inspection activities.

Which EU Member States are the most active in sending and receiving requests?

In 2018, altogether 4,789 information exchanges were made. Some Member States send more requests than others. Most of the requests are sent by Austria, Belgium, France and Denmark, which are also the Member States that receive the highest number of posted workers. This consequently means that inspectors face questions regarding posted workers when carrying out checks and controls than in other Member States more often.

Similarly, Member States receiving the most requests – Slovenia, Poland, Romania, Portugal, Hungary – are also the ones sending the highest number of posted workers.

How long does it take on average for Member States to reply to the requests?

According to the Directive, a normal information request should be replied to within the deadline of 25 working days (35 calendar days in IMI), and an urgent request in two working days (five calendar days in IMI). However, the average response time in the EU is 43 days for normal requests and 10 days for urgent requests, which is clearly not satisfactory.

Sometimes the long reply time means that the issue has in the meantime been solved bilaterally between the two authorities. In some other cases, the average answering time is high, but this concerns very few requests.

Is it necessary to amend the Enforcement Directive?

Based on the evaluation exercise, the Commission report concludes that it is not necessary to propose amendments to the Directive at this stage. Nonetheless, the implementation by Member States can be improved in some areas, such as decreasing the administrative burden. The Commission will continue working with the Member States to ensure that the Directive is completely and correctly transposed and applied across Europe. The European Labour Authority, which is expected to launch operations in October, will play a key role in fighting abuse in this field and will provide support to all actors involved.

How will the European Labour Authority help to improve administrative cooperation?

One of the key objectives of the new European Labour Authority is supporting administrative cooperation between EU Member States.

Besides coordinating and supporting concerted and joint inspections, the Authority will facilitate the exchange of information between national authorities. In particular, National Liaison Officers, seconded by their Member State, will act as contact points answering country-specific queries directly or liaising with their national

administrations, including in cases of requests for data exchange. This will speed up exchanges and improve cooperation between national authorities.

Moreover, in case of dispute regarding any particular aspect of administrative cooperation between two or more Member States on posting matters, the Authority will provide a mediation system to solve the issue.

For More Information

[Implementation Report on the application and implementation of the Enforcement Directive on Posting of Workers \(2014/67/EU\)](#)

[Staff Working Document, Annex III: IMI Statistics](#)

[Enforcement Directive on Posting of Workers \(Directive 2014/67/EU\)](#)

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