



Administrative requirements for posting of workers

This paper highlights difficulties faced by businesses in the European Single Market in the context of posting of workers.

CONTEXT

The freedom to provide services constitutes one of the fundamental principles of our single market and the possibility for companies to do business across Member States including postings is an essential part of this. Having clear rules in place which can be effectively implemented by national administrations and companies is important for business, governments and workers, in order to create a level playing field and to ensure that the single market functions well.

To date, all Member States have transposed the Revised Posting of Workers Directive (Directive 2018/957) and have already an over a year-long experience in applying it while posting workers across the EU. Nevertheless, companies continue facing an increasing number of barriers when posting workers in the EU, due to different practices, transposition, and systems at national level.

LEGAL FRAMEWORK

Directive 2014/67/EU on the Enforcement of the Posting of Workers Directive ('Enforcement Directive') came into force in June 2016. The revision of the Posting of Workers Directive 96/71 was adopted in July 2018 and by this date, all Member States have transposed the Directive.

These two directives are the EU's effort to strike a balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers. Another key objective of both directives is to harmonise rules across the EU and foster genuine social convergence between Member States. Businesses have long challenged the complexity of the rules as well as the additional administrative burden for companies.

Regulation 883/04 on the coordination of social security is also subject to an ongoing revision and on which an agreement still needs to be found. The approach to exempting the need for prior notification for business trips and short-term postings remains a key aspect of the discussions.



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EXAMPLE

The most common challenges faced by companies posting workers across the EU include:

- **Lack of a single EU digital notification procedure** and lack of possibility to notify multiple postings as one action: companies need to submit separate notification forms for multiple postings (a group of workers) to the same location. The same concerns multiple trips of a single posted worker: each trip requires separate notification procedure.
- **Diversity of national websites:** they are the primary source of information about the posting of workers in the absence of an EU dedicated website/service. Not all of them have an English version, and their logic and design are very different. This makes navigating them and extracting information difficult and time-consuming.
- **Lack of guidelines how to interpret rules:** it is not always easy to understand how to apply the rules stipulated by the Revised Directive, which makes complying with the Directive difficult, time-consuming and increases the risk of non-compliance.
- **Diverse remuneration calculation:** it is difficult and time-consuming to calculate the total remuneration for the posted workers and the total cost of posting for a company as workers are entitled to diverse in-work benefits in different Member States.

HOW TO ACHIEVE BETTER RESULTS

Removing obstacles to posting of workers is a key priority for a well-functioning internal market for services. The following solutions are instrumental to this objective:

- **EU eDeclaration for the notification of the posting of workers:** it should be a simple form allowing to safeguard the introduced data, modify them easily if needed, and use them for future postings. The eDeclaration should enable to process group and multiple notifications for a single worker. Moreover, eDeclaration should be designed in a consistent way to minimise administrative burdens for posting companies, also taking into account the specific A1 form related requirements under regulation 883/04.
- **Single National Website (SNW):** introducing the European universal template for SNW would be the best solution. The second best would be introducing the EU-logo to be “pinned” to those national websites offering the core functions (effectiveness, accessibility, accuracy and user-friendliness).
- **Interpretation of rules:** setting up a European Help Desk and securing appropriate resources for its functioning. The European Help Desk, managed by the European Labour Authority, would be very useful to offer guidance on applicable rules and their implementation. National practical guides on posting would also be helpful in providing relevant information on applicable rules across the EU27 (country sheets).
- **EU/national remuneration calculator:** it would enable calculation of a due salary and it could be linked to national Single National Websites; EU database of national



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in-work benefits as well as easily accessible information on applicable collective agreements would be helpful.

- **Exempting short-term postings (and business trips) from the need for prior notification:** would bring legal certainty for companies and greatly reduce the administrative burden that they face. Within this, the special characteristics and different needs of economic branches and sectors should be considered. Therefore, certain sectors such as the construction sector, should not be covered by the exemption for posted workers.

CONTACT INFORMATION

Anna Kwiatkiewicz-Mory, Senior Advisor, Social Affairs Department,
a.kwiatkiewicz@businesseurope.eu

Robert Plummer, Senior Advisor, Social Affairs Department,
r.plummer@businesseurope.eu