



European Commission



TOWARDS FAIR LABOUR MOBILITY: REVISION OF EU POSTING OF WORKERS RULES

#SocialRights #PostedWorkers



“In a Union of equals, there can be no second class workers. If you do the same work in the same place, you should earn the same pay.”

European Commission President Jean-Claude Juncker, State of the Union Address, 13 September 2017

The Posting of Workers Directive **is in place since 1996**. It was the first Directive that established a minimum set of social guarantees in the interest of workers when companies provide services across the Single Market.

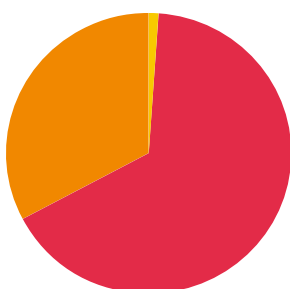
The economic and labour market has changed significantly since 1996. New countries have joined the European Union and wage differences between Member States have increased, as well as labour mobility in general.

The number of postings issued in the EU has **increased by 69% between 2010 and 2016**. The rules need to be updated to make them more clear, fair and easily enforceable.

FACTS & FIGURES

- ▶ A posted worker is a worker who is sent by his / her employer to **work temporarily** in another country to provide a **cross-border service**.
- ▶ This is not the same as a long-term mobile worker, who lives and works for an indefinite period in another Member State, or a cross-border worker, who lives in Member State A but works in Member State B.
- ▶ In 2016, **2.3 million posting operations took place** in the EU. The EU average duration for such operations is **less than 4 months**.
- ▶ Given the short duration of most postings, when converted into full-time jobs this amounts only to **0.4% of total EU employment**.

POSTED WORKERS PER SECTOR, 2016

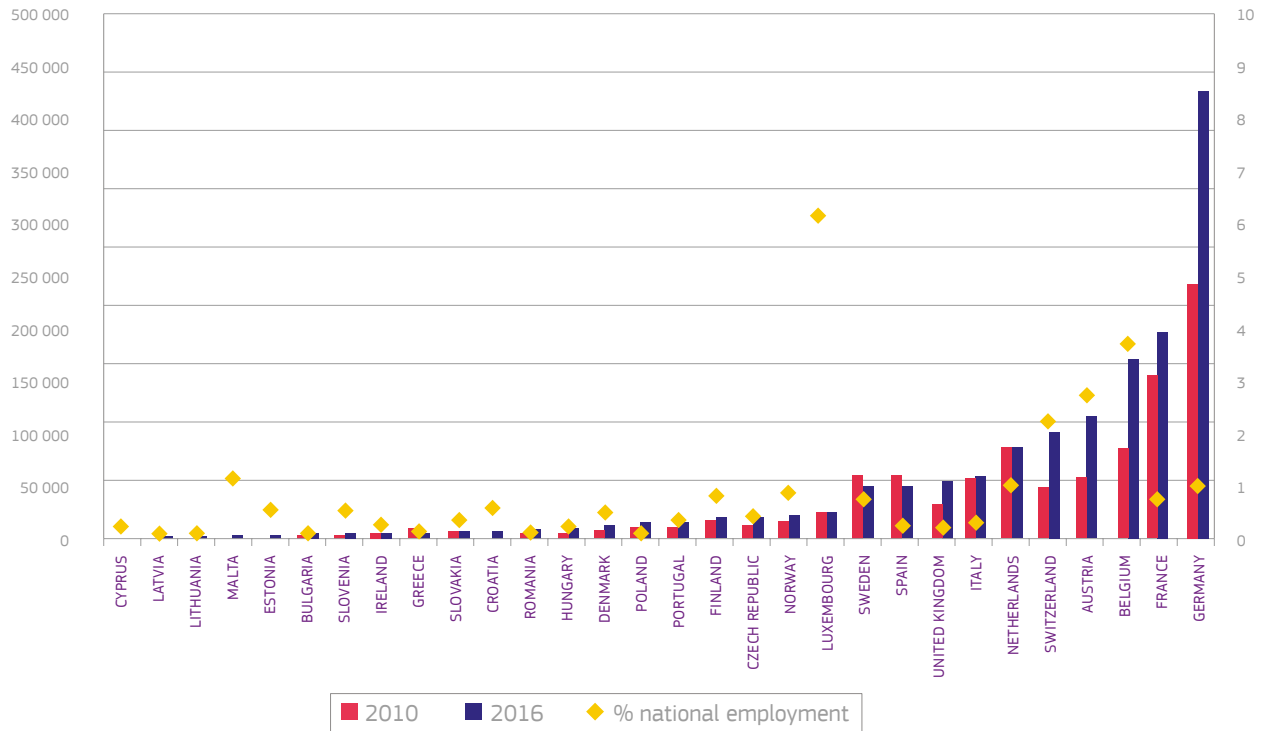


1.5%
Agriculture, hunting and fishing

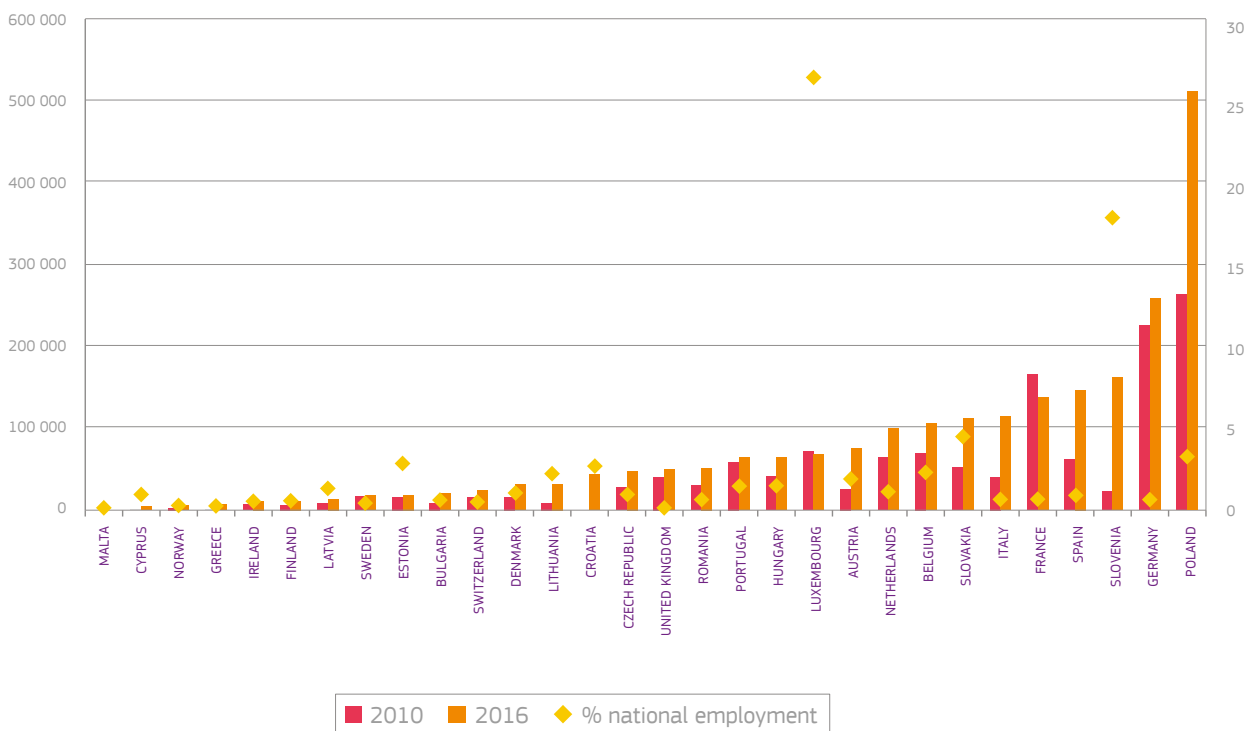
69.1%
Industry
▶ of which construction **45%**

29.4%
Services
▶ of which education, health and social work, arts and other services **12.1%**
▶ of which financial and insurance; real estate; professional, scientific and technical activities; administrative and support service activities **9.6%**

NUMBER OF POSTINGS FROM A RECEIVING PERSPECTIVE 2010, 2016 AND % OF NATIONAL EMPLOYMENT 2016



NUMBER OF POSTINGS FROM A SENDING PERSPECTIVE 2010, 2016 AND % OF NATIONAL EMPLOYMENT 2016



COMMISSION TAKES ACTION FOR FAIRER RULES...

Since the start of its mandate, the Juncker Commission has promoted fair labour mobility and fought social dumping throughout the EU. On 8 March 2016, following extensive consultation, the **Commission proposed a reform of the current rules on posting of workers**, which establishes **the principle of equal pay for equal work at the same place**. This principle goes significantly beyond the requirement of minimum pay under the existing Directive.

On 1st March 2018, the negotiators on behalf of the European Parliament and the Council together with Commissioner for Employment, Social Affairs, Skills and Labour Mobility Marianne Thyssen drew the contours of an agreement on this reform, which **confirms the Commission's key principle of equal pay for equal work at the same place**.

Other important elements of the agreement include:



Rules set by sectoral social partner agreements become mandatory for posted workers in all economic sectors. Currently, this is only the case for the construction sector.



Better protection for several categories of workers: the new rules will apply to **temporary agency workers and workers in chain posting** to ensure also for them the principle of equal pay for equal work at the same place. Workers in non-genuine posting will be protected too.



Member States will have to **comply with reinforced transparency obligations**, such as the publication of all information on websites.



Long-term posting: today, posted workers have the same rights irrespective of the duration of posting. Under the new rules, workers who are posted for more than 12 months will be subject to all aspects of the labour law of the host Member State. This could be extended to 18 months via a motivated notification.



Link with road transport: the new EU rules on posting will apply to the road transport sector according to the Commission's Road Transport Strategy for Europe, once it enters into force (the Strategy is currently under discussion in the Council and the Parliament). Depending on the development of this 'lex specialis', there will be an assessment to see whether further measures are required.



Transitional period: Member States will have 2 years to transpose the new rules into their national legislation. They will then have to apply and start enforcing the rules.

... WHICH SHOULD BE BETTER ENFORCED

In addition to amending the rules, the Commission has facilitated the implementation of the so-called "Enforcement Directive", which entered into force in June 2016. This Directive gives **more powers to national authorities to combat cases of abuse**, such as "letter box companies", and to coordinate their activities.

Other recent Commission initiatives to ensure fair labour mobility include:

- ▶ Modernisation of [EU rules for the coordination of social security systems](#), to facilitate labour mobility, ensure fairness for those who move and provide better tools for cooperation between Member State authorities.
- ▶ The launch of the [Electronic System of Social Security Information](#), which allows for a quicker and easier exchange of mobile workers' social security information between Member States.
- ▶ The upcoming proposal to [set up a European Labour Authority](#), to ensure that EU rules on labour mobility are enforced in a fair, simple and effective way.