



# Rules on posted workers need to be revised to stop unfair competition in the Internal Market

In March 2016 the European Commission released a legislative proposal amending the Directive 96/71/EC on the posting of workers in the framework of the provision of services. **EBC welcomed this proposal** and the will of the Commission to improve the rules on posting, which are no longer adequate and are too easily circumvented even in spite of the 2014 Enforcement Directive.

### The impact of posted workers in construction

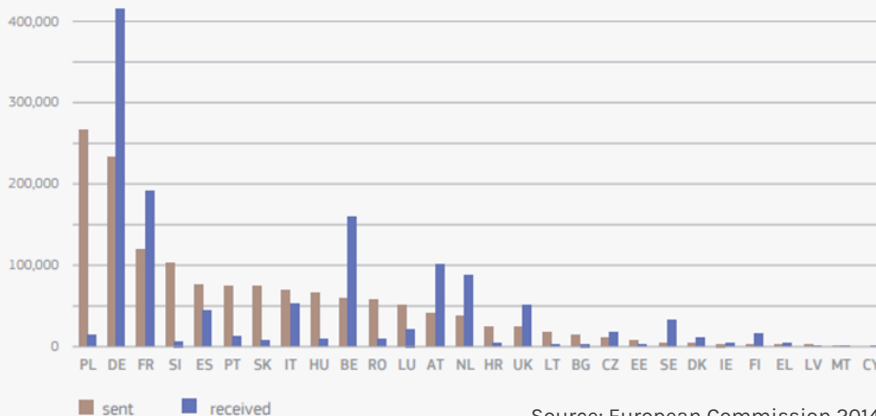
The impact of posted workers in the construction sectors is very high.

44% of the total posted workers are in construction = 844,800 construction workers = **5% of the total employment** in the sector

**TOP 3 COUNTRIES** for concentration of posted workers: Belgium, Luxembourg and Austria

Posting is **highly concentrated in construction sector**, where nearly half of the posting is taking place. It is often argued that posted workers are only a minor part of labour mobility, but this is clearly **not accurate**. (CEPS, Special report "Labour Mobility in the EU", 2016)

Posted workers sent and received in 2014



The countries sending the highest total number of posted workers: Poland, Germany, France.

The countries receiving the highest total number of posted workers: Germany, France, Belgium.

Most estimations on A1 forms are not reliable. So there are no sufficient data on posted workers.

### Why should we revise the legislation on posted workers?

**In 1996** ⇒ 15 Member States. The difference between the Member States with the highest minimum salary and the ones with the lowest minimum salary was one to three.

**In 2016** ⇒ 28 Member States. The gap in minimum salaries today is one to ten.

#### Substitution effects in certain receiving Member States:

##### BELGIUM

4.4% of national labour force are posted workers = around 215,000 posted workers (KUL Study, 2016)

1/3 of the construction workers are posted from abroad = around 90,000 workers (LIMOSA figures, 2014)

Between 2010-2014: 15,000 local construction workers lost their job / 15,000 new posted workers entered the market

## FRANCE

Increase from 7500 posted workers in 2000 to almost 300,000 posted workers in 2016 (*Les Echos*, July 2016)

### Disruptive role of temporary work agencies:

- 8% of posted workers in France are French workers posted by Belgian/Luxembourgian temporary work agencies (*Le Figaro*, July 2016)
- Since 2011 posted workers through temporary work agencies have increased by 3000%. In 2016 they make up almost 1/4 of the total posting (*MP Gilles Savary's report*, July 2016)

**Number of posted workers:** 190,850 according to European Commission's Impact Assessment based on A1 forms; 286,025 according to MP Gilles Savary's report (based on 2015 figures), 91,436 in construction, says a study by the Directorate General for Employment (2013)

**Potential impact on construction apprenticeships:** 31,000 in 2008 – 18,000 in 2015: a certain amount of apprentices might have been substituted with low-cost qualified posted workers, according to the report of MP Eric Bouquet, French Senate (May 2016).

	1996 Directive	2016 EC Proposal	EBC requests
Levels of remuneration	Minimum wage	Broader set of remuneration rules	Inclusion of wage agreements set at sub-national level
Duration of posting	No minimum or maximum limits	<ul style="list-style-type: none"> <li>■ 24 months maximum for the same company;</li> <li>■ The cumulative calculation of the 24 month limit for posting takes into account only workers posted for at <b>least 6 months</b>.</li> </ul>	<ul style="list-style-type: none"> <li>■ European sectoral social partners should fix the duration according to the needs of the sector;</li> <li>■ No 6 months threshold for cumulative duration: the average posting in construction is 4 months;</li> <li>■ Six-month pre-existing employment relationship between the posted worker and the company</li> </ul>
Temporary work agency	Unequal rules for domestic and cross-border temporary work agencies	Equal rules for domestic and cross-border temporary work agencies	Exclusion of interim work agencies from providing posted workers in construction

### More suggestions by EBC

To fight against fiscal fraud, EBC asks for:

- The creation of a common **ELECTRONIC DATABASE OF A1 FORMS** for all Member States, with compulsory participation.
- The establishment by public authorities of an **ONLINE DATABASE OF COMPANIES** that are posting workers. Its aim is to check their compliance with relevant legislation.

Regarding the **legal foundation**, EBC asks for:

- more coherence between
- the future posted workers legislation,
  - the Social Security Regulation (EC) 883/2004 and
  - the Services Directive 2006/123/EC.

Read the [position paper of EBC on posted workers](#)

Check out [EBC's webpage on posted workers](#)