

Legislation on the posting of workers in Latvia

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workers LAKRS**

PART I

Source:

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Legislation

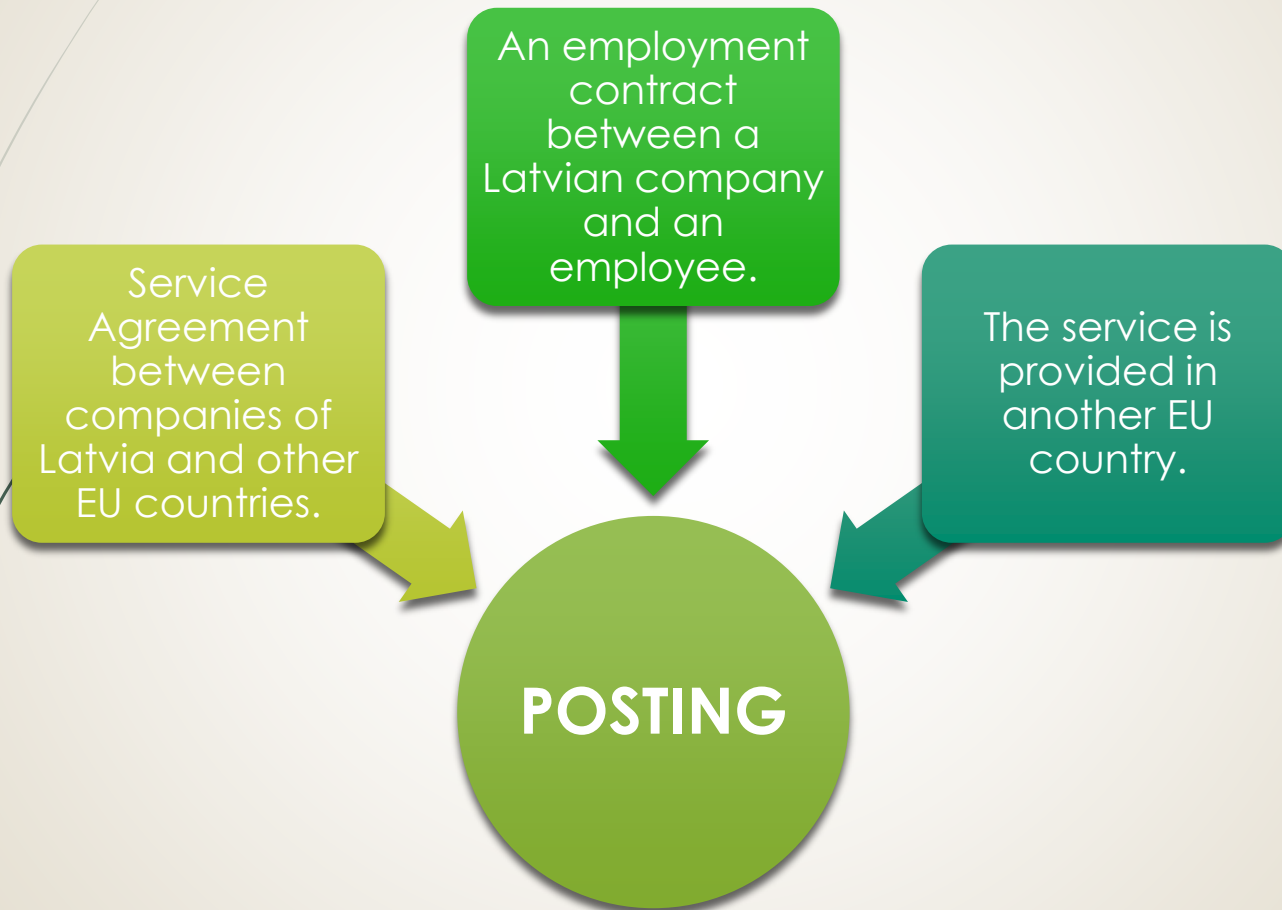
- Labor law
- Cabinet of Ministers Regulation No. 969 «Procedures for Reimbursement of expenses Relating to Official Travels»
- Cabinet of Ministers recommendations Nr. 1 «Recommendations for joint action to ensure posting of workers»

Posting Identification

LLow Section 14

- 1) An employer sends an employee to another country on the basis of an agreement he has entered into with the person in whose favor the work is to be performed;
- 2) The employer sends the employee to a branch or a company in a different country;
- 3) An employee of the labor supply service, as an employer, sends an employee to the recipient of the labor supply service in whose favor and direction the work will be carried out if the company is located in another country or it carries on business in another country.

Posting Identification



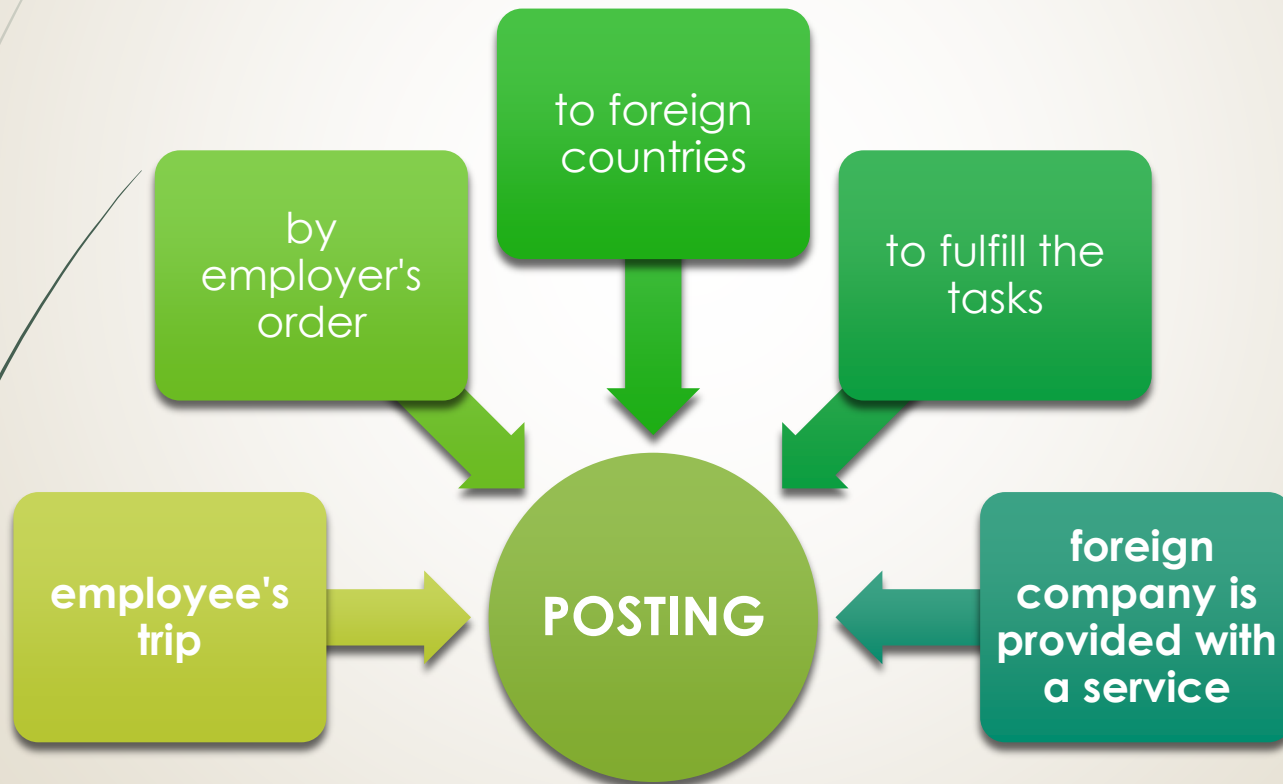


Posting Identification: Posting or a business trip?

Regulation No. 969 :

- 2. An official travel shall mean a journey of an employee approved by a written order of the head of the organisation which is sending him or her, on official travel for a specific time to another populated area in the Republic of Latvia or to a foreign, as well as from foreign states to the Republic of Latvia (if the permanent place of employment of the employee is in a foreign state), in order to:
 - 2.1. perform the work or service tasks; or
 - 2.2. improve knowledge and raise the qualification

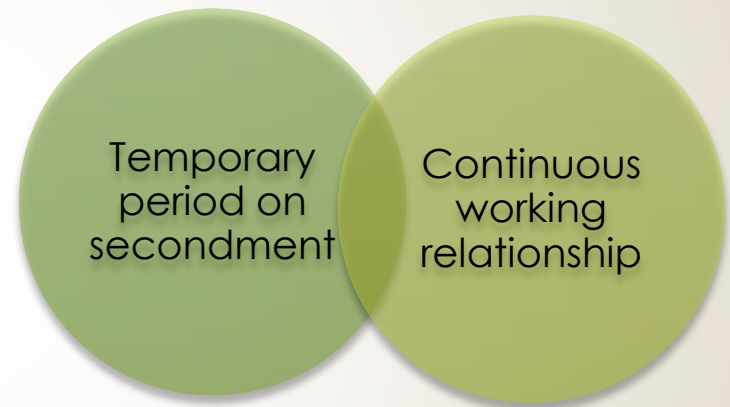
Posting Identification: Posting or a business trip?



Posted employee

A posted worker is defined as 'a person who, for a limited period of time, carries out his or her work in the territory of an EU Member State other than the state in which he or she normally works'

([Council Directive 96/71/EC](#))



Employer's obligations: posting from Latvia



to guarantee second-country's employment regulations on certain issues



to reimburse travel expenses.



Carry out the administrative requirements of the second state.

Employer's obligations: posting from Latvia

LLow **Section 14.1**. - to guarantee second-country employment regulations for:

- 1) maximum working time and minimum rest period;
- 2) minimum annual paid leave;
- 3) minimum wage rate, as well as supplementary payment for overtime work;
- 4) provisions regarding securing a workforce, especially with the intermediation of work placement services;
- 5) safety, health protection and hygiene at work;
- 6) protection measures for persons under 18 years of age, for pregnant women and women during the period following childbirth, as well as the provisions of work and employment of such persons;
- 7) equal treatment of men and women, as well as prohibition of discrimination in any other form.

Employer's obligations: posting from Latvia

Regulation No. 969

8. The following expenses for the duration of an official travel shall be reimbursed to an employee:

- 8.1. daily allowance in order to compensate additional expenses occurring during the official travel (for example, for catering, different services);
- 8.2. travel (transport) expenses (if corroborative documents confirming the relevant expenses have been submitted);
- 8.3. expenses for carriage of the baggage;
- 8.4. expenses for a hotel (lodgings), including expenses for breakfast in the hotel
- 8.5. expenses during the official travel for parking space and entering territories with a specified fee and for the use of toll roads and bridges;
- 8.6. expenses which are related to the drawing up of travel documents;
- 8.7. the commission fee for a bank institution;
- 8.8. expenses for passages performed;
- 8.9. travel expenses in the public transport of the relevant state (also taxis) shall be reimbursed in an amount not exceeding 30% of the total amount of the daily allowance determined for all days of the official travel;
- 8.11. expenses which are related to the purchase of an insurance policy for the employee for the period of official travel;

Employer's obligations: posting from Latvia

Payment of daily allowance

Law Section 14.2

The daily allowance of an official trip which is related to the relevant posting shall be deemed a part of the minimum wage, if it is provided for in the provisions of such state to which the employee has been posted to perform work.

Other remuneration which is related to covering of actual expenses is not deemed a part of the minimum wage.

Employer's obligations: posting from Latvia

Where to look for information?

<http://ec.europa.eu/social/main.jsp?catId=471&langl>

The screenshot shows a web browser displaying the European Commission website. The page title is "EMPLOYMENT, SOCIAL AFFAIRS & INCLUSION". The main navigation bar includes "POLICIES AND ACTIVITIES", "NEWS AND MULTIMEDIA", and "PUBLICATIONS AND DOCUMENTS". The left sidebar menu is expanded to show "Moving & working in Europe", with "Posted workers" highlighted by a red circle. The main content area is titled "Posted workers" and contains the following text:

What is posting?

A "posted worker" is an employee who is sent by his employer to carry out a service in another EU Member State on a temporary basis.

For example, a service provider may win a contract in another country and send his employees there to carry out the contract.

Posted workers are different from EU mobile workers in that they remain in the host Member State temporarily and do not integrate in its labour market.

On the contrary, EU mobile citizens who go to another Member State to seek work and are employed there, are entitled to equal treatment with nationals in access to employment, working conditions and all other social and tax conditions.

Rights and rules for posted workers

The EU law defines a set of mandatory rules regarding the terms and conditions of employment to be applied to posted workers

- to guarantee that these rights and working conditions are protected throughout the EU
- to avoid "social dumping" where foreign service providers can undercut local service providers because their labour standards are lower.

These rules establish that, even though workers posted to another Member State

The right sidebar contains "News & Events" and "Related Documents" sections.

Employer's obligations: posting from Latvia

Where to look for information?

europa.eu/youreurope/citizens/work/work-abroad/posted-workers/index_en.htm?linksbox=1

posting of workers eu

Sign in to your account Gmail ETUC Google Maps Google tulkotājs Latvijas Republikas Mi... SS Ss.lv Transports - Vieg... Чеклист по проверке... Latvijas Republikas Sa... http://titania.saeima.l...

Professional qualifications

National websites on posting

Check the national website of your host country to find out the terms and conditions of work for posted workers, as well as contact information of the local authorities.

Choose country:

Austria	Italy
Belgium	Latvia
Bulgaria	Lithuania
Croatia*	Luxembourg*
Cyprus*	Malta
Czech Republic	Netherlands
Denmark	Poland
Estonia	Portugal*
Finland	Romania*
France	Slovakia
Germany	Slovenia
Greece*	Spain
Hungary	Sweden
Ireland	United Kingdom

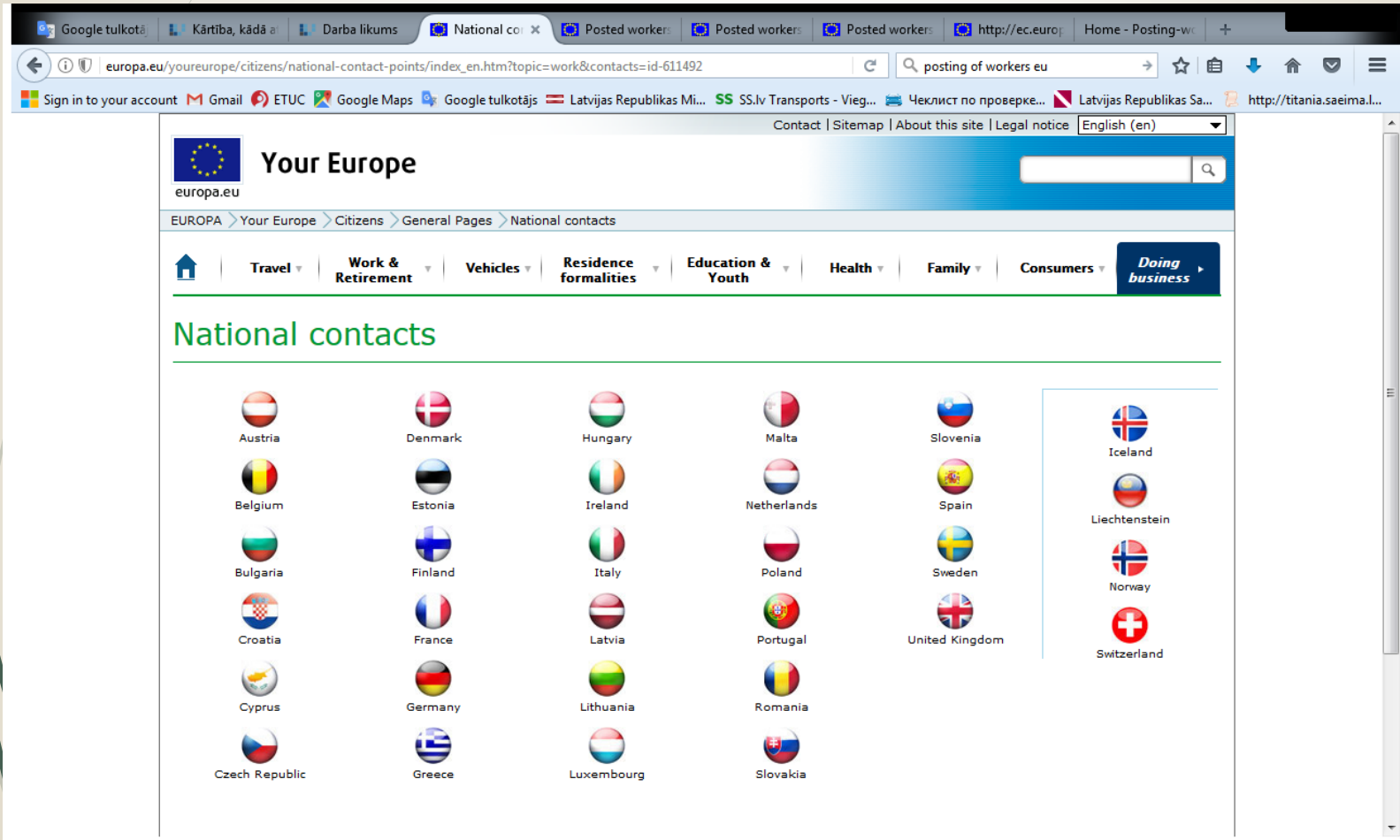
* Information not yet provided by national authorities

Other rights

While posted to another EU country:

Employer's obligations: posting from Latvia

Where to look for information?



The screenshot shows the Europa.eu website interface. The browser address bar displays the URL: europa.eu/youreurope/citizens/national-contact-points/index_en.htm?topic=work&contacts=id-611492. The page title is "Your Europe" and the URL is "europa.eu". The navigation menu includes "EUROPA", "Your Europe", "Citizens", "General Pages", and "National contacts". The main content area is titled "National contacts" and displays a grid of 27 EU member states, each with a flag icon and the country name. The countries listed are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom, Iceland, Liechtenstein, Norway, and Switzerland. The page also features a search bar and a "Doing business" button.

Employer's obligations: posting from Latvia

Where to look for information?

<https://www.constructionworkers.eu/lv/pl>

The screenshot shows the website 'Construction workers - Mozilla Firefox' with the URL 'https://www.constructionworkers.eu/lv/pl'. The page features a navigation menu on the left with options like 'SĀKUMS', '28 VALSTIS', 'SAZINĪETIES AR ARODBIEDRĪBU', 'PIEVIENOJĪETIES ARODBIEDRĪBAI', and 'SAITES'. The main content area is titled 'BŪVSTRĀDNIKI ALGAS UN TIESĪBAS EIROPĀ' (Construction workers wages and rights in Europe) and includes a section 'PĀRBAUDĪT ALGAS UN DARBA APSTĀKĻUS' (Check wages and working conditions) with a map of Europe and a worker holding a sign. A language selector is set to 'LATVIEŠU VALODA'.

Employer's obligations: posting to Latvia



Carry out the administrative requirements specified in Latvian legislation.



to guarantee fulfillment of Latvian labor law on certain issues.



to reimburse travel expenses.

Employer's obligations: posting to Latvia

To inform the SLI

- Posted workers
- Work place in Latvia
- Posting time
- recipient of the service
- Confirmation of employment relationship.
- Employer's Representatives

To determine the representatives

- Representative in state institutions and in court.
- Representative for collective bargaining.

Keep the documents

- Employment contracts.
- Payroll calculation.
- Working time tracking.
- Proof of salary costs.



Thank You!

Questions?



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Towards protection of posted workers

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19.10.2017. Gdansk, Poland



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Legal framework

- Directive 96/71/EC
- Labour Law
- Directive 2014/67/EU
- Cabinet of Ministers Regulation to ensure joint action and cooperation between national authorities in the scope of posting of workers
- Latvian Administrative Violations Code
- Civil Procedure Law



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State Labour Inspectorate of Latvia and posting of workers

- Implementation of State supervision and control in the field of employment legal relationships and labour protection.
- Internal Market Information (IMI) system.
- Participation in various projects and conferences in the field of posting of workers.





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Posted workers

In 2014 State Labour Inspectorate of Latvia received information about **140** posted workers to perform work in Latvia although The State Social Insurance Agency received **686** A1 Certificates.

In 2015 State Labour Inspectorate of Latvia received information about **16** posted workers to perform work in Latvia.

In 2016 State Labour Inspectorate of Latvia has received information about **22** posted workers to perform work in Latvia.



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Posted workers

State Labour Inspectorate of Latvia don't know the real amount of posted workers to perform work in Latvia.

State Labour Inspectorate of Latvia don't have any information about posted workers from Latvia to other EU countries.

The State Social Insurance Agency issued 5086 A1 certificates in 2013 and 4654 A1 certificates in 2014.

! National agreement The State Social Insurance Agency on the exchange of information.



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Internal Market Information (IMI) system

- + Facilitates communication with other Member States competent authorities (easy to find, standard questions and translation of answers).
- + Opportunity to add your own questions and answers in free text.
- + Received documents and information can be used as evidence in the case.
- + System provides protection of personal data (a secure environment for the exchange of personal data).



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Internal Market Information (IMI) system

- Different competences of Member States authorities.
- Attachments are not translated.
- Incorrect or incomplete requests.
- In some cases it can take longer time to do inspection and reply to IMI request (employer is not cooperating, «letter box companies»).
- Can't see personal data and attachments before request is accepted.



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Requests in Internal Market Information (IMI) system

2014:

Requests received – 8 (Norway, Belgium, Bulgaria, Finland)
Requests sent – 3 (Germany, United Kingdom, Poland)

2015:

Requests received – 9 (Norway, Belgium, France, Slovakia,
Germany)
Requests sent – 7 (Estonia, Croatia, Germany, Norway, Poland)

2016:

Requests received – 13 (France, Finland, Belgium, Estonia,
Lithuania)
Requests sent – 2 (Estonia, Norway)

2017:

Requests received – 7 (Belgium, France, Estonia, Denmark,
Romania)
Requests sent – 3 (Poland, Belgium)



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Problems

- No common understanding about posting of workers.
- Lack of knowledge, training and experience of inspectors to deal with cases involving posting of workers.
- Bound to prove the infringement and collect evidence to rule out doubts.
- Investigation and registration of accidents at work with posted workers.
- Cross-border enforcement of financial administrative penalties and/or fines.



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Problems

- Low public awareness level on posing of workers (including employers and employees).
- New schemes that hinder investigation of cases involving posted workers (registration of company in another country, «letter box companies», official travel).
- Cooperation between Member States competent authorities (slow, lack of information and evidences).



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Transposition of Directive 2014/67/EU

Regulation of Cabinet of Ministers to ensure joint action and cooperation between national authorities in the scope of posting of workers:

- Obligation to other national authorities to cooperate and provide necessary information to State Labour Inspectorate.
- Identification of a genuine posting and prevention of abuse and circumvention regulations.
- Establishes official website where terms and conditions of employment and which parts of national law are to be applied to workers posted to Latvia can be found. (<http://www.lm.gov.lv/text/3413>)
- Sets provisions about informing about decisions and enforcing imposed administrative penalties and/or fines in cross-border situations through Internal Market Information (IMI) system.



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Points for discussion

- Control of posted workers and foreign companies in general (experience, problems)
 - Language issues
 - Letter box companies
 - Application of fines
 - Working conditions (labour protection, minimum wages, collective agreements e.t.c.)
 - Third-country workers



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Thank you!

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