



# TOGETHER FOR A FAIR DEAL FOR WORKERS

Esther Lynch, ETUC General Secretary,  
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Brussels, 5 November 2024

Ms Margrethe Vestager  
Executive Vice-President for a Europe Fit for  
the Digital Age

CC:  
Mr Nicolas Schmit  
Commissioner for Jobs and Social Rights

European Commission

[letter sent by email]

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## ETUC Letter on e-Declaration on Posting and the need for better enforcement of posted workers' rights

Dear Executive Vice-President Vestager,

On behalf of the European Trade Union Confederation (ETUC), we are urgently writing to you to express our concerns about the envisaged proposal for an e-Declaration for the posting of workers, currently foreseen for 13 November 2024.

We feel that the e-Declaration **is in danger of going into the wrong direction and would not contribute to improved enforcement of the rights of posted workers**. While we do acknowledge that digitalisation can help to streamline and simplify the declaration of posted workers, such simplification cannot only serve the interest of business. Above all, digitalisation should support better compliance and more effective enforcement, in particular in cross-border situations. We therefore regret that the perspective of workers, trade unions and enforcement bodies has not been given the attention it deserves. This lack of thorough impact assessment also raises questions about why the Commission intends to put forward the initiative even before the end of the current term, rather than leaving it for consideration by the next Commission.

Since the outset, process leading up to the e-Declaration standard form has been largely focused on **cost and burden reduction for business, without consideration to the needs of enforcers** and the impact this initiative may have on them and on the workforce. The Commission's informal expert group on the common electronic form was led by DG GROW rather than by DG EMPL, with Member State representatives from economic rather than from social ministries and labour inspectorates, and with only marginal involvement of the social partners. Our concerns are further illustrated by the fact that Member States were invited to sign up to a dedicated declaration of intent during the 24 May 2024 Competitiveness Council, as opposed to during the EPSCO Council where posting issues should be dealt with. Moreover, a majority of the nine signing Member States are primarily sending countries, whereas this voluntary tool is supposed to be implemented by receiving countries.

We have serious concerns about the added value of the e-Declaration in its envisaged form. As a consequence, we see a clear risk that **the social costs will become higher than the economic benefits**. Estimates of administrative savings for European business in total of around 10 million euros is nothing compared to the positive investment a posting declaration represents in the general interest. Bearing in mind that the EU average cost for declaring a posted worker is not much more than 10 euros per posting, this must be considered a quite moderate and well-justified cost, ensuring that all posted workers are properly declared and equipping national inspectorates with the information they need to ensure that the rights of these workers are respected.



In this context, we wish to recall Article 9(1) of the 2014/67 Enforcement Directive, which is the legal base for the e-Declaration initiative. This Article explicitly states that the aim of **requirements and control measures such as a posting declaration** is “*to ensure effective monitoring of compliance with the obligations*” with a view to collect “*information necessary in order to allow factual controls at the workplace*”. Clearly, such information is collected so as to allow for more efficient and better targeted inspections, using the limited resources of competent authorities in the best possible way. The approach envisaged by the e-Declaration whereby the merits of information requirements are assessed in terms of economic costs rather than social benefits will not help to deliver on the policy objectives of the Enforcement Directive.

The experiences of the European Labour Authority highlight **persisting problems of non-compliance with applicable rules on posting**, and the need for enhanced cooperation and enforcement across borders. Well-targeted inspections are particularly important when it comes to high-risk posting operations, involving e.g. complex subcontracting, letterbox companies, intermediaries and third-country nationals.

The e-Declaration could make a meaningful **contribution to improved cross-border enforcement**, if correctly designed and with the general interest in mind. The information collected should feed into national enforcement systems while also allowing for improved EU level data collection, cross-referencing and flagging of suspect postings. While the e-Declaration should indeed remain a voluntary tool for interested Member States, it should nevertheless offer a possibility to also accommodate for specificities of national enforcement structures. A standardised form which enables for some information requirements to be added or tailored to national needs and practice would stimulate a broader uptake among the Member States. Conversely, the minimalist one-fits-all approach currently envisaged by the Commission has so far proven to be rather divisive.

In order to guarantee a transparent legislative process, we also expect the Commission to include the draft standard form in annex to the proposed EU regulation. The envisaged information requirements represent the core of this initiative and will be key in order **for the co-legislators to make informed decisions and effectively assess the context** in which the e-Declaration is intended to operate.

Labour inspection and effective enforcement are public goods, which represent an important added value in both social and economic terms, to the benefit of decent work as well as fair competition. In the light of these considerations, we therefore ask you and your Commission services to give your envisaged initiative for an e-Declaration further consideration, so as to ensure that it reaches its full potential as a digital enforcement tool and delivers also in the interest of enforcers, trade unions and workers. Thank you for your consideration.

Yours sincerely,

Esther Lynch,  
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ETUC Deputy General Secretary