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COMMISSION STAFF WORKING DOCUMENT

[...]

Accompanying the document

**Proposal for a Regulation of the European Council and the European Parliament
on a public interface connected to the Internal Market Information System for the
declaration of posting of workers.**

This staff working document outlines the rationale and context for the proposed establishment of a multilingual electronic public interface connected to the Internal Market Information System (IMI) for the declaration of posting of workers. By streamlining the declaration process this interface aims to reduce administrative burden for businesses and to support administrative cooperation between national competent authorities, whilst also facilitating the effective monitoring by Member States of compliance with EU legislation aimed at ensuring the protection of posted workers.

A. INTRODUCTION

In its Communication on 'Long-term competitiveness of the EU: looking beyond 2030'¹, the Commission stressed the importance of a regulatory system that achieves objectives at minimal costs. It has committed to a fresh push to rationalise and simplify reporting requirements, aiming to reduce the associated administrative burden by 25%, without undermining the related policy objectives. Streamlining reporting obligations and reducing administrative burdens is therefore a priority.

Compliance with the national obligations for the declaration of posting of workers and the required administrative declaration procedures can entail considerable administrative burdens on companies seeking to provide services across borders. In this context, stakeholders have consistently identified the declaration for the posting of workers as a substantial reporting obligation and administrative barrier to the cross-border provision of services within the single market. The resulting increase in transaction costs may hamper or restrict the cross-border provision of services, especially for small and medium-sized enterprises (SMEs).

Reducing administrative burden is crucial for sustaining the competitiveness of European businesses and for facilitating the cross-border provision of services in the Single Market. Streamlined administrative processes reduce bureaucracy and red tape, making it easier for companies to operate across borders.

To this end, in its March 2024 Communication entitled 'Labour and skills shortages in the EU: an action plan'², the Commission announced that it will promote the widespread implementation of a common form of electronic format for posted worker declarations, complemented by the development of a digital multilingual portal enabling companies to submit posting declarations to Member States that decide to make use of this tool, thereby reducing administrative burden.

Streamlining reporting obligations and reducing administrative burden is a priority not only of the Commission.

The European Council in October 2023 called on all relevant institutions to take forward work to simplify regulation and reduce the unnecessary administrative burden³. In its resolution on tackling

¹ COM(2023) 168 final.
² COM(2024) 131 final.
³ EUCO 14/23.

non-tariff and non-tax barriers in the single market of 17 February 2022⁴ the European Parliament urged the Commission to introduce a digital form for the declaration of the posting of workers, establishing a simple, user-friendly and interoperable digital form that suits the needs of European companies and in particular SMEs.

Reducing administrative burden for businesses, however, should not be in contrast with the posting acquis and with the provisions of Directive 2014/67/EU of the European Parliament and of the Council⁵, in particular safeguarding an appropriate level of protection of posted workers' rights as established in Directive 96/71/EC of the European Parliament and of the Council⁶. In the case of declarations for the posting of workers, it is possible to reduce administrative burdens while ensuring the protection of the concerned posted workers and fostering effective administrative cooperation between national competent authorities. The homogeneity, increased transparency and improved access of declaration obligations would facilitate compliance with the posting rules and hence increase worker protection. Additionally, currently Member States do not provide information to the posted worker about the declaration being made. Providing information to the posted worker on the posting declaration, would increase workers' knowledge of being posted and acquire the necessary information about their rights.

B. ADMINISTRATIVE BURDEN ASSOCIATED WITH THE COMPLIANCE WITH NATIONAL DECLARATION OBLIGATIONS

To ensure compliance with the substantive rules on employment conditions for posted workers, Directive 2014/67/EU provides the possibility for Member States to impose certain administrative requirements and control measures on service providers posting workers to their territory, provided they are justified and proportionate in accordance with Union law. Within this context, Article 9(1)(a) of Directive 2014/67/EU allows Member States to impose an obligation for a service provider established in another Member State to make a simple declaration to the responsible national competent authorities containing the relevant information necessary to allow factual controls at the workplace.

All 27 Member States have established a prior declaration system for service providers posting workers to their territory. The implementation report of Directive 2014/67/EU⁷ provides an overview of the national declaration requirements.

The declaration obligations for the posting of workers concern a significant number of companies. Data from the prior declaration tools indicates a significant economic activity related to the posting of workers within the EU. In 2022, approximately 1.9 million workers were posted, with 2.3

⁴ 2021/2043(INI).

⁵ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 159, 28.5.2014, p. 11-31).

⁶ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).
⁷ COM(2019) 426 final.

million posting declarations and 4.7 million individual postings recorded. Excluding the international road freight transport sector - now reported through a dedicated EU portal for road transport operators - there was an increase of 14% in the number of postings between 2021 and 2022.⁸ Available data shows a high degree of concentration of posted workers in sectors that demand labour-intensive services and highly specialized skills.

In the absence of coordination between Member States on the development and implementation of national declaration procedures, **Member States' systems are not interconnected and differ in design, functionality and in the information requested from service providers.** This concerns for example:

- Different registration and login requirements,
- Limited availability of other languages,
- Differences in the extent of information required (Number of information points, subject matters and categories),
- Limited or no ability to reuse declaration data.

This leads to substantial effort when preparing and submitting posting of worker declarations. Businesses indicate that they generally find the process of navigating differing notification requirements between various Member States to be burdensome, time-consuming, and costly. They face difficulties in finding the correct forms and systems, accessing the national declaration systems and the forms, understanding the relevance and meaning of the requested data, gathering the required information internally, translating the forms and information into different languages.

While larger corporations generally rely on administrative staff to handle posting declarations, in SMEs this task is usually left to the company management, with often limited knowledge of the declaration procedures in different Member States.

The burdensome nature of the declaration procedures (and posting procedures more broadly) is reflected in the costs that some German businesses report when declaring posted workers in other countries: in one recent business survey for example, around 250 companies from various sectors estimated the average costs per posting at about EUR 150⁹.

In order to gather additional data on the procedures for declaring posted workers in the EU, the Commission has contracted an external analysis to estimate the existing level of administrative burden for declaring posted workers across the 27 EU Member States, resulting in a detailed cost modelling of the different national declaration procedures. The analysis only considers the administrative burden for service providers posting workers in another Member State and more specifically the costs related to filling in national declaration forms, excluding the costs of

⁸ De Wispelaere, F., De Smedt L., & Pacolet, J. (2023). Posting of workers: Collection of data from the prior declaration tools - Reference year 2022. Network Statistics FMSSFE, on behalf of the European Commission. Twenty-four Member States provided (partial) data on incoming posting undertakings and posted workers for the collection of this data, publicly available data was used for one other Member State.

⁹ Survey "Employment in Europe 2022", VDMA.

assessing national requirements and collecting all required information and documentation. It does not look at the costs borne by the competent national authorities for setting up and maintaining national declaration portals, since this information lies with the Member States.

The above mentioned analysis estimates that the costs of the administrative burden across the EU was €17.29 million in 2022. A total of 736,662 hours is estimated to have been spent by businesses on preparing and submitting the prior declarations in the EU in 2022.

The estimates are based on the testing of the national declaration tools of the receiving Member States. Controlled experiments have been performed using tests data that reflect the average time to collect the required information and fill out the different sections of the national forms. For the sake of this analysis, each declaration includes an average of two workers per posting, based on the observed ratio of postings to declarations in 2022 data.

For the purpose of this analysis, the administrative cost is defined as the product of the time needed to submit a declaration and the hourly rate of the person performing the administrative task. The cost of the administrative task is then multiplied for the frequency of the obligation in order to generate an estimate of the yearly administrative burden in each Member State.

The analysis is based on certain modelling assumptions to overcome data limitations related to labour costs¹⁰, such as frequency of the declarations to each Member State¹¹, number of workers typically posted through a declaration, registration requirements in national portals, data reuse, language and translation requirements.

The estimates only cover one part of the administrative costs related to the process of submitting declaration of the posting of workers and do not account for wider costs associated with complying with the posting workers acquis such as costs related to calculating appropriate wages, keeping documents at the place of work, or complying with any other national requirement.

Based on the above, the average cost for filling in the declaration form in 2022 is estimated to have been €10.78.

Total baseline results, EU aggregate

EU Total baseline results (2022)	
EU Total Administrative Burden	
Total number of declarations	1,602,891
Total cost (000 EUR)	17,287
Total Hours per year	736,662
Member State Averages	

¹⁰ Labour costs are estimated by calculating a weighted hourly labour cost of the main sending Member State, based on Eurostat data. A 25% uplift was then applied to account for overheads

¹¹ When not available or not sufficiently detailed, e.g. including declarations submitted by self-employed workers.

Average time per declaration ¹² (mm:ss)	26:56
Average cost per declaration	€10.78

The average time and costs for submitting a prior declaration varies significantly across Member States (see also table below for breakdown per Member State). This is due to different factors, including the information points required in the prior declaration, the different design, requirements, and functionalities of national declaration tools, the degree of reusability of data from previous prior declarations, labour costs etc. An overview of national information requirements for the declaration of posting of workers suggests that there are more than 300 different information points used between different Member States for such declarations.

Excluding one-off components¹³, the Member States with the fastest systems to complete declarations are estimated to be Slovakia and Hungary, where the time cost is roughly half of the EU average. This can be explained by the fact that Slovakia and Hungary require fewer information points than most other Member States and allow data reuse for multiple declarations. The countries with the slowest systems to complete declarations are estimated to be Greece, Austria and Malta. This can be explained by these Member States having declaration tools that are difficult to find or to access, language requirements that necessitate translation, or forms featuring a complex range of information requirements.

The costs of declaring posted workers varies significantly by receiving Member State, ranging from approximately €4.50 to post someone to Lithuania to almost €27 posting someone to Malta. These costs are based on labour costs, which are estimated by calculating a weighted hourly labour cost of a sending Member State¹⁴. The table below shows the average time and cost for service providers to declare two posted workers to a receiving Member State.

Baseline results, breakdown of declaration costs per receiving Member State

Receiving MS	2022 Total		Per declaration	
	Total cost (EUR '000)	Total hours	Average cost (EUR)	Average time (min:ss)
AT	€1,684.78	90,399	€15.04	48:02
BE	€2,962.60	147,140	€6.81	19:43
BG	€14.95	581	€13.66	31:39
CY	€0.21	14	€7.80	30:33

¹² The presented average time does not include 'one-off components', such as identifying a Member States' portal, reading necessary guidance and registering (where applicable), although these have been added to the total hours and administrative burden estimates. It is assumed that 1 in 20 notifications would require 'one-off components'. The average time for those across the EU is around 9 minutes, with this varying from under 4 minutes to over 25 minutes between Member States.

¹³ As per the previous note, 'one-off components' are not included in the presented average times but are factored in in the total hours and costs estimates.

¹⁴ For example, if a Member State received 25% of declarations from a country with an average hourly rate of 10 EUR, and 75% of declarations from a country with an average hourly rate of EUR 30, the weighted average hourly rate would be (25%*10) + (75%*30) = EUR 25.

CZ	€453.42	14,564	€15.79	29:48
DE	€1,360.08	80,352	€5.64	19:17
DK	€172.50	8,789	€7.94	23:38
EE	€3.31	137	€7.12	17:30
EL	€183.56	8,905	€26.08	01:14:50
ES	€3,824.12	123,399	€22.56	42:42
FI	€175.42	8,657	€9.73	28:33
FR	€2,989.32	111,366	€11.85	25:54
HR	€386.19	13,830	€20.82	44:33
HU	€50.85	1,879	€6.93	14:45
IE	€37.44	1,237	€14.02	27:34
IT	€420.22	23,110	€11.86	37:58
LT	€45.89	3,496	€4.51	20:21
LU	€1,031.87	29,648	€22.92	39:05
LV	€5.40	273	€10.86	32:34
MT	€6.82	199	€26.73	46:36
NL	€406.55	16,863	€9.35	23:00
PL	€189.61	5,938	€13.41	24:49
PT	€62.71	2,423	€14.15	32:17
RO	€33.03	1,158	€19.68	40:25
SE	€678.34	37,574	€5.83	18:30
SI	€44.10	1,760	€9.67	22:33
SK	€63.72	2,971	€5.61	15:24

C. STAKEHOLDER AND SOCIAL PARTNER CONSULTATIONS

1. Consultations on requirements and implementation options for an e-Declaration system

Stakeholder consultations were held in the preparation of the initiative. The following stakeholder groups contributed to the consultation process: national authorities, enforcement bodies, business associations and trade unions. A variety of open and targeted consultation methods and tools were used in the context of an external study, aiming *inter alia* at: identifying the potential scope, format, structure, and implementation options for the e-Declaration and consulting Member States and relevant stakeholders on the concept (i.e. scope, format, and structure) and implementation options. In the course of this work, the consultation included:

- Webinar in cooperation with the ELA on 17 February 2022 to inform the Member States' competent authorities and social partners about the project and to gather their feedback about the list of information requirements.
- Meetings and interviews with interested Member States' authorities and stakeholders such as sectoral business associations or consultancies providing services on posting between February and April 2022 to collect information about technical aspects related to the declaration process in the EU Member States and to validate business use cases, data model and basic functionalities.

- User experience workshop on 27 April 2022 with service providers identified by social partners to gather information about their experience of posting workers.
- Technical workshop with relevant representatives of the Member States' authorities on 28 April 2022 to discuss implementation options;
- Technical Survey for Member States between 9 June and 6 July 2022, to which 17 Member States replied.

- The Commission also consulted in 2023 the Industrial Forum Task Force 1 - Single Market, KPIs and industrial ecosystems - on the most burdensome and most urgent changes to reduce / streamline reporting obligations that companies face in the Single Market, in order to gain input for the Commission's initiative to rationalise and simplify reporting requirements.

In these consultations stakeholders outlined a range of requirements, success factors and constraints:

- **Service providers** posting workers to other Member States and business associations highlighted the importance of having the same or very similar location, structure, look and feel, and way to access the form to submit declarations to different Member States. This was considered particularly relevant for service providers that are regularly posting to different countries such as manufacturers of machinery and equipment (for configuration, maintenance, repair, etc.), construction or the live performance sector. They also stressed the importance of a multilingual portal, and a user-friendly interface for filling in the form. For managing their declarations, a transparent overview (dashboard) of the declarations already submitted should be available, with the possibility to update or withdraw them if needed. Also, service providers should be able to reuse information they previously entered in other declarations. Overall, service providers expressed strong support for the initiative.
- **Trade unions** highlighted the need to ensure the protection of posted workers and the importance of effective systems for their declaration to receiving Member States as well as effective monitoring and enforcement.
- **National authorities and enforcement bodies** highlighted the importance of having a form with a common set of fields and structured in one common data model. They also expressed the importance of having the full information provided in the declaration needs to be available to the participating Member States' competent authorities, so they can use it for risk assessment, national statistics and make it available to labour inspectors. In that respect the system needs ensure interoperability and be compliant with data protection rules. A majority of Member States (10 out of 17 participating in the technical survey) stated their interest in a technical solution provided on EU level, with limited implementation effort at national level for Member States. Furthermore, several Member States expressed the hope that the initiative would help gather high quality and comparable data on postings to the participating Member States.

2. Social partner consultations

European social partners have been consulted regularly while preparing the initiative. Meetings with social partners were held on 30 November 2021, 8 December 2021, 8 February 2022, 2 June 2022 and 11 May 2023. The project of an e-declaration for posting of workers was also discussed with Member States and social partners at the ELA Forum for Posting of Workers on 13 March 2023 and 11 April 2024.

A social partner online hearing dedicated to the e-declaration for posting of workers was held on 29 April 2024.

Overall, there was support for the initiative. **Employers' representatives** highlighted that the fragmented implementation of Directive 2014/67/EU and the introduction of administrative requirements at the national level has led to increased costs for businesses in the single market and complicated the cross-border provision of services in the EU. In this context, businesses welcomed the initiative and the idea of a single procedure and central portal for posting declarations as a major simplification when posting workers to another MS. Simplification and reduction of administrative burden does not equal to lowering workers' protection, on the contrary ensuring an easier compliance with the notification obligation will reduce the number of infringements and help authorities focus inspections on clear cases of frauds/violations.

Representatives from the **trade unions** underlined that the success of the e-Declaration initiative will be based on ensuring adequate workers protection, considering that workers are at risk when applicable rules are circumvented and an appropriate level of protection of the rights of the posted worker is not ensured. The initiative should enhance the transparency of the posting and ensure that the worker is being informed of the posting. Ideally workers should automatically receive a copy of the e-declaration.

3. Expert group on a common electronic form for the declaration of posting of workers

To proceed with the initiative following the stakeholder consultation, an informal Commission expert group on a common electronic form for the declaration of posting of workers ("the expert group") was set up in accordance with the Commission Decision establishing horizontal rules on the creation and operation of Commission expert groups. The task of the expert group is to advise the Commission on the joint development and implementation of a common electronic form for the declaration of posting of workers and it allows the Commission and interested Member States to jointly work on this task. Members of the expert group are Member States' authorities competent in the area of posting of workers. The European Labour Authority ('ELA') is an observer to the group. The work of the group is undertaken in full respect of Directive 96/71/EC and Directive 2014/67/EU.

The Commission received input from the expert group on the national declaration requirements and systems as well as on the relevant information necessary to allow factual controls at the workplace. With the advice of the Member States' experts a common form detailing the information requirements for the declaration of posting of workers was completed in December

2023¹⁵. An initial group of nine Member States declared in the meantime that they commit to align the information required as part of their declaration process to the information requirements devised in the common list of information requirements^{16, 17}.

D. A MULTILINGUAL ELECTRONIC INTERFACE

The legislative proposal¹⁸ foresees setting up a central portal for the declaration of posting of workers. It will be implemented as a multilingual electronic interface connected to the IMI using a standard form for the declaration of posting of workers. Member States may voluntarily use this central portal to enable service providers to submit the required declaration when posting workers to their territory. In that case, a service provider would only fill in the declaration through the central portal, and no longer through a dedicated national declaration process.

1. Public interface

The multilingual electronic public interface would be set up at EU level. It would be up to each Member State to decide if they want to use the EU system instead of their national declaration system, or if they want to keep their own system in place. Service providers posting workers to the Member States that opted for the use of the public interface, would declare their postings through this central EU interface. It would be connected to the Internal Market Information System ("IMI") for voluntary use by Member States. Member States who wish to participate in this voluntary initiative will have to adjust their national relevant provisions in order to require service providers established in other Member States and posting workers in the framework of the provision of services to their Member State to use this interface to make a simple declaration of posted workers (posting declaration) to their responsible national competent authorities to allow factual controls at the workplace.

The central multilingual public interface connected to IMI could consist of the following main elements:

- A web portal with secure login and account management for service providers. The portal will allow them to submit posting declarations to national competent authorities of the participating Member States and to manage the posting declarations they submitted. This portal would also be accessible via the Your Europe portal (Single Digital Gateway).
- An interface (technical connection) between that web portal and IMI posting modules, which allows for an instantaneous transfer of the posting declarations into IMI and for the

¹⁵ [reference.]

¹⁶ The declaration was presented at the Competitiveness Council of 24 May 2024 (<https://data.consilium.europa.eu/doc/document/ST-10061-2024-INIT/en/pdf>)

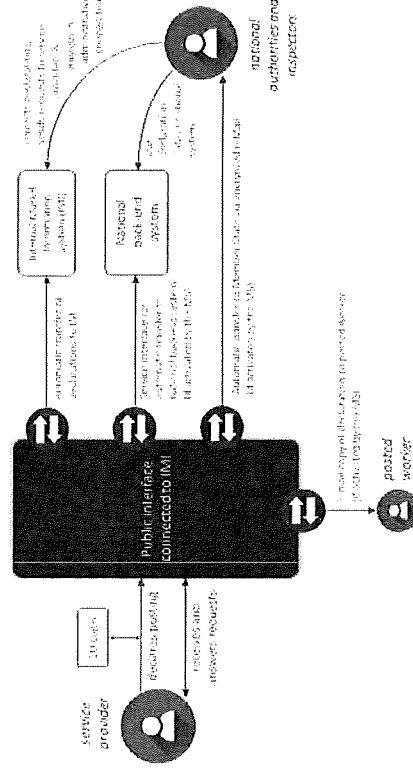
¹⁷ The text of the declaration is available here: https://www.bmwk.de/Redaktion/EN/Downloads/declaration-implementation-of-the-common-electronic-form-for-dee-larations-of-postings-of-workers.pdf?__blob=publicationFile&v=2.

¹⁸ Proposal for a Regulation of the European Parliament and of the Council on a public interface to the Internal Market Information System for the declaration of posting of workers.

follow up with the users of the portal in case of the need to send reasoned requests to another Member State.

- An interface which Member States can use for the automatic transfer of the submitted declarations from the public interface into their national back-end IT systems. This is optional for Member States that want to have access to the data contained in declarations in their existing national back-end systems.
- A functionality which Member States can optionally use to automatically receive all submitted declarations via encrypted e-mail. This optional functionality serves Member States that presently depend on email for receipt of posting declarations and have no immediate plans to change their operational procedures.
- A functionality which Member States can optionally use so that the public interface connected to IMI automatically sends a copy of the posting declaration to the email address of the worker.

High-level architectural overview of the proposed public interface:



IT architecture

The central multilingual public interface connected to IMI would build on the technical solution implemented for the posting of worker declarations in the international road freight transport sector. A comprehensive analysis on the reusability of existing digital solutions recommended adopting the public interface connected to IMI for posting drivers in road transport sector (Road Transport Declaration Portal ("RTDP")) as the foundation for the common portal, for the following reasons:

- Alignment on substance/context: Its current use in road transport information exchange makes it an ideal basis that has already proven itself in the same policy area, and that has the potential to create additional synergies.
- Modularity, adaptability and flexibility: The system's design allows for targeted adaptations and future scalability. The architecture is built to accommodate evolving requirements and shifts in operational demands.
- Interoperability: The framework ensures consistent and smooth data sharing across different Member States.
- Availability and Support: Relying on an established system promises a streamlined rollout process with lower risks and adequate support.
- Cost-Effectiveness: Reusing and adapting an existing solution provides a budget-friendly and quick solution.

For the implementation of the proposed public interface connected to IMI for the posting of workers the RTDP could be used as a basis, and if necessary enhanced by including additional functionalities.

2. Standard form

The multilingual public interface connected to IMI uses a standard form that service providers need to fill in when posting their workers to Member States which are participating in this initiative. This standard form will provide the relevant information that, depending on national circumstances, may be necessary to allow factual controls at the workplace, in accordance with Article 9(1)(a) of Directive 2014/67/EU. The common list of information requirements for the declaration of posting of workers which has been finalised in the expert group in December 2023 will serve as this standard form. Based on the advice of the Member States' expert group the standard form will contain information related to the service provider, the posted worker, the posting activity, the contact person for competent authorities and the service recipient.

In respect of the more detailed establishment of, and subsequent changes to, the standard form, implementing powers should be conferred on the Commission. This will allow for the necessary flexibility in the technical adaptation and implementation of the form. The experience from the implementation of the standard form for the declaration of drivers in the road transport sector has shown that a successful technical implementation requires a certain level of flexibility, within a well-defined framework. Conferring implementing powers on the Commission would also allow for a swifter amendment of the standard form, if required, without the need to amend the underlying basic act.

Member States that voluntarily use the multilingual public interface connected to the IMI would ensure that service providers posting workers to their Member State can comply with their obligation to declare the posting of workers through the use of that interface, without filing in additional forms. They may also decide that elements of the standard form, that they do not consider relevant information in view of their national context and the way they organise the

factual controls at the workplace, are not required from service providers posting workers to their territory.

Member States may submit to the Commission any proposal for amendment of the standard form. The Commission will examine any such proposal and may put forward a proposal for an implementing act to amend the standard form, which would consequently be discussed and voted by Member States in the committee under the advisory procedure.

E. OBJECTIVES TO BE ACHIEVED

1. Reducing administrative burden for businesses

Streamlining the reporting obligations and the procedure for the submission of posting declarations will significantly reduce the administrative burden for businesses and will facilitate that Member States carry out effective and adequate inspections.

A multilingual public interface using a standard form will allow companies to make their posting declarations in one place and with the same set of requested information, in all the participating Member States they post workers to. They will be able to make the posting declaration in their own language, thus overcoming the language barrier they are regularly facing when declaring postings in the system of the host Member State.

The Commission analysis of the existing level of administrative burden for declaring posted workers in the 27 EU Member States looked at the potential savings in terms of time and resources from the introduction of a common declaration for declaring posted workers. The analysis is based on Member States participation and refers to the average burden reduction both at the EU level and for the participating Member States. The analysis suggests that the impact of a common system for declaring posted workers is influenced by the number of Member States joining this initiative and on the volume of posting declarations that will be covered by the new system.

The burden reduction for service providers posting workers into a participating Member States is driven by some key advantages from the adoption of a centralised system: a reduction in the average time required to identify the portal, register and read the guidance, an increase in data reuse across those Member States that opt in, a reduction of the information requirements required in the standard form compared to the baseline scenario, leading to a considerable reduction of the time need to complete a prior declaration.

Assuming that an initial group of nine Member States¹⁹, who declared their commitment to align the information required as part of their declaration process to the information requirements devised in the standard form, will join this initiative, the average burden reduction for service providers posting workers to their territory is estimated to 58% compared to the current situation. This is based on a harmonic average of the burden reduction registered by each participating Member State. Individual figures for the participating Member States will differ

¹⁹ <https://data.consilium.europa.eu/doc/document/ST-10061-2024-INIT/en/pdf>

according to the frequency of declarations received, labour cost differences, and the complexity of the declaration procedure currently applied at the national level.

At the EU level, it is estimated that the adoption of the standard form and the use of the multilingual public interface by the 9 Member States in question would lead to a burden reduction of approximately € 1.414.000 compared to the current baseline situation. This is the product of the time and cost savings registered in the 9 Member States in question, multiplied by the frequency of posting declarations submitted to the above-mentioned Member States, compared to the baseline administrative cost at the EU level under the current 27 different national declaration procedures.

The burden reduction for service providers would further increase significantly if all 27 EU Member States would join this initiative. The analysis estimates a reduction of 81% at the EU level, corresponding to approximately €13.945.000, compared to the baseline situation.

The figures presented only reflect a part of the administrative expenses involved in filing declarations for posted workers. They do not include the broader costs related to adhering to the posting of workers acquis, such as determining accurate wages, keeping necessary documentation at the workplace, and complying with other national regulations. Consequently, the analysis concentrates solely on the administrative burden faced by service providers who post workers to another Member State, focusing on the expenses related to completing national declaration forms, while excluding the costs associated with evaluating national regulations and gathering all required information and documentation.

While the burden reduction at Member State level will vary according to the frequency of declarations received, labour cost differences, and the complexity of the declaration procedure currently applied at the national level, the burden reduction at the aggregate level would raise considerably. There would be a positive effect (cost savings) for service providers declaring workers in any receiving Member State due to the introduction of a multilingual public interface implementing a standard form with full data reusability across the EU.

Introducing a multilingual public interface and a standard form with a common list of information requirements would therefore bring considerable positive effects in terms of burden reduction for the interested Member States. The Commission will continue to liaise with interested Member States to achieve that more than the 9 Member States that so far declared their interest to make use of the common form adopt the common list of information requirements and make use of the public interface connected to the IMI.

Implementation of the multilingual and public interface connected to IMI will require moderate resource investment on EU-level with the support of the European Labour Authority. This would include inter alia:

- Business analysis, including requirement and reusability analysis;
- Adaptations and extensions to the posting of worker declaration portal for road transport workers;
- Solutions for the interfaces to national backend systems;

- Hosting of the multilingual and public interface connected to IMI;
- IT support, maintenance and continuous improvement;
- System documentation;
- Communication and outreach material;
- Training offers;
- Second line support.

Considering an initial period of 5 years of full implementation and maintenance of the public interface connected to IMI the budget implications mainly stem from the following work:

- Solution development, EUR 1.3 million;
- Solution maintenance, EUR 0.7 million,
- Support, EUR 0.7 million,
- Training, EUR 0.2 million,
- Infrastructure, EUR 0.1 million;

In total, this amounts to approximately EUR 3 million for 5 years. Running costs after full implementation are estimated at EUR 0.5 million per year.

2. Supporting administrative cooperation between Member States' authorities and enforcing the protection of workers' rights

The submission of posting declarations via the multilingual public interface will facilitate a better and more uniform application of Directive 96/71/EC.

Moreover, the submission of posting declarations via a multilingual public interface connected to the IMI will improve administrative cooperation between Member States' authorities.

Currently, national competent authorities seeking mutual assistance from other Member States when making a reasoned request for information from another Member State must manually insert into IMI the information concerning the posting, as the declarations are received in Member States' systems that are not connected to IMI. To facilitate administrative cooperation between Member States' competent authorities and to simplify requests for mutual assistance, information submitted in posting declarations should be made available directly in IMI posting modules, thus enabling the authorities to use the information received from declarations directly on the request for information, if necessary.

The transparency and easier submission of declaration obligations will be reinforced with the setup of the public interface. The employers can be better informed about the procedures they are expected to carry out before posting workers and they will more likely make the posting declaration. This will increase the compliance with the posting rules and inspection services will be in a better position to locate posted workers and target inspections.

The additional feature of sending the information about the submitted declaration also to the worker will increase worker's knowledge of the posting situation and will prepare him/her better for the posting and to be informed of his/her rights during posting. This should also increase the compliance with the posting rules and allow for fair mobility.

3. Reducing administrative burden for Member States' authorities

Aligning the administrative procedure for the declaration of posted workers in other sectors with the procedure for posting drivers in the road transport sector would reduce administrative burden for public administrations. With the current solution of using an interface connected to IMI for the declaration of posting of drivers in the road transport sector and the use of national declaration systems for posting in other sectors competent authorities today must administer and operate two different systems for their monitoring tasks. Aligning the two systems could optimise database utilisation and internal administrative processes for national competent authorities, thus leading to a more effective mechanism to oversee and ensure compliance with posting regulations.

Participating Member States could benefit from cost- and time-savings. Making use of the IMI system allows Member States to discontinue their self-standing national declaration systems and thus save the costs of operating and maintaining these systems. Member States that do not yet use digital solutions for their declaration obligations can use the public interface and the IMI system without the need to invest time and resources into the development of an electronic national declaration system. Member States who maintain their national databases would benefit from the possibility to connect those to the public interface and save costs on the maintenance of the front-end interface.

Finally, Member States can also be supported by better aggregate and comparable statistics derived from the public interface.

Agence Europe

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The freedom to provide services includes the right of service providers established in a Member State to provide services in another Member State, to which they may post their own workers temporarily to provide those services there. When posting its workers, the service provider needs to comply with a set of defined terms and conditions of employment, as established by Directive 96/71/EC, as amended by Directive (EU) 2018/957, in the Member State to which the posting takes place to ensure the minimum protection of the posted workers concerned. Member States shall work in close cooperation and provide each other with mutual assistance to facilitate the monitoring of compliance with these terms and conditions of employment. Avoiding unnecessary administrative burden on the service providers, protecting posted workers and ensuring effective monitoring should go thereby hand in hand and contribute to the proper functioning of the internal market.

As set out in Article 9(1) Directive 2014/67/EU, in order to ensure effective monitoring of compliance with the obligations set out in this Directive and Directive 96/71/EC Member States may only impose administrative requirements and control measures that are necessary for that purpose, provided that these are justified and proportionate in accordance with Union law. In this context, according to Article 9(1)(a) Directive 2014/67/EU, Member States may impose an obligation for a service provider established in another Member State to make a simple declaration to the responsible national competent authorities containing the relevant information necessary in order to allow factual controls at the workplace.

In the update to the 2020 New Industrial Strategy¹, the Commission announced that it will work with Member States to devise a common form, in an electronic format, for the declaration of the posting of workers. This work shall not compromise the existing EU legal framework for the posting of workers and the workers' protection it ensures. Participation shall be voluntary.

In its March 2024 Communication entitled 'Labour and skills shortages in the EU: an action plan'², the Commission announced that it will promote the widespread implementation of a common form of electronic format for posted worker declarations, complemented by the development of a digital multilingual portal through which companies can submit posting declarations for Member States that decide to make use of this tool, which will help reduce the administrative burden.

The announcement followed concerns raised in the evaluation of the implementation of Directive 2014/67/EU of the European Parliament and of the Council³. In the implementation report of Directive 2014/67/EU⁴ the Commission concluded that there are some areas that have been brought to the attention of the Commission by different stakeholders and where improvements could be necessary. These include the simplification of the administrative control systems by, for example, introducing a single EU-wide declaration system.

¹ COM(2021) 330 final.

² COM(2024) 131 final.

³ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 159, 28.5.2014, p. 11).

⁴ COM(2019) 426 final.

Since January 2023, Member States advise the Commission in the expert group on a common electronic form for the declaration of posting of workers, in particular with regard to the relevant information necessary in order to allow factual controls at the workplace. With the advice of the Member States' experts a common list of information requirements for the declaration of posting of workers has been finalised in December 2023⁵. An initial group of nine Member States declared in the meantime that they commit to adapt the information they request from service providers posting workers to their territories to the information requirements devised in the common list of information requirements^{6,7}.

A multilingual electronic interface connected to the IMI

The proposal sets up a multilingual electronic public interface connected to the Internal Market Information System ('IMI') for voluntary use by Member States receiving the posted worker (the 'host Member State'). These host Member States may choose to require service providers established in other Member States to use this interface to make a simple declaration of workers posted (posting declaration) to its responsible national competent authorities to allow factual controls at the workplace, provided that the obligation to make a simple declaration is justified and proportionate in accordance with Union law.

Service providers will use an electronic public interface connected to IMI to submit a posting declaration to the competent national authorities of the host Member State. The interface will feature a standard form to this end. This standard form will provide the relevant information that may be necessary in order to allow factual controls at the workplace, in accordance with Article 9(1)(a) of Directive 2014/67/EU: it will contain information related to the service provider, the posted worker, the posting assignment, the contact person for competent authorities and the service recipient and will be drafted on the basis of the advice given by the Member States' expert group regarding the relevant information to be contained in such form.

In respect of the establishment of, and subsequent changes to, the standard form, implementing powers should be conferred on the Commission. Should Member States consider that relevant information is missing from the standard form, in or for the use of the public interface connected to IMI, they may submit to the Commission proposals for amendment of the standard form and inclusion of information requirements that they deem necessary, as well as justified and proportionate, for carrying out effective controls at the workplace. Member States may also choose which information requirements from the standard form are to be applied in their Member State. This also means that Member States would not have to amend their national law whenever an additional information requirement is included in the standard form. This would only be necessary if they wish to make use of that additional information requirement.

The objective of this proposal is to reduce administrative burden for businesses and national competent authorities by facilitating on the one hand the submission of posting declarations where required, in a user-friendly way, at a distance and by electronic means, and on the other hand the administrative cooperation between Member States as well as the effective

⁵ [reference]

⁶ The declaration was presented at the Competitiveness Council of 24 May 2024 (<https://data.consilium.europa.eu/doc/document/ST-10061-2024-INIT/en/pdf>).

⁷ The text of the declaration is available here: https://www.bmwk.de/Redaktion/EN/Downloads/declaration-implementation-of-the-common-electronic-form-for-declarations-of-postings-of-workers.pdf?__blob=publicationFile&v=2.

monitoring of compliance with the obligation set out in Directive 2014/67/EU and Directive 96/71/EC of the European Parliament and of the Council⁸.

This proposal will facilitate that Member States carry out effective and adequate inspections on their territory, contributing to the protection of posted workers.

The use of IMI will also allow for the reusability of existing IT solutions, thus helping to reduce the one-off costs for the IT development.

Reducing administrative burden for businesses

Stakeholders have consistently highlighted that the obligation and the requirements for making a posting declaration constitute a significant reporting requirement for businesses in the single market and is among the most important administrative barriers for the cross-border provision of services in the single market.

Streamlining the reporting obligations and the procedure for the submission of posting declarations will significantly reduce the administrative burden for businesses and will facilitate that Member States carry out effective and adequate inspections.

A multilingual public interface using a standard form will allow posting companies to make their posting declarations in one place and with the same set of requested information, in all the participating Member States they post workers to. They will be able to make the posting declaration in their own language, thus overcoming the language barrier posting companies (service providers) faced regularly when declaring postings in the declaration system of the Member State they post workers to.

The proposal provides a contribution to the Commission's commitment to reduce reporting requirements resulting from EU legislation. In its Communication on 'Long-term competitiveness of the EU: looking beyond 2030'⁹, the Commission stressed the importance of a regulatory system that ensures that objectives are reached at minimum costs. It has committed therefore to a fresh push to rationalise and simplify reporting requirements, with the ultimate aim to reduce the associated administrative burden by 25%, without undermining the related policy objectives.

Protection of worker's rights

The submission of posting declarations via the multilingual public interface will also allow for a better and more uniform application of Directive 96/71/EC. Facilitating the declaration and protection of posted workers is another element in EU legislation ensuring fair mobility.

Since service providers will no longer need to comply with different national requirements included in the national interfaces and posting declaration forms in the participating Member States, the multilingual public interface using a standard form will contribute to reducing the cases on non-compliance with the posting rules, leading also to an increased transparency of posting.

The initiative will thus facilitate that Member States carry out effective, adequate and targeted inspections, contributing to the protection of posted workers' rights and fair mobility as a whole.

⁸ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

⁹ COM(2023) 168 final.

Moreover, the possibility to send a copy of the declaration to the posted worker will make posted workers informed actors in the procedure, thus helping them to exercise their rights.

Reducing administrative burden for Member States' authorities and facilitating administrative cooperation

Directive 2014/67/EU introduced rules on the administrative cooperation between national authorities in charge of monitoring compliance with posting of workers rules. This administrative cooperation should be implemented through the Internal Market Information System ("IMI"), established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council. IMI therefore plays a key role in supporting the strengthened administrative cooperation underpinning the Directive.

The IMI system is a multilingual electronic tool that allows national, regional and local authorities to communicate quickly and easily with their counterparts in the EU, Iceland, Liechtenstein and Norway about EU internal market issues. The Posting of Workers Request module is the main module in IMI for administrative cooperation under Directive 2014/67/EU and Directive 96/71/EC. It supports mutual assistance by allowing an authority in one Member State to request information or assistance from an authority in another Member State.

Today, national competent authorities seeking mutual assistance from other Member States must overcome a significant administrative burden to launch an information request in IMI. Information about a specific posting triggering a request for mutual assistance in IMI today needs to be manually inserted into IMI by the competent authorities in the Member States, before such request for assistance can be launched, as the declarations are received in Member States' systems that are not connected to IMI. To facilitate administrative cooperation between Member States' competent authorities and to simplify requests for mutual assistance, information submitted in posting declarations should be made available directly in IMI. This is currently the case for the road transport sector, where Directive (EU) 2020/1057 of the European Parliament and of the Council¹⁰ tasked the Commission with the development of a multilingual public interface, to which operators have access and via which they can submit and update posting information and submit other relevant documents to IMI, as necessary. Member States should then exchange data and information, engage in administrative cooperation and provide mutual assistance via IMI.

Aligning the administrative procedure for the declaration of posted workers in other sectors, for cases where such a declaration obligation would be justified and proportionate, with the procedure for posting drivers in the road transport sector would reduce administrative burden for public administrations. With the use of IMI for the declaration of posting of drivers in the road transport sector and the use of national declaration systems for posting in other sectors competent authorities today must administer and operate two different systems for their monitoring tasks. Aligning the two systems could streamline the use of databases and internal administrative procedures for national competent authorities and thereby provide for a more

¹⁰ Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012 (OJ L 249, 31.7.2020, p. 49–65).

efficient mechanism for national competent authorities to monitor and control compliance with applicable posting rules.

Participating Member States benefit from cost- and time-savings. Moreover, making use of the IMI system allows Member States to discontinue their self-standing national declaration systems if they wish to do so, and they thus save the costs of operating and maintaining these systems. A few Member States that do not yet use digital solutions for their declaration obligations can use the IMI system instantly, without the need to invest time and resources into the development of an electronic national declaration system. Member States who maintain their national databases would benefit from the possibility to connect those to the IMI.

The IMI system also allows for the generation of reliable statistics, supporting policy making and providing a solid basis for the monitoring work of the labour inspectorates, including for their risk analysis.

- **Consistency with existing policy provisions in the policy area**

The freedom to provide services is a fundamental principle of the internal market in the European Union enshrined in the Treaty on the Functioning of the European Union (TFEU).

Directive 96/71/EC, as amended by Directive (EU) 2018/957, implements this principle with the aim to guaranteeing a level playing field for businesses and respect for the rights of workers. Article 3 of Directive 96/71/EC establishes a core set of clearly defined terms and conditions of employment which are required to be complied with by the service provider in the Member State to which the posting takes place to ensure the minimum protection of the posted workers concerned.

Directive 2014/67/EU aims to facilitate the exercise of the freedom to provide services and the functioning of the internal market, as well as to guarantee respect for an appropriate level of protection of the rights of posted workers for the cross-border provision of services, in particular as regards the enforcement of the core terms and conditions of employment that apply in the Member State where the service is to be provided in accordance with Article 3 of Directive 96/71/EC. In this context, Directive 2014/67/EU establishes a common framework of a set of appropriate provisions, measures and control mechanisms necessary for better and more uniform implementation, application and enforcement in practice of Directive 96/71/EC.

In order to ensure the correct application of, and to monitor compliance with, the substantive rules on the terms and conditions of employment to be respected with regard to posted workers, Directive 2014/67/EU provides the possibility for Member States to impose certain administrative requirements and control measures to service providers that post workers in the framework of the provision of services, provided that these are justified and proportionate in accordance with Union law. Within this context, Article 9(1)(a) of Directive 2014/67/EU allows Member States to impose an obligation for a service provider established in another Member State to make a simple declaration to the responsible national competent authorities containing the relevant information necessary in order to allow factual controls at the workplace.

The proposal is consistent with these provisions as it does not amend the legal framework for the posting of workers, as established by Directive 2014/67/EU and Directive 96/71/EC, nor does it compromise the level of workers' protection it entails. It facilitates the submission of posting declarations where required, in accordance with Article 9(1)(a) of Directive 2014/67/EU and the procedure foreseen in Article 9(4) of Directive 2014/67/EU, and facilitates the administrative cooperation between Member States as well as the effective

monitoring of compliance with the obligations set out in Directive 2014/67/EU and Directive 96/71/EC.

The proposal is complementary to the rules on posting of drivers in the road transport sector. The new rules on posting of drivers in road transport, as established by Directive (EU) 2020/1057, were adopted in July 2021 as part of the Mobility Package and apply since 2 February 2022. The Commission has designed a multilingual portal connected to IMI for road transport operators who have to comply with these new rules. The portal allows the road transport operators to submit posting declarations via IMI to the Member State(s) where their drivers will be posted. The proposal would mirror the administrative procedure for the declaration of posted workers in other sectors with the procedure for posting drivers in the road transport sector.

- **Consistency with other Union policies**

The proposal contributes to two of the priorities of this Commission, notably creating “a deeper and fairer internal market” and boosting “jobs growth and investment”.

The proposal complements the efforts to reduce the administrative burden for posting workers undertaken in the Single Market Enforcement Taskforce (‘SMET’). In SMET the European Commission and Member States are working together on facilitating administrative requirements relating to the posting of workers including as regards declaration obligations. Best practices identified in SMET will be taken into account when developing the public interface.

The European Council in October 2023 called on all relevant institutions to take forward work to simplify regulation and reduce the unnecessary administrative burden¹¹.

In its resolution on tackling non-tariff and non-tax barriers in the single market of 17 February 2022¹² the European Parliament urged the Commission to introduce a digital form for the declaration of the posting of workers, establishing a simple, user-friendly and interoperable digital form that suits the needs of European companies and in particular SMEs.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the proposal, as is the case for the IMI Regulation, is Article 114 of the TFEU. The proposal aims to support the functioning of the internal market (Article 26 of the TFEU). Although the proposal establishes a voluntary and non-binding common procedure and requirements for the posting of workers, the envisaged uptake by Member States will favour an approximation of the procedure and of the requirements for the declaration of posting of workers in the participating Member States. The public interface as the single declaration portal and the standard form establishes similar conditions for posting declarations in the Member States that opt to make use of the public interface.

- **Subsidiarity (for non-exclusive competence)**

The proposal complies with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. The objective of this Regulation, namely the establishment of a multilingual electronic public interface connected to IMI to reduce the administrative burden for service providers posting workers to a participating Member States, whilst also facilitating

¹¹ EUCO 14/23.

¹² 2021/2043(INI).

a better and more uniform application and enforcement of Directive 96/71/EC, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Union level.

- **Proportionality**

The objective of the proposal is to contribute to the proper functioning of the internal market by reducing administrative barriers to the freedom to provide services, facilitating the effective monitoring by Member States of compliance with EU legislation aimed at ensuring the protection of posted workers, and supporting the related administrative cooperation between the national competent authorities in the Member States.

The proposed action is an appropriate way to achieve the objective. Establishing similar conditions for posting declarations in the Member States that opt to make use of the public interface reduces administrative burden, facilitates effective monitoring and supports the related administrative cooperation. While the public interface connected to IMI is for voluntary use by Member States its objective should be achieved by the envisaged uptake by Member States, thereby demonstrating that delivering the benefits of the single market is a joint responsibility of the Commission and the Member States.

With its voluntary nature the proposal at the same time does not go beyond what is necessary to achieve the objective and it does not affect the Member States' competences in the area of posting of workers. Member States may require service providers to use this interface to make a simple declaration of posted workers to its responsible national competent authorities.

As the proposal would mirror the already established administrative and technical procedure for posting drivers in the road transport sector the financial and administrative costs for the Union are limited and proportionate to the objective of the initiative.

- **Choice of the instrument**

The proposal includes an amendment to the Annex of the IMI Regulation. The submission, storing and processing of the declaration and the exchange of information in the context of effective administrative cooperation and mutual assistance between Member States must comply with the rules on personal data protection laid down in Regulations (EU) 2016/679 and (EU) 2018/1725 of the European Parliament and of the Council. The most appropriate instrument is therefore a Regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

In the implementation report of Directive 2014/67/EU the Commission concluded that there are some areas that have been brought to the attention of the Commission by different stakeholders and where improvements could be necessary. These include the simplification of the administrative control systems by, for example, introducing a single EU-wide declaration system.

- **Stakeholder consultations**

Stakeholder consultations were held in the preparation of a common form, in an electronic format, for the declaration of the posting of workers.

Relevant stakeholder groups contributed to the consultation process: national authorities, enforcement bodies, business associations and trade unions. In particular, the European social partners have been consulted. A variety of open and targeted consultation methods and tools were used in the context of an external study, aiming *inter alia* at: identifying the potential scope, format, structure, and implementation options for the e-Declaration and consulting Member States and relevant stakeholders on the concept (i.e. scope, format, and structure) and implementation options:

- Webinar in cooperation with the European Labour Authority (ELA) on 17 February 2022 to inform the Member States' competent authorities and social partners about the project and to gather their feedback;
- Meetings and interviews with interested Member States' authorities and relevant stakeholders between February and April 2022;
- User experience workshop on 27 April 2022 with service providers identified by social partners to gather information about administrative experience of posting workers;
- Technical workshop with relevant representatives of the Member States' authorities on 28 April 2022 to discuss implementation options;
- Meetings with social partners on 30 November 2021, 8 December 2021, 8 February 2022, 2 June 2022 and 11 May 2023;
- Technical Survey for Member States between 9 June and 6 July 2022
- A social partner online hearing dedicated to the e-declaration for posting of workers on 29 April 2024.

The project of an e-declaration for posting of workers was also discussed with Member States and social partners at the ELA Forum for Posting of Workers on 13 March 2023 and 11 April 2024.

- **Collection and use of expertise**

This proposal has been identified following a process of internal scrutiny of existing reporting obligations and based on the experience from implementation of the related legislation. Since this is a step in the process of continuous assessment of reporting requirements arising from EU legislation, the scrutiny of such burdens and of their impact on stakeholders will continue.

The Commission received input from the expert group on a common electronic form for the declaration of posting of workers, which advises the Commission on the joint development and implementation of a common electronic form for the declaration of posting of workers. The work of the group is undertaken in full respect of Directive 96/71/EC and Directive 2014/67/EU.

- **Impact assessment - burden reduction**

The Commission did not carry out an impact assessment (IA) for this initiative. The Commission however carried out an analysis¹³ to measure the existing level of administrative burden for declaring posted workers in the 27 EU Member States, resulting in a detailed cost modelling of the different declaration procedures. The analysis also looked at the potential savings in terms of time and resources from the introduction of a standard form for the

¹³ Own analysis from Commission based on analytical work by PwC, July 2024

declaration of workers to be posted under different implementation options, including a multilingual electronic interface connected to IMI, taking into account different degrees of participation by Member States. At the EU level, the analysis suggests that the impact of a common system for declaring posted workers is influenced by the design of the common system and on the volume of posting declarations that will be covered by the new system.

The average burden reduction for service providers posting workers to their territory is estimated to 58% compared to the current situation, with the participation of the initial group of 9 Member States that indicated so far their readiness. In case all 27 Member States would decide to join this initiative, the burden reduction at EU level would further increase to 81% compared to the current baseline scenario.

The proposal concerns limited and targeted changes of existing administrative practice, for Member States who voluntarily opt for it, and of existing legislation, namely Regulation (EU) No 1024/2012 of the European Parliament and of the Council establishing the Internal Market Information System ('IMI'). The objective of the proposal is to extend the existing multilingual electronic public interface connected to IMI for the declaration of posted workers in the road transport sector to other economic sectors in order to facilitate the implementation of Directive 96/71/EC and Directive 2014/67/EU, which remain unchanged.

The changes proposed do not impact EU policy, but only provide grounds for developing a voluntary technical solution (public interface) for the submission of declarations of posted workers, using a standard form, and facilitating data exchange between national administrations. The conclusions and evidence collected by the expert group on a common electronic form for the declaration of posting of workers fed into the drafting of this proposal. The proposal will facilitate reducing administrative burden for competent national authorities and businesses by optimising accessibility and exchange of data on posted workers.

In conclusion, there was no need for an IA as the amendment is limited in scope, targeted and provides technical amendments to the existing legislation.

- **Regulatory fitness and simplification**

This is a REFIT proposal, aiming to cut burdens for Member States' public administrations and businesses.

The reporting requirements for the posting of workers concern a large number of companies. 2022 data from the prior declaration tools, the most recent data available, suggest that there were around 1.9 million posted workers, 2.3 million posting declarations and 4.7 million postings in the EU. Looking at the evolution of the number of postings and posted workers excluding the road freight transport, for which declarations have to be made now through a central EU portal for road transport operators, available data suggest a growth of 14 % regarding the number of postings between 2021 and 2022¹⁴.

All 27 Member States used the possibility to implement a prior declaration tool for service providers posting workers to another Member State. However, Member States systems differ

¹⁴ De Wispelaere, F., De Smeed L., & Pacolet, J. (2023). Posting of workers: Collection of data from the prior declaration tools - Reference year 2022, Network Statistics FMSSPE, on behalf of the European Commission. Twenty-four Member States provided (partial) data on incoming posting undertakings and posted workers for the collection of this data, publicly available data was used for one other Member State.

in design and requirements and are not interconnected. Compliance with the required administrative declaration procedures therefore entails considerable administrative burdens for the posting companies. The resulting increase in transaction costs may, under certain conditions, significantly impede or restrict the cross-border provision of services – especially by small and medium-sized enterprises (SMEs).

A business survey on the state of the single market carried out in 2024 found that 46.1% of over 1000 surveyed companies believed that 'problems/uncertainties in posting workers temporarily to another country were significant'¹⁵. The estimated effort required to register a posting ranges from 21 minutes in Estonia and Slovakia to 87 minutes in Greece. For Italy, the time required is 61 minutes. In a recent study on the influence of administrative burdens on the cross-border posting of employees by SMEs in border regions, all respondents identified the lack of rationalisation of national posting procedures in the EU as one of the biggest burdens.

Reporting requirements play a key role in ensuring correct enforcement and proper monitoring of legislation. Reporting requirements can however also impose disproportionate burdens on stakeholders, particularly affecting SMEs and micro-companies. Their cumulation over time can result in redundant, duplicating or obsolete obligations, inefficient frequency and timing, or inadequate methods of collection.

Streamlining reporting obligations and reducing administrative burdens is therefore a priority. The proposal will rationalise reporting obligations by a combination of measures:

- Consolidation of reporting currently performed in different systems and with varying requirements;
- Digitalisation of transmission of information.

- **Fundamental rights**

n/a

4. BUDGETARY IMPLICATIONS

The proposal has limited budgetary implications for the Commission. Considering an initial period of 5 years of full implementation and maintenance of the public interface connected to IMI the budget implications mainly stem from the following work:

- Solution development, EUR 1.3 million;
- Solution maintenance, EUR 0.7 million,
- Support, EUR 0.7 million,
- Training, EUR 0.2 million,
- Infrastructure, EUR 0.1 million;

Amounting to approximately EUR 3 million for 5 years. Running costs after full implementation are estimated at EUR 0.5 million per year.

In terms of staffing needs, the full implementation of the public interface will require 1.5 full-time equivalents, the constant maintenance 0.5 full-time equivalents.

¹⁵ 2024 Single Market Survey: Overcoming Obstacles, Developing Solutions , Eurochambres, 2024

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

n/a

- **Explanatory documents (for directives)**

n/a

- **Detailed explanation of the specific provisions of the proposal**

[to be completed in line with the final version of the Articles]

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a public interface connected to the Internal Market Information System for the declaration of posting of workers.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹⁶,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The Internal Market Information System ('IMI'), established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council¹⁷, should be used as much as possible for the administrative cooperation and mutual assistance between the competent authorities of the Member States provided for in Directive 2014/67/EU of the European Parliament and of the Council¹⁸ and in Directive 96/71/EC of the European Parliament and of the Council¹⁹, as amended by Directive 2018/957, concerning the posting of workers in the framework of the provision of services. In accordance with Directive 2014/67/EU, Member States should work in close cooperation and provide each other with mutual assistance without undue delay in order to facilitate the implementation, application and enforcement in practice of that Directive and Directive 96/71/EC.

(2) According to Article 12 of Regulation (EU) No 1024/2012 technical means may be provided to allow external actors to interact with IMI. Such an interaction is facilitated by the public interface through which service providers should submit posting declarations to the participating Member States. These Member States should then, if necessary, use the information received through IMI to make reasoned requests in IMI existing posting modules in accordance with mutual assistance administrative cooperation set out in Articles 6 and 7 of Directive 2014/67/EU.

¹⁶ OJ C [...], [...], p. [...].

¹⁷ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation ') (OJ L 316, 14.11.2012).

¹⁸ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation ') (OJ L 159, 28.5.2014).

¹⁹ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

- (3) Directive 2014/67/EU aims to facilitate the exercise of the freedom to provide services and the functioning of the internal market, as well as to guarantee respect for an appropriate level of protection of the rights of posted workers for the cross-border provision of services, in particular as regards the enforcement of the terms and conditions of employment that apply in the Member State where the service is to be provided in accordance with Article 3 of Directive 96/71/EC. This regulation should be without prejudice to the application of Directive 2014/67/EU and Directive 96/71/EC.
- (4) According to Article 9(1) of Directive 2014/67/EU, Member States may only impose administrative requirements and control measures in so far as necessary in order to ensure effective monitoring of compliance with the obligations set out in that Directive and in Directive 96/71/EC and provided that these are justified and proportionate in accordance with Union law. In this context, Article 9(1)(a) of Directive 2014/67/EU allows Member States to impose an obligation for a service provider established in another Member State to make a simple declaration to the responsible national competent authorities in order to allow factual controls at the workplace.
- (5) A simplification of the process of sending and updating posting declarations should reduce administrative barriers to the freedom to provide services, including to the right of undertakings to provide services in another Member State with their own workers, facilitate the effective monitoring by Member States of compliance with EU legislation aimed at ensuring the protection of posted workers, and support the related administrative cooperation between the national competent authorities in the Member States contributing to the proper functioning of the internal market.
- (6) A simplification of the process of sending and updating posting declarations should reduce the administrative burden of national competent authorities seeking mutual assistance from other Member States. To ensure that the responsible national competent authorities can provide each other with mutual assistance without undue delay and to simplify requests for mutual assistance, information submitted in posting declarations should be made available directly in IMI, thus facilitating the application in practice of Directive 2014/67/EU and Directive 96/71/EC. For that purpose technical means should be developed to allow external actors, i.e. the service providers posting workers, to interact with the competent authorities in IMI in order to supply the relevant information, in accordance with Article 12 of Regulation (EU) No 1024/2012.
- (7) All Member States have used the possibility to implement a declaration obligation for service providers posting workers to their Member State, with national systems differing significantly in design, requirements and functionality. Complying with these diverging systems creates a considerable administrative burden for the posting companies.
- (8) Streamlining reporting obligations and requirements in the submission of posting declarations to the competent authorities of the host Member State should significantly reduce the administrative burden for service providers established in other Member States and posting workers to the host Member States. Stakeholders have consistently highlighted that the declaration for the posting of workers constitutes a significant reporting obligation and is among the most important administrative barriers for the cross-border provision of services in the single market.
- (9) Reducing the administrative burden for service providers and national competent authorities must concur with the respect for adequate working conditions and social

- protection for posted workers. Facilitating the effective monitoring of compliance by Member States and reinforcing mutual administrative cooperation improves the protection of workers' rights.
- (10) The simplification of the process of sending and updating posting declarations should facilitate a better and more uniform application of Directive 96/71/EC as well as its enforcement in practice, reducing the cases on non-compliance with the posting rules due to the different procedures for submitting the posting declarations. It will facilitate that Member States carry out effective and adequate inspections, contributing to the protection of posted workers' rights.
- (11) The Commission should set up a multilingual electronic public interface connected to IMI for voluntary use by Member States. Member States should communicate to the Commission about their interest in making use of the multilingual electronic public interface, at any time from the date of entry into force of this Regulation.
- (12) Service providers should be able to submit a complete posting declaration to the national competent authorities of a participating Member State to which a worker is posted, i.e. the host Member State, using a multilingual standard form of that public interface.
- (13) The Commission received input from the expert group on the national declaration requirements and systems as well as on the relevant information necessary to allow factual controls at the workplace. With the advice of the Member States' experts a common form detailing the information requirements for the declaration of posting of workers was completed in December 2023. Accordingly, the standard form used by the electronic public interface should consist of information related to the service provider, the posted worker, the posting assignment, the contact person for competent authorities and the service recipient. The standard form should be available in all EU languages.
- (14) In respect of the establishment of, and subsequent changes to, the standard form, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁰. Member States may choose which information requirements from the standard form are to be applied for their Member State. Member States considering that relevant information is missing from the standard form, in or for the use of the public interface connected to IMI, should be allowed to request the Commission to amend the standard form in order to add information requirements not covered by the standard form.
- (15) Member States may choose to require service providers to use the electronic public interface to make a posting declaration to its responsible national competent authorities. As provided for in Directive 2014/67/EU, this public interface should support Member States in their task to ensure that the procedures and formalities relating to the posting of workers can be completed in a user-friendly way by undertakings, at a distance and by electronic means, facilitating the submission of posting declarations where required. Member States may decide that elements of the standard form, that they do not consider relevant in view of their national context and

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Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L55, 28.2.2011, p. 13).

the way they organise the factual controls at the workplace, are not required from service providers posting workers to their territory filling in the form on the electronic public interface.

- (16) The use of the standard form, consisting of a common and exhaustive set of relevant information that may be necessary for factual controls at the workplace, will reduce the divergencies in the applicable rules and regulations of the Member States. The use of the public interface connected to IMI, with its standard form, should be sufficient for service providers to comply with declaration obligations in participating Member States. There should be no additional information requirements imposed at national level. The setting up of a public interface connected to IMI with its standard form and the making available of this interface to national competent authorities is instrumental and ancillary to the approximation of the legislation of the Member States, ensuring the functioning of the internal market.
- (17) The relevant information necessary in order to allow factual controls at the workplace may include amongst the information requirements established in the context of Article 9(1)(a) of Directive 2014/67/EU certain personal data. The public interface connected to IMI may therefore process the personal data necessary to identify and contact the persons relevant for allowing factual controls at the workplace. Processing of personal data should be carried out in accordance with Union law on the protection of personal data laid down in Regulation (EU) 2018/1725 of the European Parliament and of the Council.
- (18) The public interface connected to IMI is a technical means made available by the European Commission for voluntary use by Member States. The relevant information contained in the declaration to be made by a service provider must be established in national law, in line with Union law. It will remain the responsibility of Member States to decide, within the limits of justification and proportionality, in which cases to demand a posting declaration and what information this declaration must contain.
- (19) The setting up of a public interface connected to IMI with a multilingual standard form for the declaration of posting of workers and the making available of this interface to national competent authorities by the European Commission is without prejudice to the responsibility of the European Commission for overseeing the correct implementation and application of Union law by Member States, in accordance with Article 17(1) of the Treaty on European Union, and its powers under Article 258 Treaty on the Functioning of the European Union as well as the Member States' obligation to comply with Union law.
- (20) Where social partners play a role in the monitoring of compliance with posting rules, competent authorities should be allowed to provide national social partners with the relevant information which has been shared via IMI, for the sole purpose of checking compliance with posting rules while respecting Regulation (EU) 2016/679 of the European Parliament and of the Council. The relevant information should be provided to social partners by other means than IMI.
- (21) The European Labour Authority ('ELA') should support Member States' national competent authorities and service providers in the implementation and use of the

multilingual public interface connected to the IMI in accordance with its mandate under Regulation (EU) 2019/1149²¹.

- (22) This regulation should be without prejudice to Directive 2014/67/EU and Directive 96/71/EC.

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

1. In order to contribute to the proper functioning of the internal market by reducing administrative barriers to the freedom to provide services, facilitating the effective monitoring by Member States of compliance with EU legislation aimed at ensuring the protection of posted workers, and supporting the related administrative cooperation between the national competent authorities in the Member States, the Commission shall provide a multilingual public interface connected to the Internal Market Information System ('IMI'), established by Regulation (EU) No 1024/2012, for Member States that voluntarily opt to make use of this public interface.

2. If provided for in the relevant national laws service providers can comply with justified and proportionate obligations imposed by these Member States to declare posting of workers, in accordance with Article 9(1) and (2) of Directive 2014/67/EU and in particular Article 9(1)(a) of Directive 2014/67/EU, by submitting a declaration based on a multilingual standard form through the public interface connected to the IMI.

Article 2

Public interface

1. The public interface connected to IMI shall provide functionality for:
- (1) creating an account for secure access to the service provider's reserved area;
 - (2) ensuring appropriate logging of user activity;
 - (3) creating, submitting and managing declarations of posted workers;
 - (4) transmitting a copy of the posting declaration to the posted worker;
 - (5) making submitted information available in IMI to the responsible national competent authorities of the host Member State for administrative cooperation pursuant to points 6 and 7 of the Annex to the IMI Regulation²².

²¹ Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (Text with relevance for the EEA and for Switzerland) (OJ L 186, 11.7.2019, p. 21–56)

2. The public interface connected to IMI shall provide the technical functionalities allowing one or more national authorities of the host Member State that are competent authorities within the meaning of Article 3 of Directive 2014/67/EU, to receive posting declarations directly in the national back-end system upon the request of that Member State.

3. A Member State may decide to make use of the public interface. That Member State shall inform the Commission 6 months before the date from which it intends to use the public interface. The Member State shall beforehand adopt the laws, regulations and administrative provisions necessary to allow for the use of the public interface by service providers posting workers to that Member State and to comply with the requirements of the public interface and of the standard form. Member States making use of the public interface shall not impose any additional information requirements or alternative declaration obligations.

4. The list of Member States making use of the public interface as referred to in paragraph 3 shall be made publicly available on the multilingual public interface.

5. A Member State may stop making use of the public interface. That Member State shall inform the Commission 6 months before the intended end date of the use of the public interface.

Article 3

Standard form

1. Without prejudice to paragraphs 3 and 4 the standard form shall consist of information related to:

- (1) the service provider;
- (2) the posted worker;
- (3) the posting assignment;
- (4) the contact person to liaise with the competent authorities;
- (5) the service recipient.

2. The Commission shall establish the standard form referred to in paragraph 1 of this Article by way of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 7(2).

3. Member States may submit to the Commission suggestions for amendment(s) of the standard form. The Commission shall examine such suggestions with the view to amending, where appropriate, the standard form.

4. The Commission may, based on a suggestion by a Member State or on its own initiative, propose an amendment of the standard form, in accordance with the procedure referred to in paragraph 2 of this Article.

Article 4

Processing and retention of personal data

1. For the purpose of Article 1, the multilingual public interface connected to IMI may process the following personal data: