

## POSTING OF WORKERS:

***OPPORTUNITY*** FOR THE WEAKER  
OR  
***A THREAT*** FOR THE STRONGER?

WORKERS and SERVICES

The image shows a map of Europe with various countries shaded in different colors: dark blue, light blue, brown, and grey. Two horizontal arrows are overlaid on the map. The top arrow points from right to left and is labeled 'WORKERS and SERVICES'. The bottom arrow points from left to right and is labeled 'GOODS and CAPITAL'. The map also features a multi-colored bar at the bottom edge.

GOODS and CAPITAL



DO the EU lawmakers  
adopt laws

which will tackle **real problems**

/ are based on **right premises?**





## PERCEPTION 1:

Posting of workers are the source of 'social dumping'




# **THE SIZE AND IMPACT OF INTRA-EU POSTING ON THE BELGIAN ECONOMY**

With a special focus on the  
construction sector

- Summary -





Fifteen percent of people posted to Belgium are self-employed. This share even makes it to 19% in the construction sector. If one examines the construction sector in more detail, it appears that 40% of posted workers from Poland have a self-employed status. It is also striking that at least three in four posted workers from Slovakia are self-employed. The fact that a significant percentage of posted workers working in the construction sector have a self-employed status will certainly have an impact on this sector. Their competitive advantage will be greater than posted employees since Belgian wages and working conditions do not apply to them and their social security contributions are lower. At the same time, reforming the Posting of Workers Directive (Directive 96/71/EC) will have no impact on this group. A complete differentiation of the type of posting (via cross-border subcontracting, via intra-group posting or via cross-border temporary agency work) cannot be made in LIMOSA. How-



## “Social dumping” and posted workers: a new clash within the EU

*European companies often post employees to another EU country to work there temporarily. These ‘posted workers’ must be paid at least the minimum wage of the host country, yet their wages can be lower than the wages of local workers. Now proposals for ‘the same pay for the same work at the same place’ are creating new clashes between EU countries.*

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**BY:** ELENA VACCARINO AND ZSOLT DARVAS      **DATE:** MARCH 7, 2016

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Ministers from high-wage and low-wage EU countries are clashing over the treatment of posted workers, but the problem of undeclared work is slipping under the radar.





# THE **ELEPHANT** IN THE **ROOM**







*The elephant in the room is undeclared work, which is a much bigger problem than possible problems caused by posted workers.*

According to [Friedrich Schneider \(2012\)](#), the share of the shadow economy in output in high-wage EU countries ranges from 9% (Luxembourg) to the high level of 21% (Belgium). Undeclared work can be more labour intensive than declared work, meaning that the share of undeclared work in employment could be even higher than in output.

Therefore, if estimates for the shadow economy rightly reflect the orders of magnitude, the number of undeclared workers could even be 20 times higher than the number of posted workers.



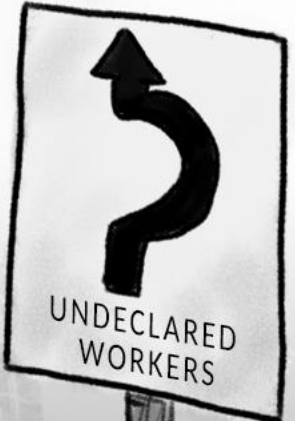
# 95/100

foreign workers on a  Belgian construction site are **undeclared**

# 5/100

are employed **legally** of which 2 are self-employed and 3 are posted workers







# EU posted workers: separating fact and fiction

*After President Macron's recent tour of Central and Eastern European countries, EU posted workers are getting a lot of attention. However, a major reform of the system is already underway and we should not confuse posted workers with long-term labour migrants. Posted workers are a small part of the labour force, and their labour market impact is likely to be minor.*


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BY: [JURIINTUYA BATSAIKHAN](#)

DATE: AUGUST 31, 2017

TOPIC: EUROPEAN MACROECONOMICS & GOVERNANCE



This is not to say that there are no losers in the migration posted workers migration, and these losers need to be  helped. However, the number of people negatively affected seems to be small compared to the benefits that posting brings for the posted workers themselves and for the companies that provide services across borders. A reduction in the length of the posting period could ease some concerns but the numbers of long postings are very small anyway.





HOME > BIZ

# 20.000 bouwvakkers te kort: 'Dit kan leiden tot vertragingen in de huizenbouw'

17/01/2017 om 06:11 door adm | Bron: BELGA



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## HOME

BIZNIEUWS

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EXPERTS

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REGIONAAL BEDRIJFSNIEUWS

NIET TE MISSEN OP STANDAARD.BIZ



Warm water is de



## PERCEPTION 2

Posted workers are 'undercutting' local labour force because of their wages (costs)





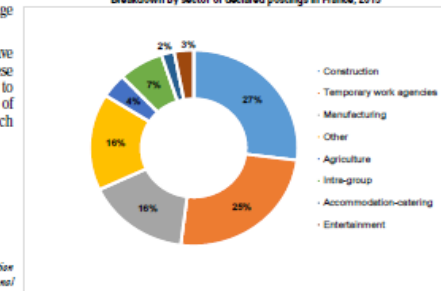
No. 171  
June 2016

## TRÉSOR-ECONOMICS

### Social competition from posted workers in France: misconceptions and realities

- A posted worker is an employee assigned temporarily by his or her employer to the territory of a Member State of the European Union other than the State in which he normally works and in which the employer is established. Unlike migrant workers to whom the Community principle of free movement of persons applies the posting of workers rests on the principle of free provision of services.
- France is the second host country in Europe after Germany, with 229,000 posted workers in 2014, or less than 1% of the French labour force. France is also one of the three countries that post the largest number of workers after Poland and Germany. The typical profile of a posted worker in France is a Polish, Portuguese, Spanish or Romanian manual worker in the construction industry.
- Postings raise the issue of potential tax and social competition between Member States. The cost of posted workers may prove lower than the cost of non-posted workers depending on whether or not the host country applies minimum wages (as posted workers may accept lower pay if wage levels in their home countries are lower), differentials in employers' social contribution rates, and the contribution assessment base.
- In France, the existence of minimum wages limits competition from posted workers vis-à-vis non-posted workers and acts as a protection mechanism. The official minimum wage, known as Salaire Minimum Interprofessionnel de Croissance (SMIC), applies to all employees including posted workers, as do most collective agreements, which apply to all employees of a specific sector owing to the near-systematic extension of industry agreements.
- At SMIC level, the labour cost for a worker posted in France by a Spanish, Polish, Portuguese or Romanian firm is broadly equivalent to that of a local worker for a French firm. Differentials might be observed at higher wage levels.
- However, some firms seeking to minimise labour costs take advantage of grey areas in EU legislation that may encourage optimisation strategies and abuse.
- France and the European Commission have put forward proposals to combat these trends. The Commission has submitted to the Member States a proposed revision of the Directive on posting of workers, which is currently under discussion.

Breakdown by sector of declared postings in France, 2015



Source: French Directorate-General for Labour (Direction Générale du Travail) (2016), dossier for French national commission to combat illegal work.

**Table 1: Comparison of labour costs in France between local workers and posted workers from Spain, Poland, Portugal and Romania paid the equivalent of the French monthly minimum wage on the basis of 35 working hours**

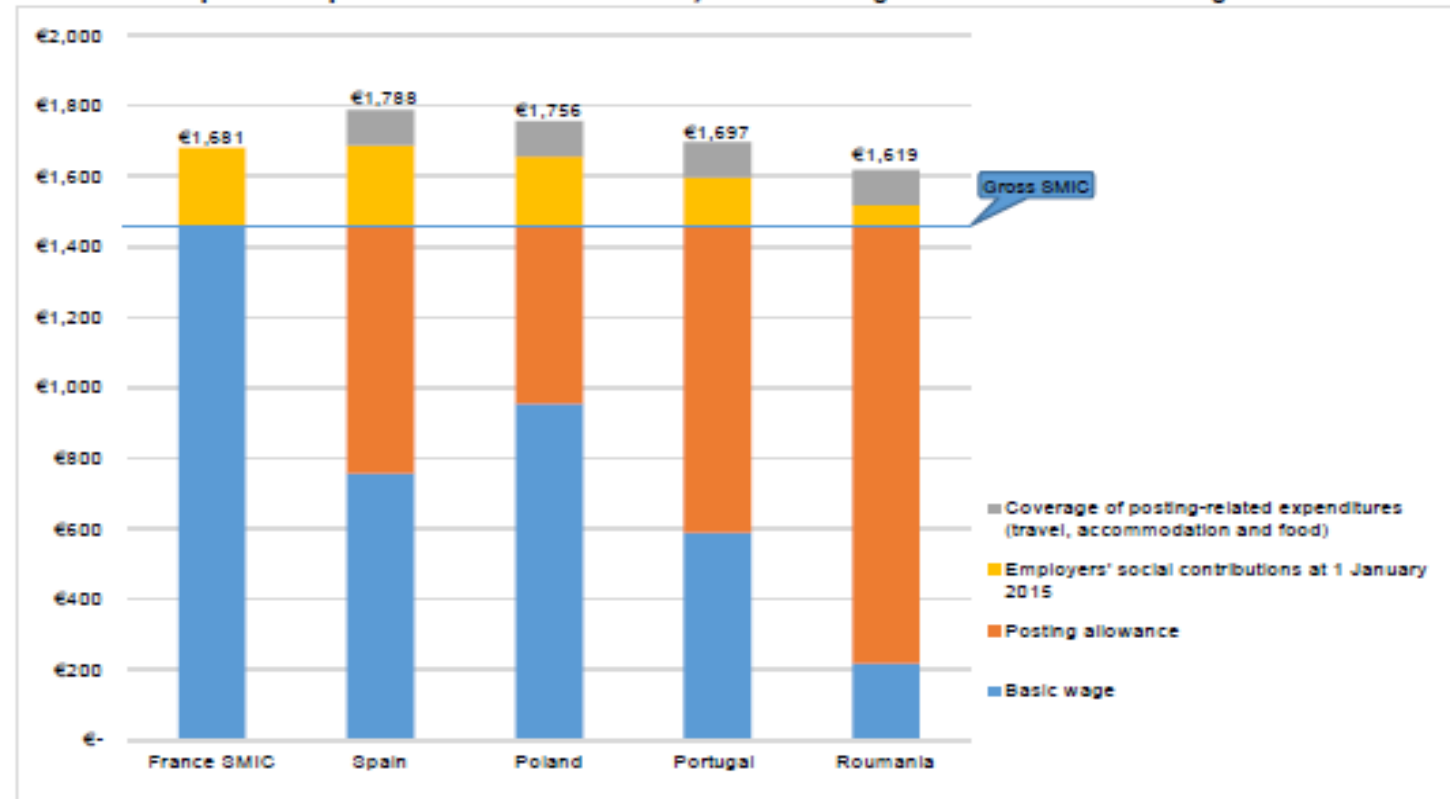
		France SMIC	Spain	Poland	Portugal	Roumania
Basic wage	(1)	€1,458	€757	€955	€589	€218
Gross minimum wage at 1 January 2015 (source: Eurostat)		€1,458	€757	€410	€589	€218
Posting allowance	(2)		€701	€503	€868	€1,240
Gross pay excluding coverage of posting-related expenditures	(3)=(1)+(2)	€1,458	€1,458	€1,458	€1,458	€1,458
Coverage of posting-related expenditures (travel, accommodation and food)	(4)		€100	€100	€100	€100
Gross total pay	(5)=(3)+(4)	€1,458	€1,558	€1,558	€1,558	€1,558
Social contribution base	(6)=(1)	€1,458	€757	€955	€589	€218
Employers' social contributions at 1 January 2015 (i.e. = employers' contribution rate)	(7)=(6) x te	€223	€231	€199	€140	€61
Employers' contribution rate (%) (source: CLEISS)	te	15%	31%	21%	24%	28%
<b>Labour cost</b>	<b>(8)=(5)+(7)</b>	<b>€1,681</b>	<b>€1,788</b>	<b>€1,756</b>	<b>€1,697</b>	<b>€1,619</b>

DG Trésor calculations.

Étude de cas élaborée à partir du questionnaire Cese/Dares, D.AEI (2015), « Le travail détaché : synthèse des contributions en 30 questions », Contributions des services économiques.



Chart 4: Comparison of labour cost in France between local workers and posted workers from Spain, Poland, Portugal and Roumania paid the equivalent of the French monthly minimum wage on the basis of 35 working hours



*DG Trésor calculations (see table 1),  
Case study prepared from CESE/DARES questionnaire, DAEI (2015), Le travail détaché: synthèse des contributions en 30 questions,  
Contributions from economic affairs departments in French embassies.*

The estimated labour cost for French workers could be even lower if the calculation included the "Competitiveness and Employment Tax Credit" (Crédit d'Impôt Compétitivité Emploi: CICE), for which employers of posted workers are not eligible. It is equal to 6% of

gross pay for wages not exceeding 2.5 times the minimum wage (SMIC).

The findings could, however, be different if we examined higher pay levels<sup>25</sup>:

- For pay rates above the SMIC, but identical for pos-



Marek Benio Ph.D. (Vice-President of the LMIA):

# LABOUR COSTS IN CROSS-BORDER SERVICES

The study on  
the labour cost structure  
in the case of posting of  
workers from Poland

- ✓ Largest EU-wide study of this kind
- ✓ 20 632 postings (A1 PDs) covered



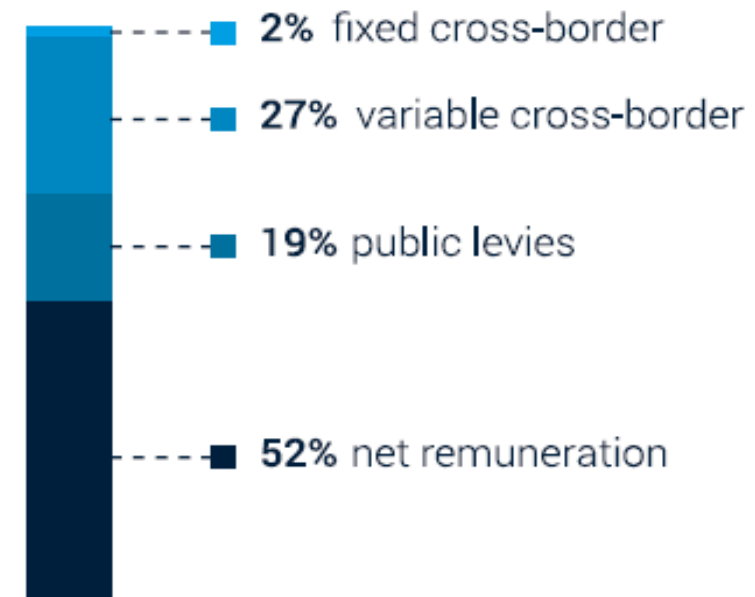
- ✓ The average NET REMUNERATION for 1 hour's work – **EUR 9,97**
  - ✓ ~18% higher than the minimum rate of pay in DE (EUR 8,50 gross)

- ✓ **Additional cross-border costs** related solely to the fact that service is provided in another Member State

**29 %**

Fig. 3 The structure of the labour cost in case of posted workers.

### LABOUR COST STRUCTURE



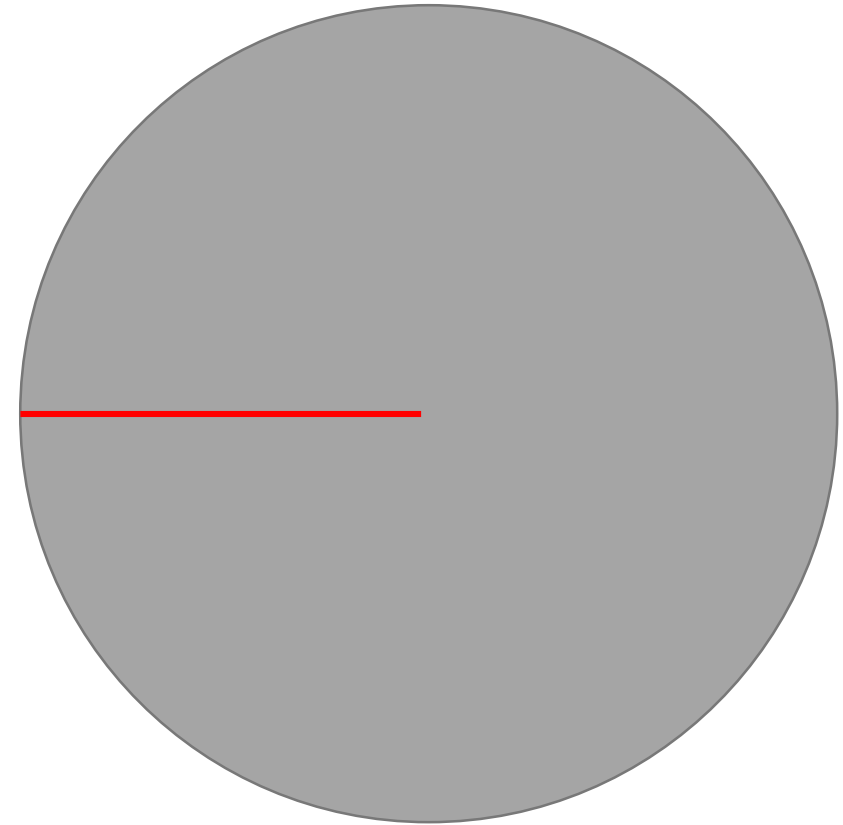


## EU's total employment vs **posted workers**

- ✓ **243 mln** – total employment in the EU
- ✓ **2,05 mln** – A1 Portable Documents issued in **2015**
  - ✓ **0,9 %** of the total employment in the EU
- ✓ **individual persons involved** – **0,6%** of the total employment
- ✓ **full-time equivalents** – **0,4%** of the total employment
  
- ✓ **Commissioner M. Thyssen** (on indexation of child benefits, EMPL Committee of the EP, **March 2017**):

We've looked at the mass of child benefits and **child benefits paid to children living outside their Member States** - **that's about 1%** [of all such benefits].

So, if we had to index it (...), it would be a **huge amount of red tape to ask the Member State to do this type of indexing.**



 **ECONOMIC**

**LEGAL** 



 **SOCIAL**

**POLITICAL** 



## COMMISSION'S PROPOSAL

### *Article 2a*

#### *Posting exceeding twenty-four months*

„1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

2. For the purpose of paragraph 1, in case of **REPLACEMENT** of posted workers performing the **SAME TASK** at the **SAME PLACE**, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.”



## LMIA PROPOSAL

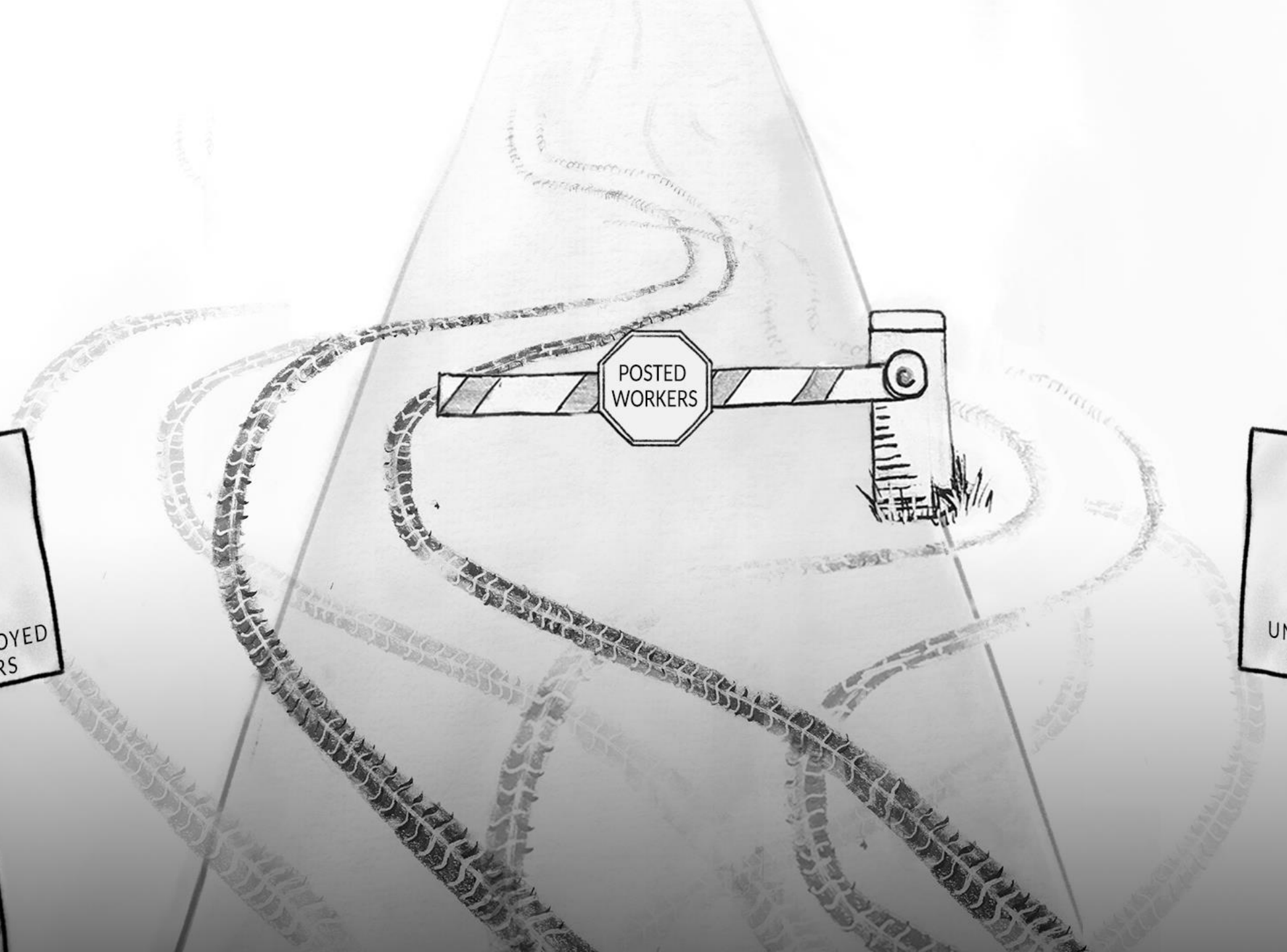
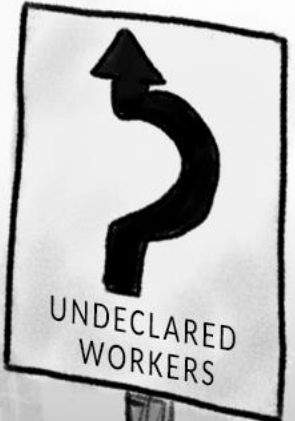
### *Article 2a*

#### *Habitual place of work*

„The Member State to whose territory a worker is posted...

...shall be deemed to be a country in which his work is habitually carried out...

...if he is subject to social security legislation of that country.”



V Europejski  
Kongres  
Mobilności  
Pracy

20-21.11.2017

Kraków

POSTING OF  
WORKERS

**opportunity**  
for the weaker or a **threat**  
for the stronger?



Organizers:



Host City:





Thank you for  
your attention!

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BRUSSELS, 11 OCTOBER 2017