

# Posted workers in the EU: is a directive revision needed?

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Posted Workers and Mobility Package, Challenges for Enterprises from Central and Eastern Europe

Conference organised by European Conservatives and Reformists Group and ZPP – Union of Entrepreneurs and Employers

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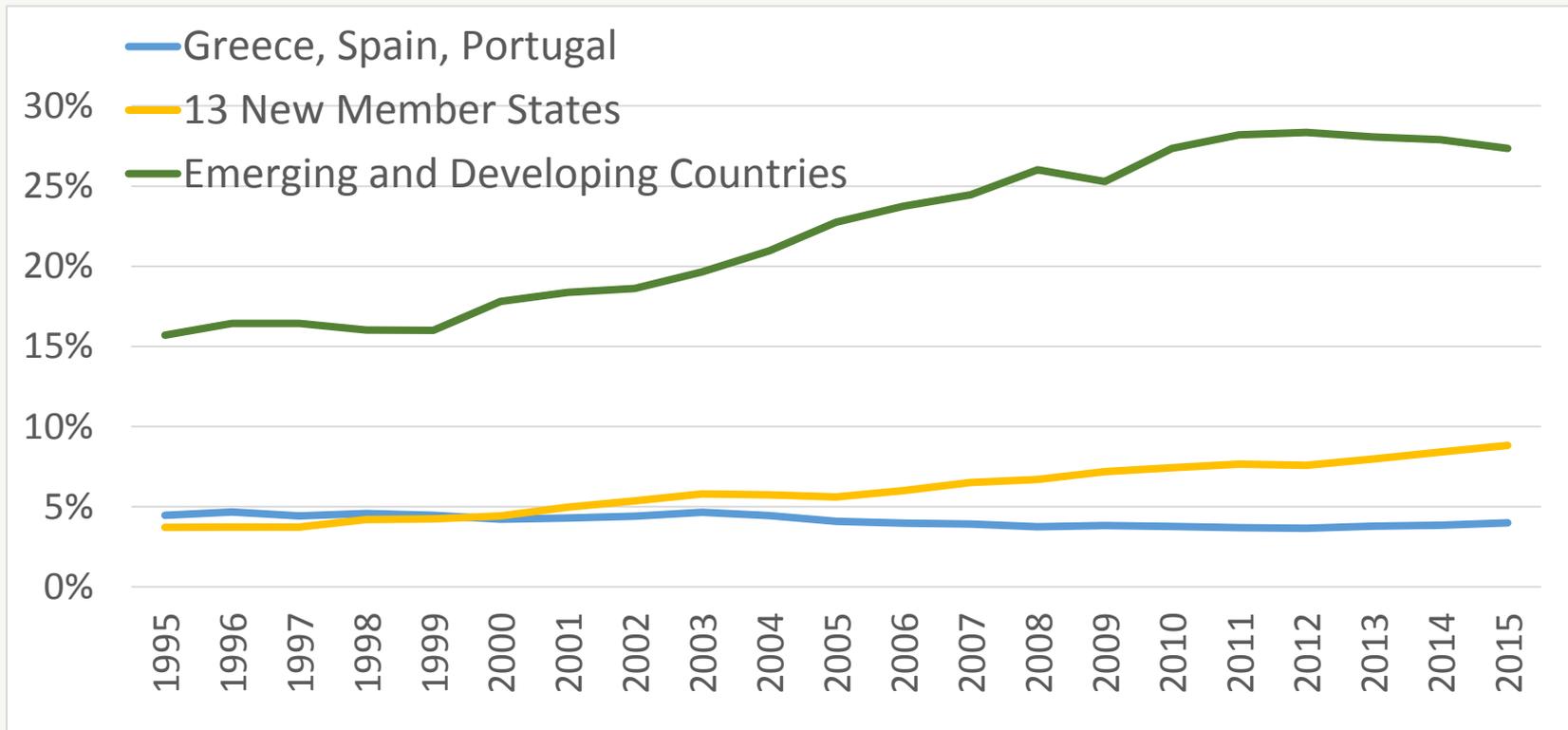
# Motivation

- **President Juncker 2014:** *“in our union, the same work at the same place should be remunerated in the same manner”*, sparking a debate on revising the Posting of Workers Directive (PWD)
- **Major disagreements** between older and newer member states; trade unions and businesses
- **March 2016:** Commission proposal to amend PWD
  - Found to be insufficient by the advocates of the “same pay”
  - Found to be excessive and distortive by others
- **Questions:**
  - How important are posted workers in driving down wages/social conditions in high-wage countries?
  - Is the PWD revision the right way to address concerns?
  - What is the elephant in the room?

# Integration among heterogeneous countries

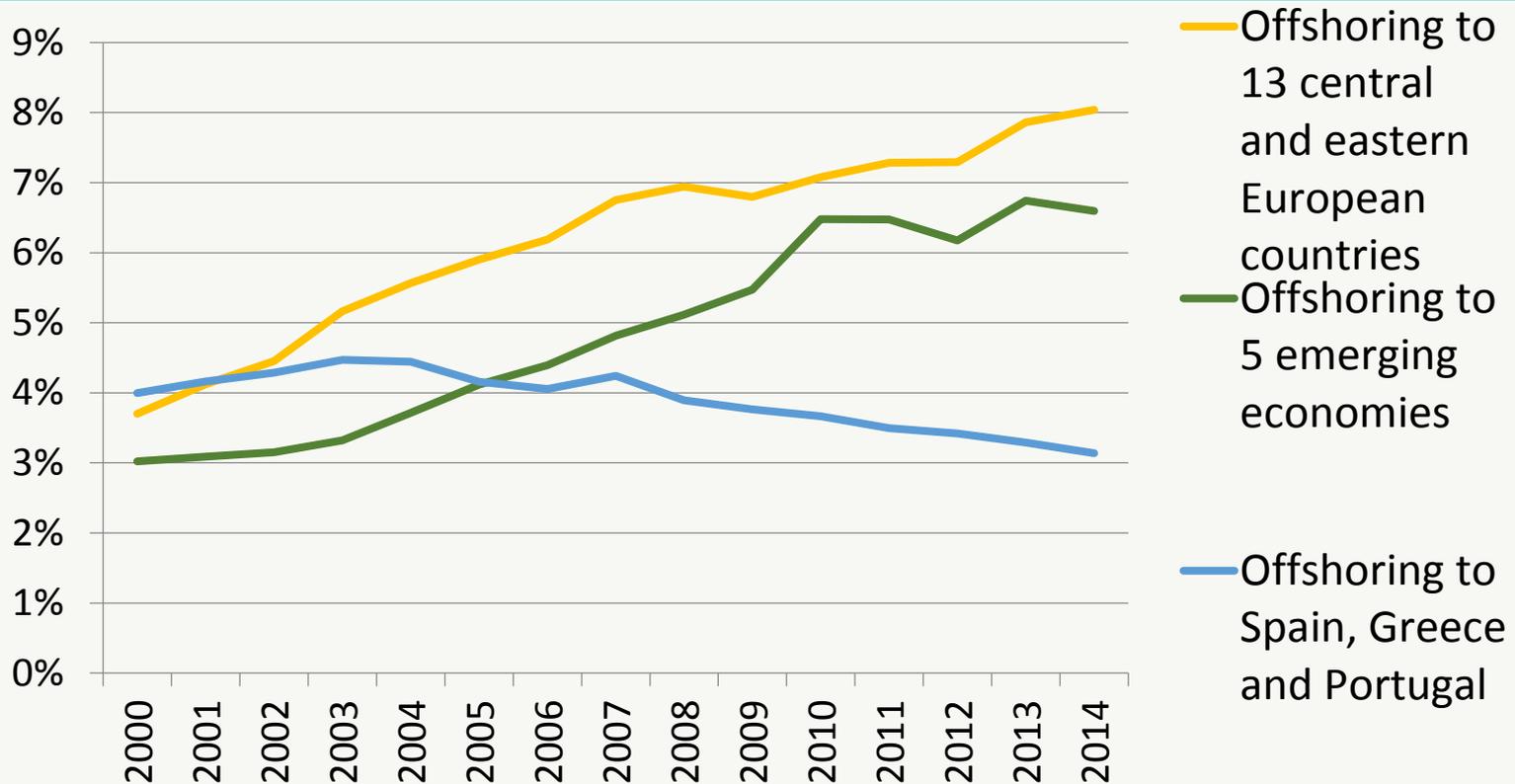
- **Wages and prices increase** with the level of economic development
- **Heterogeneous EU:** large differences in wages
- 4 ways of competition between **high&low wage** countries:
  - Importing **goods** from low-wage countries,
  - **Offshoring** production to low-wage countries.
  - Importing **services** (involving the posting of workers) from low-wage countries,
  - **Labour mobility:** workers from low wage countries can move to high wage countries permanently
- ⇒ **Posted workers** represent **just one way** to exploit wage differences across countries

# Imports of goods of 'core' EU countries % of total imports



- Imports from 13 new MS almost 10% of total import
- Imports from emerging/developing countries almost 30% of total imports
- **Huge indirect import of cheap labour**

# Off-shoring from 'core' EU countries



**Offshoring** = (intermediate consumption from region / total intermediate consumption)

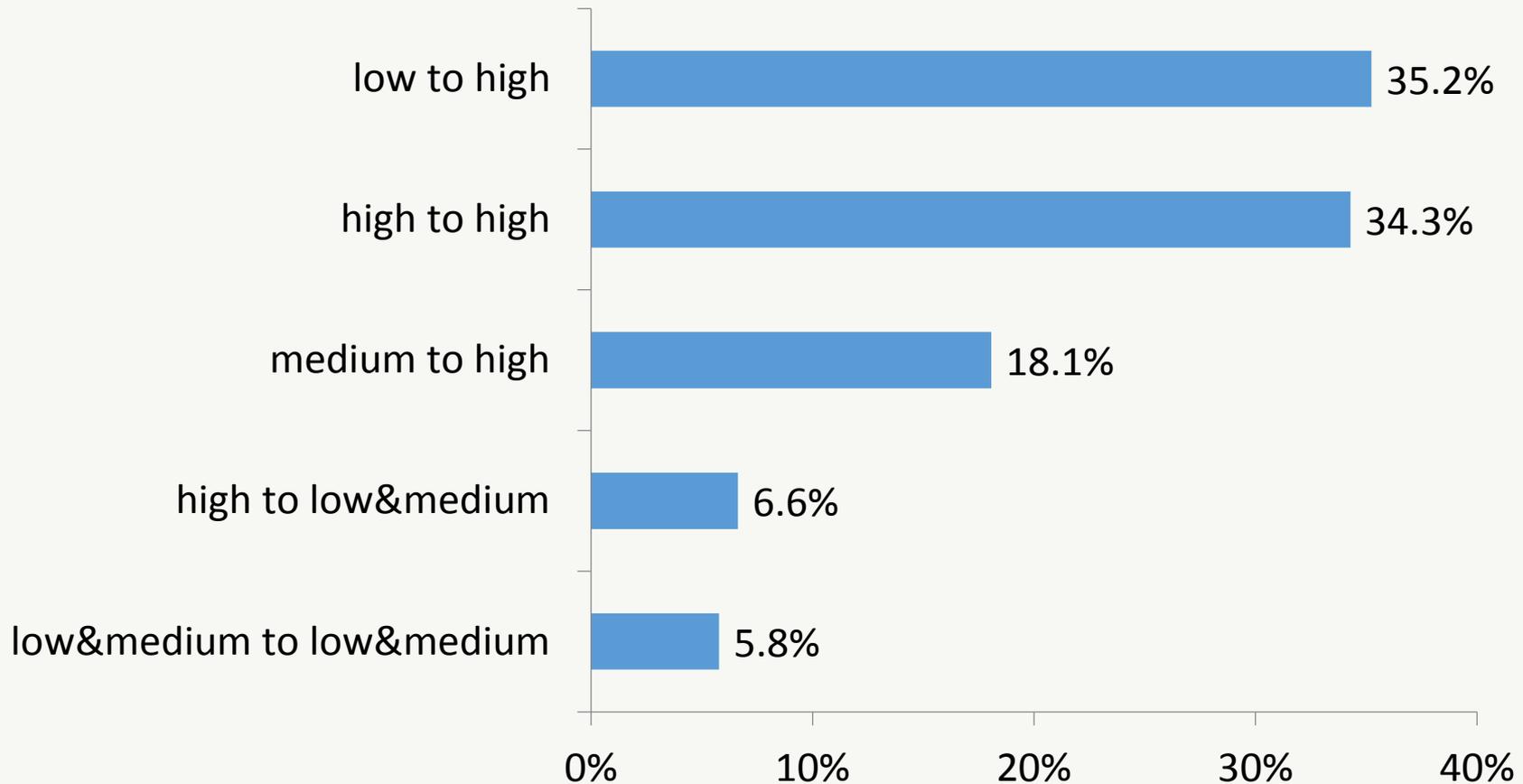
**5 Emerging economies:** China, India, Indonesia, Brazil and Mexico.

**13 central and eastern European countries:** Czech Republic, Poland, Slovakia, Hungary, Romania, Bulgaria, Estonia, Latvia, Lithuania, Croatia, Malta, Slovenia and Cyprus.

- More and more off-shoring to CEE and emerging countries
- **Huge indirect import of cheap labour**

# Posting of workers by wage groups, 2015

## % of total posting in the EU



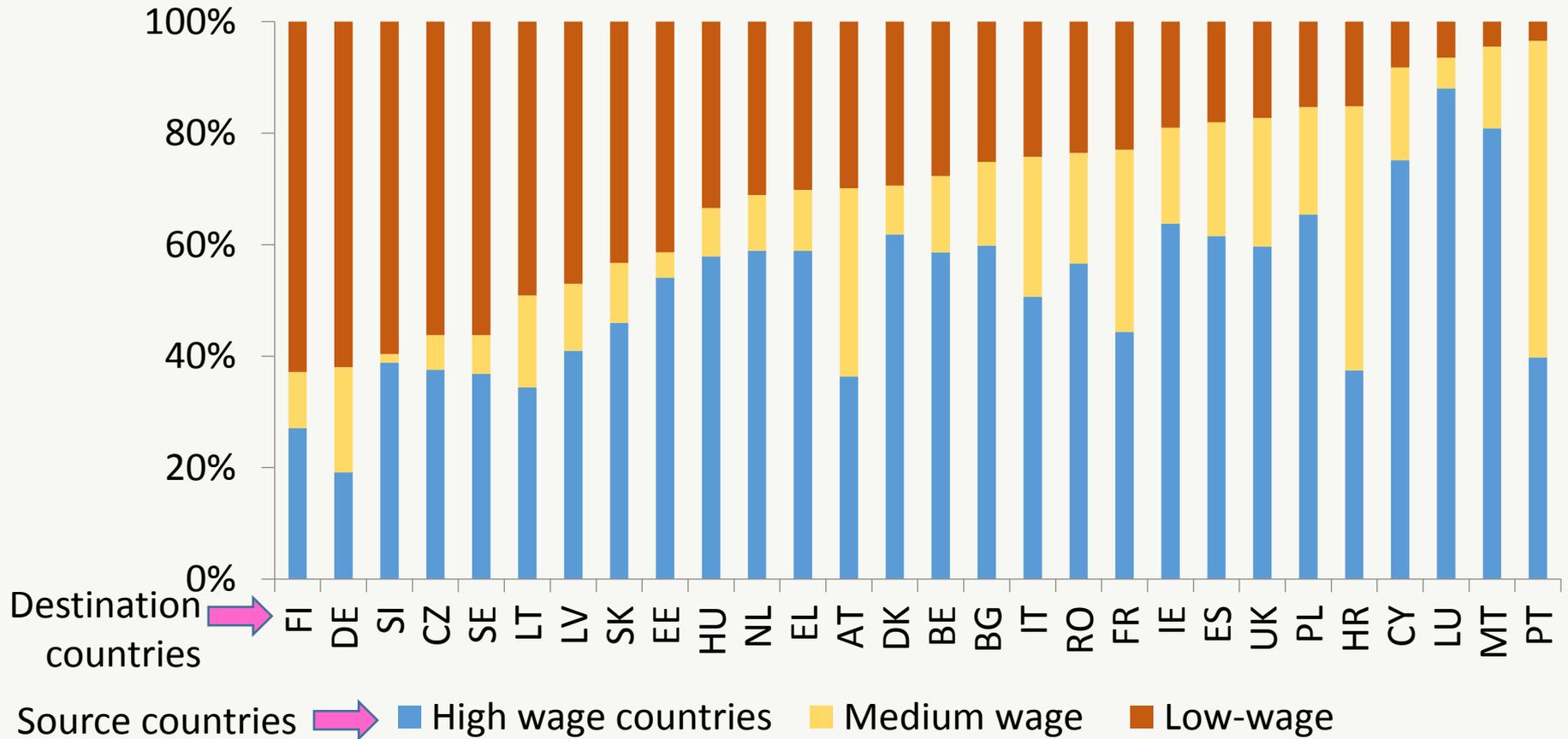
**Source:** Calculation based on European Commission (2017) data.

**High-wage** (above EU average wage): DK, LU, SE, FI, BE, NL, DE, FR, AT, IT, IE; **Medium-wage** (around EU average): CY, ES, EL, MT, SI, PT; **Low-wage** (less than half of the EU average wage): HR, CZ, EE, PL, SK, HU, LV, LT, RO, BG; no data on the destination of postings from the UK, limited data from Cyprus.

➤ **Only 1/3 of posting from low to high wage countries**

# Posting of workers by wage groups, 2015

## % distribution in each destination country



Source: Calculation based on European Commission (2017) data.

**High-wage** (above EU average wage): DK, LU, SE, FI, BE, NL, DE, FR, AT, IT, IE; **Medium-wage** (around EU average): CY, ES, EL, MT, SI, PT; **Low-wage** (less than half of the EU average wage): HR, CZ, EE, PL, SK, HU, LV, LT, RO, BG; no data on the destination of postings from the UK, limited data from Cyprus.

➤ **Only 1/4 of posting from low wage countries to Belgium and France, vocal critics of PWD**

# The number of posted workers in EEA

- **Total (gross) number** in 2015 altogether about 2 million, or **0.9% of total employment**:
  - 1,489 thousand posted workers
  - 512 thousand persons active in more than one member state
  - 44 thousand other persons
- However, this is a gross number in a year and many workers stay for a **short period**:
  - E.g. suppose there is 1 job filled by a different worker in each month: there are 12 posted workers, but they "take away" only 1 job from local workers → importance to calculate **full-time equivalent (FTE)** measure of employment
- FTE data suggests **0.4% of total employment**
- Given that 1/3 of posted workers go **from low-wage to high-wage** countries (previous slide), they could represent about **0.1% of total employment**

# Importance of the four competition channels

- ⇒ **Posting** of workers is far the **least important** channel for competition between low-wage and high-wage countries
- ⇒ **Goods import, offshoring and labour mobility** have **much larger** effects on jobs, wages and social conditions in high-wage countries
- ⇒ If a "*same pay at the same place*" regulation is introduced, the **logical next step** would be to introduce **tariffs on goods** imported from EU countries with lower wages and to set **barriers to offshoring** production to low-wage EU countries

# So why so much discussion on posted workers?

- Posted workers are more visible
- Negative attitude towards immigration in general
- Unemployment is high in some receiving countries
- Abuses of the PWD

# Main regulations of the PWD

- Posted workers are **subject to the host country's laws**, regulations or administrative provisions concerning:
  - minimum rates of **pay** (i.e. minimum wage), including overtime rates;
  - maximum **work periods** and minimum rest periods;
  - minimum paid annual **holidays**;
  - conditions of **hiring out** workers, in particular the supply of workers by temporary employment undertakings;
  - **health, safety** and **hygiene** at work;
  - protective measures in the terms and conditions of employment of **pregnant women** or those who have **recently given birth**, of children and of **young** people;
  - **equal treatment** between men and women and other provisions on non-discrimination.

# Abuses of the PWD

- Letterbox companies
- Bogus self-employment
- Exploitation of posted workers
- Subcontracting

# Social dumping?

- In international trade "**dumping**" = a producer of a foreign country price its export goods in the destination country either below the price charged in its home market or below its cost of production
- **No such dumping** when the PWD is abided by: wage cost of posted workers is higher than the wage cost in the sending country
- **Alternative definition of social dumping:** the practice of undermining or evading existing social regulations with the aim of gaining competitive advantage
- Again, **no such dumping** when the PWD is abided by

# Findings of Marek Benio (Krakow University)

- Survey of 20,632 postings from Poland
- Most posted workers earn more than the minimum rates of pay (average = 10 euro / hour)
- There are costs of labour which are related solely to the fact that the service is delivered in another Member State (such as accommodation, travel, compensation for temporary assignment, various administrative costs, etc.)
  - Benio's estimate: cross-border costs account to 29% total labour costs
- A 2016 French Treasury paper reached a very similar conclusion (see at: <https://www.tresor.economie.gouv.fr/Ressources/File/425307>)

# The Commission's 2016 proposal

- **Rates of pay:** The current Directive only requires that posted workers are subject to the minimum rates of pay. The new proposal foresees that the same rules on remuneration of the host Member State apply, as laid down by law or by universally applicable collective agreements. (*Note: this is not an equal pay proposal.*)
- The rules set by **universally applicable collective agreements** become mandatory for posted workers in all economic sectors
- **Sub-contracting:** option to apply to posted workers the same rules on remuneration that are binding on the main contractor
- The principle of equal treatment with local temporary agency workers will also be applied to **posted temporary agency workers**, thereby aligning the current legislation on domestic temporary agency work
- **Long-term posting** (more than 2 years): posted workers covered by the mandatory rules of protection of the labour law of the host state

# The elephant in the room: undeclared work

- Share of the **shadow economy** in output in high-wage EU countries ranges from **9%** (Luxembourg) to **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.
- Recall that the share of **posted workers** from low wage countries in high-wage country employment could be about **0.1%**
- **Undeclared workers:**
  - at the mercy of their 'employer'
  - receive no social protection
  - can be paid below the minimum wage
- An "**equal pay**" principle could **increase undeclared work** further

# Summary

- **Economic integration has benefits:** a founding principle of the EU
- But there are always **losers:** they should be helped
- There will always be **competition between low-wage and high-wage** countries, both from inside and outside the EU
- Impacts of **posting workers** on jobs, wages and social standards in high-wage countries are much smaller than the impacts of **goods imports, offshoring production** and labour mobility
- Certain aspects of the **PWD** (including abuses) could be addressed, but this is **not the main priority**
- **Undeclared workers** in high-wage countries are more than 100-times than posted workers
- **Fight against undeclared work** should be the priority<sup>17</sup>

*Thank you for your attention*

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See related Bruegel works:

Zsolt Darvas and Elena Vaccario: “Social dumping” and posted workers: a new clash within the EU, 7 March 2016, <http://bruegel.org/2016/03/social-dumping-and-posted-workers-a-new-clash-within-the-eu/>

Uriintuya Batsaikhan: EU posted workers: separating fact and fiction, 31 August 2017, <http://bruegel.org/2017/08/eu-posted-workers-separating-fact-and-fiction/>