



ETUC Position on the e-Declaration on Posting

Adopted at the Executive Committee meeting of 4-5 March 2025

The e-Declaration represents a worrying example of **simplification pushed by the Commission and business lobby**. Since its first announcement in 2021ⁱ, the primary aim of this initiative has been to alleviate posting employers from **alleged cumbersome administrative requirements**. Originally framed as non-legislative, voluntary, simple, digital and multilingual, in 2024 the Commission proposed a Regulationⁱⁱ to establish a digital interface and mandate itself to adopt a common form by means of an implementing act **without involvement of the co-legislators and the social partners**.

ETUC has a long-standing call for **digital enforcement tools** that protect workers' rights, promote fair competition and respect the diversity of national systems and the role of social partners. Posted workers are among the most **vulnerable and exposed to risks of fraud, abuse, accidents and work-life crime**.ⁱⁱⁱ Tackling such violations requires access to adequate and reliable data. The experiences of the European Labour Authority only confirm this need to improve cross-border cooperation and enforcement. Digital procedures can help to simplify reporting procedures, but this cannot only serve businesses. They must also deliver in the **interest of workers, trade unions and enforcers**.

Labour inspection is a public good that needs to be equipped with the necessary tools and resources to effectively carry out this essential task. Article 9(1) of the 2014/67 Enforcement Directive^{iv} provides that "*Member States may*" put in place "*administrative requirements and control measures*" to "*ensure effective monitoring of compliance with the obligations*" on posting. Service providers can be requested to make a "*declaration to the responsible competent authorities*" to "*allow factual controls in the workplace*". While the e-Declaration Regulation would not amend the Posting Directives, **reducing access to crucial information risks depriving the posting rules of their effectiveness** on the ground, thereby undermining the very policy objective of the Enforcement Directive.

ETUC has strong concerns about the purpose and process of the e-Declaration proposal, which in its current form is unacceptable. While the Commission has presented its initiative as a tool to streamline requirements and improve compliance, the preparation phase was **focused on reducing costs and burdens for posting employers** rather than on improving the protection of workers. Understanding **enforcement needs would have been a more appropriate starting point** before embarking on any simplification. Claims about simpler reporting leading to better compliance are not substantiated by the Commission. Rather than benefitting bona fide companies or SMEs in general, the proposal **risks opening the door to social dumping and rogue competition**, mainly benefitting large-scale posting companies



and labour-only intermediaries operating dubious and bogus posting schemes as their core business.

The elaboration phase **lacked timely and meaningful social partner involvement**. Also **labour inspectorates were not sufficiently consulted** on information needs to effectively assess compliance, target and conduct inspections. Gaining support mainly from a few Member States predominantly posting workers, rather than from receiving countries **where controls are de facto carried out**, does not add to the credibility of the proposal.

No proper impact assessment was conducted by the Commission, including no comparison of alternative decentralised solutions or the envisaged impact on national systems and on non-participating Member States. Persisting **bottlenecks in the Internal Market Information System** in terms of data access, quality, speed and supervision should be analysed and remedied before deploying new functionalities. Inspectors and trade unions also point to existing **shortcomings in the road transport posting declaration** portal as regards sufficiency, usability, export and access to data. But instead, the Commission's Staff Working Document⁹ merely estimates **time and money saved based on arbitrary industry data**. Moreover, the EU average of 10.78 euros must be considered a quite moderate cost to declare a posted worker. Also, no proper overview is provided for requirements deemed unnecessary by the Commission and why. There is no analysis of the **added value and needs in terms of enforcement**. All this raises questions about potential **social risks and costs associated with non-compliance and removal of reporting requirements**, such as enforcement hurdles for authorities with strained resources, unfair competition, fraud and criminality, abusive working conditions, non-payment of wages and social security contributions, accidents and undeclared work. A **review clause on enforcement performance** must ensure inspectorates and social partners be consulted on these aspects when evaluating the e-Declaration.

ETUC considers that a **voluntary multilingual tool with minimum requirements** could help to simplify and speed up declarations **prior to the posting**, while enabling better data sharing across borders. A **common basis for a non-exhaustive list** would already result in considerable streamlining, while enabling Member States to complement and tailor their information requirements to the needs in local labour markets and the specificities of their enforcement systems and practices. Such partial harmonisation would guarantee **complementarity and stimulate a broader uptake** among Member States, also allowing the e-Declaration interface to fully feed into national back end systems. Not permitting any additional data points might even result in **more complexity, if Member States have to keep separate registers** for other than intra-EU postings, such as genuinely self-employed and extra-EU postings. Even as an optional tool, the e-Declaration **raises concerns in terms of proportionality**, going beyond what is necessary. A lack of interoperability with systems in non-participating Member States risks rendering the system de facto mandatory on the longer term. Not only must its **voluntary nature be safeguarded**, but the tool must offer clear guarantees that participating Member States can effectively retain, collect and control the information they deem necessary for enforcement. **Social partners should be adequately involved** in determining these requirements.

Likewise, the e-Declaration raises **concerns in terms of subsidiarity**. By proposing maximum requirements in the form of a Regulation, the Commission **reduces the margin of manoeuvre of Member States** under the non-exhaustive Enforcement Directive. This is likely to have a chilling effect even on requirements used by non-participating Member States. After all, in practice enforcement takes place at national level and the need for flexibility should not be hampered by excessive



centralisation at EU level. Mandating the Commission to decide alone through implementing acts on permissible requirements is not acceptable. Therefore, a common compulsory set of data points should be **annexed by the co-legislators to the e-Declaration Regulation in the form of an open list** to ensure a more balanced and transparent procedure. To complement the draft common form, an overview of **missing requirements** is provided in Annex to this Position. Of course, as an ex-ante tool the e-Declaration must also not establish a presumption of default compliance or pre-empt what **additional information enforcers may request as a follow-up** ex-post.

While the e-Declaration has potential for **improved data collection, aggregation, mining and cross-referencing**, it risks becoming a missed opportunity unless designed with clear enforcement objectives in mind. Better data access and exchange can effectively help Member States and ELA to **analyse posting trends, monitor posting patterns, conduct risk assessments, and target inspections**. Specific requirements should be introduced to address high-risk postings involving **complex subcontracting chains, labour intermediaries, letterbox companies, third-country national workers, fake postings and bogus self-employment**. This requires seamless integration between the e-Declaration, ELA and national systems, including procedures linked to Portable Documents A1 on social security and Social ID and Labour Cards. However, the Commission's proposed possibility for Member States to further reduce information requirements jeopardises the **comparability and usability** of a minimum set of harmonised data, consequently undermining enforcement efforts in other countries. Moreover, data from the e-Declaration must be **useful and accessible for trade unions to exercise their monitoring and enforcement prerogatives**, verifying compliance with pay, working conditions and collective agreements.

To prevent **manipulation and contamination of data**, deletions and changes made to the declared information must be recorded and traceable. To strengthen the reliability of data, an **obligation of the service recipient to receive and verify the declaration** should be introduced, helping to tackle fraud, under-reporting and circumvention of applicable collective agreements. Likewise, a **right for posted workers to automatically receive the declaration** must be granted, to ensure they are informed about their status and conditions. In line with data protection principles, **workers must have a right to obtain information** about the processing, and to flag inaccuracies and request rectifications. Personal data should be requested also from posting employers, and stored for at least 10 years, not to undermine **potential needs in cases of criminal investigations**.



Annex

Overview of missing information requirements for effective enforcement

The Commission's 13 November 2024 proposal for a *Regulation on a public interface connected to the Internal Market Information System for the declaration of posting of workers* sets out a legal framework for an electronic form with common information requirements. In December 2023, a dedicated ad hoc expert group led by the Commission (DG GROW, DG EMPL) together with interested Member State representatives concluded its 3rd meeting, and a draft list on information requirements for the declaration of postings was annexed^{vi} to the minutes.

Since the e-Declaration initiative was primarily elaborated with the objective of burden reduction for businesses rather than the protection of posted workers, the data points envisaged for the common form raise serious questions about their adequacy and effectiveness, in particular when it comes to verifying compliance and improving controls.

Following the same structure as the draft form, this Annex offers a critical overview with examples of missing information requirements. These are crucial to improve the enforcement potential of the e-Declaration proposal, and to ensure its compatibility with national enforcement practices, meeting the needs of competent authorities and trade unions. The requirements should either be included in the common form or be possible for interested Member States to add as part of an open list with minimum requirements.

A. Information related to the service provider

- **Identity:** details about persons in charge should be required
- **Subcontracting:** details about the main contractor should be required
- **Agency posting:** details about chain/double posting should be required
- **Authorisations:** details about required permits or licenses should be possible to request

B. Information related to the posted worker

- **Identity:** instead of identity card number (which expires), a personal ID number (e.g. social security or tax) should be required
- **Contact:** more details than only an email address should be required
- **Accommodation:** details about the accommodation should be required, in particular when provided by the employer
- **Employment:** at least the starting date of the employment relation should be required
- **Permits:** details about valid work permits should be possible to request in cases of third-country national postings



C. Information related to the posting

- **Sector:** EU NACE codes are not useful to determine the applicable collective agreement at national level, so it must be possible to request complementary information
- **Collective agreement:** details about the applicable agreement, pay and working hours should be possible to request
- **Duration:** a motivated notification should be possible to submit via this form in cases of long-term postings

D. Information related to the posting to liaise with the competent authorities in the host Member State (Art. 9 (1) (e) of Directive 2014/67/EU)

- **Contact point:** the posted worker should not be an option when requesting an official contact point of the employer
- **Social partners:** a dedicated contact point for trade unions should be required, in line with Article 9(1)(f) of Directive 2014/67/EU

E. Information related to the service recipient

- **Identity:** more details about persons in charge should be required
- **Consumers:** more details should be required also in case the service provider is a private person

ⁱ European Commission (2021): [Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery](#), COM(2021) 350 final, 5.5.2021.

ⁱⁱ European Commission (2024): [Proposal for a Regulation on a public interface connected to the Internal Market Information System for the declaration of posting of workers and amending Regulation \(EU\) No 1024/2012](#), COM(2024) 531 final, 13.11.2024.

ⁱⁱⁱ European Labour Authority (2023): [Issues in information provision, enforcement of labour mobility law, social security coordination regulations, and cooperation between Member States](#); European Agency of Safety and Health at Work (2023): [Occupational safety and health in Europe: state and trends 2023](#); European Commission (2024): [Posting of workers - Collection of data from the prior declaration tools - reference year 2022](#); Eurostat (2024): [Accidents at work statistics](#).

^{iv} Directive [2014/67/EU](#) 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, OJ L 159, 28.5.2014

^v European Commission (2024): [Accompanying document to the Proposal](#) for a Regulation on a public interface connected to the Internal Market Information System for the declaration of posting of workers and amending Regulation (EU) No 1024/2012, SWD/2024/258 final, 13.11.2024.

^{vi} European Commission (2023): [Report from 3rd meeting of the Expert Group on a Common Electronic Form for the Declaration of Posting of Workers](#), Ref. Ares(2024)2400877, 13.12.2023.