

# Labourers Without Borders

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*The construction industry is sounding the alarm because foreign construction workers take a lot of Belgian jobs. This is understandable, says Marianne Thyssen, but subjecting foreign workers to our social security system will offer no solace. It is imperative, though, to do a thorough review of the law on the posting of workers.*

**Marianne Thyssen (CD&V)**

**European Commissioner for Employment, Social Affairs, Skills and Labour Mobility**

Jobs are the absolute priority for the Commission Juncker. Economic growth, which creates jobs. The recent growth in the Belgian construction sector and the extra jobs this brings about, are therefore good news. The point is that these jobs are not taken by Belgians, but mostly by other EU citizens. Looking for a cause, fingers are pointed at Europe (DS August 27). The suggestion to abolish the European legislation on posting of labourers does not seem far away.

When in the 90s the European internal market was established and companies not only offered goods but also services across borders, the question soon arose which rules should be applied to the workers concerned. A Portuguese company helped build the high-speed railway lines in France. Which arrangements concerning working time should be implemented, the French or the Portuguese? Which wage standards? And what about social security?

Briefly worded, the European legislator decided to apply the labor legislation of the host country: the same work and rest periods for everyone at the yard, whether or not outsourced. The legally required wages of the host country were applied as well. So in that respect there is no distortion of competition. But as regards the social security the country from which the worker is posted is accountable. The logic behind this is that posting a labourer is by definition temporary and that it is not effective or desirable to connect the worker for a short period with another social security scheme. The average duration of stationing an employee in the EU is less than four months. In addition, after the posting the employee returns to his or her country and that is the place where he needs social security: child allowances, unemployment benefits, retirement.

The European posting rules are not dogmatic or based on a sanctifying principle of free movement that would be beyond the need for social protection. On the contrary, the posting rules aim expressly to reconcile the interests of the posted employee, the service provider and the competitive businesses. The freedom of the foreign service provider is limited in several ways. The regulation concerning the social security of posted workers is what it is for pragmatic reasons and to ensure an effective social protection to employees.

## Abolishing misuse

After almost twenty years, it is high time to re-examine the 1996 posting legislation. I am actively working on this. President of the Commission Jean-Claude Juncker announced, when he took office last year, an audit which will be completed before the end of the year. I am vehemently preparing this in consultation with the European ministers and the social partners. It is already clear that too many abuses that have to do with posting of employees remain. They should disappear as quickly as possible. Member States are responsible for inspections and sanctions on the grounds, but the Commission wants to offer better tools to achieve closer cooperation between national inspections.

Moreover, Europe can act as a guide to tackle the large differences in social security between Member States. These differences may indeed be a catalyst for the posting of workers. The construction industry rightly sounded the alarm, but each Member State determines its own policies. My goal is a high level of social protection in all Member States. Eastern European States must absolutely expand their social security systems. The Commission has been stressing this for years. Meanwhile, on the other hand, it is a truism that in Member States on the other end of the spectrum, the financing of social protection must shift from labour to other sources of income. The construction sector is one of the sectors that will benefit most from a taxshift.

To subject posted employees to the social security system of the country where the work is carried out, is not a good idea. Do we really want to have the Belgian social security institutions collect social security contributions for

employees of construction companies in other countries who are paid their wages there for work carried out in Belgium? Do we also want Belgian social security to pay child support for the children of those workers in their homeland during this (short) period?

### **Redirecting together**

Let's keep the big picture in mind: more than half of the postings to Belgium come from our neighbouring countries, in other words, from countries with more or less similar social security contributions. Nearly 70 percent come from the fifteen original EU member states. For that matter, Belgium itself is the source of quite a few postings, nearly 60,000 per year. This mainly concerns postings to our neighbouring countries in the financial sector, construction, industry and the social sector.

The free movement of workers can only survive in Europe if it is fair and is also perceived as fair by European citizens. If not, adjustments should be made. As with other important and complex cases, f.i. the refugee crisis in Greece, this is only possible if the Commission and the Member States co-operate. Let us not throw the baby out with the bathwater. As European Commissioner responsible for this subject, I want to find solutions that benefit both the economy and the social protection in all EU countries. Nothing more and nothing less.