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Article

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CESifo Forum

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Suggested Citation: Muñoz, Mathilde (2022) : Posted Workers to France: Recent Trends, CESifo Forum, ISSN 2190-717X, ifo Institut - Leibniz-Institut für Wirtschaftsforschung an der Universität München, München, Vol. 23, Iss. 03, pp. 19-21

This Version is available at:

<https://hdl.handle.net/10419/263850>

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Posted Workers to France: Recent Trends

France is the second-largest receiving Member State of posted workers in the European Union (EU) and the posting of workers is a sensitive topic in French political and public debate. In particular, posting of workers has sometimes been seen as causing pressures on local labor markets due to wage dumping, deteriorated working conditions, or fraudulent practices. To date, the lack of granular and reliable data on posted workers has been an obstacle to the assessment of the impact and profile of incoming posted workers. In a recent study, (Muñoz 2022), granular data on prior posting declarations covering all posting missions performed in France were accessed to provide a very detailed analysis of the impact of posted workers on the French labor market. In this article, we emphasize the recent trends in posting of workers to France, its importance for the French labor market, and the potential abuses related to social dumping and tax arbitrage.

THE SCALE AND IMPACT OF POSTING OF WORKERS TO FRANCE

Posting of workers is a large and growing phenomenon in the French labor market. In 2019, 629,425 posting missions were performed in France by 236,339 unique posted workers (Muñoz 2022). These figures indicate that posting of workers is a phenomenon of large magnitude in the French labor market: posted workers represent roughly 1 percent of the French working age population. Postings to France were increasing at a significant rate before 2020, with an annual increase of postings of 11 percent between 2018 and 2019 and of 6 percent for the number of unique posted workers for the same period. The average duration of postings was 135 days in 2018, 119 days in 2019, and 140 days in 2020. In 2019, 29 percent of the posted workers were Eastern Europeans, 28 percent were from Southern Europe, 22 percent were coming from other EU/EFTA countries, and 21 percent were third-country nationals (TCNs). This means that around one out of five posted workers to France are non-EU citizens. For instance, only 43 percent of the postings from Spain to France are in fact performed by Spanish citizens (Muñoz 2022).

Incoming posting of workers is concentrated in labor-intensive sectors, blue-collar occupations, and is heterogeneously distributed in the French territory. This means that posting of workers represents an important form of employment in some sectors, occupations, and French provinces. Most postings are performed in construction (39 percent)

and manufacturing (30.5 percent), followed by services (18.5 percent) and agriculture (8.7 percent). For comparison, only 6.7 percent of French domestic employment was in construction the same year. Posted workers are also overrepresented in blue-collar jobs. Blue-collar workers represent roughly 60 percent of all postings to France but less than 20 percent (5.3 million workers) of total French employment. Finally, the 16 border provinces received 30 percent of all workers posted to France in 2019 (38 percent in 2014), which is twice as high as their weight in total French employment. Posted workers account for 2.2 percent of national employment in agriculture, 1.7 percent in construction, and 0.8 percent in manufacturing. But in highly exposed local labor markets, the impact of posted workers on employment can reach 20 percent in agriculture, 8 percent in construction, and 5 percent in manufacturing. This means that the foreign competition through posting of workers can be substantial in some specific segments of the French labor market.

Finally, up to 10 percent of all postings to France and even 25 percent of the postings by foreign temporary employment agencies are performed by workers who just started working for the foreign company (less than one day before the beginning of the posting mission), meaning that the use of “hired to be posted” contracts is substantial for incoming postings to France. This suggests that for some companies, posting of workers has truly become a “business model.”

THE PROFILE OF FIRMS USING POSTED WORKERS IN FRANCE

Workers posted to France were linked to 23,282 unique French clients over the 2017–2018 period. The intensity of the use of posted workers at the firm level is higher in construction and agriculture where posted workers perform tasks very close to the French client core activity. Firms operating in masonry work and building are the top users of posting services in terms of firms using posting, as they account for 7.6 percent of all French clients in 2018. For firms using posting in that sector, the hours worked by posted workers represented on average 43 percent of the total num-



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ber of hours worked by French workers that same year in that same firm. Firms operating in construction of houses and painting and glazing also exhibit a large intensity of posting use, with hours of posting work representing on average respectively 61 percent and 43 percent of domestic workers' hours of work (Muñoz 2022).

The average wage paid to French workers employed at firms making use of posting in 2018 was EUR 21.15 per hour, while the median wage was EUR 17.6. Among the total number of French firms using posting services, 66 percent were employing domestic workers with a fixed term contract (CDD) and 45 percent were using domestic temporary agency workers in the same year (Muñoz 2022). Thus, firms using posted workers not only rely on foreign alternative work arrangements, but also use important amounts of alternative work arrangements in the domestic labor market. French firms with posted workers are also substantially larger and more profitable than non-using firms in the same sector.

Posted workers in France are paid a low level of wages, even compared to similar workers in the same sector. Almost 25 percent of all posted workers to France and even 75 percent of the posted workers employed in the agricultural sector are paid at the French minimum wage. More than 80 percent of the workers posted from Bulgaria, the Member State in the EU with the lowest wages, are paid at the French minimum wage. This suggests that the French minimum wage is the upper bound for many foreign companies posting workers to France. Importantly, posted workers earn on average 30 percent less than comparable French workers employed at the same workplace and 15 percent less than comparable temporary workers hired through French agencies. This suggests that posted workers earn lower wages for comparable skills and competences compared to regular French employees in the same firm.

SOCIAL DUMPING AND CROSS-BORDER FRAUD

Social dumping and cross-border social fraud have been two persistent worries related to the posting of workers to France. The existence of French residents posted to France and paying their social security contributions in their country of formal employment is suggestive of “artificial posting” practices to avoid labor taxes and regulations (Belkacem and Pigeron-Piroth 2016). Indeed, 80 percent of French nationals posted to France through a company located outside France in fact reside in France. This finding suggests that posting of French workers to France does not imply a “real” mobility as these workers reside in France and are simply hired by a firm located outside France. Despite the fact that 80 percent of French workers posted to France both live and perform their work mission in France, only 23 percent of them pay their social security contributions in France.

French citizens are mostly posted to France through companies located in Luxembourg, where social security contributions are much lower. Of all French workers posted to France, 23 percent are hired by a company located in Luxembourg, and French nationals perform 55 percent of posting missions declared by Luxembourgish companies in the French territory.

There are three theoretical mechanisms that cause the posting of workers to be cheaper than employing French regular employees. *Lower social security contributions rates* in the sending country compared to France can lead to lower labor costs for workers paid at the *same gross wage*. Second, foreign companies may use a *lower basis to compute employers' social security contributions* (Trésor Eco 2016). For instance, posting undertakings based in Slovenia are obliged to pay social contributions based on the minimum gross wage the worker would have received for the same work in Slovenia (Zirnstein, Sedmak and Širok 2021), which leads to lower costs for posting workers from Slovenia to higher cost countries. Finally, cost competitiveness of foreign companies may come from *different reservation wages¹ of workers* posted from low-wage countries. While posted workers cannot be paid under the French minimum wage, the equilibrium wages of French workers for the same job may still be higher than wages paid to posted workers.

A simulation shows that lower social security contribution rates and bases in sending Member States indeed lead to substantial cost differences between French and posted workers. At the median level of wage of French employees hired at French clients, social security contributions account for 36 percent of total labor cost for domestic workers, but only for 21 percent for workers posted from Poland. The difference between posted workers and French employees ranges between EUR 700 and EUR 1,000 per month when comparing workers paid at the average wage at French clients. Even after equalizing the gross wage paid to posted workers to the wage of comparable French workers at receiving firms, posted workers could still be up to 25 percent cheaper due to those differences in payroll taxes.

When posting workers abroad, infringements against the applicable labor law, which is implemented by the Posting of Workers Directive (Directive 96/71/EC – recently amended by Directive (EU) 2018/957), can occur. For instance, from 2016 to 2017, 23 percent of infringements were related to non-compliance with the hard-core rules of the Posted Workers Directive (Cour des Comptes 2019). Those infringements may lead the cost of posted workers to be even lower compared to domestic workers, in addition to the (legal) differences in social security contribution rates and bases created by the current law. A recent

¹ An individual's minimum wage that would have to be offered in order for him or her to accept a job.

case has been heavily documented in the French media and has shed light on the fraudulent practices that can be associated with the posting of workers in France. Terra Fecundis is a temporary employment agency located in Spain that has been posting workers in the French territory, mostly in the agriculture sector. It has been shown that Terra Fecundis was not complying with the Directive 96/71/EC: posted workers did not receive the additional wage related to overtime hours and paid leave they were entitled to.

CONCLUSION

This article has shown that intra-EU posting in the French labor market is of high importance and may lead to social dumping threats. Competition from posting of workers is concentrated in specific occupations, sectors, and provinces in the French labor market. This means that the potential implications of posting of workers is likely to be highly concentrated and to affect mostly blue-collar workers in labor intensive sectors. In contrast, posting of workers is mostly used by French firms that are more profitable than others and that tend to engage more in cost-saving strategies, such as outsourcing. It is worth noting that in some cases, the posting of workers has become a business model, with a substantial part of posted workers that are “hired to be posted” by firms located in lower wage countries.

In addition to the impact of posted workers in employment of some sectors and occupations, the aspects of social dumping and infringements in posting

are of high importance. The presence of French residents posted to France through companies located abroad is suggestive of tax arbitrage and illustrates the potential abuses of the regime. The large differences in social security contribution rates and basis in Member States create substantial incentives to use posted workers as a way to save on payroll taxes. Furthermore, even abstracting from taxes, posted workers are paid substantially less than French workers with similar skills and occupations. This means that cost differences of posted workers come from both differences in reservation wages and differences in payroll taxes and basis. Ensuring that posted workers are paid their fair share during their posting mission seems to represent an important challenge for the future of internationally mobile workers rights.

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