

Executive Summary

Influence of administrative burdens on the cross-border posting of employees by SMEs in border regions

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Under the EU's freedom to provide services, companies can post workers to other EU member states for a limited period of time. However, in order to prevent social dumping and poor working conditions, the posting companies have to comply with various administrative requirements, depending on the respective regulations in the individual destination countries. Based on interviews with entrepreneurs and experts, this study analyses the extent to which these requirements hinder or prevent the cross-border posting of workers by German SMEs to France, Austria and the Netherlands and by Dutch SMEs to Germany.

Regulation is broadly supported in principle

The vast majority of respondents in all study regions support the basic intentions of regulating the posting of workers in the EU. Due to more extensive special regulations, the administrative burden is perceived as significantly higher for France in particular, but also for Austria, than for the Netherlands.

High burdens due to lack of harmonisation

The lack of harmonisation of national posting rules and procedures in the EU is identified as the greatest burden by all respondents. However, the frequency of the required notifications is also often mentioned as a significant administrative burden. Especially with regard to short and short-term postings, the bureaucracy is seen as disproportionate, which consequently leads to some of the companies stopping postings altogether or significantly reducing them. In the view of the entrepreneurs, more flexibility would be desirable here.

Different factors influence the perception and handling of administrative requirements

The administrative burden is perceived differently depending on the size of the company. In addition, the type of services provided, the frequency of orders, the use of support services, the share of turnover in the foreign markets concerned, as well as the autonomy of assessment and action that companies allow themselves in dealing with administrative requirements also play a role.

Companies practice "autonomous bureaucracy reduction" in part

In addition to the fully legally compliant companies, some of the companies deliberately do not comply with individual regulations in order to reduce the (aggregate) administrative burden to a – from their point of view – proportionate level. This often concerns operational, "downstream" administrative requirements such as calculating the wage entitlements of employees in the destination country, translating and keeping documents and carrying out change notifications. However, these are predominantly companies that recognise the key protected interests and rights of posted workers.

Dutch firms and experts assess the German posting system positively

Dutch respondents are very positive about the risk-based approach of the German law on the posting of workers. Accordingly, the administrative requirements under posting law are largely limited to certain economic sectors with increased "damage potential". Overall, Dutch respondents rank the German posting system among those with a relatively low intensity of burdens.

Risk-based approaches preferred

In contrast to traditional "one-size-fits-all" approaches, risk-based approaches can strike a new balance of trust and control, as they balance the key protected rights of posted workers with proportionate and differentiated administrative requirements. This must also be done with due regard to the risks posed by the small group of "black sheep" who fraudulently engage in "posting". Nevertheless, it is recommended that improvements be made in the area of information and procedural infrastructure, the harmonisation of national requirements and the reduction of the compliance burden.

Holz, M.; Icks, A. (2023): Influence of administrative burdens on the cross-border posting of employees by SMEs in border regions, IfM Bonn (ed.): IfM-Materialien Nr. 299, translated English version, Bonn.