



# Posting, short term labour migration, and social rights access: How to rework an alienating system?\*

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## Introduction

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In this brief, we discuss how posted and other hypermobile migrant construction workers suffer from marginalization in both the labour market and in access to social insurance, with variations between biographically different groups of posted workers. Sectoral experts and researchers have presented posted workers as people who are reluctant to assert their rights, tending to accept poor pay and unfair treatment rather than pursuing the avenues of complaint available to them. Most of the ongoing debates around posted work has focused on these observations. There are a variety of reasons for why posted workers behave like this, but one is that they lack the social welfare support safety net available to non-mobile workers.

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**“posted” workers,  
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The issue of posted workers' social security arises, because, although the case of “posting” in principle should be straightforward – the workers remain under the social insurance system of the sending member state. Yet, determining the social security status for posted workers is rarely so simple from the perspective of the worker. “Posting” as a labour market status is a construct of EU political discourse more than it is a labour market reality (Arnholtz, 2013). This fact is crucial when discussing the social insurance of mobile workers. Although the EU intended that “posting” and the mobility of labour remains separate from ordinary labour migration, in practice, posting employers regulatory manoeuvres and posted workers' economic rationality entwine the two regimes, and compromise their intended division.

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\* The results presented here are based on research conducted in the frame of the project 'Secure Mobility: Uncovering gaps in social protection in posting [SMUG] (<https://www.jyu.fi/hytk/fi/laitokset/yfi/en/research/projects/research-groups/smug>). This publication has received financial support from the European Union Programme for Employment and Social Innovation "EaSI" (2014-2020), Agreement No. VS/2020/0483. For further information please consult: <http://ec.europa.eu/social/easi>. The information contained in this publication does not necessarily reflect the official position of the European Commission. We are grateful for comments received from Elif Naz Kayran. We also thank Amalia Solymosi for the editing and layouting.



Overall, social insurance in a transnational context, is a complex issue, so the SMUG project (*Secure Mobility: Uncovering Gaps in the Social Protection of Posted Workers*), set out to collect the work stories (told lived experiences) of posted construction workers from around Europe, to find out how they dealt with issues of welfare, health and unemployment benefits, and economic security. We also include some workers in related metalworking trades who sometimes work on construction sites and have similar career dynamics.

This policy brief is based on biographical worker histories of individual workers with varied posting experiences across the EU and sectoral expert insights from thematic focus group discussions. All data were collected under the rubrics of the SMUG project between May 2021 and March 2022 by research teams in Austria, Denmark, Finland, Italy, Poland, and Slovenia. The policy brief is written by the Finnish research team for the Finnish policy audience. Therefore, it focuses mainly on issues raised by the 13 workers posted to or from Finland and insights from the Finnish focus group with key sectoral experts representing Finnish unions, labour inspectorate, and social insurance institution. However, it refers to relevant and comparative insights from all the SMUG project data.

We argue that actors such as labour unions should support expanding social insurance rights and access for hypermobile transnational construction workers to stabilize labour markets and ensure respect for collective bargaining agreements in host economies. This is because workers with weak social insurance support have a lower reservation wage and are more vulnerable to exploitation. How to expand the social insurance rights and access of hypermobile construction workers in the EU is beyond the scope of this policy brief. However, we point out that successful intervention requires a local, national, and EU-level coordinated policy agenda. This brief proposes two action pathways as starting points: (1) Reducing workers' reliance on informal networks and employers; and (2) Protecting and delivering hypermobile transnational workers' right to access their own individual information on contributions, entitlements, and benefits.

## **Who posted workers really are: Careers encompassing various kinds of mobility**

**In reality, “posting” covers multiple labour market statuses that determine workers level of vulnerability and access to social security entitlements**

One thing that quickly became clear in our interviews is that “posting” is not a discrete and permanent labour market status but rather one of many ways mobile construction workers engage with the labour markets of other EU member states. Workers who are posted (at a point in time in their work life) also travel for work individually as labour migrants, as self-employed, as informal workers, or, especially for third-country nationals, as immigrants without papers. Since there are a variety of organizational arrangements and contractual forms, a



particular worker will likely have many different gigs and forms of contract over the course of a career in many different EU, and possibly non-EU, countries. Therefore, the categorisation of “posted worker” is an umbrella term that includes several mobile worker statuses, including normative posting as defined in the posting of workers directive (PWD), Directive 96/71/EC, amended by Directive 2018/957/EC, and other worker mobility forms and statuses.

**We argue that the Finnish term *kommenusmies* is useful in this context to describe a worker whose work involves moving to many different job sites – some far and some near – to complete specific projects.** The people we think of as “posted workers” are in fact “*kommenusmiehiä*” who will, on some occasions, be posted, and on other occasions, mobile through other channels. We will refer to “migrant construction workers” to discuss this group, understanding that it is a broad group, from well-paid professionals and managers, skilled tradesmen, to unskilled temporary and informal labour.

A “posting career”, therefore, will consist of a long-fragmented series of temporary jobs in various countries across the EU, without being clearly embedded in a single member state’s labour and welfare system. While workers who are legally posted should (assuming the employer is honest) be able to rely on the continuity of social security contributions in their home country, the labour market experiences of our research informants confirm that posted workers do not always work under posting contracts, and employers do not always adhere to honestly paying the necessary social contributions.

The type of “posting”, i.e., normative posting according to the PWD, reposting, third country national posting, bogus posting etc, can determine the country to which contributions should be made, who should make them, and how easy it is to avoid making them. All in all, a given worker may have on various occasions worked under the table, worked as a resident in another EU member state, worked as a (perhaps bogus) self-employed construction worker, and been posted from his country of residence.

**A wide variety of employment forms possible under “posting” mean more room to fraud, exploitation, or legal confusion**

**These various forms of employment trajectories have essential implications for the workers’ labour and social rights because it means that on some occasions, social insurance is handled by the country of residence, while on other occasions it is not.** If all mobility were posting, and all postings were done correctly according to European and national regulations, the situation would be clear, as social insurance would accrue in the sending country. When neither insurance in the sending or the residence country (where work is done) have been correctly paid, as posted worker interviews and sectoral experts illuminated in our focus groups, many posted workers confront a system in which their social rights are often denied, due either to neglect or intentional malfeasance.



We term this situation as a **systemic form of alienation**, using both the term's Marxist meaning indicative of a social structure serving to separate a worker from the fruits of his labour, and the term's social/psychological meaning as a feeling of separation and isolation from mainstream society. This is not to claim that all mobile construction workers are alienated. For instance, some of our informants had mostly good experiences and did not experience alienation in their host societies. Rather, we assert that the system is set up in ways which prevent host society engagement, with consequences for their access to social insurance for most workers.

The posting workforce in general is hypermobile and to a greater or lesser degree dis-embedded and alienated from both the origin, sending, and host country labour market and welfare institutions. When this occurs, **variation between the country welfare systems results in situation where some workers are more insecure than others**. The common incidence of weak welfare systems in countries that send significant numbers of posted workers further implies that a high number of posted workers are likely to be more socially insecure.

Dis-embeddedness from the country of origin stems from the fact that most national welfare systems and private insurance schemes are contribution based, meaning that unemployed citizens may lose access to welfare support having migrated out of the country for employment abroad. In turn, dis-embeddedness from the posting country happens when letterbox companies and temporary work agencies (TWAs) as employers, fail to deliver social contributions on behalf of workers to the sending country welfare and social insurance institutions, despite deducting the amounts from workers' wages regularly. Moreover, in short postings (lasting less than 24 months as most postings are), the right of workers to transition to host country social insurance systems is not guaranteed by the EU rules according to article 12 of Regulation EC No 883/2004.

**First, in the worst-case scenarios, alienation from the social insurance systems of host country labour markets means that workers are only guaranteed social security from their country of origin, to which they are entitled by nationality.** Due to economic inequalities between countries that engage in the transnational posting labour market, a nationality/residence-driven social security hierarchy develops between workers, placing workers from countries with strong welfare systems such as Finland at the top and posting countries with weak welfare systems at the bottom. Commonly "posting" countries fall in the latter group.

*"I don't count on pension. I only know that when I will get retired once then the state pension will be half of that what I earn now. And at the moment to get a pension in Estonia I would need*



*to work 40 years officially. So, because I have been working in Estonia only two years I need to work another 38. [Laughs] I will be 70 then. I don't see a point. This is unfair."*

(Construction worker, Estonian, Finnish team)

**However, while we assert that normative posting (as defined in the PWD) creates a situation in which social insurance rights and obligations are clear, just because they are clear, does not mean they are sufficient.** The quality of social insurance varies greatly across the EU. For example, a Danish worker earning 67% of the average national wage could expect an unemployment benefit of 84% of this wage, or €367.70 per week, while a Romanian would get 45% coming to €27.21 per week (Bruzelius et al. 2017). The implications of this for EU labour markets are discussed later on.

Next, another element of the systemic alienation of “posted” workers evident in our data is the practice of **hiring workers for posting**. The regulatory design behind “posting” assumes that a posted worker is employed by a company in his country of residence on an ongoing basis. Posting, in practice, often works this way, but on multiple occasions it also does not. In fact, many mobile construction workers are hired for a specific posting, on a work contract for a specific job. Such contracts could involve posting or they might take other regulatory forms. The employer might not be a construction company located in the workers’ country of residence but could also be a temporary work agency (TWA), a letterbox company (perhaps in another member state), or a strategically located subsidiary company. Some of these regulatory frameworks, as listed above, are “posting” and are typically treated as posted workers.

**Hiring for posting increases workers' exposure to social security risks**

**Yet, workers who are hired specifically to provide a service in a second member state, usually for a short period, after which their employment contract terminates, are legally not posted workers.** They fall outside the PWD definition of a posted worker. However, their employers, counting on the legal status confusion and limited understanding of labour, legal, and social rights of mobile workers, treat them as posted workers. Likewise, the workers may also perceive themselves as posted workers and, therefore, operate within the legal and practical limits of posting.

In terms of social insurance, these de facto posted (de jure not posted) workers are likely to fall between social insurance systems, especially since most social insurance and welfare systems are contribution and/or nationality and residence based. The following excerpt captures this grey area of social insurance, especially its complexity and variability across time.



*“I work for an Estonian company, but this company rents me out in Finland, to a Finnish firm. But all my documents [including residence permit] are connected to this Finnish firm. The social insurance, pension contribution, the health insurance I pay in Estonia, but in Finland I pay the income taxes [...] My health insurance is Estonian, so when they started vaccinating people ... I called them, booked a date and went there to get my vaccine. [...] When we had a covid outbreak, I really disliked the situation when KELA [The Social Insurance Institution of Finland] is returning the money people pay for social insurance only to those that have an European passport. I got sick as well as my EU colleagues, but I was the only one who was not compensated. I tried to ask the employer, but they just refuse to react, no one tries too hard...”*

(Metal worker, Ukrainian, Finnish team)

**‘Reposted’ EU citizens (posted from a second or third EU member state) and TCN posted workers generally appear to be hired for specific postings.**

Often reposting involves letterbox companies, which allow the actual employer to select a favourable country to post from. Such practices also complicate enforcement of national regulations and legal judgements, and the collection of fines, allowing employers to avoid paying social insurance fees, also to avoid the consequences if caught. From a labour law point of view, not all cases of “hiring for posting” are considered as regulatory arbitrage, and thus worth addressing. This is because these arrangements are possible within limits and in the cracks between laws. Even if the employer is following all relevant rules and making all the necessary payments, it is unclear how, for example, a worker reposted by a formally registered “shell company” would benefit from social insurance coverage in a country where they are neither a worker, nor a resident. In the above case of the Ukrainian metal worker, the individual evidently travelled to Estonia to receive a vaccination demonstrating one part of social insurance that works, but the same worker was not able to recover sick leave pay from the same employer under the same contract, illustrating the insecurity of posting employment.

**All posting stakeholders contribute to the systemic alienation of workers from welfare**

**The systemic alienation of “posted” workers and other transnationally mobile workers we described above happens because of the labour market actions or inactions of “posted” workers, employers, authorities and local institutions including trade unions.** When seeking and negotiating employment contracts, workers we interviewed prioritise net earnings over other considerations such as social security. At the same time, the priorities of the employers concentrated on competitive advantage through e.g., labour cost reduction. Drawing on our interviews with posted workers and sectoral experts, we discuss three features and factors contributing to posted workers’ social security alienation and discuss

how they heighten workers' vulnerability to exploitative and poor employment terms. Such vulnerability in the labour market reinforces their lack of access to social welfare and protections, and vice-versa.

### 1. Inaccessible host country welfare institutions

**Mobile “posted” construction workers sometimes need to engage with social welfare institutions in the countries where they work.** This can be for a variety of reasons. If, as is often the case, contributions are made in the host country, they should also be eligible for benefits, such as unemployment insurance, holiday pay, disability benefits and healthcare, accident insurance or pension. Because of this, it becomes important to understand how posted workers engage with the labour market, as well as social security institutions, of the locations where they work. Their alienation becomes a problem, because their limited engagement with local society and institutions leaves them outside the scope of welfare state services, even when they need and are eligible for them.

**Citizens of countries with strong welfare states can rely on their national welfare systems when posted. This not only means that they had access to a benefits regime, but also had the comfort of a reservation wage,** i.e., if they refused or walked away from an assignment due to bad treatment, they would not become immediately impoverished. The Finnish workers we interviewed, who were posted to other EU and EEA countries, could rely on their enrolment in Finland's union unemployment insurance funds to cover their needs between jobs. Italian interviewees also mentioned reliance on Italian unemployment benefits between contracts. As a result, access to welfare benefits gives individual workers negotiating strength, in choosing their employer and in agreeing to work contracts.

Confronting the problem of lack of social insurance access is difficult because no actor – not the worker, nor the employer, nor the host or sending state – feels a compelling interest in navigating the complex institutional environment to make sure that the worker is covered by and benefits from the relevant social insurance. Posted workers are reluctant to ask their employers or to check with local authorities, because the systems are complicated and difficult to interpret. Furthermore, if there is a contribution shortfall or other violation, the employer and worker's own informal network might sanction or discipline them by firing and hindering future employment prospects (see Bagnardi et al., 2022). In case of “bogus posting” involving letterbox companies for example, it is often not possible to track down the employer to hold them accountable. Such difficulties in enforcement are in great part due to the practice of limiting liability to subcontractors only.



**Another important aspect of inaccessibility is the fact that, the social insurance systems themselves in the EU labour market are set up with a national focus and to function well for non-mobile workers. Such institutions were not designed with transnational careers in mind.** Therefore, local insurance authorities are reluctant to recognize this as a problem, and indeed may prefer to use the opportunity to deny coverage to mobile workers, because it improves their financial position (see Cornelissens & De Wispelaere, 2020). The existence of loopholes in the “posting” framework design, regulation, and enforcement allow, or ‘encourage’ employers, especially those at the bottom of the subcontracting chain, to avoid or even cheat on social insurance contributions, which exacerbates this situation (see Arnholtz & Lillie, 2020).

Some employers may intentionally discourage their workers from seeking benefits, knowing that the contributions have, in fact, not been paid. In addition, employers often can count on workers' disinterest in other employment features such as social security owing to their preoccupation with net earnings. Typically, a worker's interest in clarifying eligibility can be sparked, for example, when there is an emergency, or when the worker starts to wonder about retiring, or when an employer is revealed as having committed fraud. Yet, in such cases, it is often too late as one interviewee explains:

*“...and here [at XY company] I experienced a shock. Everything was... What I know, the hourly rate was fine, the construction site was fine, the German Bauleiter was fine. Everything was fine except that XY company was not paying any social contributions, which I did not know from the beginning. The wages fell behind. In the end, I did not get paid those wages and since May, when I started working, I have not been paid any contributions. ... Well, now I have moved on again, because I have no choice but to move on”. (Construction worker, Slovenian, Slovenian team)*

**A national/ethnic hierarchy of vulnerability and security thrive even in the internal EU labour market**

In the context of access to social security institutions, posted workers' experiences of alienation vary. In the Finnish case, we found that workers from locations that were geographically and culturally similar to Finland such as Estonia experienced less, and those from further away more alienation. However, those in the worst situations tended also to be workers from countries with poor socio-economic conditions who were both less familiar with the Finnish context and also felt uncertain about their situation such as Ukrainians. Our Finnish focus group experts also placed Polish and Romanian workers into this group, although the Polish worker interviews collected by the project tended not to have such a negative tone (see Polkowska, 2022).





Most Polish workers interviewed by the SMUG project were mostly management-level workers whose postings primarily adhered to the PWD, and the workers also evaluated their posting positively. However, this is probably an issue of sampling. Poland has a large “posting sector” and posts many workers with different profiles in different labour market segments (De Wispelaere, 2021). Unionists and labour inspectors in Finland are likely to encounter the most alienated workers in the lower labour market segments, because this is where labour rights problems arise.

**Individual posted workers, regardless of skill or experience, should not have to be solely responsible for their own labour and social rights**

Our data from Finland analysis showed that the third country national posted workers are the most alienated and are, therefore, more susceptible to exploitation. Their vulnerable labour market position is exacerbated by their lack of host country context-specific knowledge, including language, willingness to accept poorer work conditions, and high level of dependency on the employer, which is discussed in the next section. Contrary to the TCNs, Estonian workers in Finland are to some extent in a privileged position due to knowledge of the context and Estonians being a well-established migrant group in the Finnish labour market.

Our findings are in line with Sippola and Kall’s previous research (2016) which found variations in posted workers’ rights and entitlements in the same host member state. For instance, posted workers with European nationality and those working in contexts similar to their own nationality (e.g., Estonians in Finland) have some possibilities to negotiate better contractual terms, while for other groups (e.g., TCNs), such options are limited. Importantly, our Estonian interviewees often had repeated postings to Finland, so that they would go back and return to Finland, and all the while keeping connections to the Finnish labour market and its welfare system. However, the workings of the Finnish welfare system often seemed unclear to them despite their relatively better knowledge. Our data also showed that established ethnic communities like the Estonian workers in Finland often replaced host country institutions with informal co-ethnic network whenever the network/community was very well established as the authoritative and preferred source of information on various posting work and employment issues.

## **2. Dependence on employers**

A lack of sufficient access to social rights reinforces migrant construction workers’ dependence on employers since they cannot rely on the welfare institutions. **In fact, alienation for many posted workers occurs through and is reinforced by their dependence on employers, and the way in which accommodations are arranged.** Many migrant construction workers, whether they are legally posted or not, have their living and sometimes food arrangements made by their employer. This can be a bonus, if the arrangements are of high quality, but



whether they are good or not, the focus of employer-arranged accommodation and food is on efficiency and the maximisation of working hours - often at the expense of workers' well-being or easy access to local information. Worksite arrangements that separate migrant workers from local workers strengthen the dependency of workers on the employer as they limit workers' windows for 'entering' or learning about the host country, which would offer alternative contact points other than the employer.

**Posting by design encourages employer dependency but it is worse for posted TCNs**

Especially for third-country nationals, the employer also controls the only avenue the worker must remain legally in the host country, giving them tremendous leverage over the workers. In cases where bilateral arrangements for labour supply inadvertently create bondage-type relationships between employers and workers, such dependencies are not only legally permitted but also fortified. An example is the Slovenia-Bosnia arrangement for labour mobility that prohibits Bosnian migrant workers from changing employers in the first year of immigration.

These types of arrangements reinforce further segregation, hierarchies, and exploitation (Caro et al., 2015). In many ways, such social alienation shapes affected workers' labour market behaviour and the way they relate to authorities. It creates a situation of "non-integration" in the host country and debilitating their access to social rights. Migrant construction workers deal with this not only in Finland, but also in the other countries where they work, seriously affecting their security eligibility over the course of their posting career (Danaj & Kayran, 2022; Krilić et al., 2022).

**Furthermore, variations between member state national migration and residency rules variegates migrant workers mobility-time related vulnerabilities.**

In Slovenia, for example, a TCN worker is legally bonded to the initial employer for the first year, after which they can change employers as necessary (Krilić et al., 2022). In Finland, while there is not a similar arrangement, workers may be bonded to employers for as long as required to attain a more permanent status such as a permanent residence permit (which requires at least 4 years of residence) that can also guarantee access to unemployment benefits, family benefits, and old age pension in Finland.

*"At first when the Russians started to work here, they needed work permissions. There are certain criteria, during the first years they give you temporary permissions, only after eight years of working here you can apply for a permanent work permission. But until that moment you fully depend on your employer. It's up to him, whether you get the next work permission. You are in a kind of a coercive situation; you just need to suck it up."*

(Metal worker, Estonian, Finnish team)



Lack of understanding of the host country labour market context, including labour laws and minimum working conditions, leads some workers to leave the employer to determine the terms of their employment. Workers often learn about the shortcomings of their contracts while on the job through interactions with local workers, colleagues, and other occasional interactions with host country institutions. Yet, in such cases, it is often too late to alter the employment contract. Thus, overall, the nature of “posting” as a form of employment reinforces a situation where workers are always concluding contracts with employers under severely unfavourable conditions in terms of their knowledge vis a vis employer’s. The result is a vulnerable category of workers holding a series of employment contracts with loopholes that ‘consent’ to exploitation (see Arnholtz & Lovelady, 2022).

### 3. Informal networks as a key resource

While industry, personal and professional networks are very important for finding jobs in most industries, it is particularly the case for construction, due to the nature of the work, and the time limited, often short-term, characteristic of construction projects. For this particular reason, migrant construction workers tend to be part of informal networks based on their country of origin and past professional experiences. Among the migrant construction workers we interviewed for the SMUG project, those who were more alienated from Finnish society also tended to rely more upon and to value such informal migrant networks for information on a vast array of issues from employment vacancies to social security. These workers engaged less with official sources, such as social security institutions, unions, and official online resources. As a source of information, thus, we can say the informal networks act as an alternative to local labour market institutions in both the host and sending countries.

Many posted and temporary migrant construction workers in the Finnish and the European Union labour market suffer from a poor understanding of their labour and social rights and entitlements. They often find such information from a variety of official and unofficial sources (Caro et al., 2015). Yet, these sources are often unreliable. This is particularly a problem for the most vulnerable workers groups, i.e., third country nationals (TCNs), “re-posted” workers, and those working for dubious temporary work agencies and subcontractors.

**Posted workers dependence on informal networks for information highlights a key engagement gap for stakeholders to note**

**Many steps have been taken in recent years to ensure that information relevant to posting is available on the web and through other channels, but for a variety of reasons, the most vulnerable workers cannot or choose not to avail themselves of it** (See Ndomo & Lillie, 2022). This is true in the EU generally, but also in Finland specifically (Caro et al., 2015). However, the discrepancy between, on the one hand, stakeholders, who are aware of the



amount and location of information available for “posted” workers, and, on the other hand, “posted” workers, unaware of the existence of such information and who feel that such information is simply unavailable and that the only way to find information is to listen to fellow workers, highlights an engagement gap on the part of the stakeholders. One interviewee captured the discrepancy as follows,

*“...this is actually something I wanted to ask you. What are my rights here, as a foreign worker, during the pandemic? Can you recommend some sources on that? All I know is based on what others say, but I would like to have access to more reliable sources.”*

(Construction worker, Moldovan, Finnish team)

One barrier to information that our research participants mentioned is the host country's language. For instance, sometimes the information is available but just not in the form that individual workers can make use of it in terms of language, publication format and location. Stakeholders in the Finnish focus group noted that, even though information is available for posted workers in Finland, such as in pamphlets displayed at the Information Centre Helsinki info-desk, it does not make it in the hands of posted workers. Our focus group participants have reported that stakeholders in the Finnish labour market have not yet found better ways to reach posted workers. Therefore, there remains an important gap in communication between posted workers and relevant stakeholders.

One potential suggestion to bridge this gap might be to use communication channels that mobile construction workers use daily such as Facebook to provide information. Next, the format of the communication can also be revised. If providing workers with a series of multiple online links to search is not working, then an alternative approach to such practice would be to hold online or in-person info sessions. Lastly, presenting social insurance information directly at worksites can also be another way. Importantly, however, such efforts to make information passively available to workers should not replace unions and other institutions taking a more active role in advising and representing workers, whose social insurance rights maybe unclear in individual cases or who may find access to their entitlements blocked by administrative obstructions or employer fraud.

In addition to the challenges it poses to the information gathering, one other issue with the informal networks is that they can also actively hinder and even prohibit access to viable information sources. They may do this to keep workers behaviour within a mould that is more beneficial for the networks' business as a labour market intermediary. For instance, the language barriers and weak



**More targeted and innovative communication methods can help reduce the information gap in posting**

or poor understanding of official communication on posting regulation and requirements keep vulnerable workers exploitable for as long as they are kept alienated from reliable information, including information about rights and access to institutions in the host country. In this way, misinformation is easily reproduced in migrant only networks that are closed to outsiders such as host country nationals and authorities with alternative and credible information about labour market processes. To keep its members in 'business' as favourable workers in an increasingly competitive labour market, informal networks may entrench practices that undermine and sometimes even jeopardise members' access to rights, particularly information.

Our data showed that such practices are reinforced through varied network disciplining techniques e.g., employee blacklisting that works effectively to keep out 'troublemakers' from employment in a close-knit labour market where intermediaries dominate recruitment and contractual arrangements (see Bagnardi et al., 2022). As the following experience of an Italian posted worker shows, one's network can be the reason to accept and refrain from challenging an unfavourable employment package as that can result in loss of work.

*"In Italy if you refuse [to complete a task because you see it is not safe] ...you won't find a job anymore. Some colleagues of mine had this kind of experience. And once you are out of the network, you are done, you can't get in anymore. It is like a closed club. Also, because the same workers and the same engineers do these kinds of projects, maybe they warn each other: look this person is ok, this is not. [...]. Thus, you have always to obey."*

(Construction worker, Italian, Italian team)

## **Conclusions and policy recommendations**

In Finland, as elsewhere in the EU, there is a clear need to ensure that mobile workers such as posted workers, can access social insurance. This is key because it is an important right which is essential to fully realizing free mobility within the EU and because workers who do not have social insurance access will be ready to accept lower wages that undermine collective agreements in the host country. However, the current structure of the labour market leads to the outcome that access to social insurance rights for many workers is haphazard due to the complex rules, varied contract forms, dishonest employers, and the nation and territory focused immobile social welfare systems. The social insurance access problems of hypermobile posted workers we interviewed are



built into the fluid and transnational structure of the posting labour market regime.

As we have shown, alienation, non-integration, and the related insecurity result not just from the action or inactions of authorities or labour unions, but also from the attitudes and actions of hypermobile workers. However, it is important to note that hypermobile workers' problematic actions are actually reasonable and rational given the labour market structures they face. Given this, hypermobile workers must be treated as a vulnerable group requiring greater attention than comparable non-mobile workers, rather than less. The main task in implementing these lies with host country labour market institutions including trade unions. Thus, our main recommendation is that unions should take up the cause of ensuring that migrant construction workers in the EU have social insurance.

Based on our fieldwork in Finland, we propose the following action pathways regarding the social security of posted workers during and at the end of their “posting” careers.

Reducing workers' reliance on informal networks and employers (including transnational and sometimes dubious intermediaries such as temporary work agencies and letterbox companies). This will, in turn, reduce the incidences of workers not knowing their rights, social contributions not being paid, or contributions going to third jurisdictions where they cannot be accessed. One way this can be done is through immediate, accessible, and sustained interaction between local host country institutions such as trade unions and posted workers.

**Firstly**, local institutions such as trade unions must take the initiative to seek out posted workers, especially those that are difficult to reach instead of waiting for posted workers to find the unions or find information that is scattered on the internet. The intervention must be immediate, at the beginning of posting as posting contracts are often brief. This will require closer collaboration between local institutions with access to different sets of information such as portable document (PD A1) forms, pursuant to data privacy regulations.

**Secondly**, local institutions must devise and (tailor) communication approaches to ensure workers understand and can follow up on the delivery of their social security rights during posting. The goal should be effective communication, not just any communication, or checking a box such as when information is published in inaccessible websites with limited translation and using technical.

**Thirdly**, local institutions would need to maintain communication and consultation with posted workers throughout their posting, until they leave the country, or continue with them if they transition into the host country labour market as migrant workers. One way this can be implemented is through shop-floor representation at worksites, similar to what trade unions already do in workplaces where workers they represent work. Therefore, trade unions might need to appoint representatives for workers who are not union members. Service to non-union members has been attempted for instance by the chamber of labour in Austria.

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