

## Reif – Contribution

# Reif contribution to the consultation on the Fair Labour Mobility Package

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The Representation of French social security institutions to the EU (Reif) welcomes the Commission's initiative to tackle issues of mobility of persons and citizens, through this future Fair Labour Mobility Package, which it hopes will be ambitious.

Reif recalls, firstly, that while the declared objectives of this package are highly legitimate, and that while it, as well as its members, will play their part in implementing the various initiatives it contains, **the priority for facilitating and better regulating mobility in Europe is still, more than ever, to reach agreement on the six chapters of the revision of the EU regulations on social security coordination**, ideally under the Cyprus Presidency. A revised legal framework for coordination would provide the stable foundation necessary to develop new initiatives on mobility.

The Commission's future Fair Labour Mobility Package will be made up of four separate parts: the European Labour Authority (ELA), skills portability, the ESSPASS initiative, and informing people of the simplifications regarding mobility. In the sections below, the Reif contribution is structured around these four aspects.

### The legislative initiatives in the mobility package: ELA, ESSPASS and the merger of DAL/prior notification for posted workers

Reif's position on **strengthening the mandate of the European Labour Authority (ELA)** has already been explained in late December 2025, in an extensive and full [contribution](#). In it, we call, in particular, for this authority to be given the powers and resources it requires to carry out its tasks properly, given the challenges it faces linked to the constant increase in mobility in Europe, and the urgent needs of the Member States and our institutions for social security coordination.

The future initiative to implement a **European Social Security Pass (ESSPASS)** will also be covered in a thorough Reif contribution in response to the technical consultation on this subject, and in the questionnaire. We shall recall, among other things, the importance of taking a strategic view of the Commission's overall aim, but also the need for a governance framework allowing the digitalisation of the portable documents and of the European Health Insurance Card (EHIC), as well as for sufficient EU funding to enable the administrations and social security bodies throughout Europe to apply the new legislation. **Reif is in favour of option 4, the 'Interoperable EU solution based on the European Digital Identity framework and enhanced social security documents'**; this is the only option which can ensure digitalisation of portable documents based on the existing EU digital framework, while permitting inclusive additional use of physical documents, to cover the whole mobile population in Europe.

Linked to this issue of digitalising the process by which mobile workers request and receive individual portable documents, the European Commission, as well as the European Parliament, during the negotiations on the regulation establishing a digital declaration procedure for posted workers in the EU (e-declaration), are calling for a **merging of the procedures for determining the applicable legislation (DAL) and for issuing pre-posting notifications.**

These **two procedures, which are currently totally separate, fall under two different pieces of legislation**, with differing procedures and objectives. Above all, **while the principle of uniqueness applies to the procedure for determining the applicable legislation, in accordance with the regulations governing social security coordination, this principle does not apply to labour law and to the prior notification regulated by the posted workers directive.** This notification, moreover, is not mandatory, and the criteria which apply are left to the discretion of the Member State. The voluntary nature of the digital declaration regulation, which is intended, in part, to harmonise the list of criteria to be met before posting, does not, moreover, resolve this ambivalent situation.

Regarding the technical aspects, while common Application Programming Interfaces (API) are conceivable, only some of the data from the prior declaration of posting (identification of the worker, identification of the employer, dates of posting, place of posting) could be used for the declaration linked to the coordination regulations. **The simplification would thus be useful for businesses but far less so for administrations**, since the criteria used for case analysis and management go well beyond the information in the prior declaration, which is governed by different legislation (the posted workers directive).

The setting up of such an interface system would therefore require a **total overhaul of the current information systems, involving future technical debt costs, and the need for considerable investment by administrations.**

## The Communication on the simplification of mobility legislation

Regarding the future **Communication on the modernisation and simplification of the labour mobility and social security coordination rules and practices**, Reif firstly recalls that the social security institutions fully share the aim of simplifying the mobility legislation, to facilitate access to administrative procedures, as essential to ensuring that users' rights are guaranteed.

Nevertheless, **the forced simplification which the Commission has been rushing through for several months is bound to hamper proper protection of mobile workers and the collection of the high-quality data required to define and steer public policies, obstructing access to legitimate rights, and compromising the monitoring and combatting of fraud and error.** Cross-border mobility situations are becoming increasingly complex and particular, so will require precise data to properly determine the applicable legislation.

- Regulatory framework for cross-border telework

Social security in cross-border telework is currently organised in line with the principles set out in the Framework Agreement on cross-border telework. Nevertheless, **numerous situations are unearthed of non-declaration of cross-border telework**, which leads to problems later on, particularly regarding health and safety at work or the coverage of health care costs.

Unfamiliarity with and/or non-application of the rules must therefore be resolved by the **establishment of clear rules on applicable legislation, for administrations, businesses and citizens, according to the general principle of *lex loci laboris*.** This principle states that a worker is subject to

the legislation of the State in which he/she performs his/her work, and thus guarantees uniform social protection. These rules should be communicated to businesses and mobile workers through information campaigns which could be conducted by, for example, the ELA, in cooperation with the local authorities. **It is essential, in our view, to enshrine the principles of the framework agreement in a more general directive, for example on the right to disconnect.**

- Regulation of cross-border subcontracting

Several reports show the harmful effect in many sectors of the posting of workers by subcontractors, which weakens the liability of the initial posting company. In France, during the 2024 Paris Olympic Games, thanks, among other things, to the addition of clauses limiting subcontracting chains on the building sites, four times fewer accidents among workers were reported than on standard sites ([Rapport HCFIPS](#)).

Reif thus supports the **reopening of the directive on public procurement, to add social conditions and a restriction on subcontracting chains, with a view to simplifying procedures and checks, to avoid the risks of occupational accidents and fraud.** In relation to this, the weakening of the corporate sustainability due diligence directive, with its potential to extend due diligence requirements to companies vis-à-vis their subcontractors, raises concerns as to employment conditions and potentially increased cases of fraud.

This approach, involving a **limit on subcontracting chains, should apply to cross-border situations;** without this principle, there is a risk of diminishing the responsibility of the project owner, thus encouraging non-compliant working conditions, including non-respect of the health and safety rules, undeclared work, issuing of fraudulent portable documents A1 and the use of letterbox companies, as documented at length in a study by the ELA ([lien](#)).

- Facilitated temporary provision of cross-border services for highly qualified workers in low-risk sectors

With regard to social security, **the aim of posting is to ensure continuity of the worker's rights.** However, if no prior data are available to enable the administration to examine the situation of a posted worker, it becomes far more difficult to, for example, ensure financial coverage of any care needed following an accident.

Moreover, cases of large-scale cross-border unemployment fraud have been detected with this category of workers, particularly between France and Switzerland. The [most recent 2024 report](#) of the French Interministerial Anti-fraud Coordination Service, on tackling fraud against public finances, shows an ongoing increase, for the 8<sup>th</sup> consecutive year, in fraud linked to residence or work abroad, which accounts for 41% of the total losses to the unemployment insurance regime.

In addition to fraud, the recent 2024 statistical report by the Cleiss ([link](#)) also recalls that the difference between the amount of unemployment benefit paid out by France to insured mobile workers compared to the reimbursements obtained by France pursuant to Article 65 (2) and (5) of Regulation (EC) No. 883/04 **amounts to an estimated additional cost, for 2024, of EUR 859 million**, i.e. an increase of 7% compared to 2023, and of 30% since 2015.

Data exist on EU-level cross-border fraud, but they are still very fragmented, due to the lack of a common definition of fraud, and of sufficiently reliable and comparable data from the Member States. The definition of low-risk sectors is therefore, in our view, still rather random, and even more so the definition of 'highly qualified' as opposed to other mobile workers.

Above all, the system which the European Commission seems to wish to establish for these workers, with no formalities to complete, would create a definite pull-effect for this type of streamlined procedure, and could result in social dumping.

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The European Representation of French Social Security Institutions (Reif) was set up in May 2003 to represent the main French social security funds to the European Union. Today, it brings together all the branches of the general scheme, professional schemes and specialised structures: health insurance, accidents at work and occupational diseases (Cnam), pensions (Cnav), family benefits (Cnaf), autonomy (CNSA), recovery (Urssaf Caisse nationale, formerly Acof), the National Professional Union for Employment in Industry and Trade (Unédic), the Central Agricultural Social Mutual Fund (CCMSA), the National School of Social Security (EN3S), the Union of National Social Security Funds (Ucanss), the Centre for European and International Liaisons for Social Security (Cleiss) and the Retirement Pension Fund for Professional Air Crew Members in Civil Aviation (CRPNPAC). Reif has a permanent office in Brussels.

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