

POSTING **OF WORKERS IN EASTERN EUROPE**

Agreement No. VS/2017/0349















With financial support from the EaSI programme of the European Union





TABLE OF CONTENTS

INFORMATION ON POSITING OF WORKERS	2
1. WHAT IS "POSTING"?	2
The Posting of Workers Legislation at a glance	2
Box 1 - Facts and Figures: Labour mobility and posting across the EU	3
2. RULES AND RIGHTS OF A POSTED WORKER	4
Box 2 - Individual labour mobility vs. posting	4
KNOW MORE YOUR RIGHTS AS EMPLOYER OR EMPLOYEE IN THE EU	5
Box 3 - How to check and recognize possible irregularities	6
EU Member States Contacts on Posting	6
3. THE ROLE OF SOCIAL PARTNERS IN POSTING: LOCAL ALLIES OF WORKERS AND FAIR COMPANIES	7
Box 4 – Examples: workers' protection in the construction sector	7
FACTSHEETS ON POSTING - EEPOW CANDIDATE COUNTRIES	10
4. ALBANIA	10
4. Albania 5. Montenegro	10 13

INFORMATION ON POSTING OF WORKERS

1. What is "posting"?

A "**posted worker**" is an employee who is sent by his employer to carry out a service in another EU Member State **on a temporary basis**. For example, a service provider may win a contract in another country and send his employees there to carry out the contract.

When is an employee posted? Examples include:

- The employer was awarded a contract in an EU country, and the employee is required to go there temporarily to provide a working service in his/her sector of employment.
- The employee is sent by the employer to another business in a different EU country, and the business is owned by the same employer.
- The employee is recruited by a temporary agency to perform a temporary service in an EU country, different from their country of residence.

N.B. In this case, the work contract is between the worker and the agency.

"Posting of workers" can concern EU and non-EU residents. For instance, **temporary agencies** often recruit workers in candidate countries to "post" them to an EU country. Posted workers are different from EU mobile workers in that they remain in the host Member State only temporarily and do not integrate in its labour market.

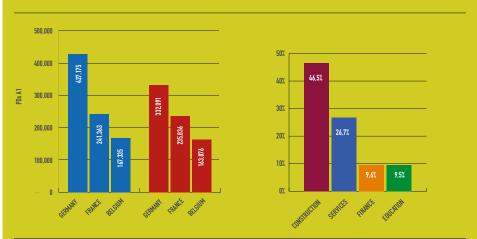
The Posting of Workers Legislation at a glance

- Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services
- Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation')
- Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services
- Regulation no 883/2004 on the coordination of social security systems

BOX 1 - FACTS AND FIGURES: LABOUR MOBILITY AND POSTING ACROSS THE EU

The "European Single Market" includes the EU's 28 Member States, and has been extended to Iceland, Liechtenstein and Norway through the Agreement on the European Economic Area and to Switzerland through bilateral treaties. Within its borders, goods, services, capitals and persons can freely circulate - therefore workers as well, without having the obligation of requiring a work permit - though with limitations from/to some Member States. In 2017, there were 12.4 million EU-28 movers of working age (20-64 years) living in an EU Member State other than their country of citizenship.

There are also different forms of temporary cross-border labour mobility in the EU, among which posting of workers is becoming prominent. Although exact figures are difficult to obtain, the number of Portable Documents A1 forms (PDs A1) used to estimate posting and issued in 2017 reached 2.8 million. This figure, however, includes also the self-employed and those pursuing activities in two or more Member States. The share of posting in the total EU employment is 0.8 percent.



Source: Wispelaere & Pacolet (2019). Posting of workers. Report on A1 Portable Documents issued in 2017. Luxembourg: Publications Office of the European Union.

Rules and rights of a posted worker

The EU law defines a set of mandatory rules regarding the terms and conditions of employment to be applied to posted workers. These rules establish that, even though workers posted to a Member State are still employed by the sending company and subject to the law of that Member State, they are entitled to a set of core rights in force in the host Member State:

- minimum rates of pay;
- maximum work periods and minimum rest periods;
- minimum paid annual leave;
- the conditions of hiring out workers through temporary work agencies;
- health, safety and hygiene at work;
- equal treatment between men and women.

With the revision of the Directive, posted workers in all economic sectors are guaranteed equal pay to locally-hired workers based on rules set by law or universally applicable collective agreements. However, if sending country working terms and conditions are more favourable, they become applicable to posted workers.

BOX 2 - INDIVIDUAL LABOUR MOBILITY VS. POSTING

While individual EU citizens can on their own initiative and without any barriers move for work to another EU Member State from their own, posted workers are sent by their employer to work on a specific service assignment for a limited period of time and are expected to return once the service has been delivered.

Posted workers operate within the Single Market, however, access to this market is provided by the employer who posts them, for one year with the possibility of extending it another six months. EU citizens also have the right to conclude their posting arrangement, and look for a job - as employees or as self-employed - on their own in the host country, without bureaucratic barriers.

The situation is different in the case of workers posted from candidate countries. If workers posted from the candidate countries of the Western Balkans want to move from a posting contract to a direct contract in the host country of the EU, they need to follow host country rules for labour migration from third countries and apply for the necessary permits.

Know more your rights as employer or employee in the EU

Your Europe¹ provides information if you are moving to another EU Member State and/or do business in an EU Member State. The site offers general guidelines and country-specific fact-sheets complete with relevant addresses, links and points of contact providing you with a wealth of practical information on your Single Market rights.

If you have difficulty in exercising those rights and you need further advice and assistance, **you** can contact the legal experts of the Citizens Signpost Service². Within 3 working days, you will receive personalized free advice on your rights under Single Market rules.

You can also contact the Europe Direct free phone number (00 800 67891011) from everywhere in the EU.

EURES³ is the European Labour Mobility Portal, where people can search and offer jobs across Europe, as well as useful information about key topics when moving abroad, i.e. travel documents, family, healthcare and social security, education and family. National contacts for each EU country, divided by relevant topic can be found here: https://europa.eu/youreurope/citizens/ national-contact-points/index_en.htm

At the European Commission website

https://europa.eu/youreurope/business/human-resources/posted-workers/posting-staffabroad/index_en.htm, a Practical guide about the legislation applicable to workers in the EU is available.

¹ https://europa.eu/youreurope/index.htm

² https://europa.eu/youreurope/advice/index_en.htm

³ https://ec.europa.eu/eures/public/en/homepage

BOX 3 - HOW TO CHECK AND RECOGNIZE POSSIBLE IRREGULARITIES

It is not always easy for a worker to know whether he/she is being treated according to legislation in force.

These key questions can help workers to realize whether they are treated fairly and equally, and where to seek support and assistance:

- Do you know if you are a "posted" worker?
- Did your employer explain about the assignment abroad?
- Did the employer make any changes to your working contract before you were sent abroad?
- Do you know if your employer informed the authorities in your home country that you are sent?
- Have you been informed about your rights and obligations, medical references, occupational and health safety at work before starting working abroad?
- How many hours per day / week do you work normally? Do you know if this is in line with the legal framework in the country you are working in (or you are going to work in)?
- Do you know if you are paid the same as the local workers?
- Do you know where you can go to if you have a problem at work in terms of salaries or working conditions?

If you are not sure about the correctness of your employment status (contract, treatment, conditions, unfair practices), you can inform yourself and seek support and assistance in the host country.

EU Member States Contacts on Posting

Useful information can be found, in all the EU 28 languages, on the webpage of the European Commission, including the full list of **Contact Points in each EU Member States**, who can give detailed information about posting staff abroad: https://europa.eu/youreurope/citizens/nation-al-contact-points/index_en.htm

National websites on Posting in EEPOW countries are:

Austria: https://www.postingofworkers.at (English, German, Hungarian, Slovenian, Polish, Czech, Slovak) Germany: www.zoll.de (English, French, German) Italy: http://www.distaccoue.lavoro.gov.it/ (English, Italian) Slovenia: www.napotenidelavci.si (English, Croatian, German)

3. The role of social partners in posting: local allies of workers and fair companies

Social partners are very active in improving the practices of posting and avoid social dumping. You can refer to the following sectoral organizations at the EU level:

The European Transport Workers' Federation (ETF)⁴, which represent workers in the transport sector.

The European Federation of Building and Woodworkers (EFBWW)⁵, which represents workers in the construction sector.

The European Construction Industry Federation (FIEC)⁶, which represents the interests of employers in the construction sector.

The European Construction Mobility Information Net (ECMIN)⁷, which provides information on terms and conditions for posted workers in the host country in the construction sector. National contacts for information and trade union support are also included.

BOX 4 - EXAMPLES: WORKERS' PROTECTION IN THE CONSTRUCTION SECTOR

Among the European sectoral social partners, some initiatives and actions have been developed. It is not possible to map all initiatives and sources, but it is very important to underline that across the EU, different social partners - Trade Unions and others - have been dealing with posting and with supporting posted workers, helping authorities to prevent frauds, supporting collective transnational agreements and supporting directly individual workers.

⁴ https://www.etf-europe.org/

⁵ http://www.efbww.org

⁶ http://www.fiec.eu/

⁷ http://ecmin.efbww.org/

Example 1. The website https://www.constructionworkers.eu/it/be provides concise information on wages, working conditions and rights of construction workers for all the European Countries in all the European languages. Construction workers that might be posted can find useful links and contacts of trade unions representatives ready to help and support them in while posted.

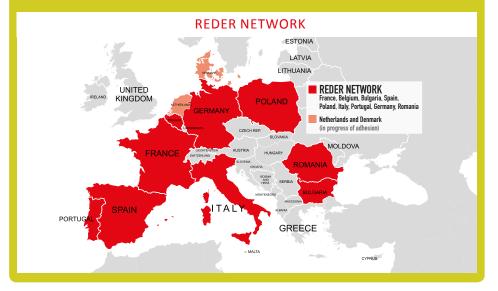
USEFUL INFORMATION FOR WORKERS



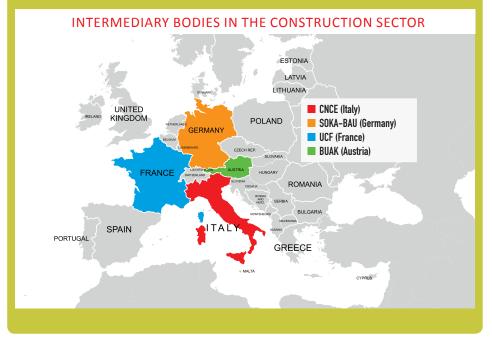
HTTPS://WWW.CONSTRUCTIONWORKERS.EU/IT/BE



Example 2. REDER Network is a European Network for a Fair and Responsible Posting. Present in 9 countries (France, Belgium, Bulgaria, Spain, Poland, Italy, Portugal, Germany and Rumania, plus Netherlands and Denmark in process of adhesion), it allows Trade Unions, Labour Inspectorates and NGOs to cooperate. REDER has solved many cases of unfair posting. A short video available at https://vimeo.com/182659761 shows how it works and what it can do for construction workers.



Example 3. In the construction sector in Italy, France, Austria or Germany, there are four intermediary bodies - CNCE⁸ (IT), SOKA-BAU⁹ (DE), UCF (FR) and BUAK¹⁰ (AT) that have signed agreements to ease the administration burden of enterprises and to assure fair treatment of workers from one of these countries to another.



⁸ http://www.cassaedile.it/

⁹ https://www.soka-bau.de/

¹⁰ https://www.buak.at/cms/BUAK/BUAK_0/home

FACTSHEETS ON POSTING - EEPOW CANDIDATE COUNTRIES

4. ALBANIA

Current status

Posting to Albania: Yes

Posting from Albania: Yes

Where can Albanian workers be posted to: Everywhere in Europe or World.

Legal Framework

List of national laws

- Law No. 7961, 12.7.1995, "Labour Code of the Republic of Albania", as amended by Law No. 136/2015, 5.12.2015
- Law No. 108/2013, "On Foreigners of Albania"
- Law No. 74 dated 14.07.2016 "On some amendments and additions to Law no. 108/2013 "On Foreigners""
- Decision of Council of Ministers No. 85, dated 12.02.2014 "On the definition of criteria, documentation, and procedures for the issuance, refusal, renewal and annulment of work permit to the transferee within the enterprise, type "A/TN"
- Decision of Council of Ministers No. 67, dated 12.2.2014, "On determining the criteria, documentation and the procedure for equipping, refusal, regeneration and cancelling of the work permit for contracting services, type "C/SHK"
- Decision of Council of Ministers No. 286, dated 21.5.2018, "On some particular rules for temporary employees hired by Agency of Temporary Employment"
- The national labour legislation transposes the Posting of Workers Directive (PWD) (96/71/ EC), including its definition, exemptions, fair employment, equal treatment conditions of posted workers
- There is a lack of proper regulation for posting workers from Albania to the EU

Bilateral agreements that enable posting

- No specific agreement on posting of workers, but construction companies in Albania have earned international contracts for civil works for posting employees.
- Agreements on social insurance with Belgium, Czechia, Germany, Luxembourg, Hungary, Austria, Romania, North Macedonia and Turkey. Agreements with Romania and Kosovo are ratified, and are expected to enter into force. Negotiations with Switzerland and Canada to reach an agreement are ongoing, while initial meetings with other countries such as Italy, Montenegro, Bulgaria, Spain, France and Croatia have been conducted. There is no evidenced progress on negotiations with Greece, as one of the countries with the majority of Albanian workers.

National Institutions

- Ministry of Finance and Economy, Directory of Employment Policy and VET It adopts the legislation and strategic framework regarding labour and employment in Albania.
 Contact: Bulevardi "Dëshmorët e Kombit", Nr. 3, Tirana, Albania
 - Email: info@financa.gov.al
 - Tel: 00355422811133
 - Website: www.financa.gov.al
- Ministry of Interior implements the Law on Foreigners in Albania and is the main institution accounted for issuing permits of stay for foreign citizens.
 - Contact: Bulevardi "Dëshmorët e Kombit", Tirana 1000, Albania
 - E-mail: Ministria.Brendshme@mb.gov.al
 - Website: www.mb.gov.al
- The National Employment Service (NES) alongside with its Offices distributed in all the regions of the country monitors the labour market, and maintains and updates the national register of employees, for all types of employment arrangements, including posting. AN integral part of 36 employment offices are Migration Centres, that provide information on regular migration and labour law and social rights in EU countries.

Contact: Bulevardi Bajram Curri, Tirana, Albania

- Email: kontakt@shkp.gov.al
- Tel: 044528360/1/2/3
- Website: www.puna.gov.al

Social Partners

• Union of Independent Trade Unions of Albania (BSPSH) - It contributes in socio-economic development of the country, by proposing laws and policies, protecting socio-economic rights, offering trainings and promoting the social dialogue.

Contact: Rruga e Kavajës, Ish - Ndërmarrja Gjeologjike, Tirana, Albania

- Email: info@bspsh.org.al
- Tel: +355 4 2 472154; +355 4 2 227579
- Website: www.bspsh.org.al
- Trade Unions Confederation of Albania (KSSH) protects workers' rights and advocates for better working and living conditions, while promoting inclusion of all types of workers' in Albania.

Contact: Rr. "Shaban Bardhoshi", Njësia Bashkiake Nr. 6, Tirana, Albania

- Email: kssh@kssh.org
- Tel/Fax: +355 42477285; +355 682047583
- Website: www.kssh.org

• Union of Chambers of Commerce and Industry of Albania (UCCIAL) - The largest independent nation-wide business association in Albania established in 1995 - promotes and supports Albanian business, and is provides suggestions and assessment about various legal initiatives, draft laws and policies undertaken by the government which affect Union's members activities and interest.

Contact: Rr "Kavajës", nr. 6, Tirana, Albania

- E-mail: info@uccial.al
- Tel: 355 (0) 44 500221
- Website: www.uccial.al
- Union of Albanian Business (BIZNES ALBANIA) established in 2010 as a merging of 24 smaller associations, it represents, promotes and safeguards the rights and interests of employers in Albania.

Contact: Rr. Marko Bocari, Nd.6, H.1, Nr.1, Tirana, Albania

- Email: contact@biznesalbania.org.al
- Tel: +3554226280
- Website: http://biznesalbania.org.al/
- Albanian Agribusiness Council (KASH) is the union of 32 member independent agribusiness associations (20 national associations and 12 Regional Agribusiness Councils, with the main goal to protect members' interest via advocacy, partnerships, legal and policy recommendations and capacity building activities.

Contact: Rruga "Mine Peza", P.87/3, Sh.2, Kati i parë, Tirana, Albania

- Tel: 0035542229445

- E-mail: infokash@yahoo.com

5. MONTENEGRO

Current status

Posting to North Macedonia: Yes

Posting from North Macedonia: Yes

Where can Montenegro workers be posted to: N/A.

Legal Framework

List of national laws

- The Law on Foreigners (Zakon o strancima, 2018, No. 01-205/2) defines posted foreigners as individuals in an employment relation with the employer outside the territory of Montenegro who perform certain services on the territory of Montenegro;
- Draft Law on the Protection of Posted Citizens of Montenegro Working Abroad: the main legislative act transposing the Directive into national law, still under review.

Bilateral agreements that enable posting

- No specific agreement on posting in place.
- Social security bilateral agreements in place with Austria (2010), Belgium (2010), Slovakia (2016), Czech Republic (2002), Denmark (1977), France (1950), Netherlands (1956), Croatia (2014), Italy (1957), Luxembourg (2008), Hungary (2008), Germany (1974), Poland (1958), Slovenia (2011), Great Britain (1958), Bulgaria (2016), Sweden (1978).

National Institutions

• Ministry of Labour and Social Welfare Directorate for Labour Market and Employment, responsible for the preparation of the legislative framework transposing the Directive into national law.

Contact: Rimski trg 46, 81 000 Podgorica

- Tel.: +382 (0) 20 482 464
- Website: http://www.minradiss.gov.me/en/ministry
- Employment Agency of Montenegro Responsible for the planning and implementation of employment strategies at the national level.

Contact: Bulevar revolucije 5, 81 000 PodgorIca

- Tel.: + 382 (0) 20 405-272
- Email: zzzcg@t-com.me
- Website: http://www.zzzcg.me/
- Ministry of Interior Affairs Direction for foreigners, migration and readmission (Direkcija za strance, migracije i readmisiju) responsible for issuing all necessary documents for foreign workers (single residence and work permit).

Contact: Bulevar Svetog Petra Cetinjskog 22, 81 000 Podgorica

- Tel.: + 382 (0) 20 224 806
- Email: mupmigracije@t-com.me
- Website: http://www.mup.gov.me/en/ministry

 Administration of Inspection Affairs The Department of Labour inspection is a constituent part of the Administration for Inspection Affairs of Montenegro, responsible for monitoring of labour relations and employment and occupational safety and health at work.
 Contact: Address: Novaka Miloševa, br. 10, 81 000 Podgorica

- Tel. Number: +382 (0) 20 230 921 / +382 (0) 20 230 529/ +382 (0) 20 230 481

- Website: http://www.ti.gov.me/en/inspection

Social Partners

- Association of Free Trade Unions of Montenegro Unija slobodnih sindikata Crne Gore Contact: ul. Slobode 74/I, 81000 Podgorica
 - Tel. Number: + 382 (0) 20 232 315, + 382 (0) 67 418 991
 - Email: usscg@usscg.me
 - Website: http://usscg.me/
- Association of Trade Unions of Montenegro Savez Sindikata Crne Gore Contact: Novaka Miloševa 29/1, 81 000 Podgorica
 - Tel: + 382 (0) 20 230 547
 - Website: http://www.sindikat.me/
 - Email: sscg.kabinet@t-com.me ; prsluzbasscg@gmail.com
- Montenegrin Employers Federation Unija poslodavaca Crne Gore Contact: Cetinjski put 36, 81000 Podgorica
 - Tel: +382 (0) 20 209 250
 - Website: https://www.poslodavci.org/
 - Email: office@poslodavci.org

6. NORTH MACEDONIA

Current status

Posting to North Macedonia: Yes

Posting from North Macedonia: Yes

Where can North Macedonian workers be posted to:

Posting agreements are in place with Germany, Slovenia and Qatar, but only the agreement with Germany is currently functional.

Legal Framework

List of national laws

• The 2012 Law on posting of workers from the Republic of North Macedonia in other countries for carrying out construction works through project contracts and other seasonal works. (Official Gazette of the Republic of North Macedonia No. 166 from 26.12.2012¹¹).

Bilateral agreements that enable posting

- Bilateral agreements on posting are in place with Germany, Slovenia and Qatar.
- Bilateral agreements on social security signed with 15 EU MS (Austria; Croatia; Slovenia; Switzerland; Bulgaria; Germany; Czech Republic; Netherlands; Romania; Poland; Luxembourg; Belgium; Slovakia; Italy and Hungary.)

National Institutions

- Ministry of Labour and Social Policies, Department for the labour market It is the institutional responsible body for posting - Contact:
 - Address: Dame Gruev Np. 14, 1000 Skopje, North Macedonia;
 - Web site: http://www.mtsp.gov.mk/pocetna.nspx
- Employment Agency It is responsible for work permits for foreigners Contact:
 - Address: Vasil Gjorgov No.43, 1000 Skopje, North Macedona;
 - Web site: http://av.gov.mk/pocetna.nspx
- Ministry of Interior Affairs responsible for temporary and permanent residence permits Contact:
 - Address: Dimche Mirchev No. 9, 1000 Skopje, North Macedonia;
 - Web site: https://mvr.gov.mk/default
- Labour Inspectorates It is also the body in charge of grievance procedures for posted workers **Contact:**
 - Address: Boulevard Patizanski Odredi No. 48A, 1000 Skopje, North Macedonia
 - Web site: http://dit.gov.mk/

Social Partners

- Federation of Trade Unions of Macedonia (SSM). SSM is an autonomous organization, independent of government, employers, political parties and other organizations and institutions. – **Contact:**
 - Address: E12ta Makedonska Udarna Brigada 2a, 1000 Skopje, North Macedonia
 - Website: http://www.ssm.org.mk/mk

¹¹ Available at: http://mtsp.gov.mk/WBStorage/Files/zakon_upatuvanje_sezonski.pdf

7. SERBIA

Current status

Posting to Serbia: No

Posting from Serbia: Yes

Where can Serbian workers be posted to: Germany

Legal Framework

List of national laws

- The Law on conditions for posting employees to temporary work abroad and their protection (2016).
- The Posting of Workers Directive is still not in force in Serbia

Bilateral agreements that enable posting

- Bilateral agreement on posting of Serbian workers with Germany.
- Bilateral agreements on temporary employment of Serbian citizens abroad and foreign citizens in Serbia, signed with Slovakia, Slovenia as well as with Bosnia and Herzegovina and Belarus (negotiations ongoing with Malta).
- Memorandum of cooperation in the field of employment between the Ministry of Labour, Employment, Veteran and Social Affairs of the Republic of Serbia and the Ministry for National Economy of Hungary
- Bilateral agreements on social security coordination signed with 19 EU MS (Austria, Cyprus, Slovakia, Great Britain, Luxembourg, France, Hungary, Denmark, Bulgaria, Czech Republic, Italy, Germany, Sweden, Slovenia, Netherlands, Poland, Belgium, Romania and Croatia), plus Norway and Switzerland.
- Agreements on the European Social Insurance Card signed with 9 EU MS
- Agreements on electronic data exchange on pension and disability insurance are being implemented with former Yugoslavian countries.

National Institutions

- MOLEVSA It is the responsible ministry for the implementation of labour and employment policies - Contact: https://www.minrzs.gov.rs/sr
- National Employment service office Modern public service providing services to unemployed persons and employers in Serbia.
 - **Contact:** http://www.nsz.gov.rs/live/trazite-posao/svi-poslovi
- Employment agencies Register of Employment Agencies Contact: https://www.minrzs.gov.rs/sr/registri/sektor-za-rad-i-zaposljavanje

Social Partners

- Confederation of Trade Unions of Serbia (CATU)- CATU has two ongoing projects related to
 posting which are implemented in cooperation between MOLEVSA, the employers' organization, trade unions and chambers https://www.sindikat.rs/index.html
- United Branch Trade Unions Independence (UGS "Nezavisnost") representative union, member of the Social and Economic Council of the Republic of Serbia https://nezavisnost.org/



CONTACT

Project Coordinator: Sonila Danaj (European Centre for Social Welfare Policy and Research) danaj@euro.centre.org

www.euro.centre.org/projects/detail/1673



This document has received financial support from the European Union Programme for Employment and Social Innovation "EaSI" (2014-2020).

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.