

EN  
E-004463/2020  
Answer given by Mr Schmit  
on behalf of the European Commission  
(25.9.2020)

The Commission recalls that the freedom to provide services is a fundamental freedom of the EU, recognised by Article 45 of the Treaty on the Functioning of the European Union. In relation more precisely to posted workers, the 2019 Annual Report on Intra-EU labour mobility<sup>1</sup>, as all similar reports, reflects annual data. This means that on average a posted worker is posted twice a year. On this basis, while no data is available on the number of postings for an individual worker over his/her working career, a single worker could be posted several times to a number of Member States.

The Commission considers that it would be disproportionate to change the social security affiliation of a worker each time he or she is posted. As explained in reply to written question E-000190/2020, the EU social security coordination rules aim to provide stability in a person's insurance record. If the applicable legislation were to change after every posting (and thus potentially several times per year), this would not only bring about administrative complications<sup>2</sup>, but potentially also losses of rights for the persons concerned<sup>3</sup>. For these reasons, the rules agreed by the co-legislators and included in Regulations (EC) No 883/2004 and 987/2009, as later confirmed by the case-law of the Court of Justice of the European Union<sup>4</sup>, seek to promote the freedom to provide services, to overcome obstacles likely to impede freedom of movement for workers and to preserve the portability of rights of mobile citizens.

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<sup>1</sup> <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8242>

<sup>2</sup> See by analogy Case C-451/17 Walltopia, EU:C:2018:861, para 38.

<sup>3</sup> See by analogy Case 35/70, *Manpower v Caisse primaire d'assurance maladie de Strasbourg*, EU:C:1970:120, para 12 and Case C-134/18, *Vester v Rijksinstituut voor ziekte- en invaliditeitsverzekering*, EU:C:2019:212, in particular para 44.

<sup>4</sup> See e.g. judgment in case C-451/17 Walltopia, EU:C:2018:861, para 38.