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Impact of intra-EU posting on the Belgian economy. With a special focus on the construction sector

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Conference Intra-EU posting: costs and benefits

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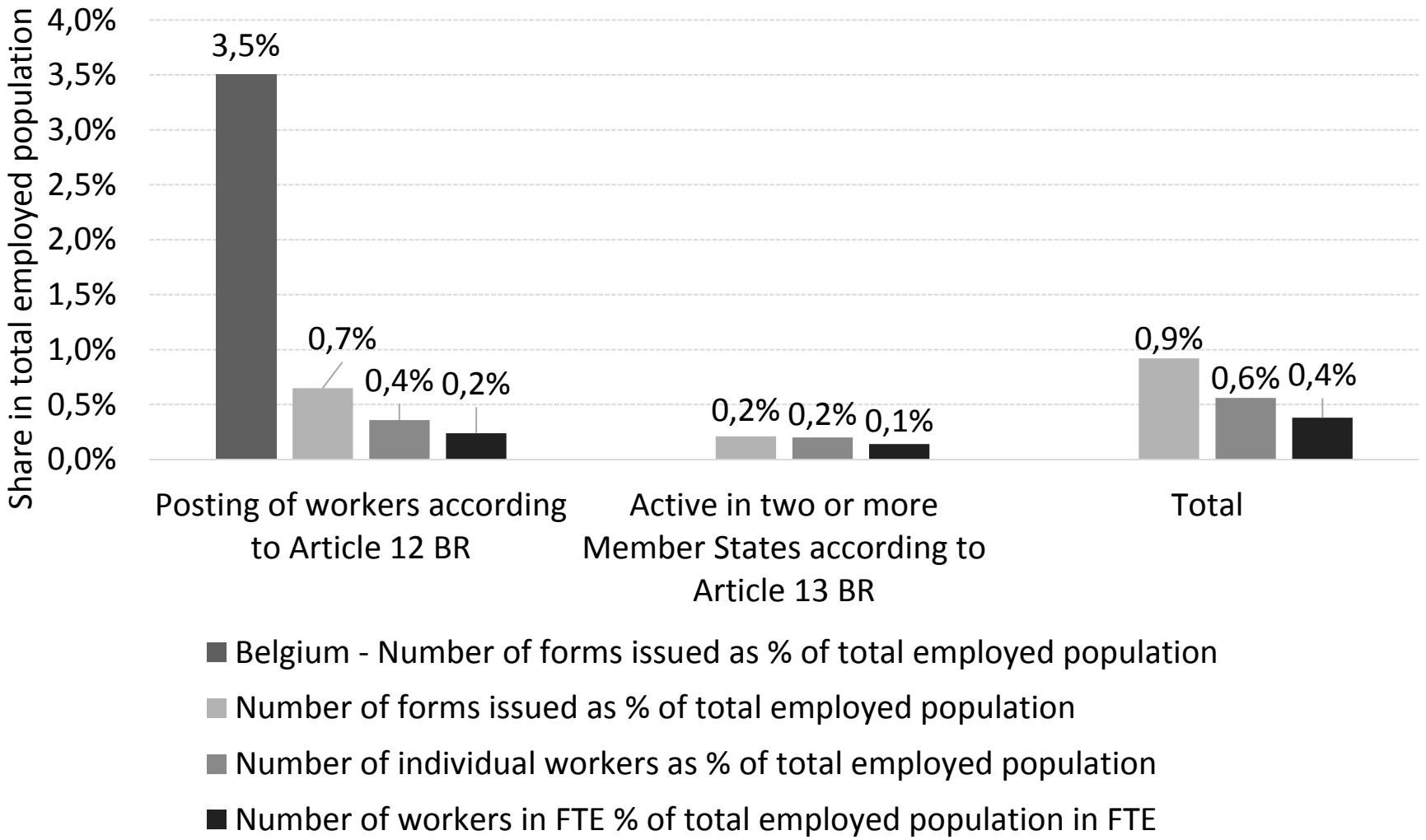
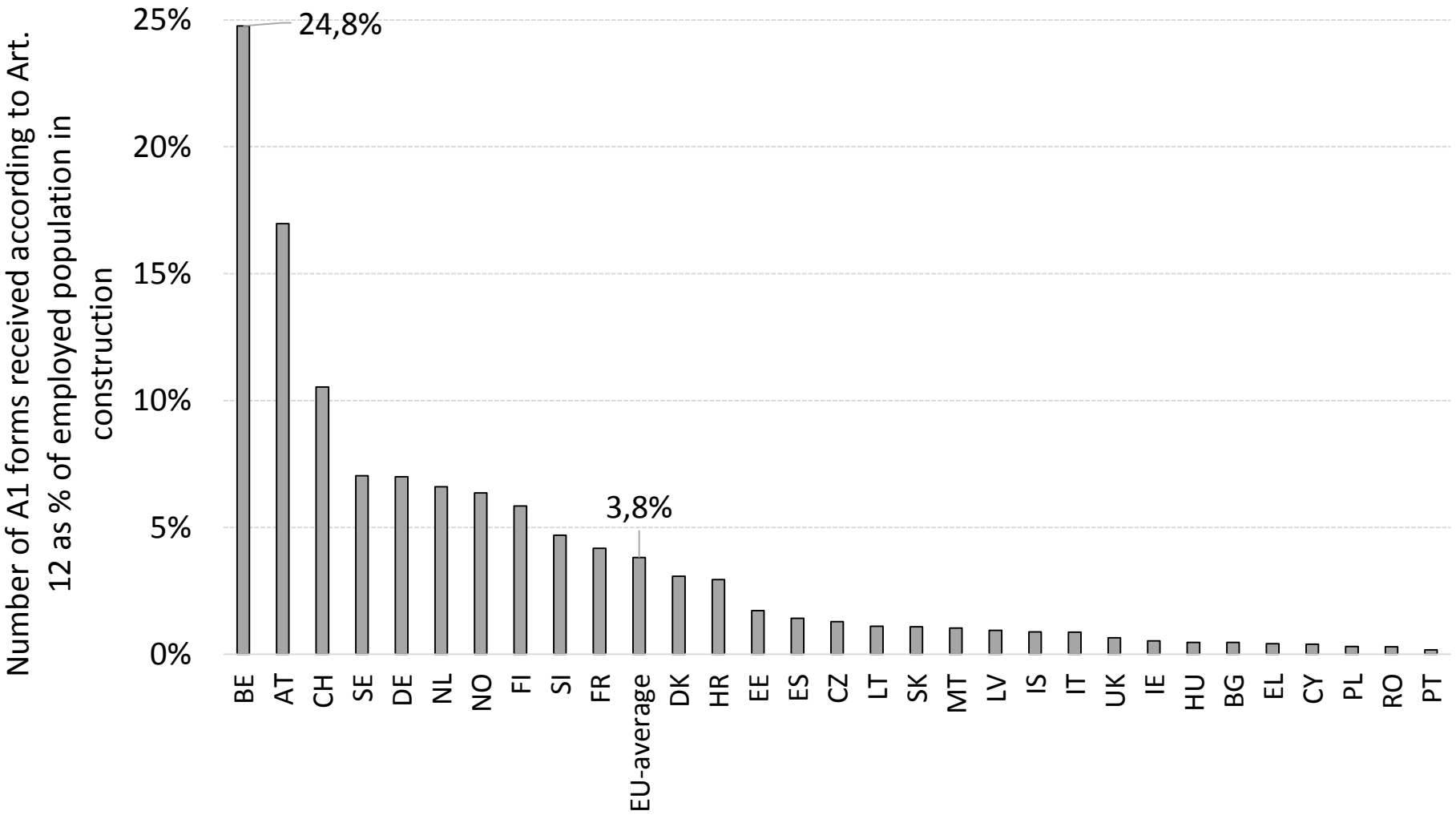
Starting point: Belgium is one of the main receiving countries



Source Pacolet and De Wispelaere, 2016

Starting point: An extremely high share of posted workers in the Belgian construction sector



Source Pacolet and De Wispelaere, 2016

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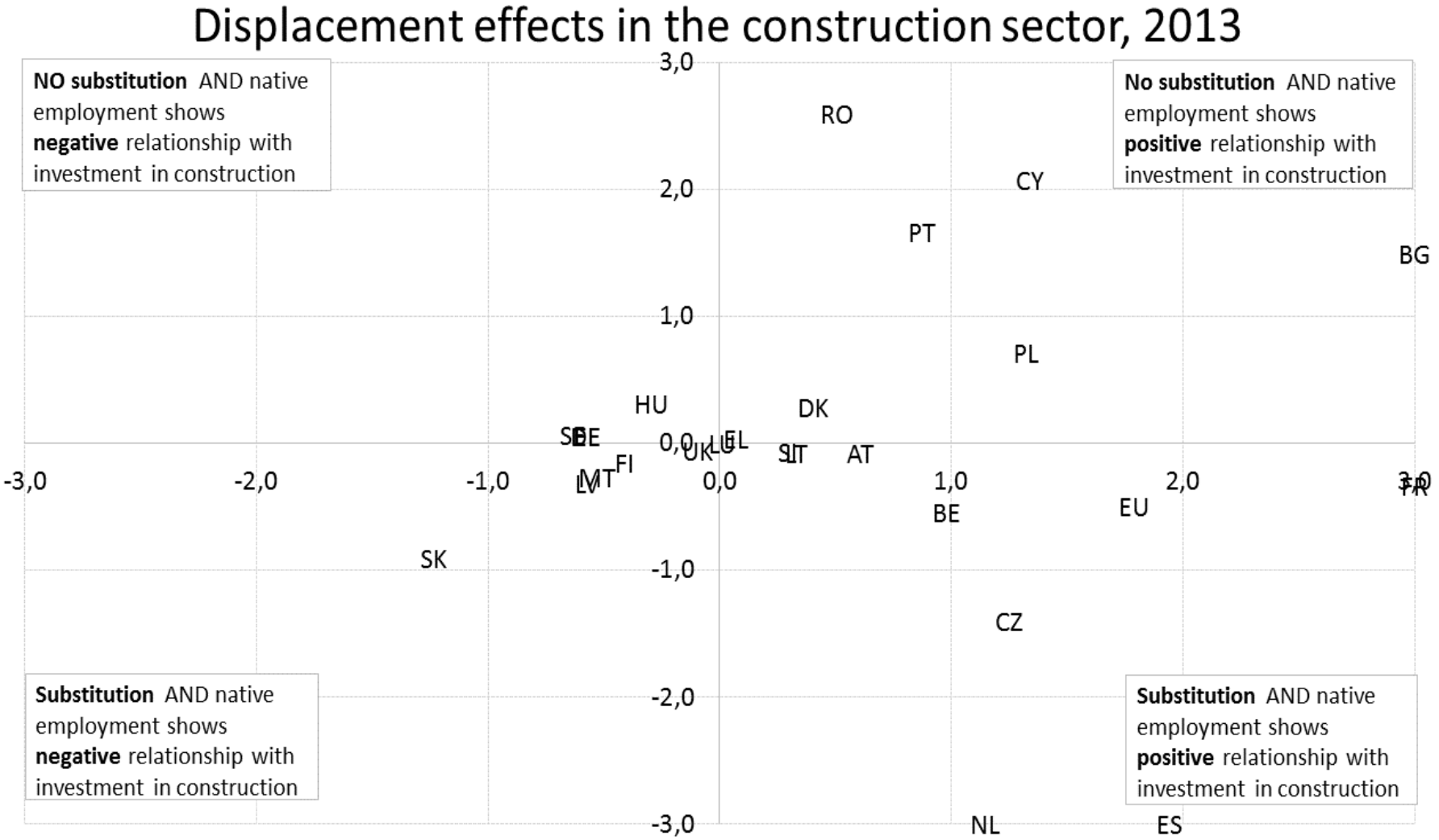
Starting point: Job substitution in the construction sector at EU level



Source De Wispelaere and Pacolet, 2016

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Economic impact of posting from a receiving perspective

- Risk of job substitution in the construction sector

These are still open (research) questions

However,

- Labour and skill shortages are other important drivers of posting;
- A ‘dual employer market’: (large) domestic main contractors benefit from it (demand-driven);
- Complements or substitutes? analysis by sub-sector will lead to a much more balanced judgement.

Research questions

- What is the size of intra-EU posting to Belgium?
- What is the profile of intra-EU posting to Belgium?
- What impact does intra-EU posting have on the Belgian economy and the Belgian construction sector?
- What are the underlying reasons for the increasing use of intra-EU posting?
- What is the difference between social dumping and social fraud?

Proposal to revise the Posting of Workers Directive and the Regulation on the coordination of social security systems

Research methodology (1)

- Number of postings to Belgium
  - **GOTOT-IN**: the A1-forms received by Belgium
  - **LIMOSA**: national registration tool since 1 April 2017
    - Number of reports;
    - Number of individual persons behind these reports;
    - Compile a detailed profile of the persons posted to Belgium:
      - ✓ *The Member State in which the employer is based;*
      - ✓ *The nationality and place of residence of the person posted;*
      - ✓ *Status (employed or self-employed);*
      - ✓ *The use of temporary agency work;*
      - ✓ *Duration of the posting period;*
      - ✓ *Sector of activity (only construction activities);*
      - ✓ *The foreign employers;*
      - ✓ *The Belgian clients which have enlisted the services of posted workers.*

Research methodology (2)

- Linked the company number of the Belgian client registered in LIMOSA to the **Bel-first database** (a database with the financial accounts of all private firms in Belgium): provides an idea of the client's business economic profile.

- Other data available at national and European level:
  - National Bank of Belgium: NBB.Stat
  - Eurostat:
    - Structural business statistics;
    - International trade statistics;
    - Tax and benefits database.

Number of individual posted workers, employers and clients based on LIMOSA and GOTOT-IN, 2011-2015

Database		2011	2012	2013	2014	2015	Change 2011-2015
		Number of individual posted workers (employees + self-employed)					
LIMOSA	*Total*	124,060	139,664	163,383	186,525	210,815	86,755
	Construction sector	45,276	57,461	85,572	114,096	130,597	85,321
GOTOT-IN	*Total*	81,011	88,042	140,408	122,580	143,045	62,034
		Number of individual employers					
LIMOSA	*Total*	21,308	24,656	35,045	41,811	51,604	30,296
	Construction sector	8,085	10,491	21,141	27,676	35,696	27,611
GOTOT-IN	*Total*	18,377	24,478	30,870	31,455	37,330	18,953
		Number of individual clients					
LIMOSA	*Total*	16,031	17,976	21,368	24,790	26,862	10,831
	Construction sector	6,533	8,172	12,165	15,481	16,908	10,375
		% share construction sector					
% share construction sector		36.5%	41.1%	52.4%	61.2%	61.9%	25.5 p.p.
		Ratio of individual posted workers LIMOSA versus GOTOT-IN					
LIMOSA vs GOTOT-IN		1.53	1.59	1.16	1.52	1.47	

Source De Wispelaere and Pacolet, 2017 based on NSS – LIMOSA and GOTOT-IN

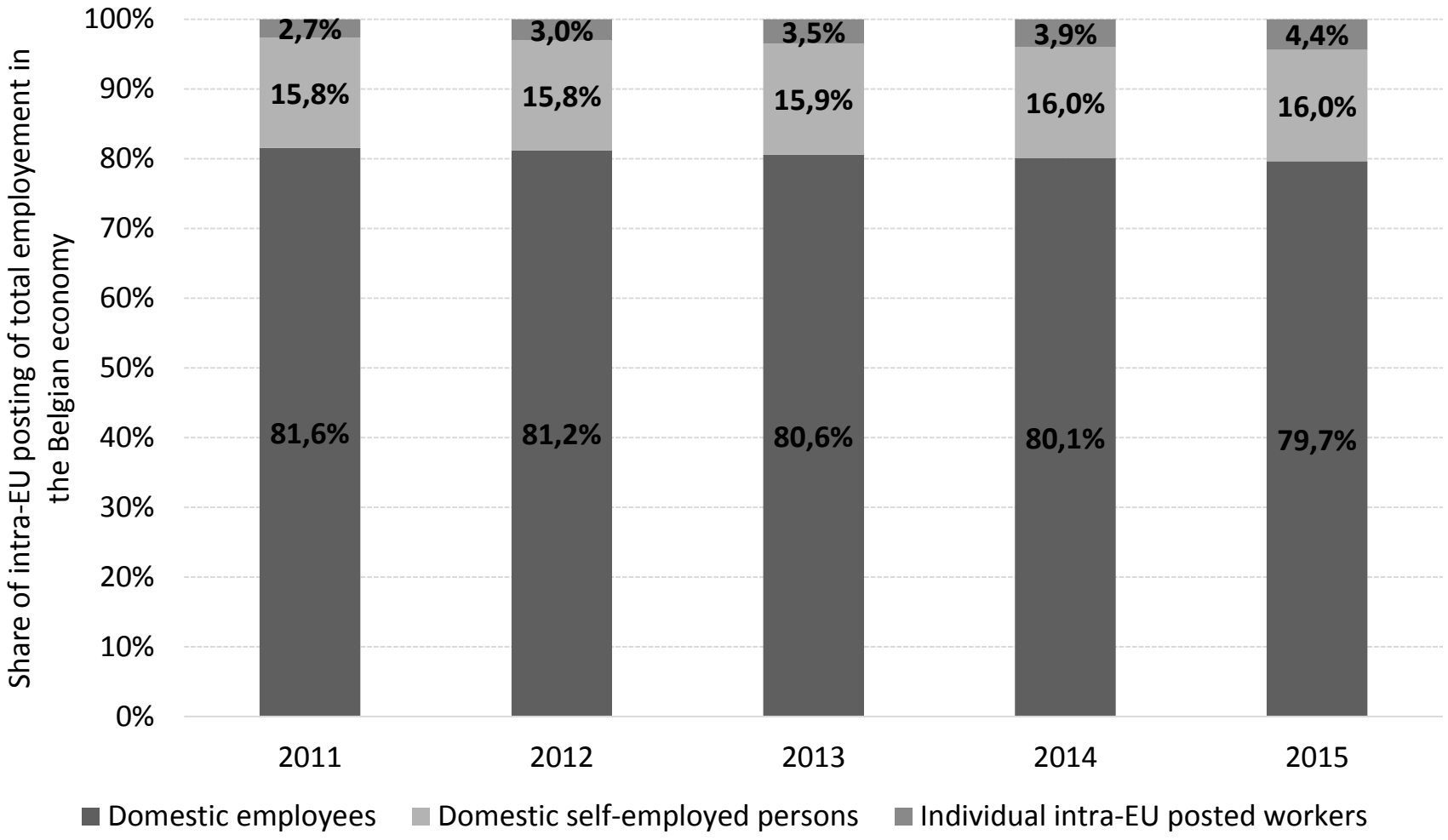
Profile of intra-posting to Belgium based on LIMOSA (1)

- Most people posted to Belgium work for an employer based in a **neigbouring country** (the Netherlands: 26,5%; France: 7,7%; Germany: 9,1%) or Poland (13,6% of total).
- **Differences in sector of activity:**
  - Mainly posted to a sector other than the Belgian construction sector: France and Germany;
  - Predominantly to almost exclusively employed in the Belgian construction sector: Poland, Portugal, Romania, Slovakia and Slovenia.
- **Self-employed:**
  - To Belgium: 15%;
  - To the Belgian construction sector: 19%;
  - 4 in 10 posted persons from Poland to the Belgian construction sector;
  - 3 in 4 posted persons from Slovakia to the Belgian construction sector.
- App. 12% work for a **foreign temporary employment agency**.
- **Subcontracting** via posting: 76% of the reported workers active in the construction sector (methodological remark).

Profile of intra-posting to Belgium based on LIMOSA (2)

- **Average posting period** in construction
  - **2010:** Average posting period of 23 days per posting;
  - **2015:** New estimate (sample) of app. 80 days per posting;
    - 56% of postings apply to a period of less than 1 month;
    - 17% of posting apply to a period longer than 6 months;
    - Average period per posting should be multiplied by the number of times an individual person was reported in LIMOSA (app. 3 times);
    - Correct figure is important to calculate the impact of posting on total employment in full-time equivalents.

Share of intra-EU posting of total employment in the Belgian economy, 2011-2015



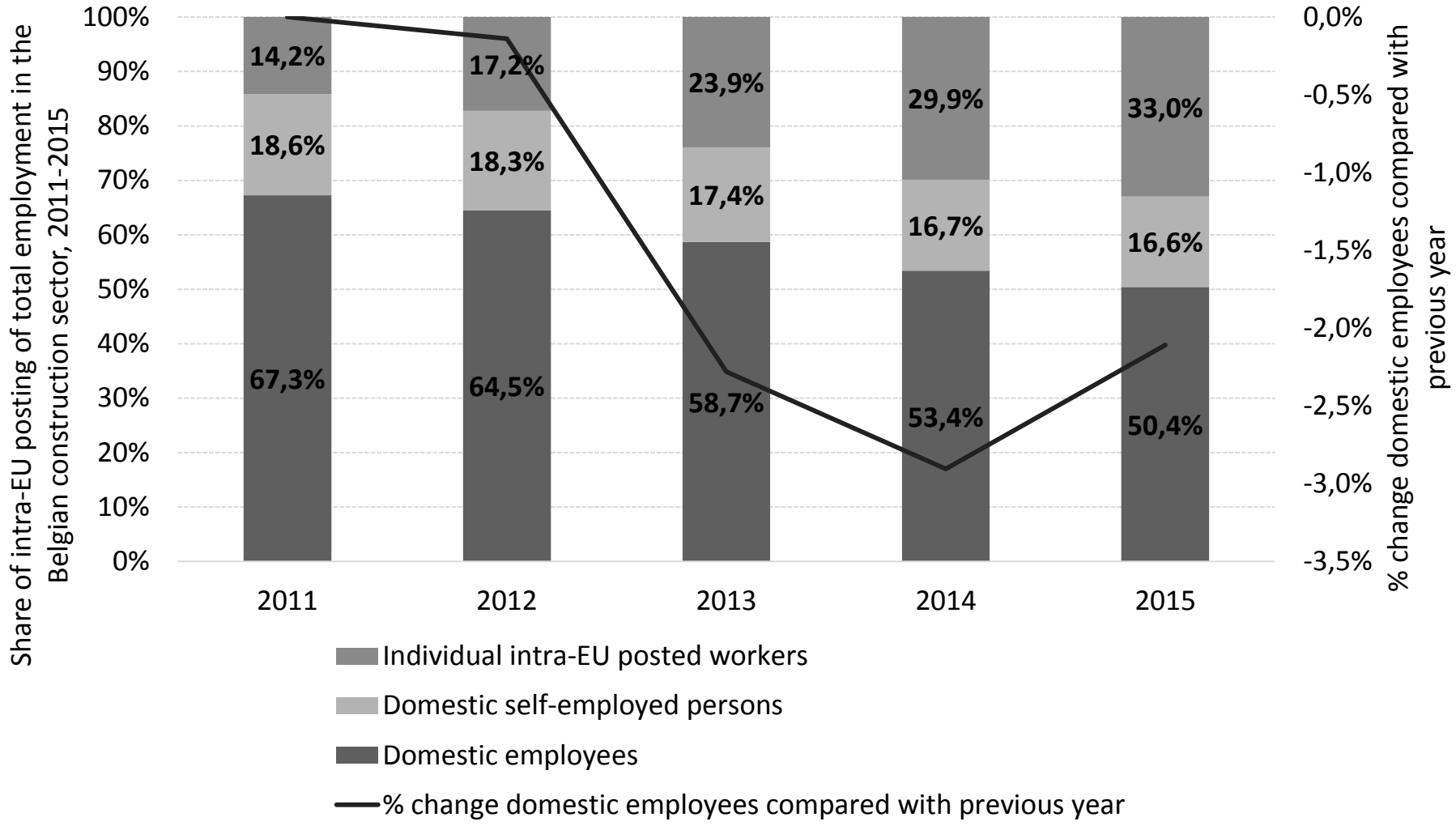
Source De Wispelaere and Pacolet, 2017 based on NBB and LIMOSA

Share of intra-EU posting of total employment in the Belgian construction sector, 2011-2015 (1)

		2011	2012	2013	2014	2015	Change 2011-2015
Domestic employees	Number (in thousands)	215,2	214,9	210	203,9	199,6	-16
	% change		-0,1%	-2,3%	-2,9%	-2,1%	-7,2%
Domestic self-employed persons	Number (in thousands)	59,4	61	62,3	63,8	65,8	6
	% change		2,7%	2,1%	2,4%	3,1%	10,8%
Individual intra-EU posted workers	Number (in thousands)	45,3	57,5	85,6	114,1	130,6	85
	% change		26,9%	48,9%	33,3%	14,5%	188,3%
Total employment	Number (in thousands)	319,9	333,4	357,9	381,8	396	76
	% change		4,2%	7,3%	6,7%	3,7%	23,8%

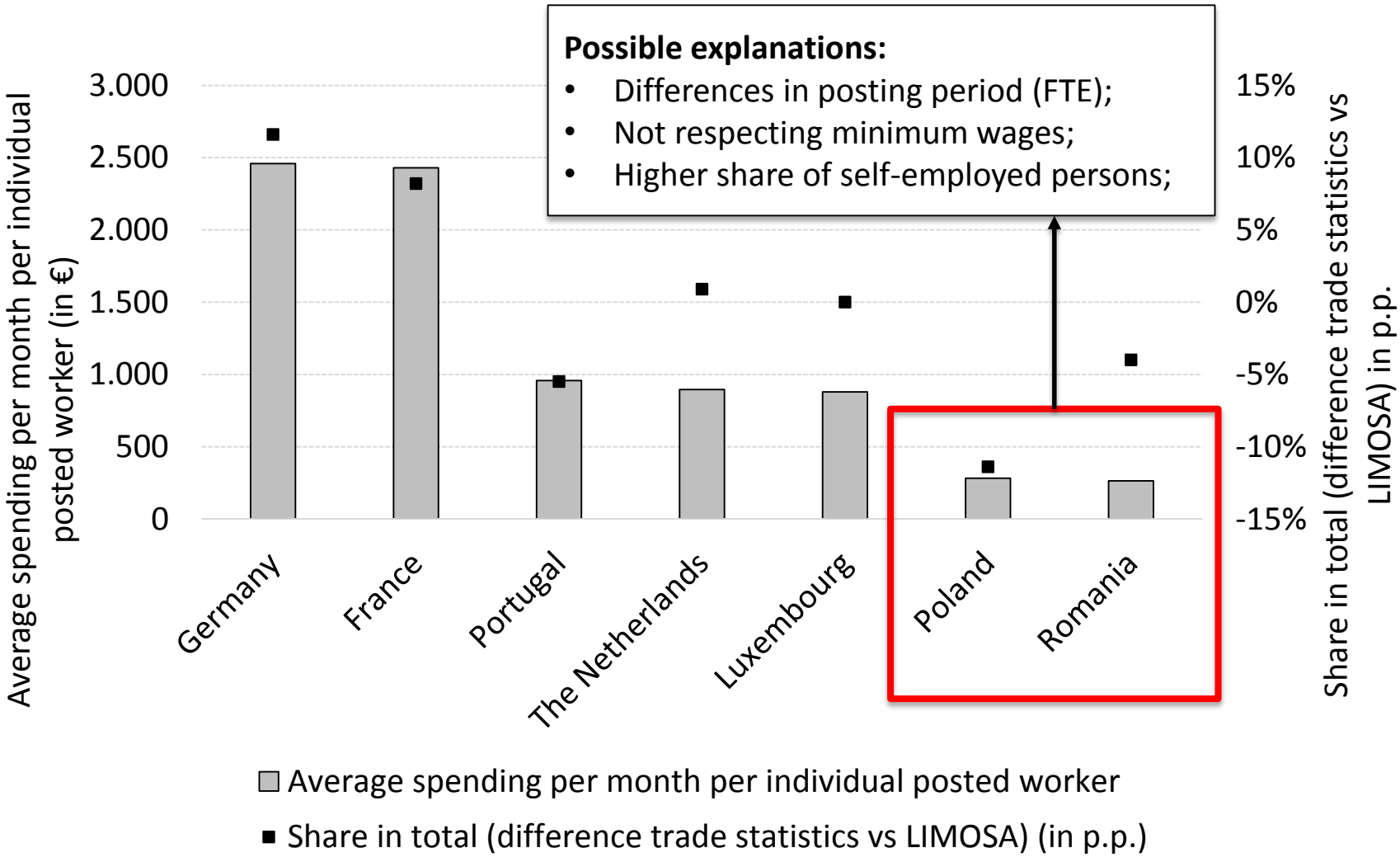
Source De Wispelaere and Pacolet, 2017 based on NBB and LIMOSA

Share of intra-EU posting of total employment in the Belgian construction sector, 2011-2015 (2)



Source De Wispelaere and Pacolet, 2017 based on NBB and LIMOSA

Services imported to the Belgian construction sector



Source De Wispelaere and Pacolet, 2017 based on Eurostat and LIMOSA

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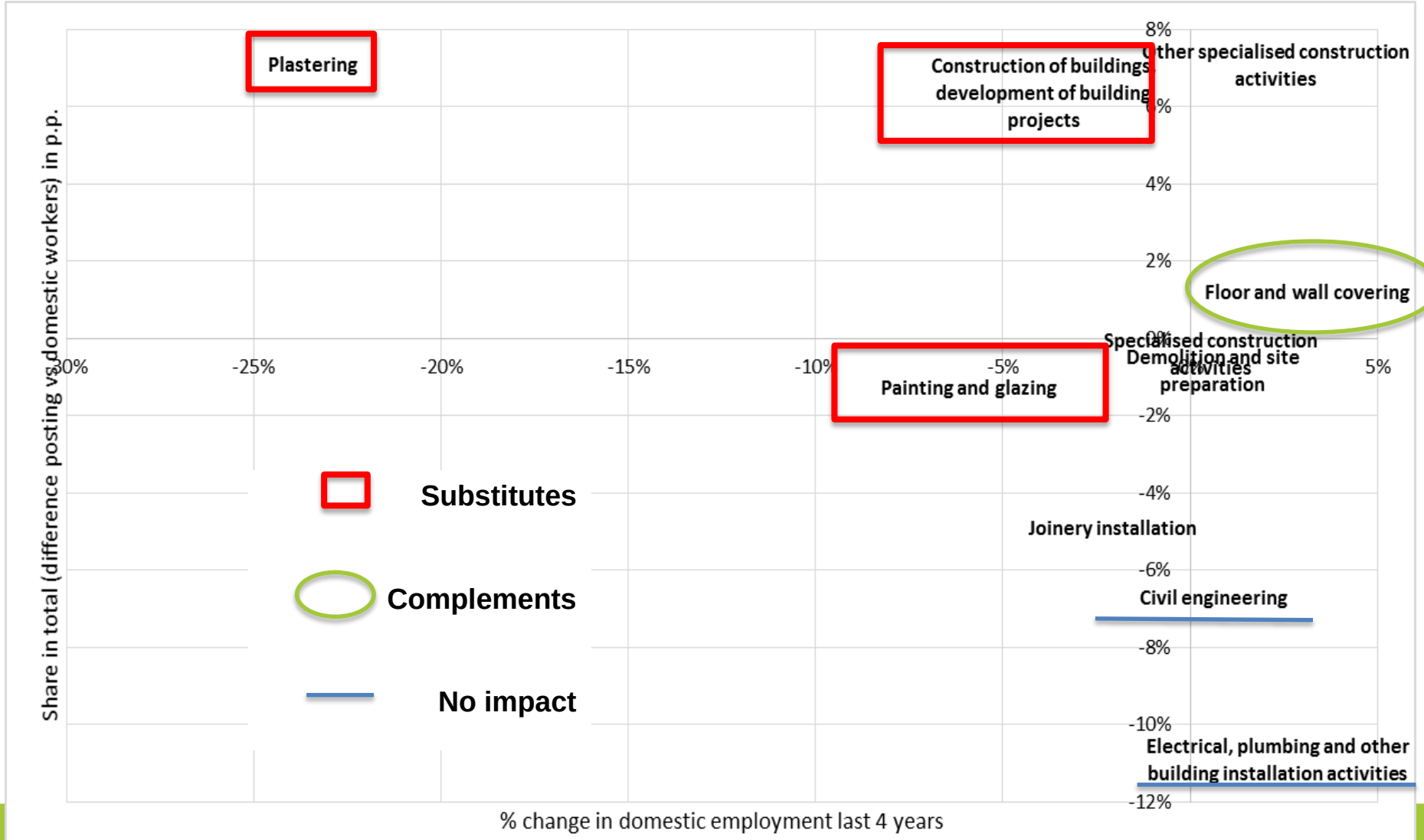
Displacement effects in the Belgian construction sector

Does not occur in every sub-sector

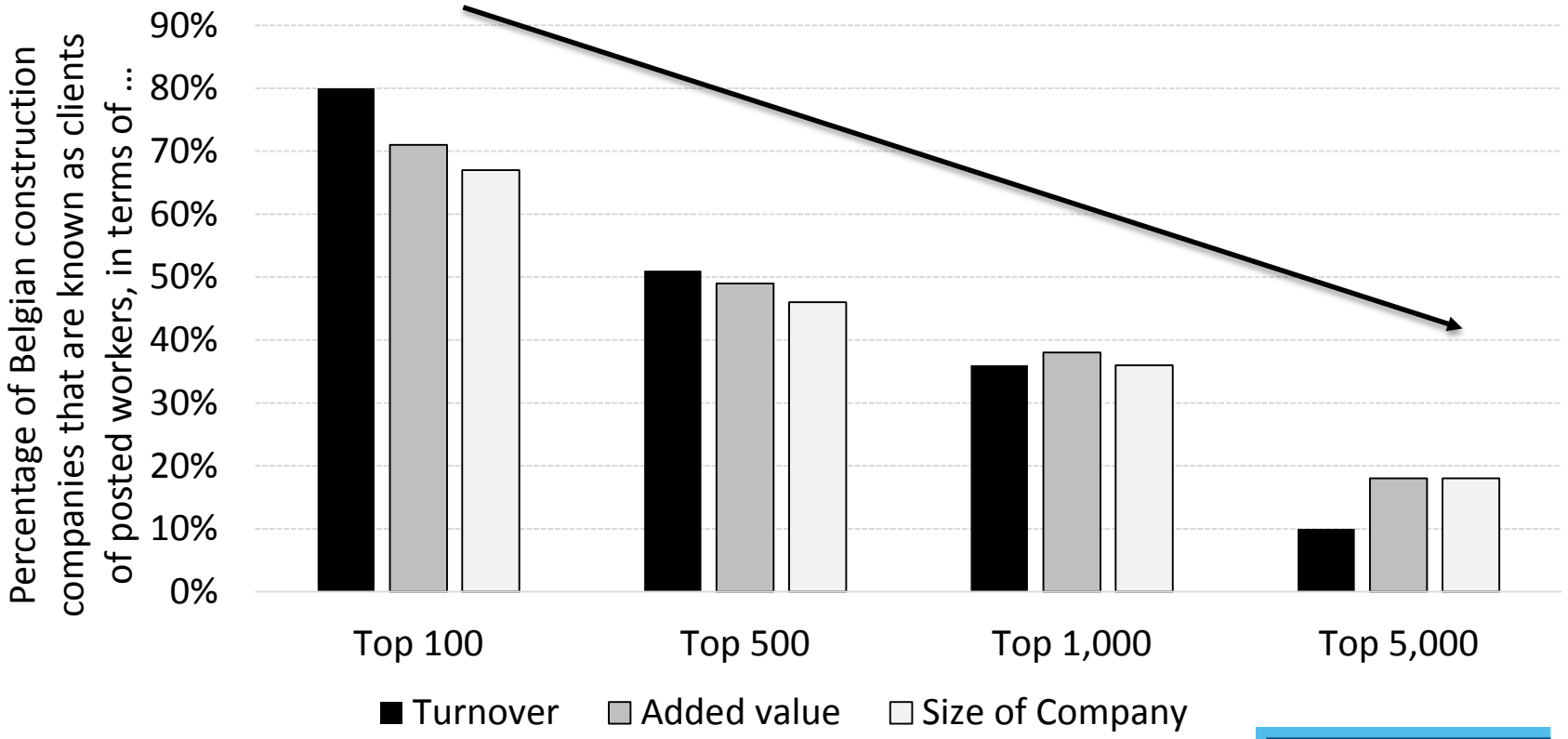


Source De Wispelaere and Pacolet, 2017

A dual employer market? (1)

"The role of high-wage country companies in exploiting the differences in socioeconomic conditions between domestic and foreign locations is rarely a subject of public debate" (Bernaciak, 2015)

Percentage of Belgian construction companies that are known as clients of posted workers, in terms of …



Source De Wispelaere and Pacolet, 2017

A dual employer market? (2)

Source De Wispelaere and Pacolet, 2017

A dual employer market? (3)

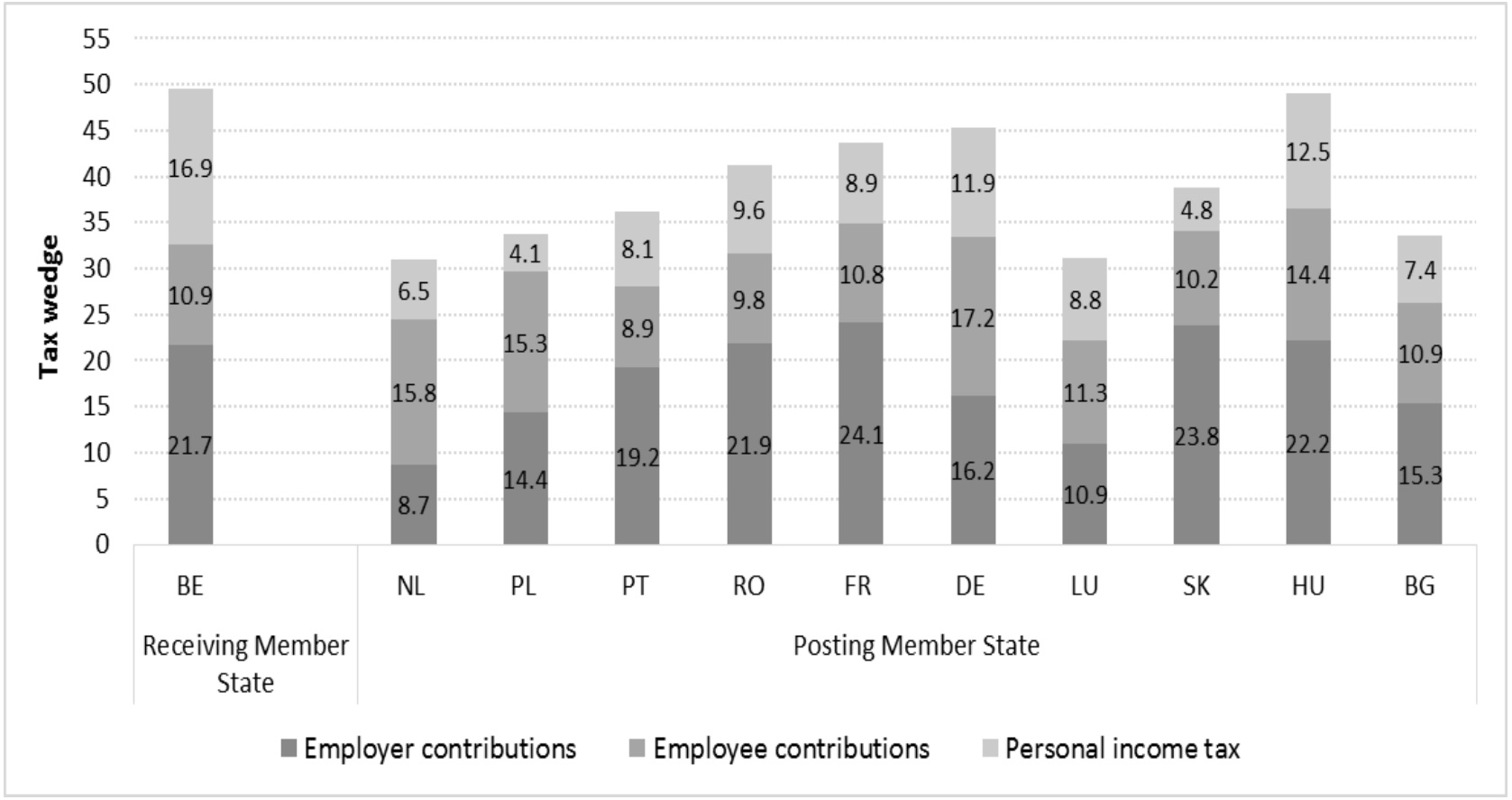
		2011	2012	2013	2014	2015
Number of enterprises	Value	95.117	95.549	96.791	105.998	108.168
	% change		0,5%	1,3%	9,5%	2,0%
Turnover or gross premiums written	Value (in millions of €)	60.790,1	61.178,2	59.294,5	62.065,0	69.603,3
	% change		0,6%	-3,1%	4,7%	12,1%
Value added at factor cost	Value (in millions of €)	15.991,6	15.687,2	15.711,5	16.518,0	
	% change		-1,9%	0,2%	5,1%	
Wages and Salaries	Value (in millions of €)	6.161,3	6.414,5	6.253,9	6.422,1	6.615,5
	% change		4,1%	-2,5%	2,7%	3,0%
Social security contributions	Value (in millions of €)	3.377,0	3.470,7	3.341,5	3.414,9	
	% change		2,8%	-3,7%	2,2%	

Source De Wispelaere and Pacolet, 2017

What are the underlying reasons for the increasing use of intra-EU posting? (1)

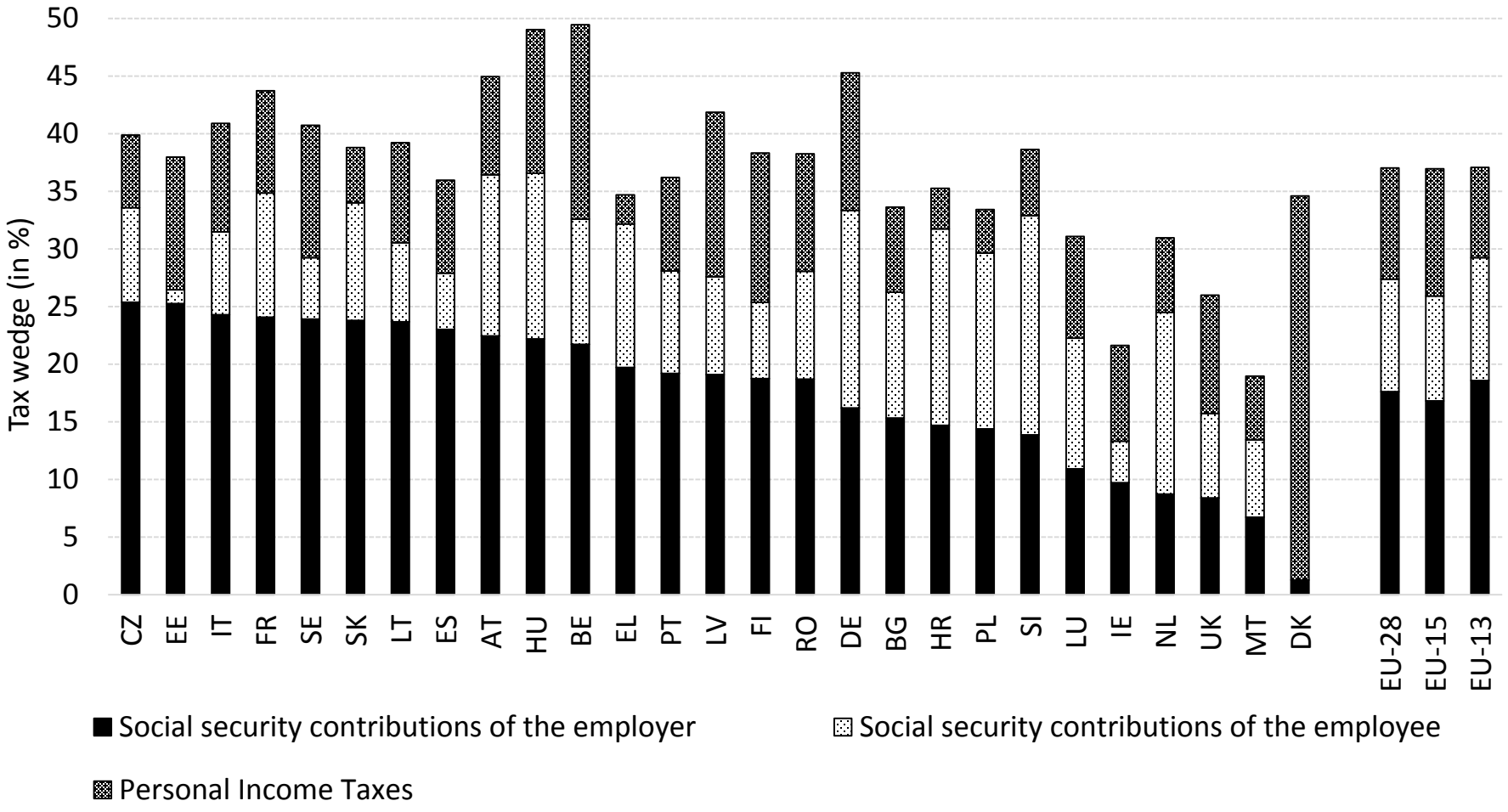
- A number of push and pull factors can be established (from a receiving perspective: labour costs, shortage of workers, demand for more labour flexibility etc.);
- Their order of importance for countries/sectors of activity is a research question in itself that should be examined further;
- **Impact of transitional arrangements: 'front door – back door principle'.** However, sharp increase after this period. This reflects a new reality: *"posting seems to be an adaptation to the realities of a culturally and linguistically very heterogeneous market. It is a response to the desire of EU citizens to remain permanently in their home country for cultural, linguistic and family reasons, while at the same time seizing economic opportunities posed by the EU free movements"* (Mussche et al., 2016);
- Why is the Belgian construction sector an outlier? High share in the past explained by the absence of a minimum wage:
  - **German construction sector:** The number of posted workers in the German construction amounted to 99,861 persons in 2015 (SOKA BAU, 2016). This is a much lower number (– 39%) compared to some 20 years ago (roughly 165,000 posted workers in 1996) (Kahmann, 2006).
  - **German meat industry:** Some 4 out of 10 of the workers employed in the meat processing industry are posted workers (Wagner and Hassel, 2016). *"the absence of the statutory and sectorial minimum wage in the meat industry over the last decade has long been the weak link in the German institutional system. … As a result, the majority of the meat slaughtering and processing in Germany today is [was] done by posted and temporary workers from Eastern Europe working for an hourly wage of about three to five euros"* (Wagner, 2015).

What are the underlying reasons for the increasing use of intra-EU posting? (2)



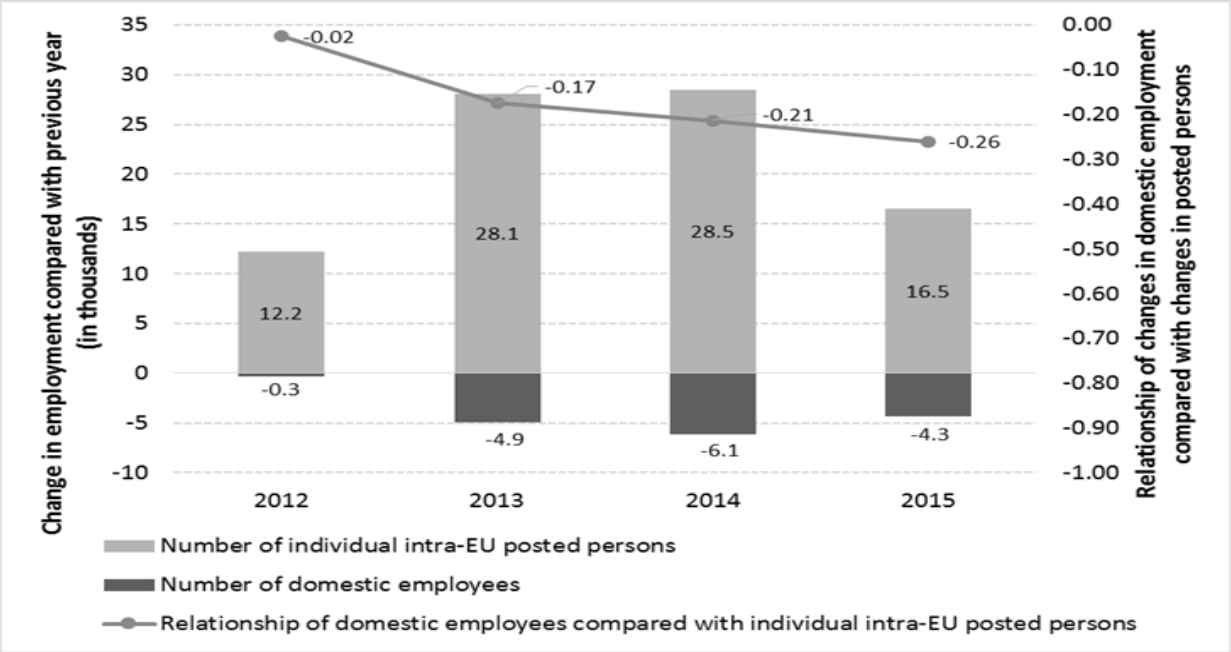
Source De Wispelaere and Pacolet, 2017

What are the underlying reasons for the increasing use of intra-EU posting? (3)



What are the underlying reasons for the increasing use of intra-EU posting? (4)

During the last three years, there have been five more individual intra-EU posted workers for one less domestic worker.



- *A bottleneck job*
- *+ 76 thousand persons employed between 2011-2015: would you have found them at the Belgian labour market?*

Source De Wispelaere and Pacolet, 2017 based on NBB.Stat and LIMOSA

What is the difference between social dumping and social fraud?

- The notion ‘social dumping’ has been ‘contaminated’ by using it to refer to social fraud as well (see the *Balas report* of the Committee on Employment and Social Affairs);
- **Social dumping:** *“one country reducing labour costs and labour conditions because of the pressure created by the competitive advantage that other countries have resulting from differences in national legislation/standards that are not (fully) remedied by European legislation”;*
- Social fraud via posting is differentiated from social dismantlement via posting;
- Cites the reason why labour costs and labour conditions come under pressure from posting;
- This was from the very beginning a deliberate choice: the discussion on ‘social dumping’ already exists since the founding of the European Union. **A discussion on competitive advantages without referring to the fraudulent practices (‘regulatory competition’)**: coordination instead of harmonization;
- Initial context: risk of a massive relocation of firms and the movement of migrants towards high-wage countries. Today, social dumping is mostly linked with posting.
- A stronger EU coordination (by Directive 96/71/EC and Regulation (EC) No 883/2004) could solve to a large extent this risk => harmonization of rights applicable to posted workers and domestic workers.

Some remarks about the proposal for a revision of the Posting of Workers Directive

- **Is the proposal an incentive for more (bogus) self-employment?**
  - IA of the EC (2016): *"options entail the risk of an inflow of dependent posted work into self-employment as a possible unintended consequence of more equal wage standards. As collective agreements do not apply to the self-employed, companies may find it more advantageous to recruit on independent work arrangements, falling outside the protection scope of the Directive."*
  - Currently 8% of the posted persons are self-employed (Art. 12);
  - Share of self-employed strongly varies among Member States;
  - LIMOSA - BE - construction: 19% of the posted are self-employed.

Some remarks about the proposal for a revision of the Posting of Workers Directive and Regulation on the coordination of social security systems

- **Duration of the posting period?**
  - The duration of the posting period (under Art. 12) is on average 98 days (± 6 months per individual posted person);
  - The average duration for persons active in two or more Member States is much higher;
  - Fiscal rules: the '183-days rule';
  - The average duration strongly varies among Member States;
  - The average duration varies among sectors of activity? No figures;
  - Increase of the posting period in Belgium;
  - More than 90% of the incoming workers in the German construction sector are posted for a period less than 6 months (SOKA BAU, 2015);
  - Regulation (EEC) 1408/71: The anticipated duration of the posting cannot exceed 12 months, with an extension of up to 12 additional months due to unforeseeable circumstances (Art. 14 (1));
  - Proposal to revise Regulation (EEC) 1408/71 (EC, 1998): Limited to 12 months (Art. 9 (1)).

Some remarks about the proposal for a revision of the Posting of Workers Directive and Regulation on the coordination of social security systems

- **Competitive advantages (1)**
  - Posting of Workers Directive: **minimum wage vs average wage**
    - German minimum wage in construction sector 4 times higher than the salary in Romania and Bulgaria and almost 2 times higher than the salary in Poland;
    - The monthly German minimum wage amounts to only 41% of the mean value of the average monthly earnings in Germany;
    - IA of the EC: "the existing Directive has an in-built structural wage gap between posted and local workers";
    - Unit Labour Cost;
    - Differences in purchasing power / standard of living;
  - Regulation on the coordination of social security schemes: **Exception to 'lex loci laboris' principle**
    - *"In order to give as much encouragement as possible to the freedom of movement of workers and services, to avoid unnecessary and costly administrative and other complications which would not be in the interests of workers, companies and administrations, the Community provisions in force allow for certain exceptions"* (EC, 2012)
    - *"One could argue that the EC, by not elaborating an explicit policy of harmonization, in fact elaborates an invisible regional policy. By not interfering in social security, the EC allows its less developed Member States to improve their economic position, as they can profit from the competitive advantage which their less developed system of social protection generates. At the same time, however, this also constitutes an incentive for social dumping"* (Berghman, 1996)
    - European Commission in a recent report of 2014: *"Posting workers allows companies to exploit their competitive advantage across borders"*.
    - Natural boundaries of the volume of posting?
  - Other aspects: Differences in corporation taxes, in knowledge and skills, additional costs.

Some remarks about the proposal for a revision of the Posting of Workers Directive and Regulation on the coordination of social security systems

- **Competitive advantages (2)**
  - Does it lead to a race to the bottom?
  - Tax shift: Beveridge versus Bismarck oriented Member States;
  - A budget of € 605 million has been announced for reducing employer social security contributions in the Belgian construction sector:
    - 18% of total receipts from social security contributions <-> tax shift;
    - National Labour Council: reduction is not a solution if the fight against social fraud is insufficient;
    - Snowball effect for other labour-intensive sectors;
    - No guarantee that domestic employment will increase;
    - Number of jobs lost due to undeclared work?
    - Self-employed: contribution rates are degressive + annual ceiling of the contributions;
    - The importance of social dialogue at company, sectoral national level.

Some recommendations / conclusions

- Further valorisation of databases among inspecting organisations as well as for scientific research is desirable;
- There is insufficient knowledge of the profile of the Belgian user and the underlying motives for posting persons to Belgium;
- A major role has been created for the social partners to avoid further segregation and to inform posted employees about their social rights and obligations;
- It also presupposes a more balanced debate that must acknowledge that posting does not necessary implies social fraud and that the use of posting also frequently presumes a demand from a Belgian client/main contractor;
- One cannot ignore the job displacement effects in the Belgian construction sector;
- But there are also the positive aspects for Belgian clients, Belgian consumers, posted workers and foreign employers.

References

- De Wispelaere, F. and Pacolet, J. (2017), *The size and impact of intra-EU posting on the Belgian economy. With a special focus on the construction sector*, HIVA – KU Leuven.
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