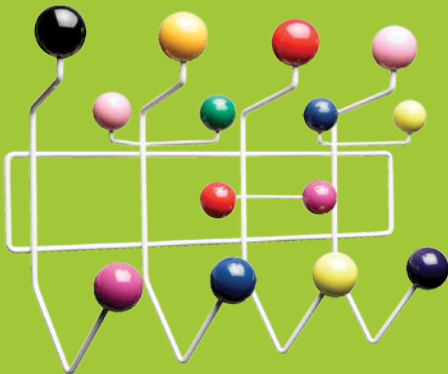
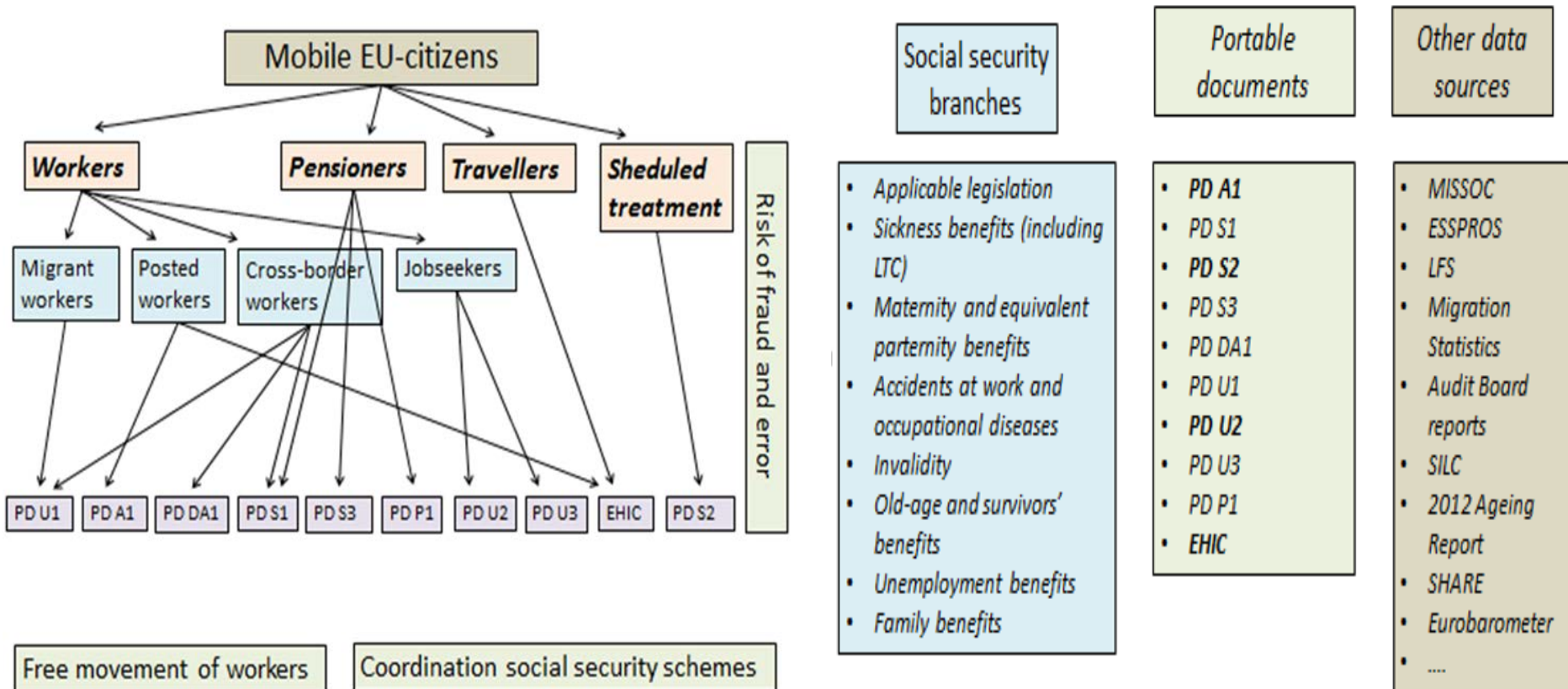


‘Social dumping’ and free movement: Overview of current issues from an economic point of view

Prof. dr. Jozef Pacolet & Frederic De Wispelaere



Statistics on the functioning of Regulation (EC) No. 883/2004

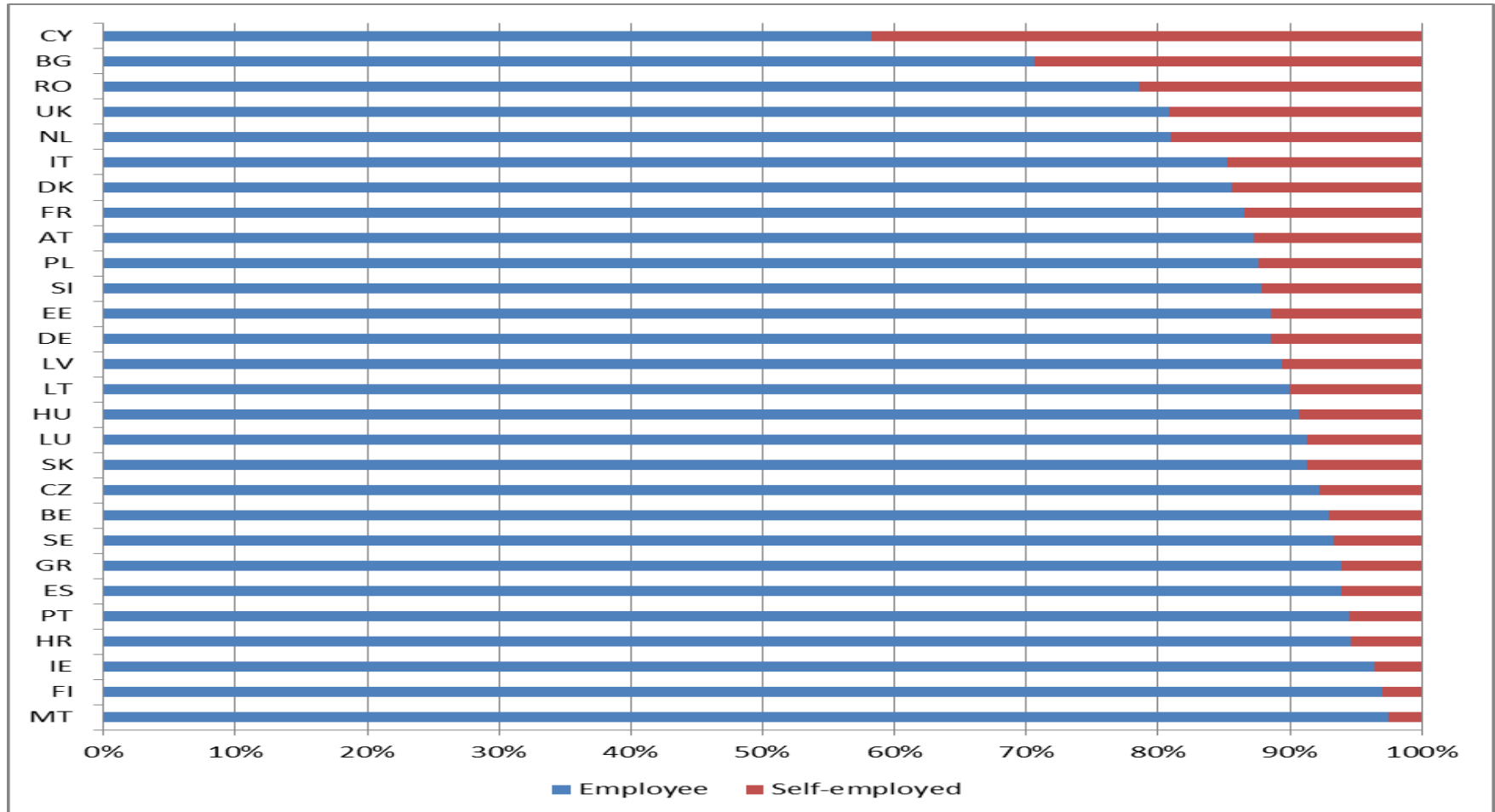


Intra-EU mobility of workers

Indicator	Year	Unit	Number	Type of variable	Source
Cross-border workers in EU	2010-2011	in thousands	1,032	Stock	LFS
<i>As share of total EU employment</i>		<i>in %</i>	<i>0.5%</i>		
Of which frontier workers in EU	2010-2011	in thousands	701	Stock	LFS
Posted workers (PD A1 issued)	2011	in thousands	1,209	Yearly issued	Report PD A1
<i>As share of total EU employment</i>		<i>in %</i>	<i>0.6%</i>		
Mobile EU citizens of working age (15-64)	2012	in thousands	1,530	Yearly flow	Eurostat Migration Statistics – migr_imm5prv
	2013	in millions	10.3	Stock	EC – EU Employment and Social Inclusion - Quarterly Review June 2014 – Recent trends in the geographical mobility of workers in the EU

Intra-EU mobility of workers: employed or (bogus) self-employed recent migrant workers?

(Self)employed recent EU-28 movers by professional status and citizenship
(residing in a EU-28 MS other than their MS of citizenship for up to 5 years of 1/1/2013)



Source: Own calculations based on LFS

Intra-EU mobility of workers: (bogus) self-employment

Number of 'new' self-employed persons in Belgium, 2009 - 2013

Nationality	2009	2010	2011	2012	2013	% of total	% difference 2013 - 2009
BE	60,913	67,616	69,883	70,998	70,075	77.0%	13.1%
BG	1,666	2,367	2,537	2,801	2,184	2.4%	23.7%
RO	2,620	3,704	5,158	6,416	5,325	5.8%	50.8%
PL	1,799	1,793	1,801	1,860	1,572	1.7%	-14.4%
FR	1,288	1,410	1,528	1,531	1,631	1.8%	21.0%
NL	1,580	1,692	1,688	1,819	1,725	1.9%	8.4%
DE	263	297	276	333	275	0.3%	4.4%
Others	5,463	6,153	6,851	7,483	8,272	9.1%	34.0%
Total	75,592	85,032	89,722	93,241	91,059	100.0%	17.0%

Source: RSVZ - National Institute for the Social Security of the Self-employed

Posted workers

- “A worker who, **for a limited period**, carry out his work in the territory of a Member State other than the State in which he normally works”
(Art. 2 of Directive 96/71/EC)
- Terms and conditions of employment: Member State where the work is carried out (Art. 3 (1) of Directive 96/71/EC)
- “A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that employer’s behalf shall continue to be **subject to the legislation of the first Member State**, provided that the anticipated duration of such work does **not exceed 24 months** and that he/she is not sent to replace another posted person” (Art. 12 (1) of Regulation (EC) No 883/2004)

Number and profile of posted workers via PD A1

- The Portable Document A1 (PD A1) (previous E101 form) is the formal statement on the applicable social security legislation;
- Number of PD A1 forms \neq number of unique workers;
- Limited average duration;
- In specific sectors of activity (e.g. construction);
- Limited impact on total national employment (in terms of FTE).

Number of posted workers (2011)

Member State	as sending MS		as receiving MS	
	Number	% of national employment	Number	% of national employment
BE	55,931	1.3%	125,107	2.8%
BG	7,429	0.3%	4,006	0.1%
CZ	16,102	0.3%	17,144	0.4%
DK	11,491	0.4%	11,002	0.4%
DE	226,850	0.6%	311,361	0.8%
EE	15,322	2.6%	1,904	0.3%
IE	3,106	0.2%	6,084	0.3%
EL	888	0.0%	7,763	0.2%
ES	48,479	0.3%	47,640	0.3%
FR	144,256	0.6%	161,954	0.6%
IT	35,611	0.2%	64,223	0.3%
CY	38	0.0%	1,042	0.3%
LV	4,287	0.5%	1,788	0.2%
LT	9,515	0.8%	2,248	0.2%
LU	39,385	17.7%	24,295	10.9%
HU	57,848	1.5%	9,924	0.3%
MT	318	0.2%	1,449	0.9%
NL	25,986	0.3%	105,885	1.3%
AT	28,806	0.7%	76,335	1.9%
PL	227,930	1.5%	16,013	0.1%
PT	54,043	1.2%	13,345	0.3%
RO	59,363	0.7%	10,476	0.1%
SI	42,485	4.6%	2,676	0.3%
SK	40,926	1.8%	6,876	0.3%
FI	2,668	0.1%	22,183	0.9%
SE	11,771	0.3%	24,412	0.5%
UK	35,368	0.1%	37,247	0.1%
EU-27	1,206,202	0.6%	1,114,382	0.5%
IS	377	0.2%	559	0.4%
LI	63		763	
NO	2,163	0.1%	30,523	1.2%
CH			62,578	1.5%
Total	1,208,805	0.6%	1,208,805	0.6%

Source: EC, 2012 and Eurostat

Belgium: LIMOSA v.s. Portable Document A1

LIMOSA

Year	Total number of reported persons (A)	Total number of 'unique persons' (B)	A/B
2008	224,905	138,222	1.6
2009	217,115	129,085	1.7
2010	260,595	137,151	1.9
2011	337,189	158,551	2.1
2012	372,822	178,268	2.1
% change			
2012 - 2008	65.8%	29.0%	

Source: National Social Security Office - Belgium



BE for 2011: 125,107 PDs A1 as receiving MS

Posted workers and 'social dumping'

- Impact of restrictions on free movement of workers during transitional period (*'front door-back door principle'*);
- Risk of 'job displacement' and unfair competition;
- Unit Labour Cost: labour cost and labour productivity;
- Price elasticity of demand.

‘Social dumping’

- Rather associated with **(unfair) competition** by taking advantage of differences in national legislation by the **free movement of people** than by the relocation of firms;
- Narrow definition linked to free movement of services: *“where foreign service providers can undercut local service providers because their labour standards are lower”*
- (unfair) competition - social fraud
- Impact of EU regulatory framework (Directive 96/71/EC; Regulations (EC) Nos 883/2004 and 987/2009; Directive 2014/67/EU)

	National worker	Posted worker
Fiscal law	Contribution to the Tax Administration in MS of employment	Contribution to the Tax Administration of sending MS - 183-days regime
Social law	Contribution to the Social Security in MS of employment	Contribution to the Social Security of sending MS - A1 certificate Reg. EC No 883/2004
Labour law	Labour and working conditions of MS of employment	Labour and working conditions of MS of employment - Directive 96/71/EC

E.g. Belgium – construction sector

Risk of social dumping and unfair competition

Decline of prices with 17% and loss of employment (25 to 31%) due to unfair competition in construction sector

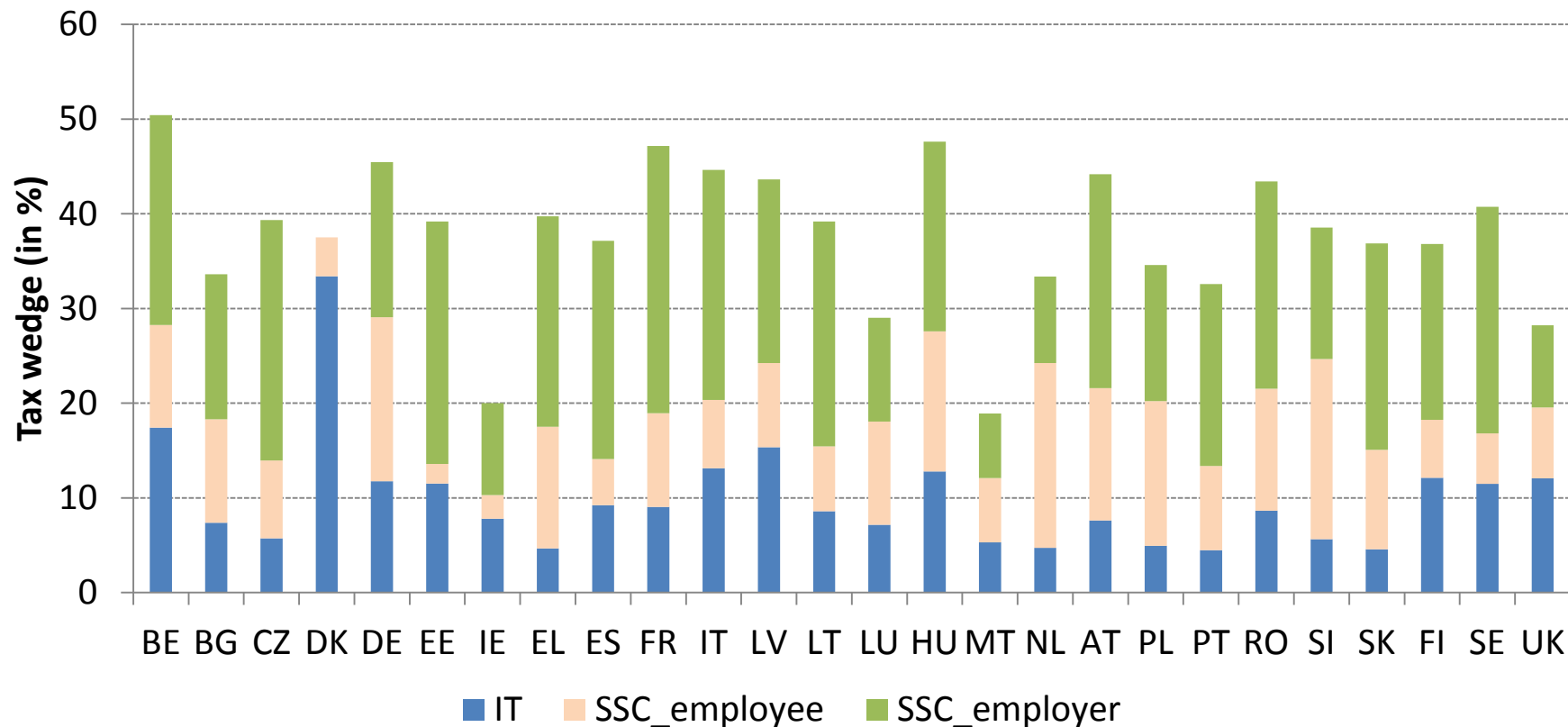
Employer and employee social security contribution rates, 2013

Employer social security contribution rates					Employee social security contribution rates				
MS	Tax base	Marginal rate	Base		MS	Tax base	Marginal rate	Base	
			Lower threshold	Upper threshold				Lower threshold	Upper threshold
Austria*	14*MGE	21,63	5 415	62 160	Austria	14*MGE	0,00	0	5 415
					Austria	14*MGE	15,06	5 415	17 066
					Austria	14*MGE	16,06	17 066	18 620
					Austria	14*MGE	17,06	18 620	20 958
					Austria	14*MGE	18,06	20 958	62 160
Belgium	MGE	34,67	-	-	Belgium	MGE	13,07	-	-
Czech Republic	MGE	9,00	-	-	Czech Republic	MGE	4,50	-	-
Czech Republic	MGE	25,00	-	103 536	Czech Republic	MGE	6,50	-	100 548
					Denmark*	AGE	8,00	-	-
Estonia*	MGE	1,00	0	3 480	Estonia*	MGE	2,00	-	-
Estonia*		34,00	3 480	-					
Finland	AGE	22,80	-	-	Finland*	TYs	1,30	-	-
					Finland*	AGE	6,49	-	-
France*	AGE	41,73	0	37 032	France*	AGE	13,80	0	37 032
France*		40,93	37 032	111 096	France*		12,15	37 032	111 096
France*		27,63	111 096	148 128	France*		3,25	111 096	148 128
France*		22,23	148 128	-	France*		0,85	148 128	-
Germany*	AGE	19,28	0	47 250	Germany*	AGE	20,18	0	47 250
Germany*		10,95	47 250	69 600	Germany*		10,95	47 250	69 600
Greece*	MGE	28,56	-	5 547	Greece*	MGE	16,50	-	5 547
Hungary	AGE+BEN	28,50	-	-	Hungary	AGE	18,50	-	-
Iceland*	AGE	7,69	-	-	Iceland	AGE	8,00	-	-
Ireland	AGE	8,50	0	18 512	Ireland*	AGE	4,00	[18,304]	-
Ireland		10,75	18 512	-					
Italy*	AGE	32,08	0	99 034	Italy	AGE	9,49	0	45 530
					Italy		10,49	45 530	99 034
Luxembourg**	AGE	12,31	0	112 451	Luxembourg*	AGE	11,05	0	112 451
					Luxembourg+	AGE	1,40	5 623	-
Netherlands* +	AGE	8,45	0	17 501	Netherlands*	TY	30,65	0	33 363
Netherlands* +		10,15	17 501	50 853					
Norway* +	AGE	13,00	-	-	Norway*	AGE	7,80	[39,600]	-
Poland*	AGE	16,78	0	111 390	Poland**	AGE	7,61	0	111 390
Poland+		4,17	111 390	-	Poland*+		2,45	111 390	-
					Poland*+	AGE	9,00	-	-
Portugal	MGE	23,75	-	-	Portugal	MGE	11,00	-	-
Slovak Republic* +	MGE	30,40	[337.7]	3 930	Slovak Republic*	MGE	13,40	/337.7/	3 930
Slovenia	MGE	16,10	-	-	Slovenia	MGE	22,10	-	-
Spain*	AGE	29,90	[9,036]	41 108	Spain*	AGE	6,35	/9,036/	41 108
Sweden	AGE+BEN	31,42	-	-	Sweden**	AGE	7,00	[18823,5]	456 762
Switzerland*	AGE	6,25	0	126 000	Switzerland*	AGE	6,25	0	126 000
Switzerland+		5,15	126 000	315 000	Switzerland+		5,15	126 000	-
United Kingdom*	WGE	13,80	641	-	United Kingdom*	WGE	12,00	149	797
					United Kingdom*	WGE	2,00	797	-

WGE:	Weekly gross earnings
MGE:	Monthly gross earnings
AGE:	Annual gross earnings

Source: OECD

Tax wedge (of a single person receiving 67% of the average national wage) in 2013 by type of labour taxation

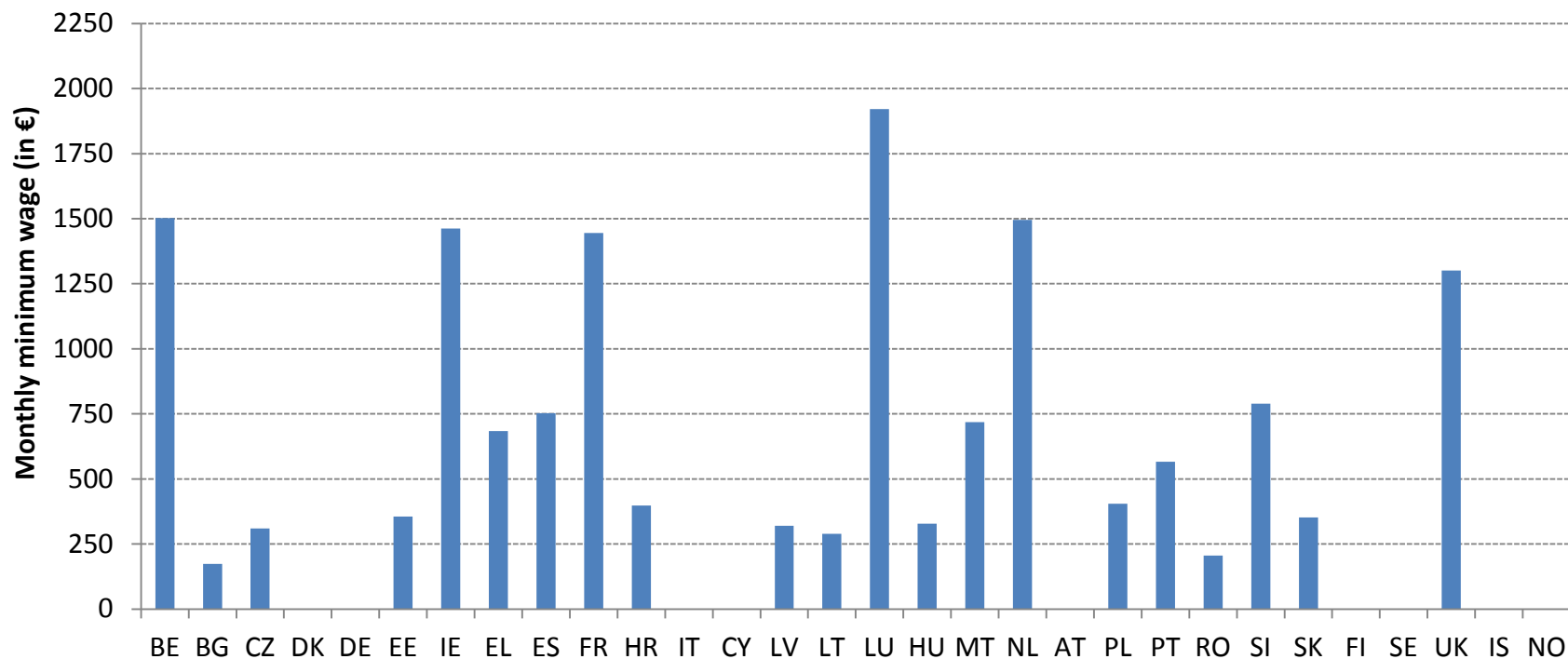


* IT: Income Tax; SSC_employee: employee social security contribution; SSC_employer: employer social security contribution

** CY and HR: no data available

Source: DG ECFIN - Tax and benefits indicators database

Minimum wages (second semester of 2014)



* The basic national minimum wage is fixed at an hourly, weekly or monthly rate, and this minimum wage is enforced by law (the government), often after consultation with the social partners, or directly by national intersectoral agreement. The national minimum wage usually applies to all employees, or at least to a large majority of employees in the country. **Gross wages are reported.**

Source: Eurostat [earn_mw_cur]

Possible solutions?

- Proposal of the Commission to create an EU platform to fight undeclared work;
- Enforcement by law (Enforcement Directive);
 - Administrative cooperation;
 - Role of labour inspectorates and penalties/fines;
 - Monitoring tools (e.g. BE: LIMOSA);
- Role of social partners in sending and receiving MSs:
 - inform about and protect the rights of posted workers;
 - ensure compliance;
 - collaboration with labour inspectorates.
- Measures in labour intensive industries (+ innovation);
- Changes in Directive 96/71/EC;
- Minimum wages – method of open coordination;
- Raising awareness of customers ('there is no such thing as a free lunch').