



Global Employer Services Reward & Mobility Alert

New rules on posting of drivers in the road transport sector

New rules regarding the posting of drivers in the road transport sector entered into force in July 2022. The new legislation (partially) transposes Directive 2020/1057 laying down specific rules for posting drivers in the commercial road transport sector and introduces new information requirements for Belgian employers who are sending drivers abroad.

The new rules introduce the long-awaited specific regulatory framework for posted workers in the transport industry. You will find the most important attention points from a Belgian perspective below. Compliance with these rules is crucial in case drivers or their employers are audited by a social inspector.

Posting drivers from Belgium

Scope of the new legislation

The new legislation is applicable to employers who have their registered seat in Belgium, post drivers from Belgium to another EU Member State in the framework of road transport activities on behalf of a third party and fall within the application field of one of the following joint committees:

- Joint committee no. 117 for the petroleum sector and -commerce;
- Joint committee no. 124 for the construction sector;
- Joint committee no. 127 for the trades in fuels;
- Joint committee no. 140 for transport and logistics;
- Joint committee no. 317 for the security and/or surveillance services.

More specifically, the following situations are considered to be posting within the framework of the legislation:

- Non-bilateral international transport (i.e. transport between countries which are not the country where the employer is located);

- Cabotage (i.e. the entire transport activity by an employer, both pick-up and delivery, takes place in another EU Member State).

In essence, bilateral transport of goods and passengers (i.e. transport from or to the Member State where the employer is located) and transit (i.e. when the driver is only passing through the territory of a Member State without unloading cargo or picking up/dropping off passengers), on the other hand, are not to be considered as posting. More specific exceptions are foreseen.

Information obligations

Belgian employers who post one or more of their drivers from Belgium to another EU Member State have to inform their driver(s) in advance in writing (on paper or electronically) about the website of the host Member State where they can find all the information on their rights and obligations as posted drivers in that Member State. The official website of each Member State can be found through the website of the European Union "[Your Europe](#)".

In the situation where a Belgian company (user) assigns a driver, who works for the company as a temporary worker, to work in a Member State of the European Economic Area or Switzerland other than Belgium, the Belgian company (user) must inform the temporary employment agency (employer) in advance in writing (on paper or electronically) in which country/countries other than Belgium the work will be performed.

New administrative requirements

In case a transport is qualified as posting of drivers in the road transport sector on the Belgian territory, the new legislation stipulates certain administrative obligations and control measures that will need to be respected by the foreign employer:

- Filing a posting declaration prior to the posting: employers located in another EU Member State or the UK have to file the declaration via the [online platform](#) of the European Commission; employers located outside the EU or UK have to file the declaration via the website of the Federal Public Service Employment, Labour and Social Dialogue. No additional Limosa declaration is required;
- A posted driver must be able to present the following documents during his posting: a copy of the abovementioned posting declaration, proof that the transport operation takes place in Belgium and the tachograph records;
- The employer must be able to present the following documents to the Belgian authorities after the posting: a copy of the abovementioned documents, a copy of the employment contract or equivalent document containing information on the employment conditions of the posted driver during his posting, a detailed overview of the working hours, documents regarding the driver's wages (in accordance with the legislation of the country of the employer) and proof of payment of these wages;
- The employer must appoint a transport manager or another contact person in the country in which the employer is located to act as a liaison with the Belgian authorities.

Sanctions

Employers who do not comply with the abovementioned administrative obligations and control measures will be punished with a sanction of level 4 (i.e. imprisonment of 6 months to 3 years and/or a criminal fine of EUR 4,800 to EUR 48,000 or an administrative fine of EUR 2,400 to EUR 24,000).

Do note that the client, transport agent or freight forwarder will also be jointly liable when they knew/should have known that the employer did not comply with the abovementioned obligations.

PWD obligations

Please bear in mind that the Posted Workers Directive 96/71 and its Enforcement Directive 2014/67 remain fully applicable to all situations classified as posting of drivers in the road transport sector. This means that, for instance, the Belgian hard core employment conditions (remuneration, working time, health & safety, etc.) will need to be respected when drivers are posted to Belgium and Belgian transport companies will need to take into account foreign rules when posting drivers.

Contacts

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