



## **Global Employer Services** Legal & Immigration

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### **Impact of the EU Posted workers Enforcement Directive**

Over the last months, several EU Member-States have taken specific legislative initiatives in relation to cross-border posting of employees. This accelerated implementation of new legal rules and formalities affecting posted workers is the result of the implementation of the Posted Workers Enforcement Directive (2014/67) into Member State national legislation.

This Directive was introduced back in 2014 to enhance the practical execution and application of the Posted Workers Directive (96/71), the main goal of which is to protect the social rights of posted workers and thus avoid social dumping within the framework of free movement of services within the EU. To that purpose, the Posted Workers Directive now requires employers, assigning employees, to comply with a nucleus of labour law obligations applicable in the host country (e.g. minimum wages, working time, rules regarding health and safety, etc.).

In practice however, effective compliance with the Posted Workers Directive's protective rules does not always appear straight forward, mainly by lack of efficient control and enforcement procedures in most Member States. Hence, the Enforcement Directive's introduction essentially provides a better framework for inspection services to control and monitor more efficiently, which should lead to increased compliance with the Posted Workers Directive. The due date for implementing the Directive into national legislation was set at June 2016. Some Member States have met the deadline,

while others are still working on the implementation of required legal measures and formalities.

One of the specific control measures already implemented in several Member States relates to the introduction of a notification obligation for assignments into the host country, whereby the host country administration needs to be informed (often in advance) of certain assignment details. Belgium already applies such notification procedure since 2007, through the Limosa Declaration. Several other EU Member States also introduced a similar notification system in the past. In this respect, it should be noted that sanctions for non-compliance are also foreseen for all countries already applying or having recently introduced such notification duty.

Moreover, although this notification duty has been established within an EU legislation framework, recent national implementation rules in some Member States clearly extend the notification obligation to employees being posted from non-EU countries. For these Member States, the notification procedure actually represents a new immigration formality. Hence, an EU Directive that was mainly designed to improve the protection of posted workers' social rights appears to also bring a noteworthy impact on immigration matters in certain EU Member States.

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