

Posting of drivers

IRU members' training,
5 September 2023



Trace 2

Efficient and harmonised enforcement of Mobility
Package1

Agenda

1. What is posting?
2. Overview of transport operations - in & out of scope?
 - Freight transport
 - Passenger transport
3. Preparing for controls
 - Road-side control
 - IMI control
4. Harmonisation of controls



Posting – the legal framework

EU ESTABLISHED OPERATORS

1. The General Posting of Workers Directive 96/71/EC
2. The Enforcement Directive 2014/67/EU
3. The Lex Specialis Directive (EU) 2020/1057

THIRD COUNTRY ESTABLISHED OPERATORS

1. Multilateral Agreement EU-third country (EU-UK TCA) – IMI can be used.
2. Bilateral agreements Member State – third country – IMI cannot be used.
3. National laws – IMI cannot be used.



Where does the lex specialis not apply?

1. A driver works for a transport undertaking via an agency → General Directive
2. A driver is exchanged between establishments of a same group → General Directive
3. Owner-driver → Out of scope of posting
4. Own account → the EC should further clarify. The conditions in Article 1.3 of Directive 96/71/EC (such as contract between the posting company and a client) are important to judge.



Trace 2



When posted, which conditions from the host country apply?

ARTICLE 3 – DIRECTIVE 96/71/EC

- Maximum work periods and minimum rest periods
- Minimum paid annual leave
- Remuneration
- The conditions for hiring out of workers in particular by temporary employment undertakings
- Health & safety
- Protective measures for pregnant women and young mothers
- Equality of treatment between men and women and other provisions on non-discrimination
- The conditions of workers' accommodation where provided by the employer away from their regular place of work
- Allowances or reimbursement of expenditure for travel, board, and lodging.

ALWAYS LOOK AT THE NATIONAL INTERPRETATIONS!



You are planning an international transport – what do you do?

1. Establish the type of operations envisaged for the driver and determine whether posting applies.
2. Submit a posting declaration for the driver for the relevant host countries via the IMI (national systems for third country operators, except UK).
3. Ensure the driver has the relevant posting declarations available as proof of compliance.
4. Ensure the driver keeps consignment notes or equivalent available during the operations to prove operational activity, **even in case the driver is NOT POSTED.**
5. Keep tachograph records available.

Beware of unnecessary posting declarations, an authority can ask supplementary information!



What goes in the posting declaration?

ARTICLE 1.11 (a) – DIRECTIVE (EU) 2020/1057

- (i) the identity of the operator, at least in the form of the number of the Community licence where this number is available;
- (ii) the contact details of a transport manager or other contact person in the Member State of establishment to liaise with the competent authorities of the host Member State in which the services are provided and to send out and receive documents or notices;
- (iii) the identity, the address of the residence and the number of the driving licence of the driver;
- (iv) the start date of the driver's contract of employment, and the law applicable to it;
- (v) the envisaged start and end date of the posting;
- (vi) the number plates of the motor vehicles;
- (vii) whether the transport services performed are carriage of goods, carriage of passengers, international carriage or cabotage operations;



You have finished an international transport – what do you do?

No later than eight weeks from receiving the request of the host Member State, send via the public interface connected to IMI the requested documents, such as:

- tachographs records;
- consignment notes;
- documentation relating to the remuneration of the driver in respect of the period of posting;
- the employment contract;
- time-sheets relating to the driver's work;
- proof of payments of driver's remuneration.

When is a driver posted

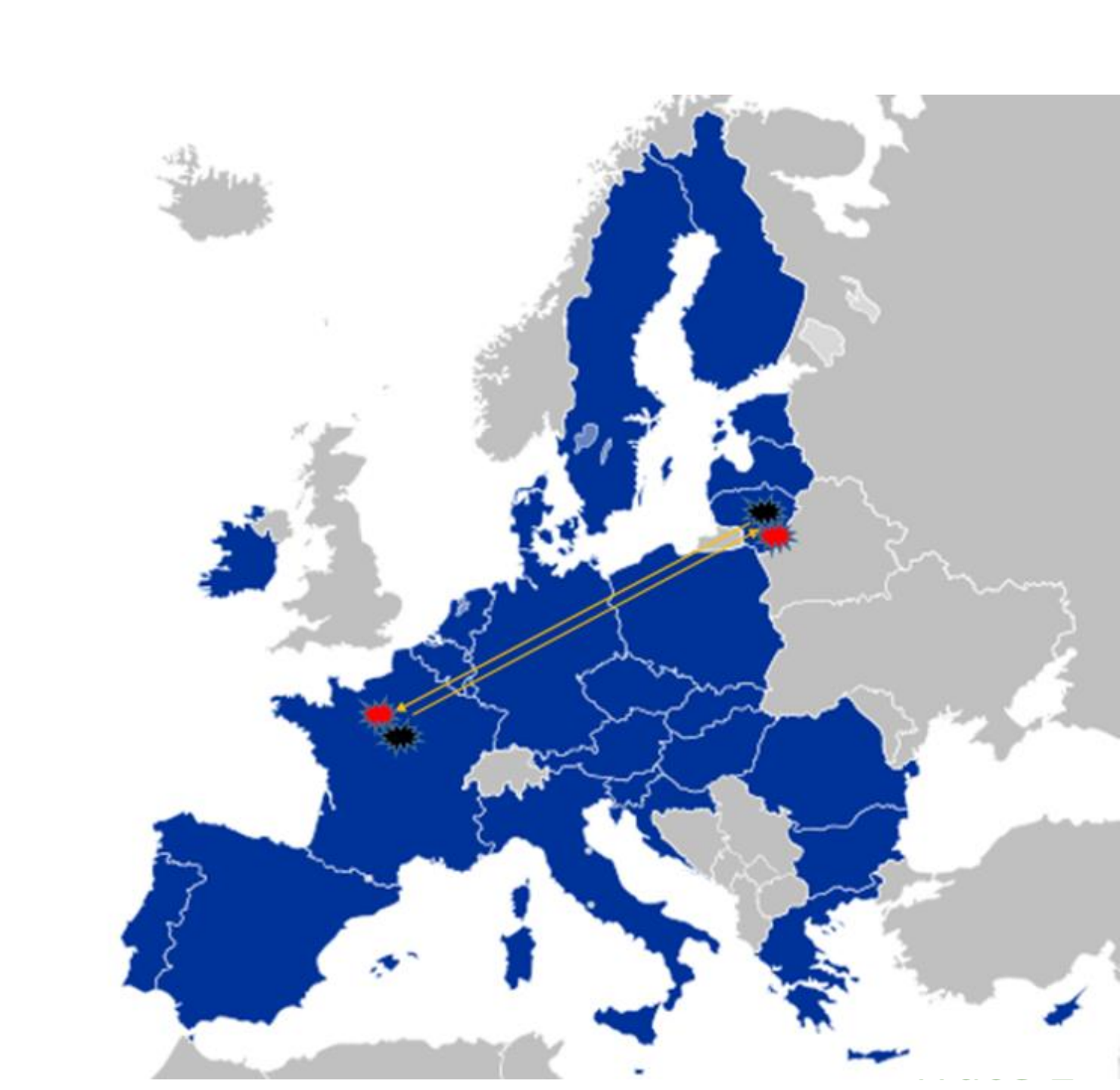
- road freight transport
- EU established operator?



Type of operation	Posted	Not-Posted
Cross-border bilateral without additional activity		✓
Cross-border bilateral with additional activity on the way out and on return (1+1) – only with Smart 2 vehicles.		✓
Cross-border bilateral with additional activity on return (0+2) – only with Smart 2 vehicles		✓
Cross-border physical road leg of a combined transport operation		✓
Transit		✓
Cross-trade	✓	
Cross-border bilateral with additional activity other than 1+1 or 0+2	✓	
Domestic road leg of a combined transport operation	✓	
Cabotage	✓	

EMPTYES!

Is the driver posted?



Is the driver posted?



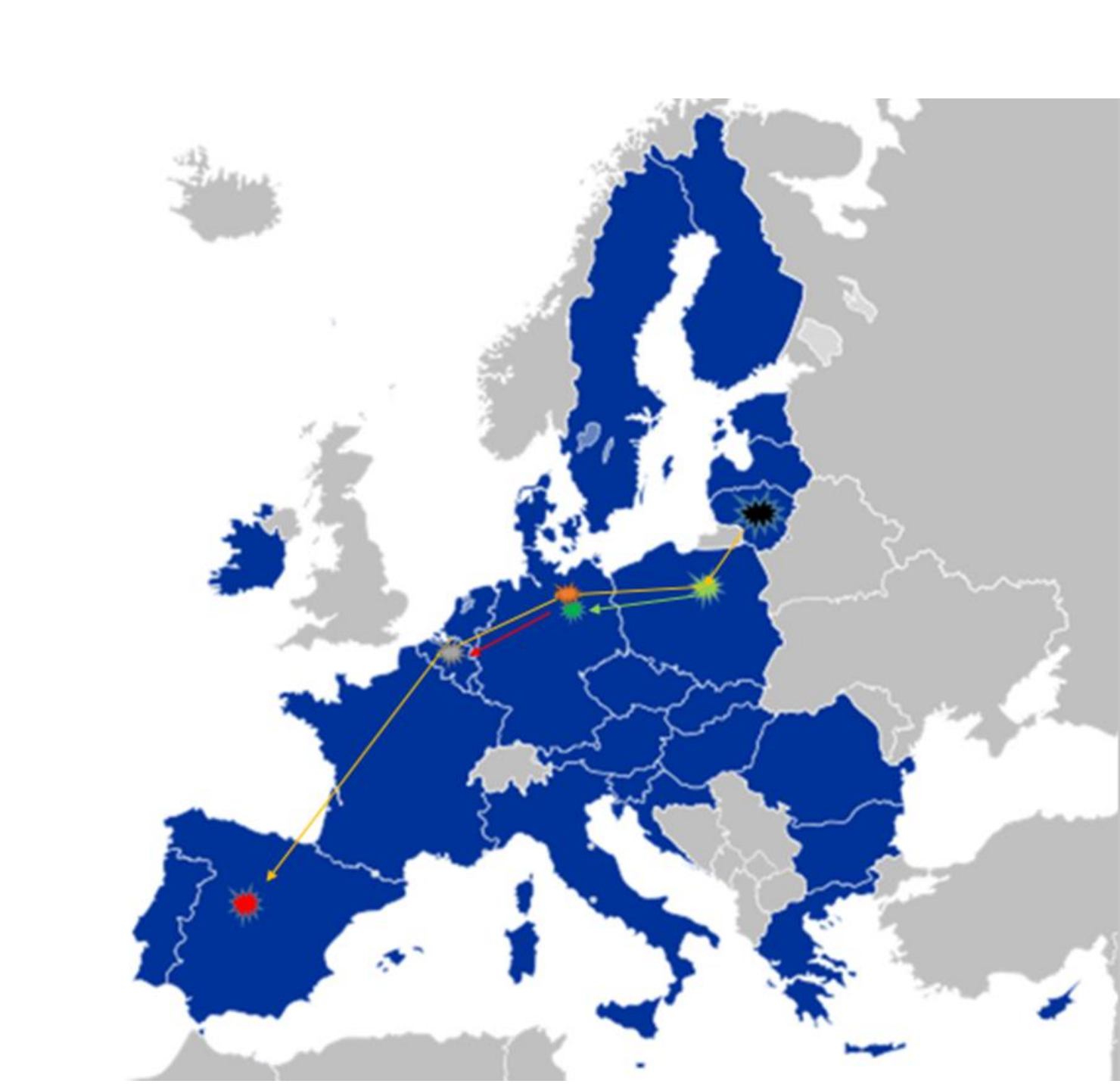
Solution, scenarios 1 & 2

1. The driver performed two bilateral transport operations: one from LT (Member State of establishment) to FR (host country) and another one from FR back to LT. Hence, the driver was not subject to posting rules during the entire journey.

2. The driver drives a vehicle equipped with a Smart2 tachograph and performed two bilateral transport operations with one additional activity of loading and/or unloading (cross-trade) during each bilateral operation. The first bilateral operation was performed from LT to ES, with one exempt additional activity (i.e. loading goods in DE and unloading them in BE). The second (return) bilateral operation was performed from ES to LT, also with one exempt additional activity (i.e. loading goods in ES and unloading part of it in BE). The driver was not subject to posting rules for the entire journey.



Is the driver posted?



Solution scenario 3

3. The driver operates a vehicle equipped with a Smart 2 tachograph and performed one bilateral transport operation (from LT to ES) and two additional activities of loading and unloading (cross-trade operations) during this bilateral operation. The first additional activity of loading goods in PL and unloading them in DE is exempt from posting rules, while the second additional activity of loading goods in DE and unloading them in BE falls within the posting rules. This is because the driver has already used the possibility for one exempt additional activity of loading and unloading. The posting situation starts applying with loading goods in Berlin (DE) and it ends when those goods are unloaded in Brussels (BE) – as the driver then resumes the bilateral operation exempted from posting rules. Hence, the driver is considered posted to DE from the moment of loading goods in Berlin and ends when he/she leaves DE territory. Then the driver is considered posted to BE from entry to the BE territory until unloading the goods in Brussels. After unloading the goods in Brussels, the driver resumes the bilateral operation, which is exempt from the posting rules.



Is the driver posted?



Trace 2

Solution scenarios 4

4. The driver performed one bilateral operation from PT to ES, one cross-trade operation from ES to DE and one unladen journey from DE back to PT. The driver is not considered posted to ES for the part of the journey performed under bilateral operation. The driver starts being posted to ES after the end of bilateral operation (unloading goods in Madrid) and when he/she starts driving to the loading point to load the goods for cross-trade operation from ES to DE. The posting to ES ends when the driver leaves ES territory. Then the driver is considered posted to DE from the moment of entering DE territory until leaving the end of cross trade operation in DE.. The driver is not considered posted to DE during the unladen journey returning to PT, after the end of cross-trade operation. The driver is not considered posted either in FR or in BE, because he/she only transits through the territories of these countries when performing cross-trade operation.




Is the driver posted?



Solution scenarios 5

5. The driver performed two bilateral transport operations (from DE to FR and from FR to DE), one cabotage operation in FR, and two unladen journeys in FR. The first bilateral operation from DE ended with unloading goods in Paris (FR). The driver starts being posted in FR after the end of that bilateral operation when he/she starts driving (unladen journey) to the loading point where he/she loads goods to be carried under cabotage operation in FR. The posting to FR ends when the cabotage operation is finished, as after that the driver drives with an empty truck to load goods which are to be delivered within bilateral operation from FR to DE. Hence, first unladen journey between Paris and Lyon falls within the posting rules, as this journey is connected to the cabotage operation performed between Lyon and Marseille. The second unladen journey between Marseille and Nantes is exempt from the posting rules, as this journey is connected with the return bilateral operation from Nantes (FR) to Berlin (DE), which is exempt from posting rules.





Passenger
transport
operations - in or
out of posting?

Selected scenarios



OVERVIEW OF POSTING IN PASSENGER TRANSPORT

In order to assess whether an international **regular** transport operation is bilateral or not, it is pertinent to assess whether **passengers may be picked up and/or set down at a given stop** (in line with an authorisation to carry operations in another Member State), and not whether passengers are actually picked up and/or set down at that stop. This is the only way that enable operator to know in advance whether it must submit a posting declaration or not, and the driver to know whether he/she will be posted or not.

Type of operation	In posting	Out of posting
Cabotage	✓	
Local excursion without outgoing or return journey	✓	
Bilateral transport followed or not by local excursion (with return journey)		✓
Bilateral transport + 1 activity of picking up and/ or setting down passengers		✓
Bilateral operation as part of an initial/ final road leg of combined operation		✓
Non bilateral operation as part of an initial/ final road leg of combined operation	✓	
Transit		✓

OCCASIONAL PASSENGER TRANSPORT

Scenario 1: two bilateral operations

A driver employed by a company established in Belgium (BE) carries out a pre-constituted group of passengers to a ski resort in Austria (AT). On the way back, the same driver brings back another pre-constituted group of passengers from the same ski resort in Austria to Belgium.



Conclusion: The driver performed two bilateral operations: one from BE (Member State of establishment) to AT (host country) and another one from AT back to BE. Hence, the driver was not subject to posting rules during the entire journey. Each bilateral operation shall be covered by a distinct journey form¹⁶, which provides key information allowing to ascertain the type of operation.

Scenario 5: bilateral operation with local excursions

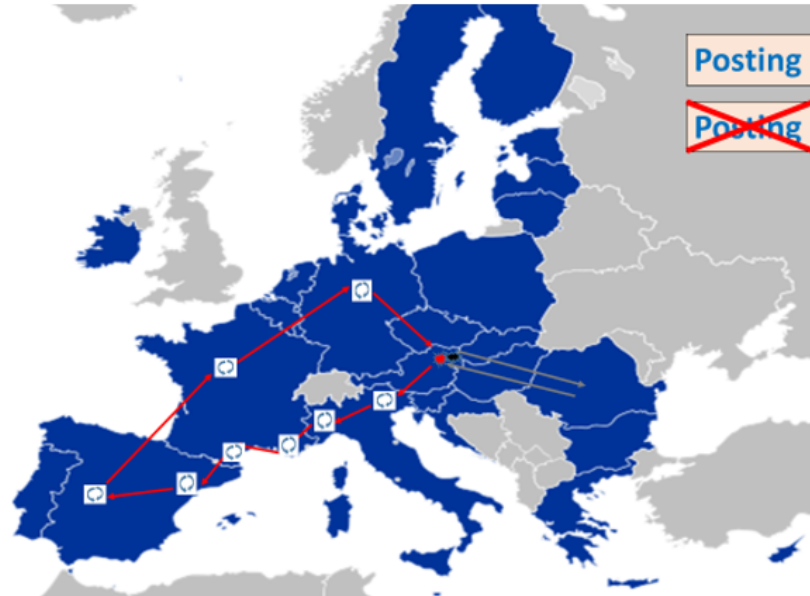
A driver employed by a company established in Belgium (BE) carries out a pre-constituted group of passengers to Italy (IT), where she/he sets them down. In several cities in IT, part of the pre-constituted group is transported by the same driver and in the same coach for local excursions in three Italian cities, visiting various places of interest. The trip ends in Rome (IT). The group of passengers is not brought back to BE. The driver goes back to BE with an empty vehicle.



Conclusion: The driver picked up passengers in BE (Member State of establishment) and set them down in IT. The driver then carried some or all of these passengers in IT in the context of local excursions. The operation of picking up the passengers in BE and carrying out the local excursions in IT is exempted from posting rules. Although the driver does not set down the passengers back to BE (Member State of establishment), this operation does not imply that the nature of the service is substantially different from that under Scenario 4, as long as the carrier is not offering services on the local market. Hence, the driver was not subject to posting rules for the entire journey. The whole operation is covered by a journey form.

Scenario 7: occasional round trip starting and ending in host Member State

A driver employed by a company established in Romania (RO) carries out a round trip for a pre-constituted group of tourists through different EU Member States, starting from and ending in Vienna, Austria (AT). He drives empty from Bucharest (RO) to Vienna (AT) and back from Vienna (AT) to Bucharest (RO).

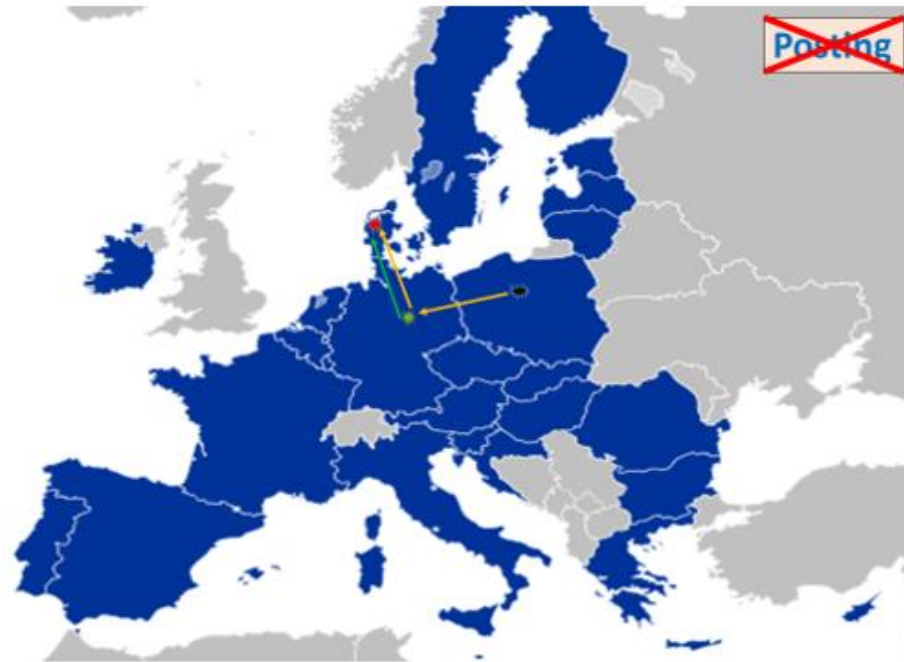


Conclusion: The driver performed several non-bilateral international transport operations and one unladen return journey from RO to AT and from AT back to RO. The driver starts being posted to AT when he/she crosses the Austrian border). The local excursions in different host Member States crossed during the round trip are not exempt from posting rules as the operation is performed for the pre-constituted group of passengers picked up and set down in Vienna (AT) so that the link to the AT market remains evident: the service was sold to customers from the AT market and remains closely linked with it. The driver stops being posted to AT when he/she sets down passengers in Vienna (AT), because the unladen journey back to the driver's Member State of establishment is exempt from posting rules. The whole operation is carried out under cover of journey form.

REGULAR PASSENGER TRANSPORT

Scenario 14: bilateral operation with one non-bilateral international transport (1+1)

A driver employed by a company established in Poland (PL) carries out a transport service on a regular line Poland-Germany-Denmark, picking up passengers in Warsaw and with one stop in Berlin, Germany (DE) where passengers can be picked up and/or set down. In Copenhagen (DK), the driver sets down all the passengers.



Conclusion: The driver performed one bilateral transport operation (PL-DK) with one additional activity of picking up down passengers in Berlin (DE) in the context of the bilateral operation. The additional activity was exempt from posting rules. Hence, the driver was not subject to posting rules for the entire journey.

Scenario 15: bilateral operation with multiple non-exempt international transport operations and cabotage operations

A driver employed by a company established in Romania (RO) drives a regular coach line service between Romania and Spain (ES). On the return trip from Madrid (ES) to Bucharest (RO), the line's initial departure point is Madrid (ES), with stops along the road, where passengers can be picked up and/or set down. Cabotage operations are carried out as well (Spain, France, Italy and Slovenia). The first stop is in Barcelona (ES), where passengers are set down and/or picked up with destination to Bucharest (RO). At the second stop in Toulouse (FR), there are passengers who are set down and additional passengers who are picked up with destination to Italy (IT), Slovenia (SI), Hungary (HU) and Romania (RO). The driver also picks up passengers in Slovenia and in Hungary.



Conclusion: The driver performed multiple non-exempt international transport operations of picking up and/or setting down passengers, multiple cabotage operations (ES, FR, IT and SI), and as well as one bilateral transport operation and one additional activity during the bilateral operation. The bilateral operation was performed from SI to RO, with one exempt additional activity (i.e. setting down passengers in HU). The posting situation starts applying with picking up passengers in Madrid (ES) and ends in SI, when passengers are set down and the cabotage operation is finalised. The driver is not considered posted to SI for the part of the journey after the end of the cabotage operation and when he/she starts working for the bilateral operation, i.e. he/she drives to pick-up point picks up passengers for bilateral operation and carries them to RO. One additional activity of setting down passengers in (HU) is also exempt from posting rules as this is one exempt additional activity.

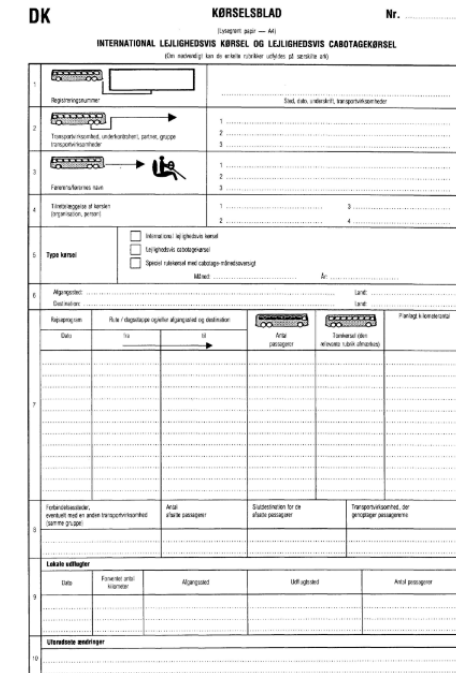
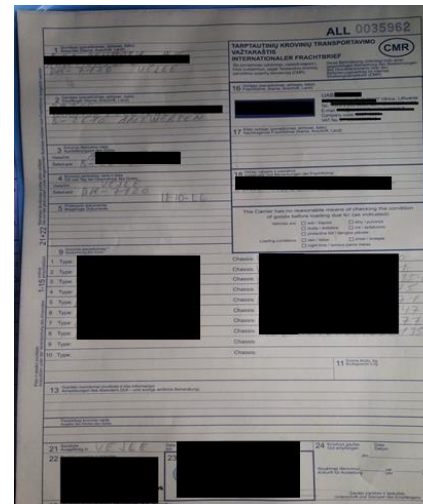
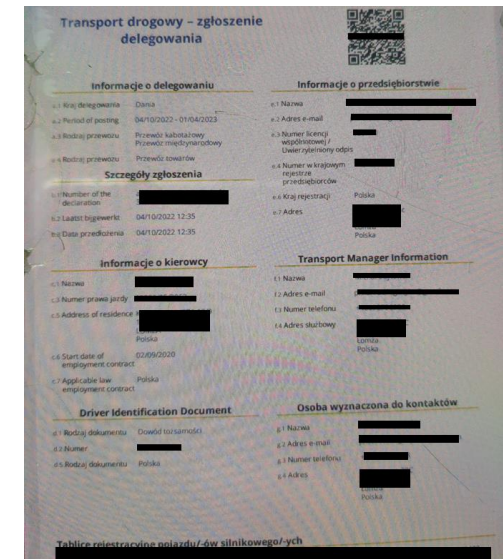
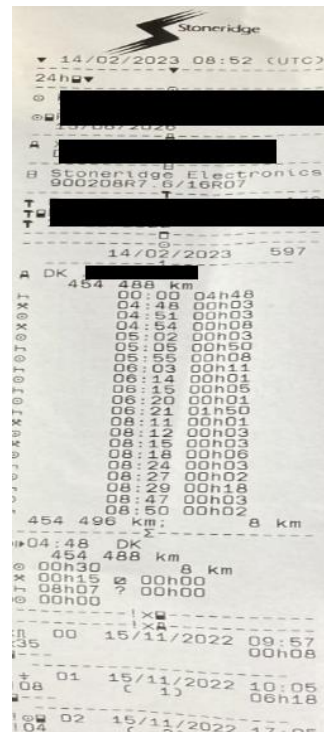


Preparing for inspections

From the road side and IMI to
company checks

ROADSIDE CHECK: Only 3 elements mandatory

- The posting declaration (paper or electronic)
- CMR-letters (electronic or paper consignment note (hereafter " e-CMR ") or equivalent evidence) / Journey form (coach tourism)
- Data from the tachograph





ROADSIDE CHECKS

- **Checking the posting declaration**
 - Scanning module
 - IMI register



Checking the posting declaration?

- **Period of posting**
The period must be valid on the IMI platform
- **Number plate of the motor vehicle**
Make sure right number plate is listed on the posting declaration (should match the vehicle used as well as the number plate that is listed on the CMR)
- **Community licence number**
Which transport company is posting the driver?

Road Transport - Posting Declaration



Posting information

a.1 Country of posting	Croatia
a.2 Period of posting	08/03/2023 - 09/03/2023
a.3 Type of operation(s)	Cabotage operations
a.4 Type of carriage(s)	Carriage of goods

Declaration Details

b.1 Number of the declaration	d1b3d034-8eb6-4033-8404-37e4cf51e7be
b.2 Last update	10/03/2023 02:02
b.3 Submission date	08/03/2023 18:11

Driver Information

c.1 Name	avcavavava gvdsvg
c.3 Driving licence	123456789
c.5 Address of residence	Fyrrelunden 86 6705 Esbjerg Denmark
c.6 Start date of employment contract	01/05/2022
c.7 Applicable law employment contract	Denmark

Driver Identification Document

d.1 Document type	ID Card
d.2 Number	123456789
d.3 Issue date	09/08/2022
d.4 Expiry date	02/09/2022
d.5 Issuing country	Denmark

Company information

e.1 Name	AFFA
e.2 Email Address	Vickin@hotmail.com
e.3 Community licence number	1234567
e.4 National company register number	12345678
e.6 Country of registration	Denmark
e.7 Address	Fyrrelunden 86 6705 Esbjerg Denmark

Transport Manager Information

f.1 Name	Vicki Lam
f.2 Email Address	vila@fstyr.dk
f.3 Phone number	+4571102425
f.4 Professional Address	Fyrrelunden 86 6705 Esbjerg Denmark

Contact Person

g.1 Name	test test test test
g.2 Email Address	test@test.dk
g.3 Phone number	+4512345678
g.4 Address	

How to prepare for a roadside check on posting?

Have the three types of elements available on board

- Posting declaration (electronic or paper)
- Consignment note (CMR/e-CMR) / Journey form
- Tachograph records

Tachograph records: Driver's schedule for 28+1 days can be downloaded at the roadside

Consignment note

- In case of cabotage – current consignment note on board
- In case of cross trade – Consignment notes for how long on board? Probably, just current and the rest through IMI?

Company to have previous consignment notes ready at premises to be sent out electronically by driver at the roadside in human readable format

Be ready to answer IMI requests within 8 weeks



What happens after the roadside check?

- Gathered documentation from the roadside control is recorded and/or sent to the relevant competent authority
- An IMI exchange with the company could be initiated
- The company has 8 weeks to provide requested documents
- If failure to submit requested evidence, host MS contacts MS of establishment
- MS of establishment has 25 working days to answer

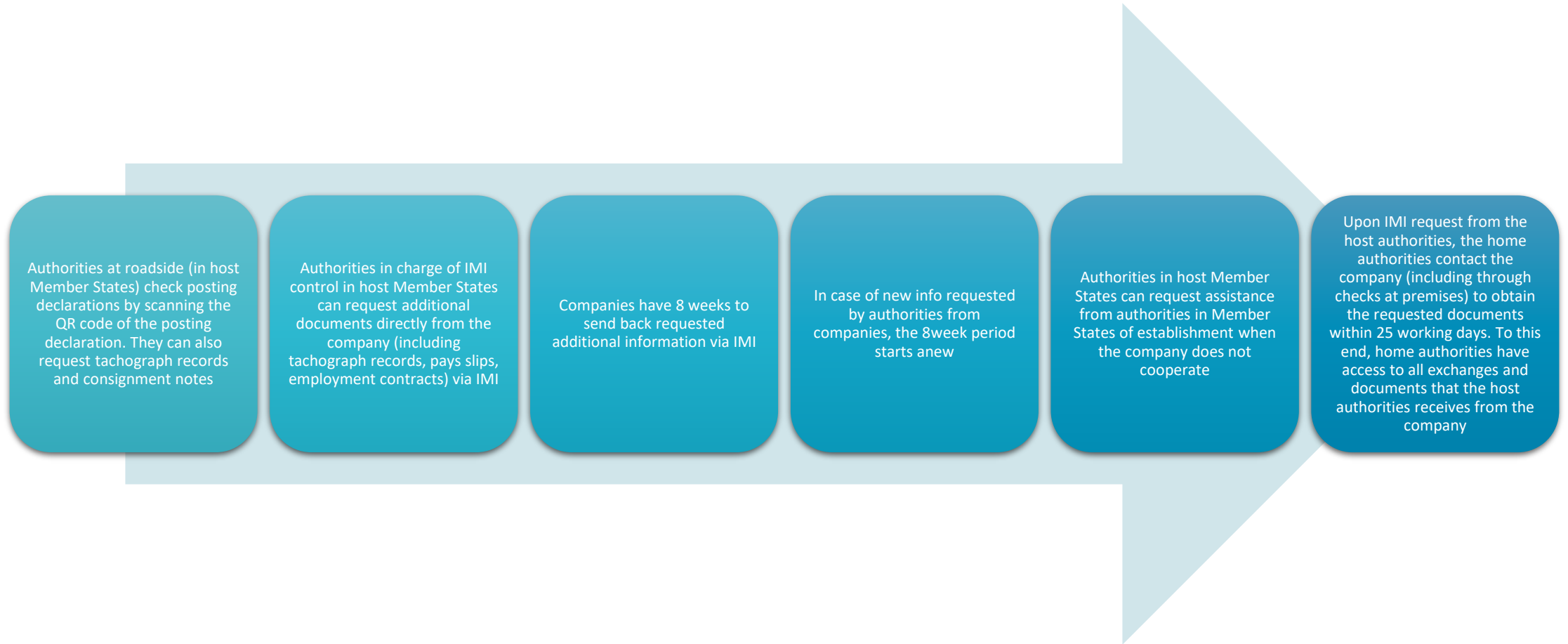


What can be requested via IMI after the roadside check?

- According to the *lex specialis*, competent authorities can request that the operator sends, within eight weeks and via the RPTD, copies of the:
 - *tachographs records*
 - *consignment notes (e.g. e-CMRs)*
 - *documentation relating to the remuneration of the driver in respect of the period of posting*
 - *the employment contract*
 - *timesheets relating to the driver's work*
 - *proof of payments*
- IMI inspections can cover up to one year of posting from the date of the request for documents and may concern one specific driver or all the drivers in a company



Process of action: summary



EUROPEAN COMMISSION
INTERNAL MARKET INFORMATION SYSTEM

Help National helpdesks Translation disclaimer Privacy statement English (en)

NGOC PHUNG Vicki - Danish Road Traffic Authority

Menu Dashboard Search RTPDP Search

Please note that additional criteria are available at the bottom of the page, where you can limit the search to your own authority. The relationship between the criteria is an 'AND' relationship.

Posting Declaration criteria

Type of search Search for all declarations in the country of the posting
 Search by country of registration of the operators
 Search by operator
 Search by driver

Country of posting Denmark

Envisaged end date From To

IMI CONTROL – BASED ON THE IMI DATABASE

➤ Operators get selected on IMI

- Randomly
- Based on roadside control
- Risk based
 - I.e., if the company already had a warning notice

➤ Deadlines

- 8 weeks for operators
- 5 weeks (25 working days) for competent authorities in Member States of establishment

DK case - Model of IMI exchange between authorities and company

Further to your request, we would like to inform you that for the scrutiny period, i.e.: 02.05.2022 – 02/07/2022 the designated driver [REDACTED] employed by the undertaking did not work in Denmark. The selected driver is engaged in international transport operations in Europe. During the period checked, he did not carry out transport operations which are subject to administrative obligations in the territory of Denmark.



Hej,

The Danish Road Safety and Transport Agency still requests tachograph data to confirm that the driver was not in Denmark during the period.

Friendly greeting

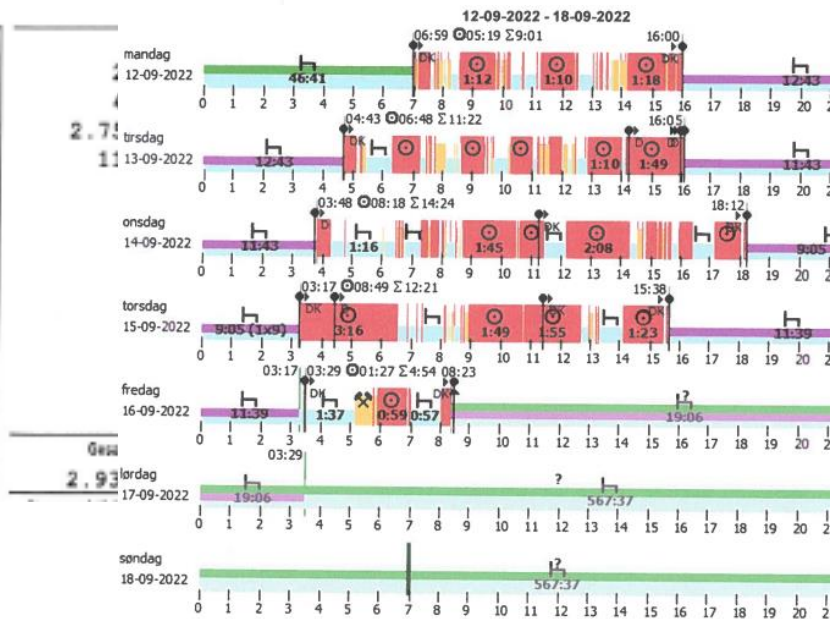
Danish Road Traffic Authority



DK case - Model of additional documentation requested via IMI?

Brutto-Gehälte	Lohnart	Bezeichnung	Einheit ²	Menge ³	Faktor ³	Prozentsatz	St ⁴	SV ⁴	GB ⁵
2003	KA						L	L	J
2005	Cabotage						L	L	J
2020	Festlohn, gewerblich						L	L	J
3231	Spesen pauschal versteuert						P	F	J

Steuer/Sozialversicherung	Sum	Adjustment	Adjusted
Standard:	168g.		168g.
	Sum	Received:	For settlement
Normal work	125g. 34m.		125g. 34m.
Downtime: Total	42g. 28m.	6g. 28m.	35g. 58m.
working time Night	144g. 18m.		
work: Mon-Fri. 100%:	6g. 17m.		6g. 17m.
including mid-term	9g. 20m.	9g. 20m.	0m.
	8g. 0m.		
Duty 50%	5g. 15m.	0m.	5g. 15m.
Duty 100%	2m.	2m.	0m.
	Sum	Received:	Addition
Overtime 50 - basis Overtime	28m.		28m.
50% Overtime 100 - basis	28m.	28m.	0m.
Overtime 100% Medium weekly	27m.		27m.
- basis 17g. 49m. Medium-	27m.	0m.	27m.
weekly 100% Excessive work:			17g. 49m.
	17g. 49m.	8g. 0m.	9g. 49m.
	0m.		0m.



SZCZEGÓŁY PRZELEWU

Kwota	11 064,00 PLN
Tytuł płatności	[REDACTED]
Rodzaj transakcji	Przelew krajowy
Data transakcji	2022-06-07
Data księgowania	2022-06-07
Numer referencyjny	[REDACTED]



Trace 2

DK case - Assessing the requested documentation

Calculation of CMR and Tachograph

- The route calculated from the CMR
- Challenges with comparing CMR and Tachograph records

Comparing payslip and timesheet

- Should match the hours from the abovementioned calculation

Comparing payslip with bank transfer

Is the salary in fact paid to the driver?



To the person concerned;

The Danish Road Safety and Transport Agency has received the documentation submitted.

On the basis of the documentation submitted, we can find that cabotage has been carried out in Denmark. On the basis of the salary slip submitted, we do not see that Danish wages have been paid for the cabotage carried out and therefore need an explanation or documentation on how it has been settled.

Please send the explanation/documentation by 28 December 2022 at the latest.

Начисления		
Days worked, salary and additional payments in BGN	Дни / days	Сума / amount
Отработени дни: Days worked:	13 д / d	324.7
Всичко начисления за месеца: Gross Salary for the month:		324.7
Командировъчни пари за месец: business trip money per month		1906.93
Други допълнителни възнаграждения: Other additional payments /cabotage DK-8.5 hours/:		387.2
Чиста сума за получаване: net amount:		2618.83

Nosaukums/name	h	Rate	EURO
- Standart hours working and trip fee	100	12.1468	1214.68
Soc.nodoklis/ soc.tax			20.44
Ienākuma nodoklis/ income tax			40.69
D.D soc.nodoklis/company soc.tax			45.93
Salary net			1153.55
Hours cabotage trip in Denmark	13	23.15	300.95



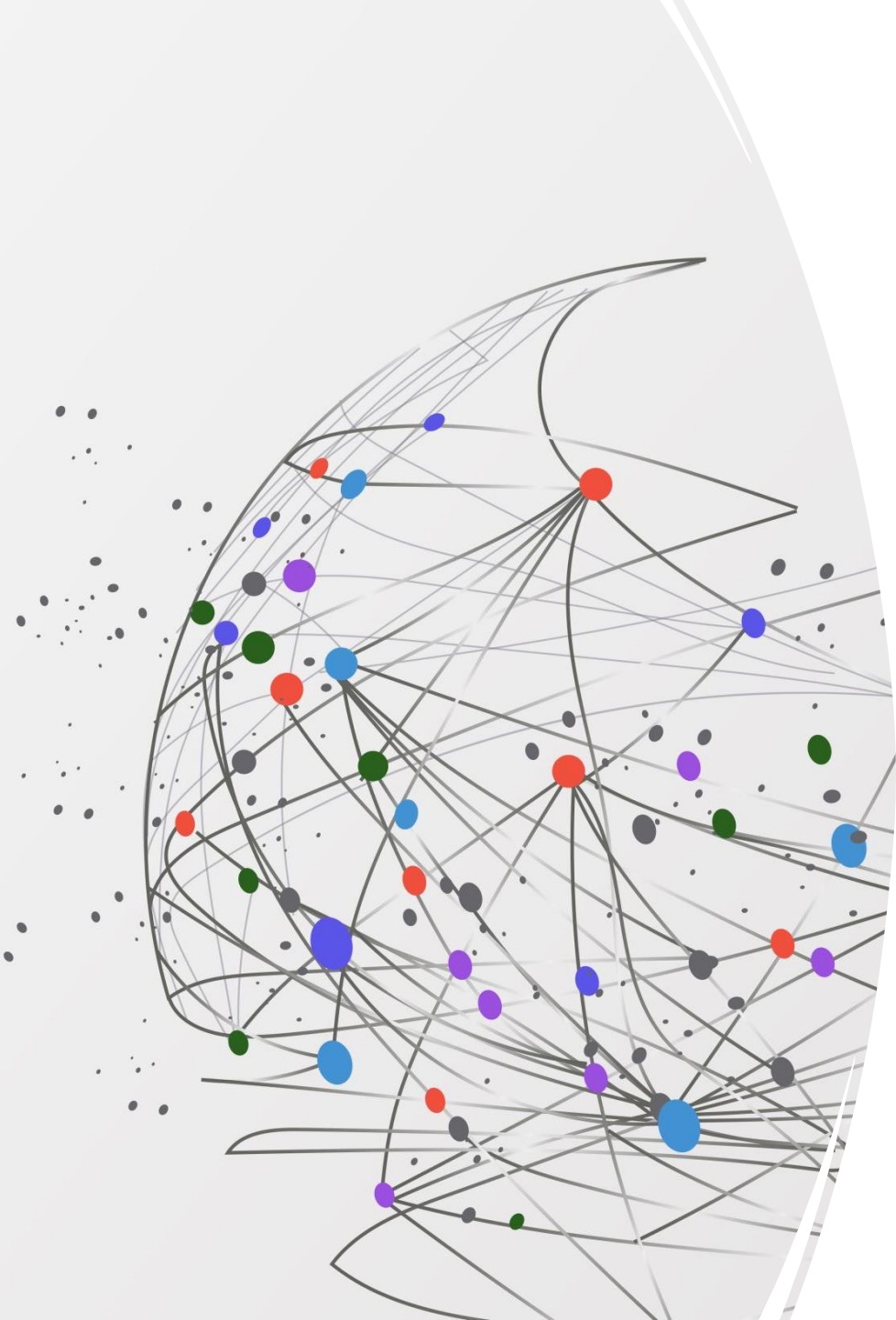
Trace 2

DK case - Closing the exchange

- **Case is closed without any legal reactions**
- **Case is closed with a guidance letter**
- **Case is sent to the Danish National Police for further investigation**



- **Case is closed with a guidance letter**
 - A letter of guidance should be considered as a warning notice
- **Case is sent to the Danish National Police for further investigation**
 - IMI control is closed
 - The police takes over the investigation and contact with the company
 - Sanctions and fines



4. Harmonisation of controls

SANCTIONS FOR NON-RESPECTING RULES

Article 6

Conditions relating to the requirement of good repute

(...)

- ❑ Infringements of posting and related rules may, following an administrative procedure, justify the suspension or exclusion from the occupation of road transport operator

that the transport manager or the transport undertaking have not in one or more Member States been convicted of a serious criminal offence or incurred a penalty for a serious infringement of Community rules relating in particular to:

(...)


(xi) the posting of workers in road transport;

(xii) the law applicable to contractual obligations;

(xiii) cabotage.

(Regulation 1071/2009 as modified by Mobility Package 1)

Conditions of posting and remunerations applicable in the various EU Member States

France 

The article 1 of the Directive (EU) No. 2020/1057 of 15 July 2020 has been transposed into national law. The following website informs on the new rules in force such as the posting rules and the exempted situations: [here](#).

[Click here to find IRU document on applicable terms and conditions of employment - posting of driver \(IRU members only\)](#)


[Click here to find information for goods and passenger transport \(IRU members only\)](#)

- IRU document on key conditions of posting of drivers for freight transport
- ELA document on remuneration for freight transport drivers

Reporting formalities from January 2023 (IRU members only)

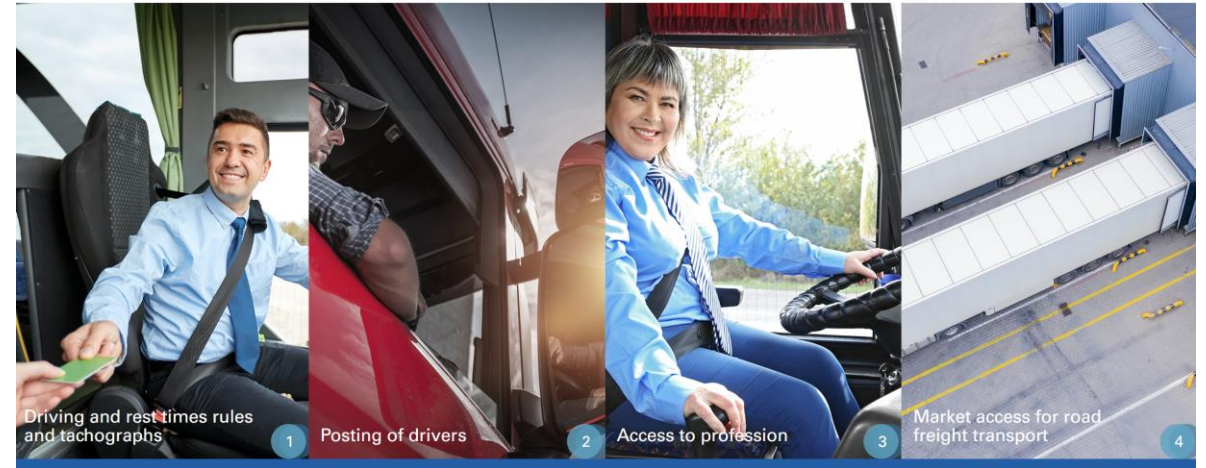
IMPORTANT NOTE: According information received from our French member associations the new remuneration scale for road transport sector drivers in France (Freight transport):
The rate of the hourly minimum wage has been revalued to €11,07, increase of 2.01% compared to the revaluation on 1 May 2022 (order published in the Official Journal of July 29, 2022). Check the decrees: [here](#).

[Read more](#)



Mobility Package 1 in practice

The EU's Mobility Package 1 encompasses several pieces of legislation which the EU legislators, the European Parliament and the Council, negotiated and adopted as a package in August 2020. They cover key aspects of the road transport sector which have in common a strong social element, as follows: the posting of drivers outside of their home country, driving and rest time rules and tachographs, access to the profession, and market access. Most of the new rules apply both to passenger and goods transport, with the market access rules being specific to goods transport.



IRU's MP1 Single Window



Rome I – Defining the habitual place of work – Article 6

- 2. Notwithstanding the provisions of Article 4, a contract of employment shall, in the absence of choice in accordance with Article 3, be governed:
 - (a) **by the law of the country in which the employee habitually carries out his work** in performance of the contract, even if he is temporarily employed in another country; or
 - (b) if the employee does not habitually carry out his work in any one country, **by the law of the country in which the place of business** through which he was engaged is situated;
- unless it appears from the circumstances as a whole that the contract is more **closely connected with another country**, in which case the contract shall be governed by the law of that country.'

Rome I – Defining the habitual place of work – Court arguments

- 48. in the light of the nature of work in the **international transport sector**, such as that at issue in the main proceedings, the referring court must, as proposed by the Advocate General in points 93 to 96 of her Opinion, take account of all the factors which characterise the activity of the employee.
- 49 It must, in particular, determine in which State is situated **the place from which the employee carries out his transport tasks, receives instructions concerning his tasks and organises his work, and the place where his work tools are situated**. It must also determine the places where the **transport is principally carried out, where the goods are unloaded and the place to which the employee returns** after completion of his tasks.
- 50 In those circumstances, the answer to the question referred is that Article 6(2)(a) of the Rome Convention must be interpreted as meaning that, in a situation in which an employee carries out his activities in more than one Contracting State, the country in which the employee habitually carries out his work in performance of the contract, within the meaning of that provision, is that in which or from which, in the light of all the factors which characterise that activity, **the employee performs the greater part of his obligations towards his employer**.



Rome I – Court final judgement

- On those grounds, the Court (Grand Chamber) hereby rules:
- Article 6(2)(a) of the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980, must be interpreted as meaning that, in a situation in which an employee carries out his activities in more than one Contracting State, the country in which the employee habitually carries out his work in performance of the contract, within the meaning of that provision, is that in which or from which, in the light of all the factors which characterise that activity, **the employee performs the greater part of his obligations towards his employer.**



Thank You!



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