



Deciding whether the transport operation is subject to posting according to *Lex specialis*

IRU train the trainers' workshop

4 November 2025

Legal background



Posting of workers legislation and lex specialis:

General framework:

- **Directive 96/71/EC** of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services
- **Directive (EU) 2018/957** of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services
- **Directive 2014/67/EU** of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services

Lex specialis- special rules for road transport and posting of drivers:

- **Directive (EU) 2020/1057** of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012

Interpretation: Questions & Answers



To help the sector to correctly apply rules, the Commission services and Expert Group prepared a set of **Questions & Answers**. The aim of these guidance documents is to illustrate with **concrete examples** the application of the specific rules and clarify **when posting starts and when it ends** in various transport operation scenarios.

Questions and Answers [\(link\)](#)

- Questions and Answers on posting of drivers under Directive (EU) 2020/1057 – Most frequently asked questions (16 February 2022)
- Questions and Answers on posting of drivers under Directive (EU) 2020/1057 – Scenarios in the context of transport of GOODS by road (4 March 2022)
- Questions and Answers on posting of drivers under Directive (EU) 2020/1057 – Scenarios in the context of transport of PASSENGERS by road (11 October 2022)
- [Fact sheets](#): Mobility Package I: New rules for the posting of drivers in road transport (28 January 2022)

Posting of workers and lex specialis- general rules



- A **"posted worker"** is an employee who is sent by his employer to carry out a service in another EU Member State **on a temporary basis, in the context of a contract of services;**
- PWD provides core **terms and conditions of employment, which apply in accordance with the rules in place in the host Member State** in so far as they are more **favourable** than the protection offered by the employment law of the home State, especially with regards to **remuneration, including overtime rates;**
- **Lex specialis** specifies **which transport operations qualify as posting of drivers**, on the basis of nature of the operation and sufficient link between the host Member State and the driver;
- The new rules on posting of drivers in road transport (Directive 2020/1057) adopted in July 2021 as part of Mobility Package start applying from 2 February 2022 and **in case of LCVs from July 2026.**

General criteria when the driver is posted



Posting: Drivers carrying out transport operations in Member States other than the Member State where the employer of the driver has its establishment **are posted when performing the following operations:**

- **cross-trade operations:** understood as transport operations carried out between two Member States, or between a Member State and a third country, none of which is the country of establishment of the operator carrying out these operations;
- **cabotage operations:** understood as domestic transport operations for hire or reward carried out on a temporary basis on the territory of a Member State by an operator established in another Member State.

General criteria when the driver is not posted



Non posting: The driver shall not be considered to be posted when performing:

- **international bilateral transport operations:** understood as transport operations based on a transport contract from the Member State where the operator is established (Member State of establishment) to another Member State or to a third country, or from another Member State or a third country to the Member State of establishment;
- **limited additional activities of loading and/or unloading** (cross-trade) carried out in the context of bilateral operations in the Member States or third countries that the driver crosses;
- **transit** through the territory of a Member State without carrying out any activity of loading or unloading;
- **initial or final leg of a combined transport operation**, as defined in Council Directive 92/106/EEC, in case the road leg on its own consists of an international bilateral transport operation

Obligations resulting from posting



Before the posting the operator shall **submit a posting declaration** to the authorities of a Member State to which the driver is posted; at the latest at the commencement of the posting; using the multilingual public interface connected to the Internal Market Information (IMI) system;

During the posting the operator shall **ensure that the drivers have at their disposal the following documents**: the posting declaration in paper or electronic form; evidence of the transport operations taking place in the host Member State, such as an electronic consignment note (e-CMR); the tachograph records (in particular country symbols of the Member States in which the driver carried out transport operations).

After the posting the **operator shall 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.

TRANSPORT OPERATION SCENARIOS

The following sections explain and illustrate how the posting rules apply in different transport operation scenarios:

- I. BILATERAL
- II. CROSS-TRADE
- III. CABOTAGE
- IV. TRANSIT
- V. UNLADEN JOURNEYS

Legend:

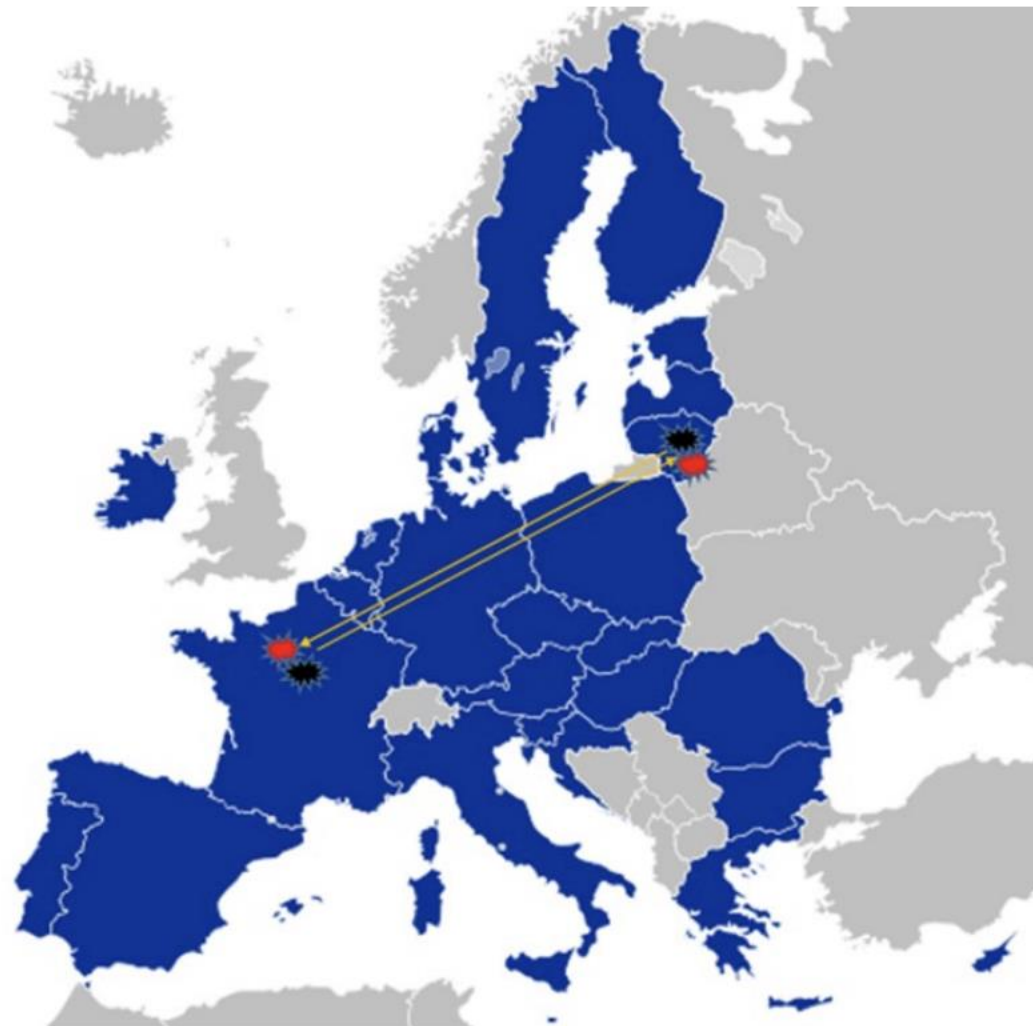
-  Start of transport and loading
-  Unloading and end of transport
-  Loading of the first additional operation
-  Unloading of the first additional operation
-  Loading of the second additional operation
-  Unloading of the second additional operation
-  Bilateral operation
-  Additional exempt transport operation
-  Non-exempt transport operation
-  Transit / Unladen journey

BILATERAL:

1. Two bilateral operations

Scenario 1: Two bilateral operations

A driver employed by a company established in Lithuania (LT) drives a full truck of goods from Vilnius (LT) to Paris (FR). The driver unloads all goods in Paris. Then, for the return journey, the driver loads goods in Paris to deliver them to Vilnius (LT).



Conclusion: 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.

I BILATERAL:

2. Bilateral operations with several unloading locations

Scenario 2: bilateral operations with three unloading locations

A driver employed by a company established in Lithuania (LT) loads a full truck of goods in Vilnius (LT). The driver then drives to Berlin (DE) and unloads 1/3 of the goods, and then to Antwerp (BE) to unload another 1/3 of goods. Afterwards, the driver continues to drive to Lyon (FR), and unloads the remaining 1/3 of the goods.



Conclusion: The driver performed 3 bilateral operations within one journey. The journey started with loading the truck full of goods in LT (Member State of establishment) which have then been unloaded in 3 different countries (partial unloading of goods in DE, BE, FR). Since several exempt bilateral transport operations (i.e. each covered by a separate consignment note) may be carried out during one journey¹⁴, the driver was not subject to posting rules for the entire journey.

I BILATERAL:

3. Bilateral operations with several loading locations

Scenario 3: bilateral operations with three loading locations

After carrying out the operations described in Scenario 2, on the way back to LT, the driver employed by the company established in Lithuania (LT) loads a 1/3 truck with goods in Lyon (FR). The driver then drives to Brussels (BE) and loads another 1/3 truck with goods, and then to Warsaw (PL) to load the remaining 1/3 truck with goods. Afterwards, the driver continues to drive to Vilnius (LT), to unload all the goods.



Conclusion: The driver performed 3 bilateral operations during one return journey to the Member State of establishment. Since several exempt bilateral transport operations (i.e. each under separate consignment note) may be carried out during one journey, the driver was not subject to posting rules for the entire journey.

II. CROSS-TRADE

4. Cross-trade between two bilateral operations

Scenario 4: cross-trade between two bilateral operations

A driver employed by a company established in Portugal (PT) carries a full truck of goods from Lisbon (PT) to Marseille (FR). The driver unloads the goods in Marseille. In Marseille (FR), the driver then loads a full truck of goods and unloads them in Berlin (DE). In Berlin, the driver loads a full truck of goods and unloads them in Porto (PT).



Conclusion: The driver performed two distinct bilateral operations and one cross-trade operation. The first bilateral operation started in PT (Member State of establishment) with loading goods and ended in FR with unloading those goods. The second bilateral operation was performed from loading the goods in DE to unloading them in PT (Member State of establishment). During the two bilateral operations, the driver was not subject to posting rules. The operation of loading goods in FR and unloading them in DE was a cross-trade operation not connected to any of the two bilateral operations. Therefore, the driver starts to be posted to FR after the end of bilateral operation when he/she starts driving to the loading point to load the goods to be carried in the context of cross-trade operation. The posting to FR ends when the driver leaves the French territory. Then the driver is considered posted to DE, from the entry into DE territory until unloading goods in that Member State.

II. CROSS-TRADE

5. Cross-trade between bilateral operation and unladen journey

Scenario 5: cross-trade between a bilateral operation and an unladen journey

A driver employed by a company established in Portugal (PT) loads a truck full of goods in Lisbon (PT) and drives to Berlin (DE), where these goods are unloaded. In Berlin (DE), the driver loads a full truck of other goods and unloads them in Madrid (ES). Then, the driver drives empty from Madrid (ES) back to his/her Member State of establishment (PT).



Conclusion: The driver performed one bilateral transport operation from PT to DE, one cross-trade operation from DE to ES and one unladen return journey from ES back to PT.. The driver starts being posted to DE after the end of bilateral operation when he/she starts driving to the loading point to load the goods to be carried in the context of cross-trade operation from DE to ES. The posting to DE ends when the driver leaves the DE territory. Then the driver is considered posted to ES from the moment of entering ES territory until the goods brought from DE within cross-trade operation have been unloaded and the driver finished the cross-trade operation. The unladen return journey through the territory of ES is not considered posting. The driver is not considered posted in FR which he/she transits during the bilateral journey from PT to DE and during cross-trade operation from DE to ES.

Cross-trade: exemptions from posting rules



1 + 1 rule: The driver is **exempt from posting rules** where, **in the context of an ongoing bilateral transport operation, he/she also performs one “cross-trade” activity** of loading and/or unloading in the Member State or third country that the driver crosses, provided that the driver does not load goods and unload them in the same Member State.

0 + 2 rule: When **the driver has not used the possibility of performing one exempt additional activity of loading and/or unloading** (cross-trade) during the bilateral transport operation from the Member State of establishment, and this operation is **followed by a return bilateral operation** to the Member State of establishment, **two exempt additional activities of loading and/or unloading (cross-trade) may be performed** during that return bilateral operation.

II. CROSS-TRADE

6. 1+1

Two bilateral operations with two cross-trades

Scenario 6: two bilateral operations with two cross-trades (1+1)

A driver employed by a company established in Lithuania (LT) loads ½ a truck with goods in Vilnius (LT) to be delivered to Barcelona (ES). The driver stops in Berlin (DE) and loads the remaining ½ a truck with different goods. The driver then goes to Brussels (BE) and unloads those goods loaded in Berlin (DE). Afterwards, the driver continues the journey and unloads in Barcelona (ES) the goods loaded in Vilnius (LT). For the return bilateral operation, the driver loads a full truck of goods in Barcelona (ES). The driver stops in Brussels to unload ½ of the goods. The driver then continues to Vilnius (LT) to unload the remaining ½ of the goods.



Conclusion: The driver 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.

II. CROSS-TRADE

7. 0+2

Two bilateral operations with two cross-trades

Scenario 7: one bilateral operation with two cross-trades (0+2)

A driver employed by a company established in Lithuania (LT) loads a full truck with goods in Vilnius (LT) and delivers them in Madrid (ES).

The driver then loads a full truck of goods in Madrid (ES). The driver stops in Brussels (BE) to unload $\frac{1}{4}$ of those goods. The driver then drives to Berlin (DE) and unloads $\frac{1}{4}$ of the goods. The driver then continues to Vilnius (LT) to unload the remaining $\frac{1}{2}$ of the goods.



Conclusion: The driver performed two bilateral transport operations with two additional activities of unloading (cross-trade) during the return bilateral operation. The first bilateral operation was performed from LT to ES, with no additional activities in between. The second (return) bilateral operation was performed from ES to LT, with two exempt additional activities (i.e. cross-trade operations between ES-BE and ES-DE, consisting in two additional unloading activities). The driver was not subject to posting rules during the entire journey.

II. CROSS-TRADE

8. 0+2

Two bilateral operations with two cross-trades

Scenario 8: one bilateral operation with two cross-trades (0+2)

A driver employed by a company established in Lithuania (LT) loads a full truck with goods in Vilnius (LT) and delivers them in Barcelona (ES). The driver loads ½ a truck with goods in Barcelona (ES) and then stops in Lyon (FR) and loads ½ a truck with another type of goods. Afterwards, the driver drives to Brussels (BE) and unloads the goods loaded in Lyon (FR). The driver then continues to Berlin (DE) to load ½ a truck with other goods, which are then unloaded in Warsaw (PL). Finally, the driver continues to Vilnius (LT) where he/she unloads the goods loaded in Barcelona (ES).



Conclusion: The driver performed two bilateral transport operations with two additional activities, each of them consisting in a loading and unloading activity (cross-trade), during the return bilateral operation. The first bilateral operation was performed from LT to ES, with no additional activity. The second (return) bilateral operation was performed from ES to LT, with two exempt additional activities (i.e. cross-trade operations between FR-BE and DE-PL, both of them consisting in an additional loading and unloading activity). The driver was not subject to posting rules for the entire journey.

II. CROSS-TRADE

9. Bilateral operation with one exempt cross-trade and one non-exempt cross-trade

Scenario 9: bilateral operation with one exempt cross-trade and one non-exempt cross-trade

A driver employed by a company established in Lithuania (LT) loads $\frac{1}{2}$ a truck with goods in Vilnius (LT), to be delivered to Madrid (ES). While driving to Madrid, the driver stops in Warsaw (PL) to load $\frac{1}{2}$ a truck with other goods to deliver them to Berlin (DE). After unloading the goods from Warsaw in Berlin, the driver then loads $\frac{1}{2}$ a truck with another type of goods in Berlin (DE) and unloads them in Brussels (BE). Afterwards, the driver continues to Madrid (ES), and unloads the goods loaded in Vilnius (LT).



Conclusion: The driver 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 due to the fact that 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.

III. CABOTAGE

10. Bilateral operation with one exempt cross-trade and one non-exempt cross-trade

Scenario 10: Two bilateral operations + cabotage

A driver employed by a company established in Portugal (PT) loads a full truck with goods in Lisbon (PT) and delivers them in Hamburg (DE). After unloading goods in Hamburg (DE), the driver loads a full truck with other goods and unloads them in Munich (DE). Then in Munich (DE), the driver loads a full truck with goods to be delivered to Lisbon (PT).



Conclusion: The driver performed two bilateral operations (one from PT to DE and another one from DE back to PT) and one cabotage operation in DE. The driver is considered posted to DE. The posting situation starts after the end of bilateral operation (unloading goods in Hamburg) when he/she starts driving to the loading point to load the goods for the cabotage operation in DE. The posting continues through the carrying out of the cabotage operation and ends when the goods are unloaded and the cabotage operation is finalized. The driver is not considered posted to DE for the part of the journey after the end of the cabotage operation and when he/she starts working for the return bilateral operation (i.e.: drives to the loading point, loads goods for bilateral operation and carries them through the DE territory).

What is transit



The **concept of transit** is characterised by the fact that the **driver crosses through the territory of a Member State without loading or unloading freight**. The qualification of the driver's presence in a Member State as transit is, therefore, not affected by stops, for example, for hygiene reasons, refuelling, taking breaks or rest periods. **This means that a transit situation is out of the scope of posting rules.**

IV. TRANSIT

11. Transit + bilateral operation + cross-trade + transit

Scenario 11: transit + bilateral operation + cross-trade + transit

A driver employed by a company established in Portugal (PT) loads a truck full of goods in Lisbon (PT) to be delivered to Madrid (ES). In Madrid (ES) the driver loads a truck full of goods to be delivered to Dortmund (DE). After delivery in Dortmund, the driver returns with the empty truck to Lisbon (PT).



Conclusion: 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.

Unladen journeys



Is an unladen journey the same as transit?

No. A transit situation is always exempt from posting rules, while an unladen journey is exempt if it is carried out in connection with a bilateral operation and is not exempt when it is carried out in connection with cabotage or non-bilateral international operation falling under posting rules (cross-trade). In principle, posting ends with unloading goods carried within the operation falling under posting rules (e.g. cabotage or cross-trade).

The classification of the subsequent unladen journey as posting or as exempt from posting depends on whether the new operation, which actuates that unladen journey, is covered by posting rules or not. In this context, it is important to note, that the driver is not considered posted if, after unloading the goods within the operation covered by posting rules, he/she performs an unladen journey back to his/her MS of establishment.

V. UNLADEN JOURNEY

12. Bilateral operation + unladen journey

Scenario 12: bilateral operation + unladen journey

A driver employed by a company established in Lithuania (LT) loads a full truck of goods in Vilnius (LT) and unloads them in Paris (FR). On the way back, the driver drives empty from France (FR) to Lithuania (LT).



Conclusion: The driver performed one bilateral transport operation from LT to FR, followed by an unladen journey from FR back to LT. The driver is not considered posted for the entire journey: neither during the bilateral operation to FR nor during the unladen journey performed after the end of bilateral operation from the Member State of establishment in order to return to that Member State.

V. UNLADEN JOURNEY

13. Two bilateral operations + one unladen journey

Scenario 13: Two bilateral operations + one unladen journey

A driver employed by a company established in Lithuania (LT) loads goods in Vilnius (LT) and unloads them in Paris (FR). The driver drives with an empty truck from Paris (FR) to Antwerp (BE). The driver then loads goods in Antwerp (BE) and unloads them in Vilnius (LT).



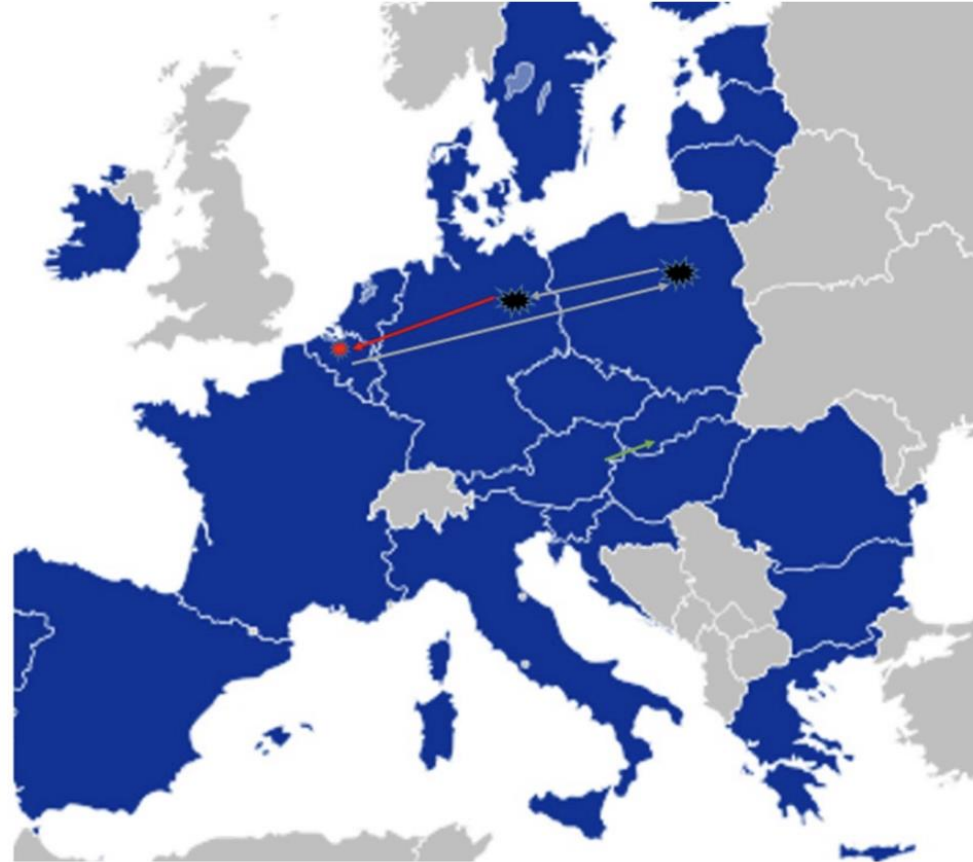
Conclusion: The driver performed two bilateral transport operations and one unladen journey between them. The first bilateral operation occurred from LT to FR, while the second bilateral operation was carried out from BE to LT. The unladen journey between FR and BE should be considered as carried out in conjunction with the second bilateral transport operation starting in BE, therefore meaning that posting rules do not apply. Hence, the driver is not to be considered as posted during all of these operations.

V. UNLADEN JOURNEY

14. Two unladen journeys + one cross-trade

Scenario 14: two unladen journeys + one cross-trade

A driver whose company is based in Poland (PL) carries out an unladen journey from Warsaw (PL) to Berlin (DE). In Berlin (DE), the driver loads a full truck of goods and unloads them in Brussels (BE). Then, the driver drives empty from Brussels (BE) to Warsaw (PL).



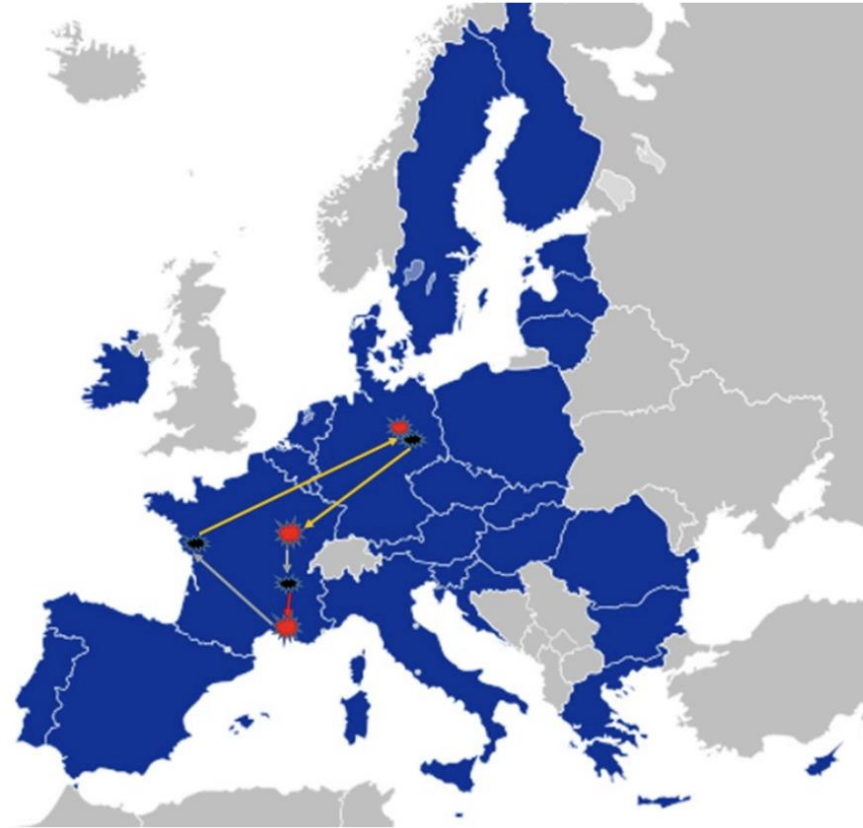
Conclusion: The driver performed two distinct unladen journeys and one cross-trade operation between them. The first unladen journey between PL and DE was followed by a cross-trade operation between DE and BE, which was then followed by an unladen journey from BE back to PL. The unladen journey from PL to DE is carried out in conjunction with the cross-trade operation starting in DE. Therefore, the driver is considered posted to DE from the moment of entering DE territory until leaving the DE territory. This period covers driving with an empty truck to the loading point in DE, loading goods in DE and carrying them through DE territory. Then the driver is considered posted to BE from the moment of entering the BE territory until the end of cross-trade operation in BE. The driver is not considered posted to BE during unladen journey after the end of cross-trade operation when returning to the Member State of establishment. The driver is not considered posted to NL when performing cross-trade operation between DE and BE because he/she only transits the NL territory without loading or unloading.

V. UNLADEN JOURNEY

15. Two bilateral operations + cabotage + two unladen journeys

Scenario 15: two bilateral operations + cabotage + two unladen journeys

A driver employed by a company established in Germany (DE) loads a truck full of goods in Berlin (DE), drives to Paris (FR) and unloads all the goods. The driver then drives empty to Lyon (FR) to load goods and unloads them in Marseille (FR). The driver then drives empty from Marseille (FR) to Nantes (FR). On the way back to Germany (DE), the driver loads a truck full of goods in Nantes (FR) and unloads them in Berlin (DE).



Conclusion: 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.



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