

Mobility ImPACT on Transport Workers - Scientific Article

As the Solidaritet Norge trade union, we are participating in a project co-funded by the European Union titled "Impact of Mobility Package on Transport Workers." We cooperate in this project with trade unions and business organizations from other countries, including Poland, Italy, Spain, Croatia, Greece, Belgium, among others. The project aims to analyze the effects of implementing the new directive in the transport sector (Directive No. 1057/2020).

The analysis focuses on two areas concerning workers: the protection of their broad labor rights, including the right to fair compensation, occupational health and safety regulations, and, most importantly, their knowledge of legal regulations in this field of law. Employers have also been included in the analysis to share their perspective on how the Mobility Package affects the transport sector.

It is worth explaining what delegation means. Delegation is the temporary posting of an employee to work in another country, usually for up to 12 months, with a maximum of 18 months upon submitting a justified statement. Delegation can be categorized as direct delegation, intracorporate delegation, and delegation to another employer, known as a „user employer“. Typically, this is facilitated by employment agencies.

Posting of workers is one of the most complex forms of employment because the employment relationship is subject to various legal regulations. It falls under the **public insurance law** of the sending country, but it is also subject to **tax regulations** and, to some extent, **labor law regulations of the host country**. Moreover, in some countries like Norway, the employment relationship is also regulated by industry-specific **collective agreements**. At the European Union level, delegation is governed by **directives**, but the influence of **private international law**, such as **Regulation Rome I**, especially in the context of employment contracts and determining which country's labor law applies, cannot be underestimated. The Court of Justice of the European Union continues to consider a number of preliminary questions with legal issues from national courts aimed at interpreting EU regulations in specific factual situations. One noteworthy example is the judgment of the Court of Justice from July 15, 2021, in joined cases C-152/20 and C-218/20, where it was determined which law, in practice, applies—Romanian, Italian, or German—in terms of labor rights.

Posting applies to workers from both European Union and non-European Union countries in the transport sector, such as from Belarus and Ukraine to Poland and Lithuania. The main countries that send delegated workers include Poland, Germany, Lithuania, Slovenia, and Spain. Receiving countries for delegated workers also include Germany, Spain, as well as Belgium, the Netherlands, France, and Germany. In the case of workers delegated from third countries, **immigration law** regulations are also relevant.

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Norwegian legislation has been updated to comply with EU directives and improve the protection of posted workers. Their employment is regulated by Norwegian labor law and collective agreements, including provisions related to the minimum wage.

- General the postings directive (directive 96/71/EC) has been implemented in Norwegian law through § 1-7 of the Working Environment Act and the postings regulations. Posting of employees means situations where an employee is sent by his employer from one member state to another in connection with a temporary service.
- Directive (EU) 2018/957 - EEA committee decision ratified by Liechtenstein 8.11.2022. The decision enters into force on 1 January 2023. Regulations on posted workers (FOR-2005-12-16-1566, lov/1972-06-16-43/§11, lov/1978-06-09-45/§2, lov/2017-06-16-51/§43, lov/1988-04-29-21/§2, lov/1993-06-04-58/§2, lov/2004-12-10-76/§2, lov/2005-06-17-62/§1-7, lov/2005-06-17-62/§18-11)
- Directive 2020/1057 - Consultation - implementation of Directive (EU) 2020/1057 - rules on posting of drivers - **during treatment.**

From the research we conducted among workers and employers, the following conclusions can be statement:

- There is awareness of the existence of directives regarding the delegation of workers; however, there is an issue with understanding them due to the complexity of legal regulations. Therefore, workers primarily value direct consultations in specific matters rather than just reading information.
- The main problems related to the application of regulations, both by workers and employers, arise from a lack of information, the limited clarity of European regulations, and difficulties in their interpretation.
- Differences in opinions have emerged between workers and employers. Workers believe that these regulations do not fully protect the rights of posted workers, while employers hold the opposite view. It is worth noting that a significant percentage of both workers and employers were unable to take a clear stance on this issue.
- The most important factors for transport workers remain their compensation and greater recognition of their work by employers, while the reduction of working hours was deemed less important.

- The majority of workers believe that their working conditions during delegation are acceptable. However, they appreciate the need for at least annual health check-ups and receiving training in safety and hygiene at work.
- In general, employers are familiar with the applicable regulations and the availability of new online tools for reporting the delegation of their workers, as well as the documents that drivers should have during their delegation. However, there is still room for improvement in terms of information.
- Employees, for the most part, stated that they resolve labor-related disputes through trade unions.

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Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Education and Culture Executive Agency (EACEA). Neither the European Union nor EACEA can be held responsible for them.



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