

Article 6.-

The concept of *Posted Worker* in the new European regulations for drivers

Until now we had a definition of *posted workers* established by *Directive 96/71/EC* , with its different modifications, until the latest version introduced by *Directive 2018/957* , but it excluded workers in the transport sector from its application. roads.

Directive 2020/1057 now distinguishes between the types of transport operations to which displacement rules must apply and those operations to which those displacement rules should not apply.

Thus, we find that it is understood that the displacement of workers occurs when two operations are carried out between Member States other than the country of establishment of the transport company.

On the one hand, the so-called **cross trade operations** , understood as transport operations carried out between two Member States, or between a Member State and a third country, neither of which is the country of establishment of the operator carrying out these operations;

And **cabotage operations** , understood as national transport operations on behalf of others carried out on a temporary basis in the territory of a Member State by an operator established in another Member State.

In the opposite direction, the driver will not be considered to be displaced when carrying out up to four different types of operations:

- **International bilateral transport operations**, which are transport operations based on a transport contract from the Member State in which the operator is established to another Member State or to a third country, or from another Member State or a third country to the State. establishment member;
- **Limited additional loading and/or unloading activities** ; that is, cross-trade operations carried out in the context of bilateral operations in the Member States or third countries that the driver passes through
- **Transit through the territory of a Member State without carrying out any loading or unloading activity** ; and finally
- **The initial or final leg of a combined transport operation** , as defined in Council *Directive 92/106/EEC* , where the road leg alone consists of an international bilateral transport operation.

These new declarations will replace all those communications that were transmitted until now to each country, such as France, Germany, Holland, Italy, Austria, etc. (the so-called *Macron Law*).

In addition, they establish that it will no longer be necessary to hire a representative since the documents required by the control agents will be transmitted through the "IMI" web portal. However, the certificates and their acknowledgments of receipt will continue to be available on the portals of each country, to serve as evidence in the event of a dispute regarding a previous control, therefore, they will continue to be considered valid for these purposes.