TRAINING SESSION ON POSTING DECLARATION PORTAL FOR ROAD TRANSPORT

16 DECEMBER 2021

European Commission

ELA
EUROPEAN LABOUR AUTHORITY

GUIDELINES FOR THIS MEETING

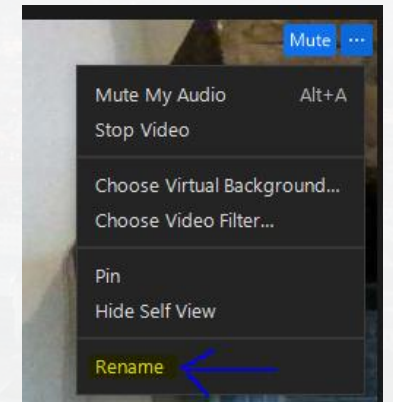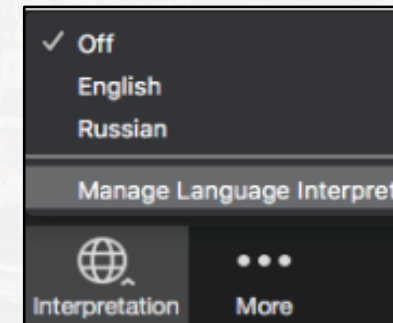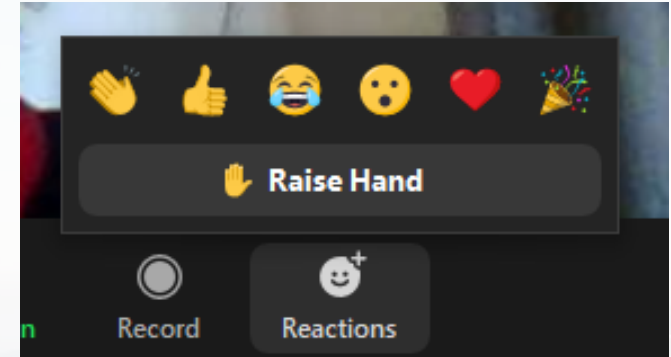Raise your hand to ask to take floor

Keep your microphone muted until you are invited to take the floor

Keep your interventions focused

Write your remarks in chat, should you not be able to intervene

Country code/Organisation - First name - SURNAME

TRAINING SESSION ON POSTING DECLARATION PORTAL FOR ROAD TRANSPORT

DG MOVE — 1. Introductory remarks

DG MOVE — 2. Posting of drivers in road transport: new rules and new tools

DG DIGIT — 3. Posting declaration portal: how to use

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1. Introductory remarks

Ewa Ptaszyńska
Deputy Head of Unit
DG MOVE

2. Posting of drivers in road transport: new rules and new tools

Inès Maillart
Policy Officer
DG MOVE

New rules on posting of drivers

- **Background**: diverging national rules on posting of drivers in road transport, open list of administrative requirements and control measures → legal uncertainty and administrative burden for companies

- **New Directive (EU) 2020/1057** on Lex Specialis on posting of drivers

→ will start applying **on 2 February 2022**.

- Posted drivers will receive the **remuneration of the host Member State** where they carry out activities covered by posting rules.

- **Harmonised implementation and enforcement**: use of IMI and public interface connected to IMI, closed list of administrative requirements.

- Distinction between what can be checked **at the roadside and at the premises**.

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Enforcement of posting of drivers - IMI

- Key role of **IMI** (Internal Market Information System) and the **new public interface connected to IMI. Distinction between checks at the roadside and checks at the premises**

  - **For companies**: submission of standardised **posting declarations** via a multilingual public interface at the latest at the commencement of the posting.

  - **For the host authorities**: enforcement of the posting rules via **requests for documents** sent directly to the company. Closed list of documents including tachograph records, payslips, employment contracts.

  - **For the home authorities**: can receive **requests for assistance** from the host authority to provide documents where the economic operator fails to do so.

Enforcement of posting rules – Step by step

The posting declaration – General principles

<u>Prior to the posting:</u>

- Obligation for the operator established in another MS to 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 IMI

  - posting declaration from **1 day up to 6 months** – can be renewed

  - **one declaration per driver per Member State** – Declarations can be duplicated to only modify some of the fields (e.g. country of posting)

  - Posting declaration for a **period of time and not for each operation**

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The posting declaration - Content

Content of the posting declaration:

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 of the driver**, the address of the residence and the number of his/her driving licence;

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. the **transport services performed** (e.g. carriage of goods, carriage of passengers, international carriage or cabotage operations).

Documents to keep and show at the roadside

During the posting:

- Obligation for **the operator** to ensure that the drivers have **at their disposal** the list of documents below + Obligation for **the driver** to **keep and make available** when requested:

i. The driver must have the **posting declaration** in paper or electronic form

ii. **evidence of the transport operations** taking place in the host Member State, such as an electronic consignment note (e-CMR)

iii. **the tachograph records** (mention of the country codes of the MS where operations took place)

Check of the posting declaration at the roadside

What can be checked at the roadside:

- <u>Step 1</u>: During a roadside check, the **driver shows the posting declaration** either in paper or electronically.

- <u>Step 2</u>: The host authority checks the authenticity and validity of the posting declaration by **scanning the QR code on the posting declaration** (IMI real-time check)

   → It will indicate if the declaration is valid or not valid (fake declaration). Enforcers can also cross-check the information of the declaration they have in front of them with the information submitted to IMI.

- <u>Step 3</u>: The host authority **may decide afterwards to send a request for documents via IMI** to the company to check that the driver received the appropriate remuneration for the period of posting.

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Checking compliance with the rules - Requests for documents

Closed list of documents that can be requested to the operator:

Following the request of the host MS, the operator must send **via the public interface**:

i.   tachographs records

ii.   consignment notes (e.g. e-CMRs)

iii.   documentation relating to the remuneration of the driver in respect of the period of posting,

iv.   the employment contract

v.   time-sheets relating to the driver's work

vi.   proof of payments.

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Procedure and deadlines for operators to submit documents

Procedure when receiving a request for documents:

- Step 1: The host authority makes a direct request to the company **via IMI**.

- Step 2: The company receives the request in the public interface and has **8 weeks to submit the requested documents**.

→ Documents can be submitted one by one (e.g. no need to wait for the last payslip).

- Step 3: If the company fails to submit the documents within 8 weeks, the host authority may request **assistance from the home authority**.

- Step 4: The home authority has access to the request from the host MS authority in IMI and contacts the company (e.g. checks at premises) to **get the documents within 25 working days**.

Next steps – Guidance and helpdesk for operators

- **Testing of the interface to collect feedback** – Important to receive diverse feedback (SMEs, multinationals, consultancies etc)

- Interface to be made **available in advance to upload the relevant data**: creation of the list of drivers in the company, creation of the draft posting declarations (for submission on 2 February 2022).

- **Video tutorials with subtitles in 24 languages** on how to use the interface.

- **Dedicated page to be created with all relevant links** – Where would you like to see it?

- **Helpdesk** will be available.

MOST IMPORTANT: do not forget to train your members and share the knowledge!

Thank you!
Any questions?

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3. Posting declaration portal: how to use

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DG DIGIT

4. Questions and answers

Concluding remarks

FOLLOW – UP SESSION ON THE 20TH OF JANUARY 2022

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DG MOVE

THANK YOU