

New cabotage rules

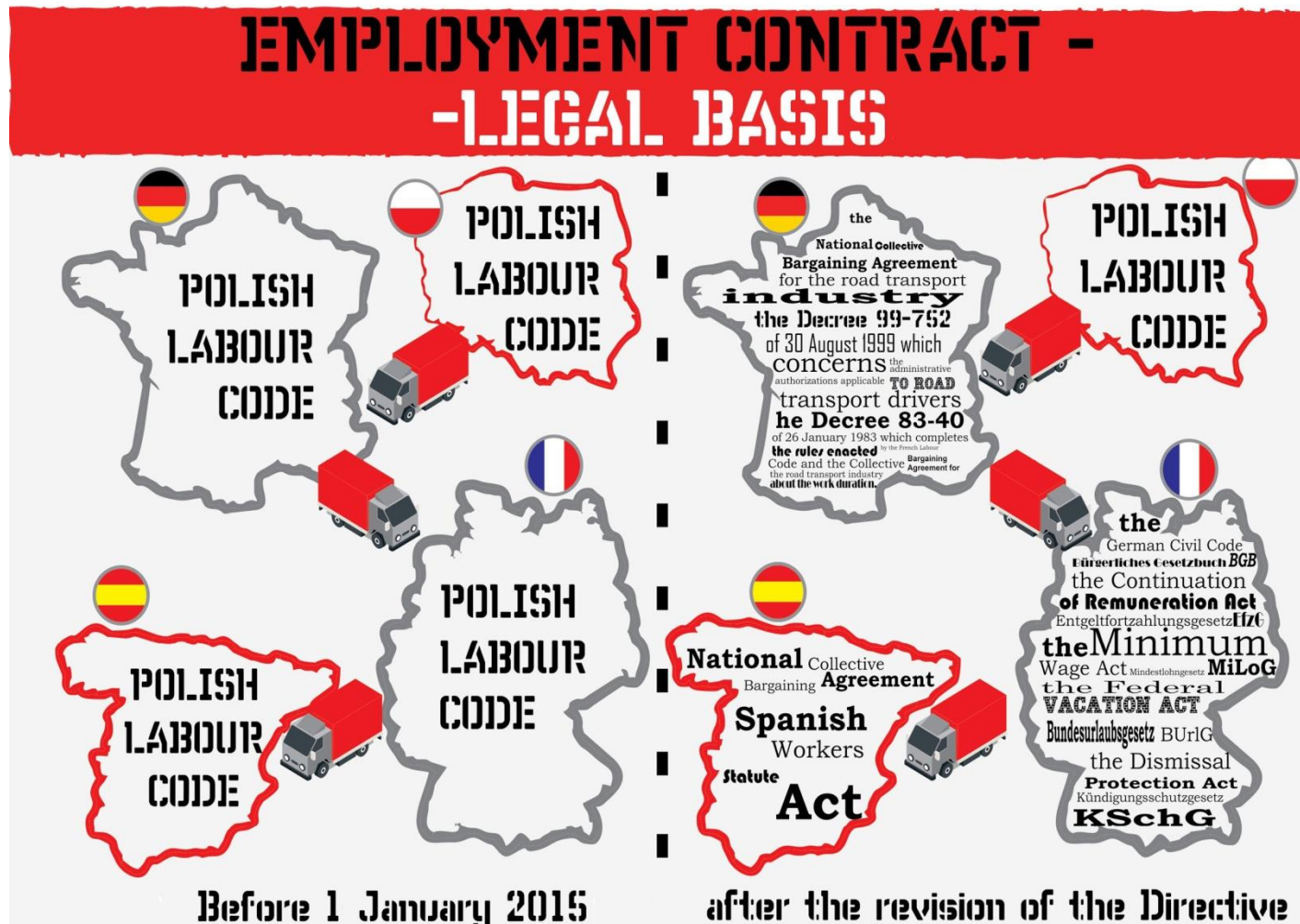
A real need for an international transport sector?

Florence, 23 January 2017



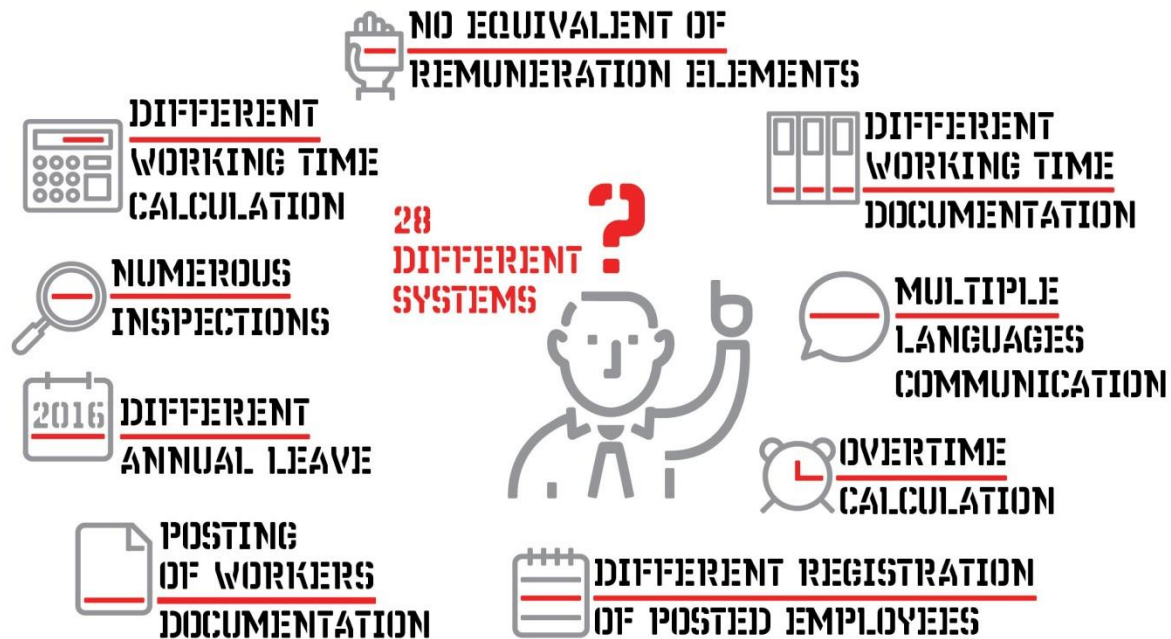
1 ■ Posting of workers

Posting of workers: local and European labour law issues



Posting of workers: local and European labour law issues

FUTURE DUTIES OF THE EMPLOYER?



The above infographic presents the scope of duties of the employers. They already apply to Germany and France. The posted workers directive makes this scenario applicable in all 28 EU countries.

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DOCUMENTATION

after the revision of the Directive



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ADDITIONAL COST

BEFORE



DRIVER

OFFICE
WORKERS

AFTER THE REVISION OF THE DIRECTIVE



ADDITIONAL
PERSONNEL



OFFICE
WORKERS



DRIVER

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INSPECTIONS



FRANCE

- Ursaf
- Direction Régionale des Entreprises, de la Consommation, de la Concurrence, du Travail et de l'Emploi
- Contrôleur des transports terrestres
- Police



GERMANY

- German Customs Authorities (Zoll)
- German Pension Insurance (Deutsche Rentenversicherung)
- German Tax Authorities (Finanzämter)
- Federal Office for Goods Transport (Bundesamt für Güterkraftverkehr, BAG)
- Highway Patrol (Autobahnpolizei)



ITALY

- Direzione Territoriale del Lavoro
- Ispettorato Nazionale del Lavoro*
- Italian Social Security Institute (INPS)
- Italian Institute for accidents occurred on working place (INAIL)
- Polizia Stradale
- Vigili Urbani
- Guardia di finanza
- Carabinieri



BELGIUM

- Social inspectorate of Federal Public Service (FPS) on Employment, Labour and Social Dialogue
- Social Inspectorate of FPS Social Security
- Inspection department of National Social Security Office (ONSS)
- Inspection department of the national employment office (RVA)
- Inspection department of National Institute for Health and Disability Insurance
- Inspection authorities of the communities and regions



NETHERLANDS

- Inspection Service of the Ministry of Social Affairs and Employment (Inspectie SZW)
- Human Environment and Transport Inspectorate (Inspectie ITO)
- National and International Road Transport Organization (NIWO)
- Immigration and Naturalisation Service (IND)



SPAIN

- Labour and Social Security Inspection - Inspección de Trabajo y Seguridad Social
- Police

MEET YOUR NEW ADVISORS...

Lack of clear, transparent and officially approved rules related to posting workers in a given jurisdiction, in particular in the scope of equivalence of elements of remuneration, creates a significant risk of imposing a fine on given employer. It should be noted that fines and administrative sanctions relate to the amount of EUR 500,000 (per employer). They can even lead to a temporary suspension of activities in a given country (France). A foreign employer will be notified about the correct performance of its duties in a given jurisdiction during an official control of proper controls performed by various local authorities.



2 ■ Work in several countries: social security rules

Work in several countries: social security rules

▪ Formalities:

The A1 Portable Document, certifying the applicable legislation, replaces the previous E101 and E102 forms. It is issued by the social security institution with which the worker is registered in his/her home country.

The A1 Portable Document is used to prove that social security contributions are paid in another EU country. Therefore, **the employee must always be in possession of the A1 Portable Document.**

— CJCE, 26/01/06, C-2/05, Herbosh Kiere:

“As long as it has not been withdrawn or declared invalid by the authorities of the Member State that issued it, an E101 certificate issued under Article 11(1)(a) of Regulation (EEC) no. 574/72 of the Council of 21 March 1972 laying down the procedure for implementing Regulation no. 1408/71, in the version amended and updated by Council Regulation (EEC) no. 2001/83 of 2 June 1983, as amended by Council Regulation (EEC) no. 2195/91 of 25 June 1991, binds the competent institution and courts of the Member State in which the workers are posted.”