Finland

Implementation of the EU Mobility Package for road transport brought changes to the regulations of posted workers on 1 February 2022

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The national implementation of the social and market provisions of the mobility package introduced amendments to the Act on Transport Services and certain other related acts. As a result of the changes, road transport drivers posted to Finland will be in the same position as posted workers in other sectors as regards the determination of the terms of employment.

The purpose of the EU road transport mobility package is to clarify the regulations in the transport sector and to harmonise their application in the Member States, improve the working conditions of drivers and improve supervision. As of 1 February 2022, the provisions of the Act on Posting Workers on pay, procedure on reporting posted workers, quality requirements for accommodation conditions and the employer's liability for travel and accommodation costs became applicable.

New obligations for subcontracted transports

In the future, the following obligations and measures will be applied to subcontracting of road transport to support supervision:

1. The employer (carrier) must submit a notification of posting workers via the EU's electronic IMI system to the EU portal (IMI) [Road Transport - Posting Declaration](https://www.postingdeclaration.eu/landing).

The notification must include:

* operating permit number issued to the carrier
* contact details of the carrier‘s competent person-in-charge or other contact person of the carrier in the posting country in order to respond to official enquiries and receive documents or notifications
* personal data needed to identify the driver, personal identity code, address of the place of residence and driving licence number
* start date of the driver's employment contract and the legislation applicable to the contract
* planned start and end date of the posting
* information on the registration numbers of the motor vehicles used
* information on whether the service is the transport of goods or passengers, international transport or cabotage.

If the notified information changes, a requirement for the work to continue is that the posting company (employer) submits a supplementary notification on the IMI system as soon as such changes occur.

It is important to note that the notification on the EU portal only concerns subcontracted transports. If the transportation or personnel rental takes place within a company group, the notification of posting shall be submitted to the occupational safety and health authority electronically using [an online form](https://asiointipalvelu.ahtp.fi/public/2627047/fill).

2. For roadside checks, the driver must have a copy of the notification of posting, proof of the transport service carried out in Finland and tachograph information.

3. The employer (carrier) is obliged to provide the occupational safety and health authority with the following information at their request:

* the employee's working time records of work carried out in Finland
* certificate of payment of wages and salaries
* information on the terms and conditions of employment applicable to the posted driver's employment relationship
* information on the transport service
* tachograph data.

As a result of the new obligations, the posting company is no longer required to appoint a representative based in Finland.

The Act on Posting Workers does not apply to the following road transport operations:

* bilateral transport of goods and passengers
* when the driver drives through the territory of a Member State without loading or unloading the cargo or without boarding or unboarding passengers (transit)
* bilateral combined transport of goods within the restrictions laid down in legislation.

Reporting duty

In road transport subcontracting situations, the posting notification is made on [the EU portal](https://www.postingdeclaration.eu/landing).

Before the work begins in Finland, the posting company must submit a notification of the posting of workers to the OSH authorities. The reporting duty is fulfilled by filling this[electronic form](https://asiointipalvelu.ahtp.fi/public/2627047/fill).

The notification may be given immediately when the contract on posting workers has been concluded, but latest before the work agreed upon in the contract starts.

Reporting is not needed when workers are transferred within the company for a maximum of 5 days, except when the company operates in the construction sector. In the construction sector there are no exception from this duty. When determining the duration the posting period and all previous posting periods (working time) for the last four months during which workers of the same posting company have been working in Finland will be taken into account.

Every day when one or several posted workers carry out work in Finland is considered posting. The months are calendar months. All those periods, during which one or more workers have been transferred inside the same company and have been carrying out work in Finland with one or more contractors, will be taken into account.

If the information that has been submitted changes significantly, a requirement for the work to continue is that the posting company submits a supplementary notification as soon as such changes occur. A significant change refers for example to a change of representative, employee information or contact details.

The builder and main contractor must also receive a notification of the construction work as well as possible supplements.

## Content of the notification

The notification must contain:

* Identifying details of the company, contact information, foreign tax identification number and information on the responsible persons of the posting company in the country where the company is established
* Identifying details and contact information of  the contractor
* Identifying details and contact information of the builder and the main contractor for companies in the construction sector
* Personal data necessary to identify each posted worker: personal identification number, tax identification number of the country of residence and, in the case of construction work, the tax number issued by the Tax Administration in Finland, as well as the start and end time or estimated end time of the posting
* Identifying details and contact information of the postings company´s representative in Finland or information indicating why a representative must not be selected
* Place or places where the work will be carried out
* Branch in which the worker will work.

Should the posting company not fulfil its reporting duty, it will be obligated to[pay a penalty fee for negligence](https://www.tyosuojelu.fi/web/en/employment-relationship/posted-worker/penalty-fee-for-negligence).

## Notification duty in road transport subcontracting situations

In the case of road transport subcontracting situations, the transport operator (employer) must submit a posting notification via the EU electronic IMI system to [the EU Portal (IMI) Road Transport - Posting Declaratio](https://www.postingdeclaration.eu/landing)n.

The notification must include:

* the number of the Community license issued to the transport operator
* the contact details of the competent transport manager or other contact person in the Member State of establishment who is responsible for responding to inquiries from the authorities and receiving documents or notifications
* personal data necessary to identify the driver, personal identity number, address of residence and driving license number
* the date of commencement of the driver’s employment contract and the legislation
* governing the contract
* the planned starting and ending dates of the shipment
* details of the registration numbers of the motor vehicles used
* details of whether the service is transport of goods or passengers, international transport or cabotage.

If the details change, it is a condition for continuing the work that the transport operator submits a supplementary notification to the IMI system immediately when the changes occur.

It is important to note that the notification duty to the EU portal only applies to the road transport subcontracting situations. In the case of intra-group transfers and temporary agency work, the notification of posting is still made to the OSH authorities using [the electronic form](https://asiointipalvelu.ahtp.fi/public/2627047/fill).