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PWD Updates 1/2020

Current Jurisprudence



Date

December 19, 2019

Country

Austria



Nature of the change

The PWD does not apply to posted workers who provide meals and beverages on international trains without leaving the train. (verdict of Case C-16/18 “Murder on the Orient Express”)

Content

The provision of services which are defined as on-board services, cleaning services or the provision of meals to passengers on international trains travelling through several EU-Member States is not covered by the PWD if these workers carry out a substantial part of the work in the territory of “their” Member State and start or end their service there. For this purpose, a worker cannot be regarded as posted to the territory of a Member State if his work does not have a sufficient link with that territory. Which is also according to the Advocate-General, who said that the Directive 96/71 does not apply to serving meals and drinks rendered on international trains (Official Opinion as of July 2019).



PWD Updates 1/2020

Administration News



Date

March 1, 2020

Country

Netherlands



Nature of the change

Duty to notify for employers abroad and relevant self-employed persons from countries within the European Economic Area (EEA) and Switzerland who have a temporary posting through a notification portal

Content

When notifying, employers abroad should notify at least the following:

- the identity of the person submitting the notification;
- the details of their company;
- the contact person, as referred to in Article 7 of the WagwEU;
- the identity of the client (service recipient);
- the sector in which the activities will be carried out in the Netherlands;
- the address/place where the work will be performed;
- the expected duration of the work;
- the identity of the person responsible for payment of salary/wage;
- the identity of the employees coming to the Netherlands to work;
- the presence of an A1 declaration or other type of evidence that shows where the social security contributions are paid for the employee(s), because of the contribution for the relevant social security scheme.

Date

January 1, 2020

Country

Croatia



Nature of the change

Update of the online portal

Content

- Posted workers who are EEA nationals and third-country nationals legally employed in the country in which the foreign employer is established, do not need a work permit, but if their work should last more than three months, they should register temporary stay for the purpose of work of a posted worker. Temporary stay shall be granted to an alien who intends to stay in the Republic of Croatia for the following purpose of the work of the posted worker (temporary stay permission) if:
- he proves the purpose of temporary stay,
 - he holds a valid travel document;
 - he has funds to support himself,
 - he holds health insurance,
 - he is not prohibited entry and stay in the Republic of Croatia,
 - he is not considered to be a threat to public policy, national security or public health.

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Administration News



Date

July 31th, 2019

Country

Czech Republic



Nature of the change

Change in the responsibility for registering posted workers

Content

From now on the legal employer is responsible for the registration as required everywhere else in the EU. With the implementation of the revised PWD, more extensive documentation requirements are expected.



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Date

July 30, 2020

Country

France



Date

November 12, 2019

Country

Germany



Nature of the change

New Law of September 5, 2018 to transpose the PWD

Content

The new law

1. provides sanctions of fraud
2. simplified administrative formalities to certain specific circumstances

The ordonnance (English: regulation) of February 20, 2019 aims to transpose the PWD and will enter into force on July 30, 2020. It concerns all the sections with exception of the road transportations and has to be ratified by the French parliament on May 2, 2019. For the posting of workers by temporary work agencies the ordonnance has changed the obligation of interaction borne by hosting company and its relative liability towards the French labour commission. It reinforces the principle of equality between the posted workers and the employees of the same sector in France, all posted workers must benefit from equality of treatment and from all the components of remuneration which are

1. the minimum wage
2. the compensation for overtime

Nature of the change

First Draft law for implementation of the Revised PWD

Content

Concrete proposals for amendments:

- Replacement of the term “minimum wage” by the term “remuneration” (new § 2a).
- Clear rules on eligibility of secondment allowances (new § 2b).
- Amendment of additional working conditions for long-term postings (> 12 months) (new chapter 4b).
- Calculation rule for posting terms (new § 13c).
- Special provisions/exemptions for certain activities (new § 24) (inter alia initial assembly or first installation, meetings, negotiations and trade fairs/conventions).

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Legislation News



Date

August, 2019

Country

Italy



Nature of the change

When to register on the Cliclavoro portal

Content

Case 1:

Under Italian law, assignments of any employee of companies established outside Italy must be registered if cross-border services are provided in Italy. In order for the registration obligations to apply, it is mandatory that the services be provided to a company domiciled in Italy.

Case 2

Here the place of work, i.e. the place where the service is provided, is clearly defined. The place of work can be assigned to an Italian company. The decisive factor here is whether the service is provided to the Italian company. We advise you to enter the company data of the host company, which provides the place of work, in the registration on Cliclavoro.

In conclusion, we recommend registering the second example, as in this case there is a clear place of work and a host company



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