

Germany – Transport sector

(Last update of the information: January 2015)

Main legal frameworks for the transport sector

- a) The law governing a general minimum wage (the minimum wage law -MiLoG) from 11.08.2014 (BGBl. I S. 1348),
- b) The law on mandatory working conditions for cross-border and sent for regularly employed domestic workers and workers (The Posted Workers Act-AEntG) from 20.04.2009 (BGBl. I, p 799)
- c) The Working Hours Act (ArbZG) from 06.06.1994 (BGBl. I S. 1170, 1171)
- d) Minimum Pensions Act for employees (The Federal Holidays Act-BUrlG) from 01.08.1963 (BGBl. III p 800-4)
- e) Law on the drivers of motor vehicles and trams (The drivers law -FPersG) from 03.30.1971 in the version published on February 19, 1987 (BGBl. I, p 640)
- f) law on combating undeclared work and illegal employment (The moonlighting Prevention Act -SchwArbG) from 23.07.2004 (BGBl. I S. 1842)
- g) road transport law (GüKG) from 22.06.1998 from (I, p. 1485),
- h) Act regulating the supply of temporary workers (The Employment Act -AÜG) in the version published on February 3, 1995 (BGBl. I, p 158)
- i) Regulation on road haulage cabotage authorizations (Cabotage Regulation GüKG - GüKKabotageV) from March 29, 1991
- j) law regulating the working time of self-employed drivers (KrArbZG) from 11 July 2012 (BGBl. I S. 1479)
- k) Regulation implementing the mobile workers Act (Regulation crew -FPersV) from 27.06.2005 (BGBl. I S. 1882), as last amended on 22/05/2013

Compulsory documents (distinguishing for road transport sector of goods and of people)

The employee has to submit a German declaration to the competent authority with the following information:

1. the surname, first name, date of birth and employed workers,
2. the beginning and the expected duration of employment,
3. the place of employment,
4. Recognize place within the country where the documents with the information required under will be kept,
5. address in Germany
6. family name, first name and address in Germany of one employer or authorized agent.

Changes regarding these information, shall be reported immediately by the employer.

Failure to comply with the reporting requirements may be punished by a fine of up to thirty thousand euros.

Documents carried by the driver:

- ID card/Passport
- If applicable, international driving license
- EU driver attestation for drivers from third countries
- Work permit and residence permit for drivers from non-EU countries
- Driver card, if issued, with on the front and back filled record sheets for the current and the previous 28 days analogue recording equipment
- Sufficient number of record sheets for further recording equipment
- Copies of the digital recording equipment and handwritten notes (whereis required)
- Printing paper as a supply for digital recording equipment
- Certificates for consideration-free days as proof that the driver was not set on certain days
- Proof of a labor contract with the drivers from non-EU countries
- If The driver performs the cabotage transport
- When possible, posting A1 certificate (can be submitted later), otherwise nationalsocial security card

To be carried on the vehicle:

- Vehicle registration / registration certificate
- CMR, consignment note -as proof of international transport contract
- License certificate, permit official or certified copy (not original!) of the EU license (these documents may not wrapped in foil or in a similar manner with a protective layer)
- demonstration of compliance with certain technical, safety and environmental requirements, (these documents may not in film be sealed or coated in a similar manner with a protective layer)
- a accompanying document or other proof where the transported goods, the loading and unloading and client have to specified.

In case of cabotage:

clear evidence of the cross-border transport in the Member State concerned and for each of the cabotage operations carried out with the following information:

- Name, address and signature of the sender
- Name, address and signature of the carrier
- Name, address and signature of the consignee as well as the delivery

Signature and the date of delivery

- Place and date of acquisition of the goods and the delivery address
- Description of the nature of the goods and their packaging as well as for dangerous goods their generally recognized description, number of packages and their special marks and numbers

- The gross weight of the goods or their quantity
- The registration number of the vehicle and the trailer

Other documents:

- Insurance documents: Proof of property damage liability insurance (according to § 7a Freight GüKG Act) with the minimum sum insured of € 600,000;
- Green Card
- Accompanying documents: for example, , Bills of lading, motorway tolls document
- Accident report (possibly European accident report)

Minimum wages

With the introduction of the minimum wage as of 01/01/2015, every employee in the Germany is entitled to receive at least the gross minimum wage of 8,50 € per hour (§1.1 Mindestlohngesetz, Minimum wage law)

Based on § 20 of the Minimum Wage Law (MiLoG), employers, foreign or domestic are required to pay the minimum wage on the last bank working day of the worked month. This is also valid for posted workers employed in the transport sector. As there is no universally applicable collective agreement in Germany, the minimum wage is the only regulation applicable for workers in the sector.

The minimum wage level of 8,50 gross is available till 2017 when a new adjustment will take place.

The regulations referring to additional payments such as holiday payments or end-of-the-year-payments are considered as part of the minimum wage as long as these payments do not require additional work performances.

The general contractor's liability (§13 MiLoG and §14 of the AEntG) applies for the enforcement of the payment of the Minimum Wage Law claiming that an employer authorising another employer to carry out certain services or works is liable for the responsibilities of direct as well as indirect subcontractors to pay the minimum wage of the respectively hired workers.

The piercing of the corporate veil is extendable to all companies in a subcontracting chain irrespective of direct or indirect liability.

Minimum paid annual holiday

Minimum paid holidays: 24 days per year.

The amount of holiday pay is determined by the average of the salary of the last 13 weeks. Leave must be granted for the calendar year and, in justified cases, be transferred to the first quarter of following year.

Maximum working time and minimum rest

Supplements for Sunday and public holiday work are not part of the minimum wage.

As there is no collective agreement about overtime premiums, the overtime premium can be agreed in a

contract or operating agreement.

Night work is legally defined in principle any work of more than two hours in the *Time 23-6h*.

In return for night work hours, employees are entitled to a reasonable number of paid days off or an appropriate surcharge on the gross earnings attributable to him for this. The exact amount of night surcharge is not legal defined, but should be mentioned in employment contracts, employment agreements or set down in the company practice.

The same is valid for public holidays.

Working hours per week: maximum of 60 hours.

Daily rest period is 11 hours. In cases of one-driver-crew it can be reduced three times a week to 9h with two day rest periods in between (no obligation to pay compensation), Or shortened to 12 h if divided in 2 sections within a 24-hour time period, first 3 h, then 9 h. (order mandatory). In case of two or more drivers daily rest period of 9h consecutive hours within 30 hours after a rest period is compulsory

Drivers are not allowed to surpass the maximum sum of 90 hours of driving time.

Weekend rest: After a maximum period of six 24h periods, drivers need a weekend rest period of 45h including a daily rest period.

Useful links

a) customs office (financial control undeclared work) responsible for examining the reporting requirements,

Compliance with the minimum wage and other minimum working conditions:

[http://www.zoll.de/DE/Unternehmen/Arbeit/Arbeitgeber-mit-Sitz-ausserhalb-Germany / employer-with-sitting-outside-deutschlands_node.html](http://www.zoll.de/DE/Unternehmen/Arbeit/Arbeitgeber-mit-Sitz-ausserhalb-Germany/_employer-with-sitting-outside-deutschlands_node.html)

b) Federal Ministry of Labour and Social Affairs

<http://www.bmas.de/DE/Startseite/start.html>

c) Federal Office for Goods Transport responsible for controls in freight transport

http://www.bag.bund.de/DE/Home/home_node.html

d) German joint health insurance abroad

http://www.dvka.de/oeffentlicheSeiten/ArbeitenAusland/Entsendung_en.htm

e) Federal Association of Road Haulage, Logistics and Disposal (BGL)

Confederation of Employers

<http://www.bgl-ev.de/web/ueber/index.html>

Information points

Transcom CSC

Adresse: Galerie Agora, rue du Marché aux Herbes 105/40, 1000 Bruxelles

Responsable Général du Secteur:

Roberto Parrillo (02/545 69 77)

roberto.parrillo@acv-csc.be

a) Counseling center for posted workers in Berlin

Work and life VHS / DGB - Keith 1-3, 10787 Berlin

http://berlin-brandenburg.dgb.de/beratung/eb/?tab=tab_0_6#tabnav

Email: beratung-eu@dgb.de

Telephone: + 49 (0) 30 21240-145

b) Federal Ministry of Labour and Social Affairs

Labour law hotline: +49 (0) 30 221 911 004

c) Single point of contact for companies

<http://www.dienstleiten-leicht-gemacht.de/DLR/Navigation/laenderinformationen.html>

d) Project by the German Trade Union Federation: Consulting services for mobile workers

<http://www.faire-mobilitaet.de/beratungsstellen>

Type of discipline for temporary type of work

For the temporary staffing industry a binding minimum wage is fixed.

Lender must have their temporary workers the following gross pay per hour worked (minimum hourly paid):

Period Länder East German Länder West

April 1, 2014 to March 31, 2015: € 7.86 € 8.50

April 1, 2015 to May 31, 2016: € 8.20 € 8.90

June 1, 2016 to December 31, 2016: € 8.50 € 9.00

Second introducing a minimum wage in the supply of temporary workers

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