



Questions and Answers on posting of drivers under Directive (EU) 2020/1057 in the context of transport of passengers¹

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GENERAL CRITERIA determining when a driver is posted or not under Directive (EU) 2020/1057

Directive (EU) 2020/1057² (also referred to as “the Directive”) lays down specific rules with respect to Directive 96/71/EC³ and to Directive 2014/67/EU⁴, both of which are legislative acts concerning the posting of workers in the framework of the provision of services. It distinguishes between types of transport operations to which rules on posting should apply and those to which posting rules should not apply. The general criterion for such distinction is the degree of connection with the territory of the host Member State⁵.

More specifically, it results from Directive (EU) 2020/1057 that drivers carrying out transport operations in Member States other than the Member State where the employer of the driver is established, are **posted** when performing the following operations:

- 1) **non-bilateral international transport** operations⁶ – understood as transport operations carried out between two Member States, or between a Member State and a third country, none of which is the country of establishment⁷ of the operator carrying out these operations;

¹ This guide refers only to questions and answers on posting of drivers in the context of carriage of passengers by road. A different set of questions and answers was prepared on the same topic as regards the rules on the carriage of goods.

² Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012 (OJ L 249, 31.7.2020, p. 49).

³ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

⁴ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (OJ L 159, 28.5.2014, p. 11).

⁵ Recital 9 of Directive (EU) 2020/1057: “*Balanced sector specific rules on posting should be based on the existence of a sufficient link between the driver and the service provided, and the territory of a host Member State. To facilitate enforcement of those rules a distinction should be made between different types of transport operations depending on the degree of connection with the territory of the host Member State.*”

⁶ Recital 13 of Directive (EU) 2020/1057.

⁷ The Member State of establishment is defined in Article 2(8) of Regulation (EC) No 1071/2009.

- 2) **cabotage** operations – understood as either national road passenger services for hire or reward carried out on a temporary basis on the territory of a Member State by an operator established in another Member State, or as a service consisting in the picking up and setting down of passengers within the same Member State in the course of a regular international service provided that it is not the principal purpose of the service⁸.

The driver shall **not** be considered to be **posted** when performing:

- 1) **international bilateral transport operations**⁹ – understood as transport operations in international **regular**¹⁰ or **occasional**¹¹ carriage of passengers when a driver performs any of the following operations:
 - picks up passengers in the Member State where the operator is established (Member State of establishment) and sets them down in another Member State or a third country;
 - picks up passengers in a Member State or a third country and sets them down in the Member State of establishment; or
 - picks up and sets down passengers in the Member State of establishment for the purpose of carrying out local excursions¹² in another Member State or a third country.
- 2) **limited additional activities of picking up and/or setting down passengers**¹³ (that is, non-bilateral international transport operations as described above) carried out in the context of bilateral operations in the Member States or third countries that the driver crosses;
- 3) **transit**¹⁴ through the territory of a Member State without picking up or setting down passengers.

In order to assess whether an international **regular** transport operation is bilateral or not, it is pertinent to assess whether passengers may be picked up and/or set down at a given stop (in line with an authorisation to carry operations in another Member State), and not whether passengers are actually picked up and/or set down at that stop. This is the only way that enable operator to know in advance whether it must submit a posting declaration or not, and the driver to know whether he/she will be posted or not.

It is important to recall that the purpose of setting specific rules by Directive (EU) 2020/1057 as concerns the application of posting rules in the transport sector is to find a balance between the freedom to provide transport services, which inherently involve high mobility of the work force,

⁸ The cabotage operations in respect of the transport of passengers are defined in the Directive with reference to Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (OJ L 300, 14.11.2009, p. 88).

⁹ Recital 10 and Article 1, paragraph 4 of Directive (EU) 2020/1057.

¹⁰ Regular services are defined in Article 2(2) of Regulation (EC) No 1073/2009 as services which provide for the carriage of passengers at specified intervals along specified routes, passengers being picked up and set down at predetermined stopping points.

¹¹ Occasional services are defined in Article 2(4) of Regulation (EC) No 1073/2009 as services which do not fall within the definition of regular services, including special regular services, and the main characteristic of which is the carriage of groups of passengers constituted on the initiative of the customer or the carrier himself.

¹² Article 13 paragraph of Regulation (EC) No 1073/2009: “*Within the framework of an international occasional service, a carrier may carry out occasional services (local excursions) in a Member State other than that in which it is established. Such services shall be intended for non-resident passengers previously carried by the same carrier on one of the international services mentioned in the first paragraph and shall be carried out with the same vehicle or another vehicle from the same carrier or group of carriers*”.

¹³ Article 1, paragraph 4, third subparagraph of Directive (EU) 2020/1057.

¹⁴ Recital 11 and Article 1, paragraph 5 of Directive (EU) 2020/1057.

and the need to ensure a fair competition and avoid a downward pressure on social rights and working conditions of drivers.

ADMINISTRATIVE OBLIGATIONS of the operator before, during and after the posting

Directive (EU) 2020/1057, in its Article 1, paragraphs 11 and 12, specifies the administrative requirements that operators must fulfil to prove compliance with the rules on posting of drivers.

Prior to the posting the operator shall:

- 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 standard form of the public interface connected to the Internal Market Information (IMI) system.

The content of the posting declaration:

1. the identity of the operator, at least in the form of the number of the Community licence where this number is available;
2. 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;
3. the identity of the driver, the address of the residence and the number of his/her driving licence;
4. the start date of the driver's contract of employment, and the law applicable to it;
5. the envisaged start and end date of the posting;
6. the number plates of the motor vehicles;
7. the transport services performed (carriage of goods, carriage of passengers, international carriage or cabotage operations).

During the posting the operator shall:

- ensure that the drivers have at their disposal the following documents:
 - a copy of the posting declaration submitted via IMI, in paper or electronic form;
 - evidence of the transport operations taking place in the host Member State, such as an authorisation (regular passenger transport) or a journey form (occasional passenger transport);
 - the tachograph records (and in particular the country symbols of the Member States in which the driver carried out transport operations).

After the posting the operator shall:

- keep the posting declarations up to date in the public interface connected to IMI;
- no later than eight weeks after receiving a request from the host Member State, send via the public interface connected to IMI the requested documents, such as:
 - the tachograph records, including the country symbols;
 - evidence of the transport operations which took place in the host Member State;
 - documentation relating to the remuneration of the driver in respect of the period of posting;
 - the employment contract or an equivalent document within the meaning of Article 3 of Council Directive 91/533/EEC¹⁵;
 - time-sheets relating to the driver's work;

¹⁵ Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ L 288, 18.10.1991, p. 32).

- proof of payments of driver's remuneration.












Member States' authorities may not impose any additional administrative requirements or control measures on the operators other than those specified in the Directive, in order to ensure effective monitoring of compliance with its provisions.

TRANSPORT OPERATION SCENARIOS

The following sections explain and illustrate how the posting rules apply in different transport operation scenarios:

- I. BILATERAL
- II. NON-BILATERAL INTERNATIONAL TRANSPORT
- III. CABOTAGE
- IV. TRANSIT
- V. JOURNEYS WITHOUT PASSENGERS

Legend:

-  Start of transport and picking up passengers
-  Setting down passengers and end of transport
-  Picking up/Setting down location
-  Additional operation of picking up passengers
-  Additional operation of setting down passengers
-  Local excursion
-  Bilateral operation
-  Additional exempt transport operation
-  Non-exempt transport operation (posting situation)
-  Transit / Journey without passengers
-  Flights

I. BILATERAL

1. What are international bilateral transport operations exempt from posting rules?

OCCASIONAL PASSENGER TRANSPORT

Scenario 1: two bilateral operations

A driver employed by a company established in Belgium (BE) carries out a pre-constituted group of passengers to a ski resort in Austria (AT). On the way back, the same driver brings back another pre-constituted group of passengers from the same ski resort in Austria to Belgium.



Conclusion: The driver performed two bilateral operations: one from BE (Member State of establishment) to AT (host country) and another one from AT back to BE. Hence, the driver was not subject to posting rules during the entire journey. Each bilateral operation shall be covered by a distinct journey form¹⁶, which provides key information allowing to ascertain the type of operation.

¹⁶ Article 12 of Regulation (EC) No 1073/2009 specifies that occasional service shall be carried out under cover of a journey form which shall be filled out before each journey. The journey form shall contain at least the information on the type of service, the main itinerary and the carrier(s) involved.

Scenario 2: bilateral operation with two or more setting down locations within a host country

A driver employed by a company established in Belgium (BE) carries out a pre-constituted group of passengers to a ski resort in Austria (AT) and sets down the passengers in more than two different locations in Austria.



Conclusion: The driver performed one bilateral operation from BE (Member State of establishment) to AT (host country). As the driver picked up passengers in the Member State of establishment, and set them down in three different locations in the host Member State, the driver was not subject to posting rules for the entire journey. The number of setting down locations in the same country does not alter the bilateral character of the operation. The whole operation is performed under cover of a journey form, which constitutes one of three mandatory types of evidence¹⁷ that can be requested by a roadside controller to check compliance with the posting rules.

¹⁷ Article 1.11(b) of Directive 2020/1057 stipulates that a driver shall present, on a request of a roadside inspector, a copy of posting declaration, evidence of transport operation and tachograph records.

Scenario 3: bilateral operations with several setting down points in more than one host country
A driver employed by a company established in Belgium (BE) carries out a pre-constituted group of passengers to a ski resort in Austria (AT). The driver sets down the passengers in two different locations in Austria, and in one final location in Italy (IT).



Conclusion: The driver performed two bilateral operations (BE-AT and BE-IT) within one journey. The journey started with picking up passengers in BE (Member State of establishment) who have then been set down in two different Member States (AT and IT) at three different locations. Since several exempt bilateral transport operations may be carried out during one journey¹⁸, the driver was not subject to posting rules for the entire journey.

¹⁸Recital 10 of Directive (EU) 2020/1057: “When a driver engages in bilateral transport operations from the Member State where the undertaking is established (the ‘Member State of establishment’) to the territory of another Member State or a third country or back to the Member State of establishment, the nature of the service is closely linked with the Member State of establishment. It is possible that a driver undertakes several bilateral transport operations during one journey.”

Scenario 4: bilateral operations with local excursions in one host country

A driver employed by a company established in Belgium (BE) carries out a pre-constituted group of passengers to Italy (IT). In several Italian cities, the group is transported for local excursions, visiting various places of interest in three different cities in IT. The local excursions are registered into the journey form. On the way back the driver brings the same group to Belgium.



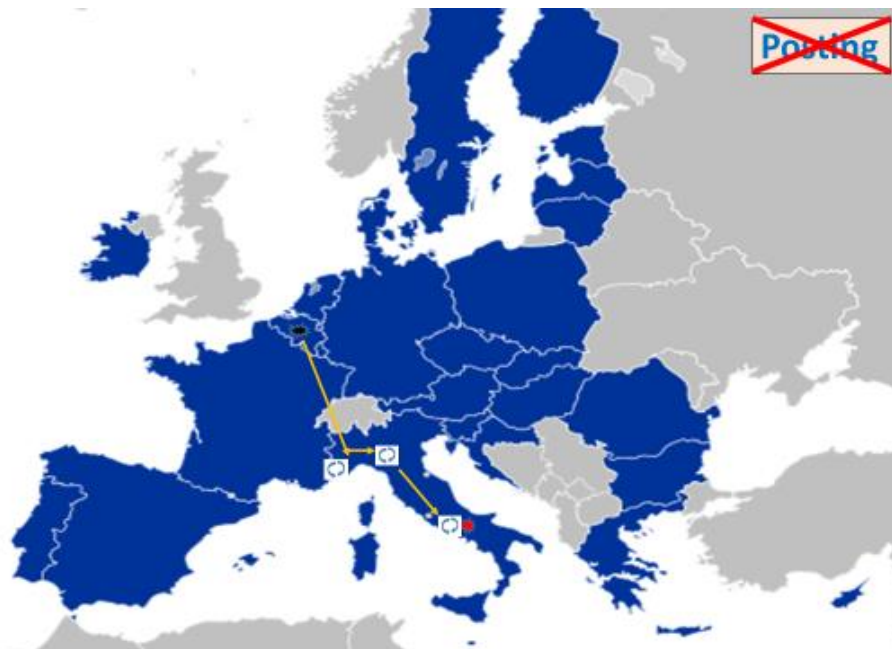
Conclusion: The driver performed an operation of picking up and setting down passengers in BE (Member State of establishment) and carried them in IT in the context of local excursions¹⁹. The group is always the same; it is a pre-constituted group. The operations of picking up the passengers in BE and setting them down in IT and of picking up the passengers in IT and setting them down in BE, as well as the carrying out of the local excursions in IT, are exempted from posting rules. Hence, the driver was not subject to posting rules for the entire journey. It is to be noted that local excursions must be carried out **(i)** in the framework of an international occasional service, **(ii)** for the non-resident passengers from the group previously carried by the carrier which performed the international service, and **(iii)** with the same vehicle or another vehicle from the same carrier or group of carriers, which carried out the international service²⁰. The whole operation is carried out under cover of a journey form.

¹⁹ Article 1(4)c) of Regulation 2020/1057 refers to picking up and setting down passengers in the Member State of establishment for the purpose of carrying out local excursions **in another** Member State or a third country.

²⁰ Article 13 of Regulation (EC) No 1073/2009.

Scenario 5: bilateral operation with local excursions

A driver employed by a company established in Belgium (BE) carries out a pre-constituted group of passengers to Italy (IT), where she/he sets them down. In several cities in IT, part of the pre-constituted group is transported by the same driver and in the same coach for local excursions in three Italian cities, visiting various places of interest. The trip ends in Rome (IT). The group of passengers is not brought back to BE. The driver goes back to BE with an empty vehicle.



Conclusion: The driver picked up passengers in BE (Member State of establishment) and set them down in IT. The driver then carried some or all of these passengers in IT in the context of local excursions. The operation of picking up the passengers in BE and carrying out the local excursions in IT is exempted from posting rules. Although the driver does not set down the passengers back to BE (Member State of establishment), this operation does not imply that the nature of the service is substantially different from that under Scenario 4, as long as the carrier is not offering services on the local market. Hence, the driver was not subject to posting rules for the entire journey. The whole operation is covered by a journey form.

Scenario 6: occasional round trip with local excursions in different host countries

A driver employed by a company established in Romania (RO) carries out a round trip for a pre-constituted group through different EU Member States, including local excursions in those MS, starting from and ending in Bucharest (RO).

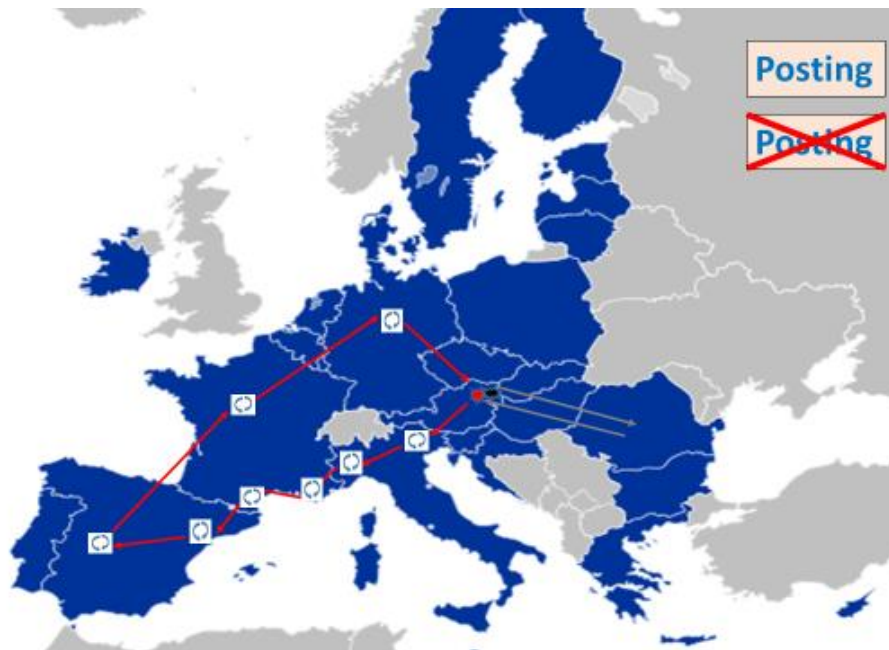


Conclusion: The driver performed an operation of picking up and setting down passengers in RO (Member State of establishment) and carrying them in different countries in the context of local excursions²¹. The group is always the same; it is a pre-constituted group. The service was sold to customers from the market of the Member State of establishment (RO) and remains closely linked with it, regardless the fact that part of the service is offered abroad in one or in more countries. Hereby, the whole is exempted from posting rules and the driver was not subject to posting rules for the entire journey. The whole operation is performed under cover of a journey form.

²¹ Article 1(4)c) of Regulation 2020/1057 refers to picking up and setting down passengers in the Member State of establishment for the purpose of carrying out local excursions in another Member State or a third country. The wording of 1(4)(a) and (b) also refer to “another Member State”, without limiting their number to one Member State.

Scenario 7: occasional round trip starting and ending in host Member State

A driver employed by a company established in Romania (RO) carries out a round trip for a pre-constituted group of tourists through different EU Member States, starting from and ending in Vienna, Austria (AT). He drives empty from Bucharest (RO) to Vienna (AT) and back from Vienna (AT) to Bucharest (RO).



Conclusion: The driver performed several non-bilateral international transport operations and one unladen return journey from RO to AT and from AT back to RO. The driver starts being posted to AT when he/she crosses the Austrian border. The local excursions in different host Member States crossed during the round trip are not exempt from posting rules as the operation is performed for the pre-constituted group of passengers picked up and set down in Vienna (AT) so that the link to the AT market remains evident: the service was sold to customers from the AT market and remains closely linked with it. The driver stops being posted to AT when he/she sets down passengers in Vienna (AT), because the unladen journey back to the driver's Member State of establishment is exempt from posting rules. The whole operation is carried out under cover of journey form.

COMBINED OCCASIONAL PASSENGER TRANSPORT

Scenario 8: drive-and-fly round trip

A driver employed by a company established in Belgium (BE) carries out a pre-constituted group of passengers to Italy (IT). In several cities in Italy, the group is transported by the driver for local excursions in different locations. At the end of the trip, both the group and the driver take a flight back to Belgium (BE).



Conclusion: The driver picked up passengers in BE (Member State of establishment) and set them down in IT. The driver then carried these passengers in IT in the context of local excursions. The operation of picking up the passengers in BE and carrying out the local excursions in IT, are exempted from posting rules. Although the driver does not set down the passengers back to BE (Member State of establishment), this operation does not imply that the nature of the service is substantially different from that under Scenario 4, as long as the carrier is not offering services on the local market. Hence, the driver was not subject to posting rules for the entire journey.

Scenario 9: fly-and-drive round trip

A driver employed by a company established in Romania (RO) makes a fly-and-drive round trip with a pre-constituted group starting from and ending in Bucharest, whereby the group takes a plane to Barcelona, Spain (ES) and makes a 10-day round trip in Spain with a RO-registered coach and a driver employed by the same RO operator, which organised the flight. At the end of the coach tour in ES, the driver and the group flies back from Madrid (ES) to Bucharest (RO) by the same operator.

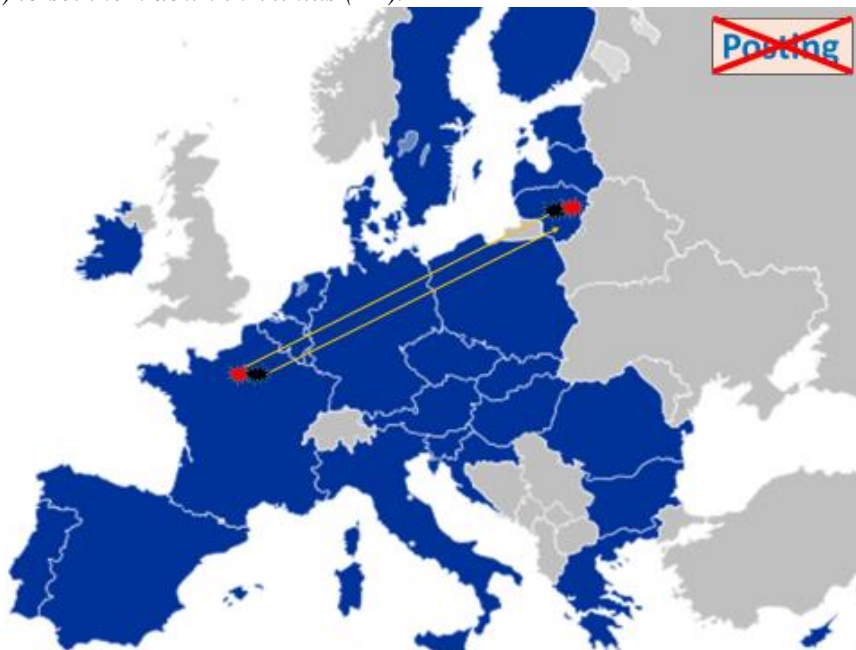


Conclusion: The driver is subject to the posting rules from the moment the driver starts working in the context of the round trip, e.g. when he/she start driving to pick up the passengers in Barcelona (ES) and ends when he/she stops working in the performance of this trip. A case where the group would be pre-constituted by a travel agent, who is different from the RO coach company/operator picking up and setting down the passengers in the Spanish territory, would not change the nature of the scenario. The entire road transport operation is performed under cover of a journey form. Another mean of transport (e.g. a flight) has no relevance regarding posting situation since Directive (EU) 2020/1057 only applies to road transport operations.

REGULAR PASSENGER TRANSPORT

Scenario 10: Two bilateral operations

A driver employed by a company established in Lithuania (LT) performs a passenger transport service on a regular line LT-FR-LT, with no intermediate stops. The driver picks up passengers in Vilnius (LT) and set them down in Paris (FR). Then, for the return journey, the driver picks up passengers in Paris (FR) to set them down in Vilnius (LT).

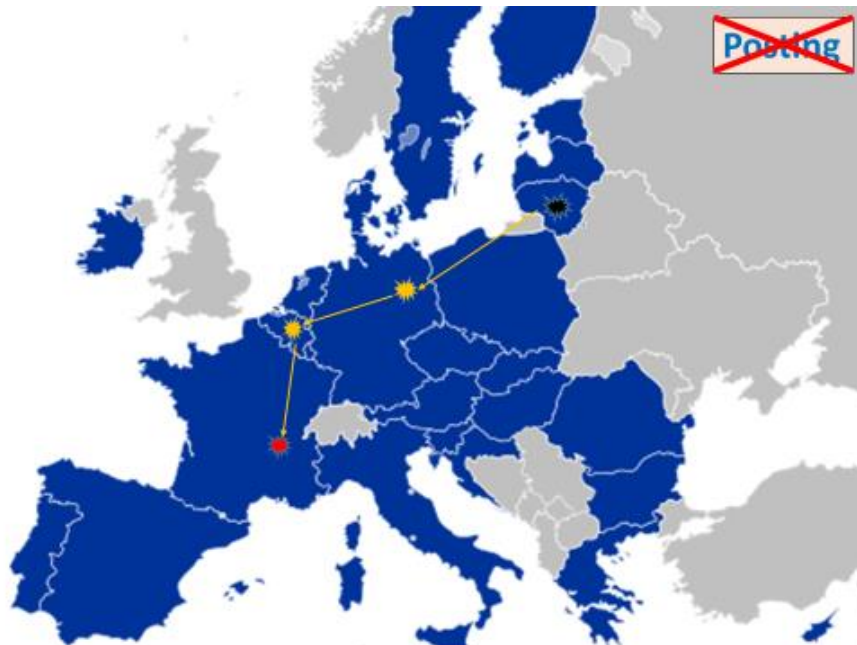


Conclusion: The driver performed two bilateral transport operations: one from LT (Member State of establishment) to FR (host country) and another one from FR back to LT. Hence, the driver was not subject to posting rules during the entire journey. The key transport document allowing roadside inspector to ascertain a type of transport operation is authorisation²², which specifies, among others, the type of service, the route, the stops and the timetable.

²² Article 6 of Regulation (EC) No 1073/2009 specifies that regular services are subject to authorisation and provides what type of information should be contained in such authorisation.

Scenario 11: bilateral operations with three setting down locations

A driver employed by a company established in Lithuania (LT) performs a transport service on a regular line LT-FR, with intermediate stops in Berlin (DE) and Antwerp (BE) meant for the setting down of passengers only. The driver picks up 40 passengers in Vilnius (LT). The driver then drives to Berlin (DE) and sets down 10 passengers, and then to Antwerp (BE) to set down another 10 passengers. Afterwards, the driver continues to drive to Lyon (FR), where he/she sets down the remaining 20 passengers.

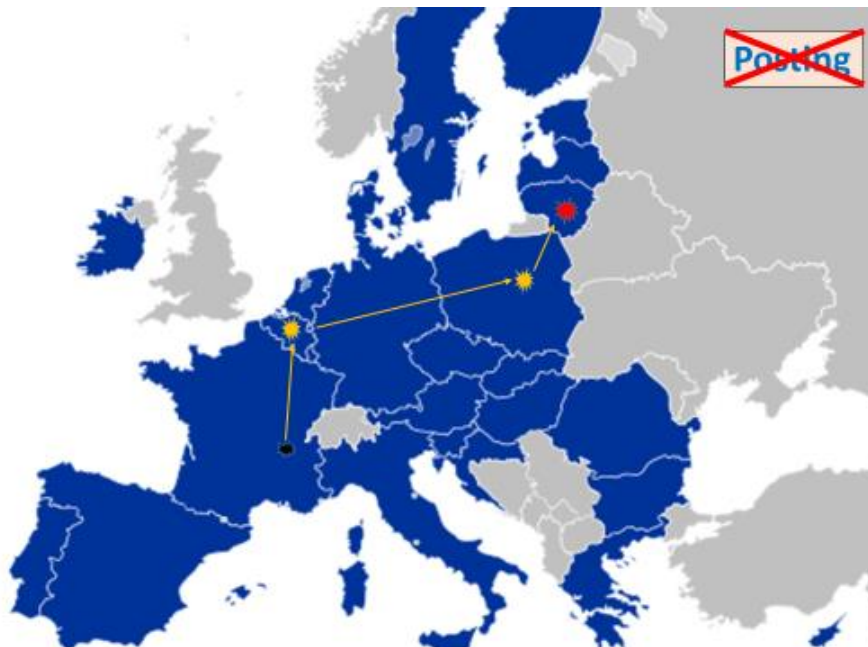


Conclusion: The driver performed three bilateral operations within one journey. The journey started with picking up all the passengers in LT (Member State of establishment) who have then been set down in three different Member States (partial setting down of passengers in DE, BE and FR). Since several exempt bilateral transport operations may be carried out during one journey²³, the driver was not subject to posting rules for the entire journey.

²³ Recital 10 of Directive (EU) 2020/1057: “When a driver engages in bilateral transport operations from the Member State where the undertaking is established (the ‘Member State of establishment’) to the territory of another Member State or a third country or back to the Member State of establishment, the nature of the service is closely linked with the Member State of establishment. It is possible that a driver undertakes several bilateral transport operations during one journey.”

Scenario 12: bilateral operations with three picking up locations

After carrying out the operations described in Scenario 11, the driver employed by the company established in Lithuania (LT) performs a transport service on a regular line FR-LT, with intermediate stops in Brussels (BE) and Warsaw (PL) meant for the picking up of passengers only. Before starting the journey back to LT, the driver picks up 20 passengers in Lyon (FR). The driver then drives to Brussels (BE) and picks up another 10 passengers, and then to Warsaw (PL) to pick up additional number of 10 passengers. Afterwards, the driver continues to drive to Vilnius (LT), to set down all the passengers.



Conclusion: The driver performed three bilateral operations during one return journey to the Member State of establishment (partial picking up passengers in FR, BE and PL). Since several exempt bilateral operations may be carried out during one journey, the driver was not subject to posting rules for the entire journey.

II. NON-BILATERAL INTERNATIONAL TRANSPORT

2. Are the drivers carrying out non-bilateral international transport operations subject to the rules on posting of drivers?

REGULAR PASSENGER TRANSPORT

Scenario 13: bilateral operation and multiple non-bilateral international transport operations

A driver employed by a company established in Romania (RO) drives a regular coach line service with passengers. The line's final destination is in Madrid (ES), with stops along the road, where passengers are picked up and/or set down. Cabotage operations are carried out in Italy (IT), France (FR) and Spain (ES). The driver picks up passengers in Bucharest (RO) with destination to ES. The first stop is in Budapest, Hungary (HU), where other passengers are picked up with destinations to Italy and France. The second stop is in Ljubljana, Slovenia (SI), where additional passengers are picked up. Further down the road to Madrid (ES), passengers are set down and/or picked up, and passengers from Bucharest (RO) are set down in ES.



Conclusion: The driver performs one bilateral transport operation (from RO to ES), several additional operations of picking up and/or setting down passengers (non-bilateral international transport operations), and cabotage operations (IT, FR and ES). The first additional activity of picking up passengers at a regular stop in HU is exempted from posting rules, while following operations fall within the posting rules. This is due to the fact that the driver has already used the possibility for one exempt additional activity of picking up passengers in Budapest (HU). The posting situation starts applying with picking up passengers in Ljubljana (SI). Hence, the driver is considered posted to SI from the moment of picking up passengers in Ljubljana (SI) and ends when he/she leaves SI territory. Then the driver is considered posted to IT and FR from the entry to and until leaving these territories. He/she is then posted to ES from the moment of entry into ES territory, where he/she performs cabotage operations.

3. What are limited additional activities of picking up and/or setting down passengers exempt from posting rules?

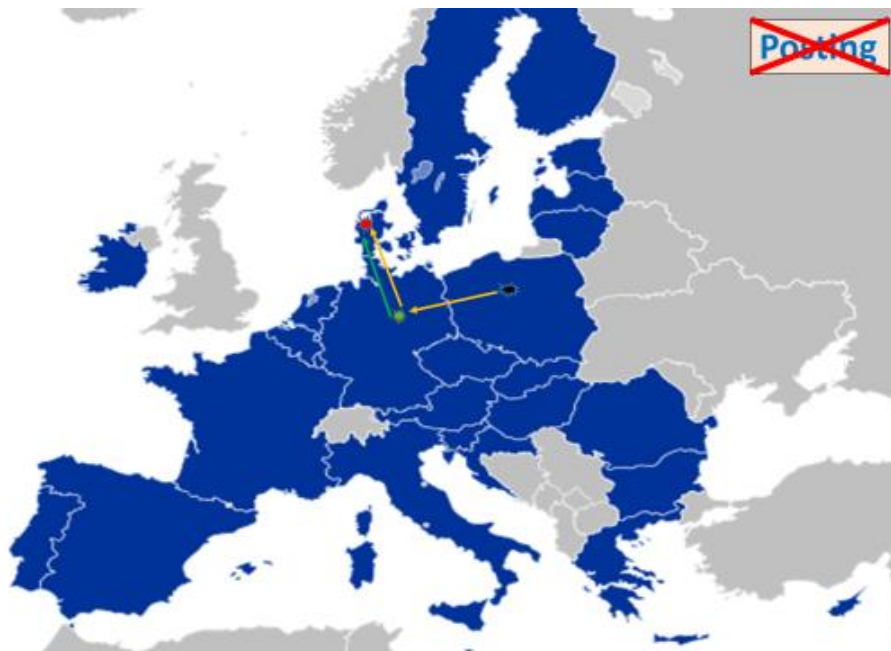
The driver is exempt from posting rules where, in the context of an ongoing bilateral transport operation, he/she also performs **one** non-bilateral international transport **activity** of picking up passengers and/or setting them down in the Member State or third country that the driver crosses, provided that the driver does not offer passenger transport services between two locations within the Member State crossed. The same applies to the return journey.

This is possible, for example, when the driver performs a bilateral operation without a full bus/coach, and stops to pick up and/or set down additional passengers along the way. The driver may perform one exempt non-bilateral international transport operation (that is, an additional picking up and/or setting down activity) during a bilateral operation from the Member State of establishment to the host Member State. When two consecutive bilateral operations are carried from and to the Member State of establishment, during each of the two operations an exempt additional non-bilateral international transport operation may be performed. This is a so-called **1+1 rule**.

REGULAR PASSENGER TRANSPORT

Scenario 14: bilateral operation with one non-bilateral international transport (1+1)

A driver employed by a company established in Poland (PL) carries out a transport service on a regular line Poland-Germany-Denmark, picking up passengers in Warsaw and with one stop in Berlin, Germany (DE) where passengers can be picked up and/or set down. In Copenhagen (DK), the driver sets down all the passengers.



Conclusion: The driver performed one bilateral transport operation (PL-DK) with one additional activity of picking up down passengers in Berlin (DE) in the context of the bilateral operation. The additional activity was exempt from posting rules. Hence, the driver was not subject to posting rules for the entire journey.

4. *Is it possible for the driver to undertake two exempt additional activities during a return bilateral transport operation to the Member State of establishment, if no additional activity was performed during the bilateral operation from the Member State of establishment?*

No, contrary to freight transport, this possibility does not apply to international transport of passengers²⁴.

5. *In case of more than one additional activity carried out in the context of a bilateral transport operation, which of those activities is exempt and which is subject to the posting rules?*

Where multiple non-bilateral international transport operations are carried out in the context of an ongoing bilateral operation, the **first activity** (1+1 rule) is exempted from posting rules. Hence, when the operator carries out a second additional activity or more, such additional activities are no longer exempt, therefore falling under the posting rules.

Scenario 15: bilateral operation with multiple non-exempt international transport operations and cabotage operations

A driver employed by a company established in Romania (RO) drives a regular coach line service between Romania and Spain (ES). On the return trip from Madrid (ES) to Bucharest (RO), the line's initial departure point is Madrid (ES), with stops along the road, where passengers can be picked up and/or set down. Cabotage operations are carried out as well (Spain, France, Italy and Slovenia). The first stop is in Barcelona (ES), where passengers are set down and/or picked up with destination to Bucharest (RO). At the second stop in Toulouse (FR), there are passengers who are set down and additional passengers who are picked up with destination to Italy (IT), Slovenia (SI), Hungary (HU) and Romania (RO). The driver also picks up passengers in Slovenia and in Hungary.



Conclusion: The driver performed multiple non-exempt international transport operations of picking up and/or setting down passengers, multiple cabotage operations (ES, FR, IT and SI), and as well as one bilateral transport operation and one additional activity during the bilateral operation. The bilateral operation was performed from SI to RO, with one exempt additional

²⁴ Article 1(4) third subparagraph of Directive 2020/1057.

activity (i.e. setting down passengers in HU). The posting situation starts applying with picking up passengers in Madrid (ES) and ends in SI, when passengers are set down and the cabotage operation is finalised. The driver is not considered posted to SI for the part of the journey after the end of the cabotage operation and when he/she starts working for the bilateral operation, i.e. he/she drives to pick-up point picks up passengers for bilateral operation and carries them to RO. One additional activity of setting down passengers in (HU) is also exempt from posting rules as this is one exempt additional activity.

III. CABOTAGE

REGULAR PASSENGER TRANSPORT

Scenario 16: bilateral operation + cabotage

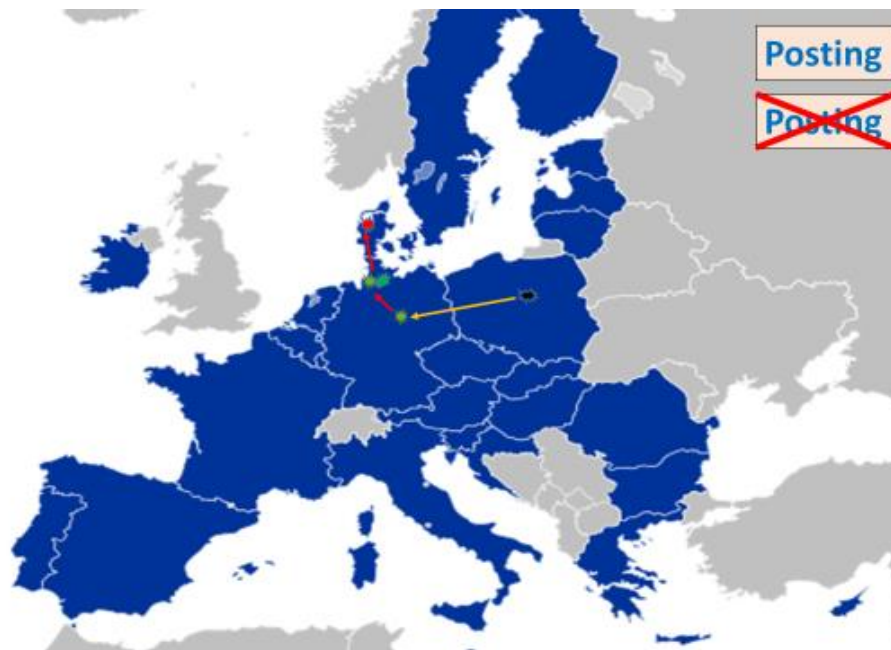
A driver employed by a company established in Poland (PL) is providing a service on a regular route: Poland-Germany (Warsaw – Berlin airport – Berlin train station – Stuttgart). The passengers are picked up in Warsaw (PL) and set down at any location in DE. The driver also picks up and sets down passengers at any stop in Germany.



Conclusion: The driver performs a bilateral operation from Warsaw to the Berlin airport (PL-DE) and cabotage operations in DE. The driver is considered to be posted to DE from the moment when the driver stops in Berlin airport (DE) to pick up passengers and ends in Stuttgart (DE) after setting down all the passengers.

Scenario 17: bilateral operation with one cabotage + non-bilateral international transport

A driver employed by a company established in Poland (PL) carries out a transport service on a regular line Poland-Germany-Denmark, picking up passengers in Warsaw and with two stops in Germany (DE): Berlin and Hamburg. Passengers can be picked up and set down in Berlin and Hamburg (DE). In Copenhagen (DK), the driver sets down all the passengers.



Conclusion: The driver performed one bilateral operation (from PL to DE), one cabotage operation in DE, and one non-bilateral international transport operation between DE and DK. The driver is considered posted to DE and DK. The posting situation starts when the driver stops in Berlin (DE) to pick up passengers and ends when the driver stops to set down passengers in Copenhagen (DK).

IV. TRANSIT

6. What is 'transit' and is it out of the scope of posting rules?

The concept of transit is characterised by the fact that the driver crosses through the territory of a Member State without picking up or setting down passengers. The qualification of the driver's presence in a Member State as transit is, therefore, not affected by stops, for example, for hygiene reasons for both drivers and passengers, refuelling or taking breaks²⁵. This means that a transit situation is out of the scope of posting rules.

OCCASIONAL PASSENGER TRANSPORT

Scenario 18: bilateral operation + transit

A driver employed by a company established in Poland (PL) carries out a pre-constituted group of passengers to a ski resort in Austria (AT). The driver crosses Czechia (CZ) territory when driving from PL to AT.



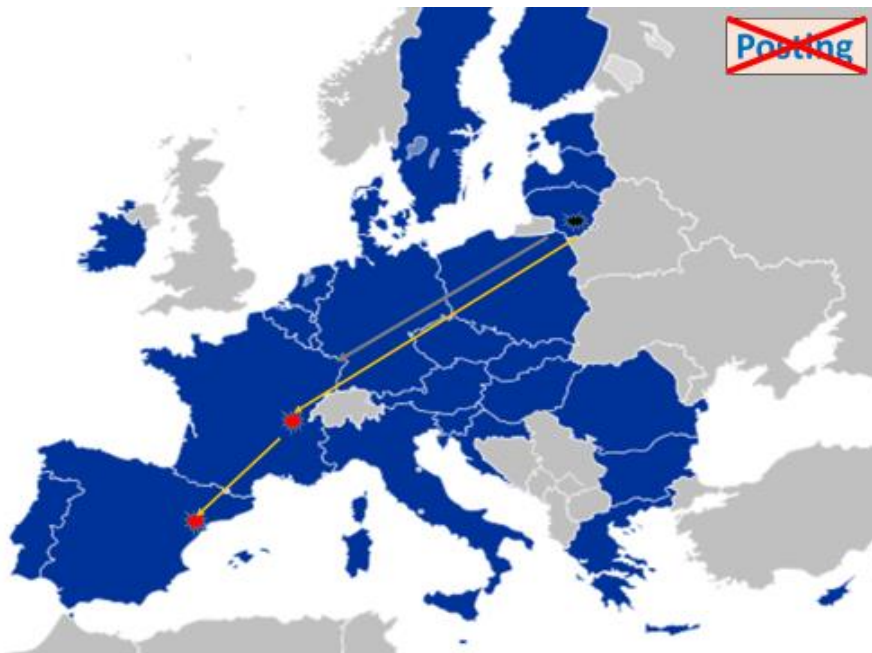
Conclusion: The driver performed one bilateral transport operation from PL to AT and transit operation through CZ. The driver is not considered posted for the entire journey: neither during the bilateral operation from PL to AT nor during the transit through the CZ territory.

²⁵ Recital 11 of Directive (EU) 2020/1057

REGULAR PASSENGER TRANSPORT

Scenario 19: bilateral operations + transit

A driver employed by a company established in Lithuania (LT) is providing a service on a regular route: Lithuania-France-Spain. The passengers are picked up in Vilnius, Lithuania (LT) and set down in Lyon, France (FR) and Barcelona, Spain (ES). The driver crosses the PL and DE territories when driving from LT to FR and ES. The driver crosses the PL and DE territories when driving from LT to FR and ES.



Conclusion: The driver performed two bilateral transport operations (LT-FR and LT-ES) and transit operation through PL and DE within one journey. The driver is not considered posted for the entire journey: neither during the bilateral operations from LT to FR and from LT to ES nor during the transit through the PL and DE territories.

V. JOURNEYS WITHOUT PASSENGERS

OCCASIONAL PASSENGER TRANSPORT

Scenario 20: bilateral operation + journey without passengers

A driver employed by a company established in Germany (DE) carries out a pre-constituted group of passengers to visit Paris, France (FR). On the way back, the driver drives empty from France (FR) to Germany (DE).

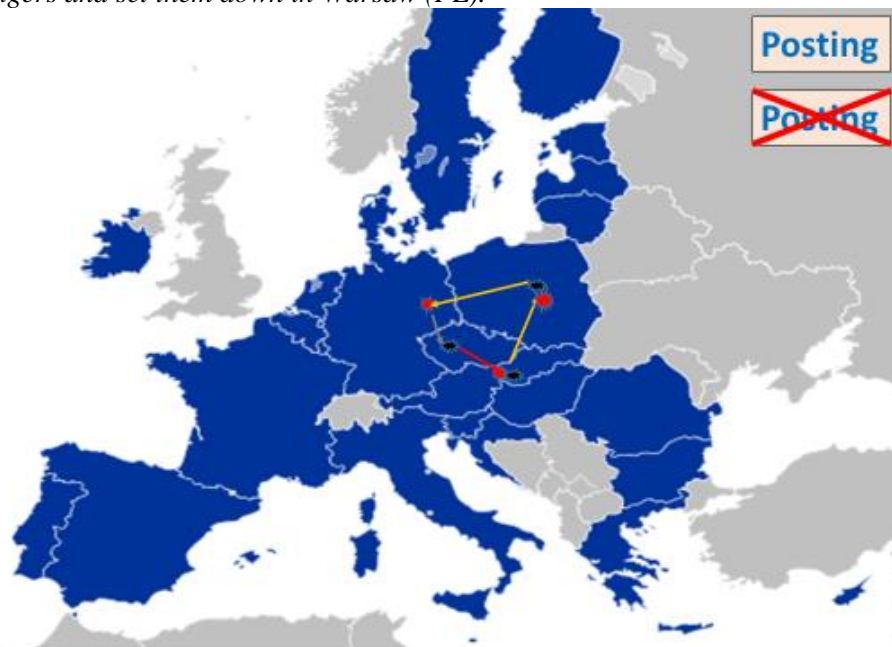


Conclusion: The driver performed one bilateral transport operation from DE to FR, followed by a journey without passengers from FR back to DE. The driver is not considered posted for the entire journey: neither during the bilateral operation to FR nor during the empty journey performed after the end of bilateral operation from the Member State of establishment in order to return to that Member State.

REGULAR PASSENGER TRANSPORT

Scenario 21: two bilateral operations + journey without passengers + non-bilateral international transport operation

A driver employed by a company established in Poland (PL) is providing a service on a regular route: Poland-Germany-Czechia-Slovakia. The driver picks up passengers in Warsaw (PL) and sets them down in Berlin (DE). Then the driver drives empty to Prague (CZ). In Prague (CZ), the driver picks up passengers and sets them down in Bratislava (SK). In Bratislava (SK), the driver picks up other passengers and sets them down in Warsaw (PL).



Conclusion: The driver performed two bilateral transport operations (from PL to DE and from SK to PL), one journey without passengers and one non-bilateral transport operation. The first bilateral operation started in Warsaw (PL) and ended with setting down passengers in Berlin (DE). The driver starts being posted in DE after the end of that bilateral operation when he/she starts driving (journey without passengers) until leaving the DE territory. Then the driver is considered posted to CZ from the moment of entering the CZ territory until leaving the CZ territory. The unladen journey between Berlin (DE) and Prague (CZ) falls within the posting rules, as this journey is connected to the non-bilateral transport operation performed between Prague and Bratislava. The driver is posted to SK from the moment of entering the SK territory until the moment he/she sets down passengers, who were picked up in CZ. The driver is not being posted during the second bilateral operation, which started with picking up passengers in Bratislava (SK) and ended with setting them down in Warsaw (PL).