

COMPLAINTS AGAINST AUSTRIAN AND FRENCH LAW IMPLEMENTING DIRECTIVE 2014/67/EU ON THE ENFORCEMENT OF DIRECTIVE 96/71/EC CONCERNING THE POSTING OF WORKERS

EBU notified the European Commission of believed non-compatibilities of the French and Austrian laws implementing Directive 2014/67/EU on the enforcement of Directive 96/71/EC concerning the posting of workers in various Member States. Already 2 years ago EBU for the same reason launched a complaint regarding the German law introducing minimum wages. The laws are considered as measures of protectionism which EBU believes are not compatible with EU law. Therefore EBU called upon the involved Member States to withdraw Inland Waterway Transport from the scope of these regulations or at least to withdraw or mitigate the unnecessarily high administrative burdens.

Austrian law

While the French law already entered into force last July (see our earlier newsletters), the Austrian law entered into force on 1.1.2017. This means that companies outside Austria that post or hire out workers to Austria - including staff on inland vessels - must accordingly comply with minimum wage requirements and other employment regulations applying in Austria. The link below provides companies and their employees with information concerning the posting and hiring-out of workers to Austria in several EU languages.

http://www.entsendeplattform.at/cms/Z04/Z04_0/home

Up to now undertakings that are established in an EU, an EEA Member State or in Switzerland are required

- to notify the Austrian Central Co-ordinating Agency Charged with Investigating Illegal Employment (Zentrale Koordinationsstelle für die Kontrolle der illegalen Beschäftigung, ZKO)
- of the posting or hiring out of workers
- before the start of work (when posting or hiring out mobile workers in the transport sector, prior to their entry to Austria)
- using form [ZKO 3](#) (when posting workers)

From our Austrian association we however received the information that after many complaints a simplification of the above mentioned notification is expected.

What will change:

- ❓ a block notification rather than an individual in line with the requirements in the German law
- ❓ for a period of 6 months
- ❓ Reduced information transfer restricted to dates concerning the crew (names and dates of birth) and identification number of the vessel.
- ❓ it remains open whether also in future all or possibly only certain documents in the German language need to be on board. The government considers to simplify this rule.

The mentioned changes will require an amendment of the law which is expected to take the necessary time.

Until then the actual regulation needs to be fulfilled. In case of services for one client a simplified procedure by one framework notification can be followed (via the ZKO3 form).