

Working Conditions in International Road Transport

Posting of third-country nationals to Germany¹

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Summary

A very high proportion of foreign drivers in international road transport work under exploitative conditions. This issue has received increased media attention in recent years. For the Faire Mobilität advisory network (Fair Mobility), international road transport has been a key sector for many years. The professional group of truck drivers is very heterogeneous – the drivers' working conditions vary considerably depending on their origin, place of employment, employer, and contractual relationships. Based on the decisive criteria of "origin" and "place of employment," Fair Mobility distinguishes three scenarios:

1. Truck drivers from EU member states with an employment contract in Germany,
2. Truck drivers from EU member states with an employment contract in another EU member state,
3. Truck drivers from a non-EU member state (a so-called third country) with an employment contract in another EU member state.

EU citizens with working contracts in Germany are the primary group of drivers who contact Fair Mobility directly and on their own initiative. Members of the second and third groups usually encounter Fair Mobility advisors for the first time during our rest stop campaigns.

Companies are apparently addressing the widely lamented labour shortage in the industry not by improving working conditions, but by recruiting workers from third countries who are less able to defend themselves against exploitation. The further away their home country, the worse the working conditions – the pay is lower, the periods of continuous work and living in the truck are longer, and the dependence on often unscrupulous employers is significantly greater. Although their employment contracts are issued in another EU member state, these drivers often perform work in Germany for German customers and clients. Frequently, the connection to a German logistics company is so clear that this shipping company should be considered the actual employer. In contrast, we almost never encounter third-country nationals with German employment contracts – evidently, the existing opportunities to employ third-country nationals in

¹ The original version of this text was published in German in June 2025 under the title „Arbeitsbedingungen im internationalen Straßentransport. Entsendung von Drittstaatsangehörigen“. It can be accessed at: <https://www.faire-mobilitaet.de/fachinformationen/brancheninformationen/internationaler-strassentransport/entsendung/>

The present English version contains minor updates in the sections 2, 4.1, 4.4, 5 and 6.7 compared to the German original. As a result, the numbering of the footnotes is not identical.

Germany are hardly being utilised. A formal employment relationship abroad simply seems to be cheaper and less bureaucratic for German logistics companies.

This paper provides an overview of six of the diverse contractual arrangements faced by truck drivers from third countries. It offers guidance on their legal classification: allowance-payment models, contracts with letter box companies, service contracts, international temporary employment, employment through bogus/shell companies, and bilateral transport. The focus is on illustrating the realities of life and work associated with these arrangements, including: lack of legal protection due to predominantly verbal agreements, excessively long and unpaid working hours, recruitment fees and dependencies arising from debt, uncertainty regarding residency status, low and opaque remuneration with wage reductions through arbitrary deductions, inadequate rest opportunities while living on the highway, and a lack of paid vacation or sick pay, as well as insufficient healthcare.

Note: This paper is structured and written in such a way as to allow for selective reading. The individual sections build logically upon each other, but are also understandable on their own.

Table of contents

1	The business model of international road transport seen from a German perspective.....	5
2	Truck drivers appealing to Fair Mobility's advice.....	7
	Example: Filipino Drivers in the Sauerland.....	8
	Example: Protests in Gräfenhausen.....	9
3	Mobile workers in international road transport – figures and facts.....	9
	3.1 Employment Contracts in Germany.....	10
	3.2 Employment Contract Abroad.....	11
4	Employment forms of third country drivers working in Germany.....	12
	4.1 Standard Case "Expense Model"	13
	Example: Poland.....	15
	Example: Lithuania.....	16
	Example: Romania.....	16
	Example: Slovenia.....	16
	4.2 Employment Contract with a Letterbox Office of the German Haulier.....	18
	Example from an advising case:.....	18
	4.3 Service Contracts in Poland.....	19
	Example from the consultation:.....	20
	4.4 International Temporary Employment.....	20
	Example from advising:.....	22
	4.5 Recruitment via bogus companies.....	22
	Example from advising:.....	23
	4.6 Bilateral Transport.....	23
5	Problems specific to truck drivers from non-EU-countries.....	23
	5.1 Oral Agreements.....	24
	5.2 Unpaid overtime.....	26
	5.3 Recruitment fees.....	27
	5.4 Unjustified wage deductions.....	28
	No paid leave.....	29
	5.5 Life on the motorway.....	29

5.7	Ban on sleeping in cabs versus lorries as homes.....	30
5.8	Insufficient health insurance cover.....	31
6	Legal background to the employment of truck drivers from third countries.....	32
6.1	Freedom of movement for workers and permanent residence.....	33
6.2	Freedom to provide services and posting.....	34
6.3	Exceptions for driving personnel in the EU Posting of Workers Directive.....	35
6.4	Temporary employment (agency work).....	36
6.5	Posting notifications.....	37
6.6	Social security.....	37
6.7	Residence and work permits.....	37

1 The business model of international road transport seen from a German perspective

For several years now, we have been encountering an increasing number of truck drivers from non-EU countries at German motorway rest areas. These drivers work on trucks registered in EU member states to transport goods within Germany. They also indirectly work on behalf of German freight forwarding and transport companies, loading and unloading goods for companies based in Germany. Other advisory centres and trade unions also report that they are increasingly dealing with drivers from so-called third countries.² Overall, this reveals a geographical shift in the recruitment of workers who have their family and their centre of life in one country, are employed in another, and often drive trucks in even more distant countries.

The consequences of this business model are devastating for employees: Wage pressure increases, and people of different origins, employed in various precarious situations, are pitted against each other. Third-country nationals are particularly affected by exploitation in a sector of the European labour market already characterized by poor living and working conditions and legal violations. Specialized advice centres repeatedly observe signs of labour exploitation and human trafficking in this context.³

The Federal Republic of Germany is a hub for international road transport in Europe – both due to its geographical location and its economic importance. Germany is the most populous EU member state, a major trading and industrial centre, and the country with the highest nominal gross domestic product in the EU (though not per capita).⁴ Companies based in Germany are

² See RTDD: Widespread Exploitation in the EU Road Transport Industry: The Case of Central Asian Truck Drivers, December 2023, <https://www.rtdd.org/wp-content/uploads/2024/01/REPORT-Widespread-Exploitation-in-the-EU-Road-Transport-Industry.pdf>; Giulio Benedetti: Driving change: Ensuring fair treatment for Central Asian truck drivers in the EU, October 2024, https://osce-academy.net/upload/file/pb_93.pdf; Paulina Baranska/Séverine Picard: Third-Country Drivers in European Road Transport, European Transport Federation (ETF) Dezember 2023, <https://www.etf-europe.org/wp-content/uploads/2024/01/ETF-ROAD-TRANSPORT-REPORT.pdf>, S. 7; VNB/ITF/IUL: Pandemic of Exploitation in European Trucking, 24.6.2020, <https://www.itfglobal.org/en/resources/pandemic-exploitation-in-european-trucking>; Vitols, Katrin/Voss, Eckhard: Social Conditions in Logistics in Europe: Focus on Road Transport, on demand of ETF/Verdi/EVA, May 2019, <https://psl.verdi.de/++file++5d00b20c9194fb1d8bbc127f/download/Social%20Conditions%20Logistics%20in%20Europe.pdf>. All internet sources cited in this paper were last accessed on June 17, 2025. The titles' translation is provided [in brackets] for all sources whose original language is not English.

³ Servicestelle gegen Arbeitsausbeutung, Zwangsarbeit und Menschenhandel/Arbeit und Leben Berlin-Brandenburg DGB/VHS e. V.: Zwangsarbeit und Arbeitsausbeutung verhindern: Branchenspezifische Analyse – Anzeichen erkennen & handeln. Reinigung und Straßentransport (3. Ausgabe) [Service Centre against Labor Exploitation, Forced Labor and Human Trafficking/Arbeit und Leben Berlin-Brandenburg DGB/VHS e. V.: Preventing Forced Labor and Labor Exploitation: Industry-Specific Analysis – Recognizing Signs & Taking Action. Cleaning and Road Transport (3rd Edition)], 2024, https://www.servicestelle-gegen-zwangsarbeit.de/wp-content/uploads/2024/10/2024_Servicestelle_Branchenanalyse_Reinigung-Strassentransport-final.pdf.

⁴ Statistisches Bundesamt: Deutschland im EU-Vergleich 2025 [Federal Statistical Office: Germany in EU comparison 2025], Stand: 6.5.2025, <https://www.destatis.de/Europa/DE/Thema/Basistabelle/Uebersicht.html#396382>.

responsible for a large volume of transport as both recipients and senders of goods. Due to its central location in Europe, Germany is also a transit country.

In Germany, trucks remain the most frequently used mode of transport for goods,⁵ despite political efforts to shift more freight traffic to rail.⁶ Apparently, these transports are carried out to a significant extent by foreign carriers, especially in the context of international shipments, primarily for cost reasons.

Orders are subcontracted, leading to the formation of subcontracting chains. The first link in these chains consists of companies situated in Germany that ship or order goods, i.e., producers or senders of goods. These are often companies subject to the Supply Chain Due Diligence Act (LkSG).⁷ These companies commission freight forwarders to organize the transport, which form the second link in the chain. Large companies that transport a large volume of goods in particular have long-term contractual relationships with major freight forwarders, who are often themselves subject to the LkSG. However, this does not mean that these freight forwarders carry out all the transport themselves. Rather, it is common for these second links in the chain to become the client or general contractor by commissioning further contractors to carry out the transport – either also within the framework of long-term contractual relationships or by awarding individual transports, for example, via digital road freight exchange platforms.⁸ This chain can become

⁵ In 2023, the share of trucks in the total freight transport in Germany was around 71.3 percent. Statista: Anteil der Lkw an der Transportleistung im Güterverkehr in Deutschland von 2013 bis 2028, February 2025, <https://de.statista.com/statistik/daten/studie/12195/umfrage/anteil-der-lkw-am-gueterverkehr-in-deutschland/>. See also: Statistisches Bundesamt: Güterverkehr. Beförderungsmenge und Beförderungsleistung nach Verkehrsträgern, Stand: 21.5.2025 [Federal Statistical Office: Freight transport. Transport volume and transport performance by mode of transport, as of May 21, 2025], <https://www.destatis.de/DE/Themen/Branchen-Unternehmen/Transport-Verkehr/Gueterverkehr/Tabellen/gueterbefoerderung-lr.html>; BALM: Marktbeobachtung Güterverkehr. Auswertung der Arbeitsbedingungen in Güterverkehr und Logistik 2023 – Fahrerberufe [BALM: Market monitoring of freight transport. Evaluation of working conditions in freight transport and logistics 2023 – Driver professions], January 2024, https://www.balm.bund.de/SharedDocs/Downloads/DE/Marktbeobachtung/Turnusberichte_Arbeitsbedingungen/AGL_2023.pdf?__blob=publicationFile&v=2.

⁶ See for example Deutscher Bundestag: Antrag der Fraktionen SPD, BÜNDNIS 90/DIE GRÜNEN und FDP. Transportlogistik für Deutschland sichern – Mit fairen Arbeits- und Wettbewerbsbedingungen im Straßengüterverkehr [German Bundestag: Motion by the SPD, Alliance 90/The Greens and FDP parliamentary groups. Securing transport logistics for Germany – with fair working and competitive conditions in road freight transport], Drucksache 20/6423, 18.4.2023, <https://dserver.bundestag.de/btd/20/064/2006423.pdf>.

⁷ The Supply Chain Due Diligence Act (“Lieferkettensorgfaltspflichtengesetz” – LkSG) has been in force since the beginning of 2023 and obliges companies with more than 1,000 employees in Germany to comply with human rights in their supply chain, even outside their immediate business area. On the relevance of the LkSG in international road transport, see Faire Mobilität: Das Lieferkettensorgfaltspflichtengesetz (LkSG) wirkt. Das Beispiel Straßentransport [Fair mobility: The Supply Chain Due Diligence Act (LkSG) is having an effect. The example of road transport], February 2025, <https://www.faire-mobilitaet.de/fachinformationen/berichte-und-erfolge/das-lksg-wirkt/>.

⁸ Veronique Helwing-Hentschel: Digitale Plattformen in der Transportlogistik: Arbeitsbezogene Effekte auf unterschiedlichen räumlichen Ebenen [Digital platforms in transport logistics: Work-related effects at different spatial levels], *Angewandte Geographie*, 49/2024, p. 95-101, <https://doi.org/10.1007/s00548-025-00969-7>; Veronique Helwing, Philip Verfürth, Martin Franz: Trucking (un)limited – the impact of digital platforms on labour in production networks of logistics, *ZFW – Advances in Economic Geography* 2023,

infinitely long. Finally, the last link in the chain is a carrier who provides the tractor units and usually assumes the role of the formal employer vis-à-vis the truck drivers. The aforementioned links in the supply chain often have their headquarters in different countries. The result is complex, fragmented transnational supply chains.

The truck drivers who ultimately carry out the transports generally do not hold the nationality of the country where their employer is headquartered. Instead, these trucks are often driven by third-country nationals with work visas for Poland or Lithuania, operating throughout Europe.

German industry representatives repeatedly criticize the unfair competition inherent in this system. However, Western European companies are actively involved: either they act as general contractors, awarding contracts to carriers with branches in Eastern European countries, or they establish their own branches there (see Chapter 4.2). Their Western European branches then tend to handle only domestic transport, while international transport is organized through their Eastern European branches.

2 Truck drivers appealing to Fair Mobility's advise

Fair Mobility⁹ distinguishes in practice between three groups of truck drivers of non-German nationality who drive trucks on German roads:

1. Truck drivers who are nationals of an Eastern European EU member state and have an employment contract with a freight carrier based in Germany.
2. Truck drivers who are nationals of an Eastern European EU member state and have an employment contract with a freight carrier from an Eastern European EU member state.
3. Truck drivers who are nationals of a non-EU country and have an employment contract with a freight carrier from an Eastern European EU member state.

This classification is based on two criteria: the nationality of the drivers (EU or third country) and the place of formal employment (Germany or another EU member state). The fourth possible combination of these two criteria – drivers who are nationals of a country outside the EU and have an employment contract with a freight carrier based in Germany – is virtually never encountered in European parking lots (see Chapter 3.1). However, freight forwarders and carriers based in Germany do utilize the labour of truck drivers from third countries – but only indirectly, through formal employment abroad, for which they use various contract models (see Chapter 4).

67(4), p. 177–188.

Fair Mobility advises EU citizens who are employed, are to be employed or were employed under the freedom of movement for workers or as cross-border posted workers. Posted third-country nationals can be included in the consultation if there is a direct factual connection to a case involving EU citizens. This is particularly the case when third-country nationals and EU citizens are posted by the same employer. This constellation is the norm in international road transport. If there are suitable services offered by other advice centres for employees from third countries, for example by Faire Integration or state-funded advice centres, Fair Mobility will also refer them to these. See the overview at <https://www.faire-mobilitaet.de/beratung/deutschland/>

In 2025, Fair Mobility processed a total of 8,207 cases across Germany, advising 9,361 individuals.¹⁰ 10.8 percent of all cases (887) are attributed to the "International Road Transport" sector. Most truck drivers who contact Fair Mobility on their own initiative are nationals of an Eastern European EU member state and have a German employment contract, thus belonging to the first group. This trend has nothing to do with this group facing more labour law problems – quite the contrary. Employees with a German employment contract simply seem to be more likely to conclude that they have rights in Germany and that there are institutions that can advise and support them in this regard.

When third-country nationals contact our advice centres, this is often through referrals from our cooperation partners in their respective countries of origin. For example, within the framework of the EU project Fair European Labour Mobility (FELM)¹¹, Fair Mobility cooperates with the advice centre of the Confederation of Free Trade Unions of Slovenia (ZSSS) in Ljubljana. Together with ZSSS, Fair Mobility regularly handles cases involving drivers with Serbian or Bosnian citizenship who have Slovenian employment contracts and primarily operate transport services in Germany.

Since July 2017, Fair Mobility has been regularly conducting advice and information events for truck drivers at motorway rest areas in Germany to inform them about basic labour rights.

By the end of 2024, a total of 343 such events had been carried out in cooperation with partners. Since mid-2017, the advice teams have come into contact with approximately 13,000 drivers from Central and Eastern Europe. Our ability to provide information on the employment law situation of the travelers of all three groups is essentially based on the conversations we have had with them in their respective languages of origin.

Fair Mobility has had several opportunities, in cooperation with partner organizations, to support groups of truck drivers from third countries in asserting their rights. These group cases received significant public attention, particularly the two protests by drivers from third countries on the A5 motorway in Gräfenhausen, southern Hesse. However, the exploitative working conditions observed here are by no means isolated incidents. Rather, these cases highlight widespread working conditions that we were already aware of from previous rest area actions and that continue to be encountered at every rest area.

Example: Filipino Drivers in the Sauerland

In 2019, Fair Mobility encountered a group of Filipino men who had been recruited by a Danish company through a Polish bogus company for work in Western Europe. Their actual place of work and life was the Sauerland region of Germany. Here, they lived in their trucks and in the parking lot of their German client. For months, they lived two to a truck in their vehicles, cooked makeshift meals outdoors, and washed their clothes in old tubs on the parking lot's pavement. They had to spend their weekends without running water. During recruitment in the Philippines, they were given promises, such as adequate accommodation and fair wages, which were later broken. On top of that, the truck drivers had to take on debts amounting to several thousand euros to secure the jobs in Europe. The Dutch trade union VNB, the United Services Union (Verdi),

¹⁰ Fair Mobility in Figures: Here you can find our figures and successes, <https://www.faire-mobilitaet.de/en/about-us/fair-mobility-in-figures/>.

¹¹ See <https://www.fair-labour-mobility.eu/>.

the German Trade Union Confederation (DGB), and Fair Mobility worked together to obtain compensation for the minimum wage claims from the general contractor.¹²

Example: Protests in Gräfenhausen

In March and July 2023, large groups of truck drivers, primarily from Georgia and Uzbekistan, but also some from Tajikistan, Kyrgyzstan, and Turkey, decided to protest wage theft and poor working conditions at the Polish freight forwarder Mazur. In total, over 200 drivers participated in these protests. At the Gräfenhausen rest area in southern Hesse, between Frankfurt am Main and Darmstadt, they received advice from the Dutch foundation Road Transport Due Diligence (RTDD), which is affiliated with trade unions, and from the Fair Mobility initiative. They were also supported by a broad network of advice centres, trade unions, churches, and other volunteers. After direct attempts to negotiate with the employer proved unsuccessful, pressure within the supply chain ultimately led to the payment of the outstanding wages: In the first instance, this was done by Mazur companies, and in the second, by the customers – but only on the condition that they remain anonymous.¹³

3 Mobile workers in international road transport – figures and facts

Due to a lack of statistics, it is difficult to determine precise figures for truck drivers by nationality and employment status (country of formal employment). However, in our advisory work, we observe a significant increase in third-country nationals and a diversification of their places of origin.

According to German employers' associations, there is currently a shortage of 100,000 professional truck drivers in Germany.¹⁴ Companies in the sector are therefore increasingly

¹² Faire Mobilität: Philippinische LKW-Fahrer erhalten Lohnnachzahlung [Fair mobility: Philippine truck drivers receive back pay], September 2019, <https://www.faire-mobilitaet.de/fachinformationen/berichte-und-erfolge/philippinische-lkw-fahrer-erhalten-lohnnachzahlung/>.

¹³ Giulio Benedetti: Dozens of truck drivers went on strike in Germany and won. Here's how, OpenDemocracy, 6.6.2023, <https://www.opendemocracy.net/en/odr/germany-georgia-uzbekistan-truck-drivers-strike-victory/>; Nelli Tügel/Jan Ole Arps: Lkw-Fahrer-Streik in Gräfenhausen: „Gekämpft wie Löwen“ [Truck driver strike in Gräfenhausen: "Fought like lions"], taz, April 27, 2023, <https://taz.de/Lkw-Fahrer-Streik-in-Graefenhausen/!5930891/>; Tobias Löw: Gräfenhausen verändert die Transportwelt, in: Deutsche Verkehrszeitung, [Gräfenhausen is changing the world of transport, in: German Transport Journal] September 17, 2024, <https://www.dvz.de/unternehmen/strasse/detail/news/graefenhausen-veraendert-die-transportwelt.html>; Klaus Lörcher: Gräfenhausen ein Symbol? Lkw-Fahrer wehren sich, in: Grundrechte-Report 2024. Zur Lage der Bürger- und Menschenrechte in Deutschland [Gräfenhausen a symbol? Truck drivers fight back, in: Fundamental Rights Report 2024. On the state of civil and human rights in Germany], <http://www.grundrechte-report.de/2024/inhalt/>, p. 139–143.

¹⁴ Deutscher Bundestag: Kleine Anfrage der Fraktion der CDU/CSU. Anerkennung von Berufskraftfahrern aus Drittstaaten, Drucksache 20/12628 [German Bundestag (Parliament?): Minor Interpellation by the CDU/CSU Parliamentary Group. Recognition of professional drivers from third countries, Printed Matter 20/12628], 23.8.2024, <https://dserver.bundestag.de/btd/20/126/2012628.pdf>.

recruiting drivers from other EU countries. Larger freight carriers, in particular, are focusing on workers with specific nationalities or from specific language groups and are, for example, hiring dispatchers who can communicate in the relevant languages.

The Verdi trade union cites the following reasons for the labour shortage: inadequate pay, unfair working conditions, lack of respect, and the incompatibility with a good family life.¹⁵ The European Transport Workers' Federation (ETF) also believes that the problem is not a shortage of drivers, but rather a lack of good working conditions. According to them, the recruitment of third-country nationals is "may be a consequence, not of any labour shortage in Europe, but rather of a recruitment strategy allowing road operators to maintain low labour costs in the sector."¹⁶

3.1 Employment Contracts in Germany

A statistical assessment can most readily be made for truck drivers with employment contracts under German law, as figures from the Federal Employment Agency and the business statistics of the Federal Office for Logistics and Mobility (BALM) are available. According to these figures, a total of 559,347 professional drivers were employed in Germany in 2022 (2.2 percent of whom were women).¹⁷ Approximately 28.6 percent of them did not hold German citizenship. The proportion of these so-called mobile workers is steadily increasing; in 2017 it was 17.3 percent.¹⁸ Polish citizenship has been the most common for years, followed by Romanian, Bulgarian, Croatian, Czech, Hungarian, Greek, and Lithuanian.¹⁹

In other sectors, this group of employees also includes third-country nationals with dual citizenship, such as citizens of the Republic of Moldova who also hold Romanian citizenship and thus have a right to freedom of movement within the EU. In international road transport, however, this is less common, as the recognition of vocational training and driver's licenses is a more significant obstacle to employment in Germany, rather than citizenship. Accordingly, the proportion of third-country nationals among all truck drivers with German employment contracts is low, at two percent. Most of them are citizens of a Western Balkan country or Syria.²⁰

According to the German Federal Government, a total of 604 visas were issued to professional drivers from third countries in 2024. Nine of these went to Kyrgyz citizens, ten to Kazakhs, and fourteen to Uzbeks.²¹

¹⁵ Deutscher Bundestag/Verkehrsausschuss: Stellungnahme Öffentliche Anhörung am 18.05.2022. Vereinte Dienstleistungsgewerkschaft (ver.di), Ausschussdrucksache [German Bundestag/Transport Committee: Statement on the public hearing on May 18, 2022. United Services Union (ver.di), Committee document] 20(15)51-D, <https://www.bundestag.de/resource/blob/894834/73d536066bde8151233cbc1cfeb46e7a/Keller-Verdi.pdf>. Siehe auch Baranska/Picard (2023), p. 7.

¹⁶ Baranska/Picard (2023), p. 13.

¹⁷ This represents a decrease of 0.4 percent compared to the previous year. BALM (January 2024), p. 6f.

¹⁸ BALM (January 2024), p. 9.

¹⁹ BALM (January 2024), p. 10.

²⁰ The German Federal Office for Logistics and Mobility (Bundesamt für Logistik und Mobilität – BALM) notes that the number of professional drivers from Syria and Serbia has increased significantly since 2016: to 2,692 from Syria and 4,664 from Serbia in 2022. The number of professional drivers with Ukrainian citizenship employed in Germany and subject to social security contributions rose from around 714 at the end of 2021 to 2,495 at the end of 2022. BALM (January 2024), p. 10–11

3.2 Employment Contract Abroad

There are no direct statistics on the number of truck drivers employed in another EU Member State who drive on behalf of German companies. This number can only be estimated based on toll statistics and the number of driver attestations issued.

The toll statistics provide information on the use of toll roads in Germany. In 2024, approximately 1,685,000 vehicles subject to tolls were traveling on federal highways and motorways. Of these, around 807,000 vehicles were registered in Germany and around 878,000 were registered abroad.²² The latter carried out transport services in or through Germany under the freedom to provide services. In 2022, for the first time the share of mileage (in kilometers) driven by "non-resident vehicles" with at least four axles was higher than the share driven by "resident vehicles".²³ The increase in mileage driven by Polish vehicles reached the highest value at around 3.3 percent, followed by that of Lithuanian vehicles. The toll statistics only provide information about where freight carriers operating in Germany are headquartered. Information about the origin of the truck drivers is not included, but can be obtained from statistics on the distribution of driver certificates.

Since 2003, drivers whose driving licence was issued outside the EU have required a so-called driver attestation for commercial road haulage within the EU.²⁴ The corresponding regulation responded to the following observations by EU Member States:

“(5) The fact that it is impossible to check whether drivers outside the Member State of establishment of the haulier are employed or supplied lawfully has led to a market situation where drivers from non-member countries are sometimes engaged unlawfully and solely for international carriage outside the haulier's Member State of establishment with an intent to breach the national legislation of the Member State of establishment that issued the haulier's Community authorisation.

(6) Such unlawfully employed drivers often work in precarious conditions and are underpaid, which jeopardises road safety.

²¹ Deutscher Bundestag: Antwort der Bundesregierung auf die Kleine Anfrage der Fraktion der CDU/CSU – Drucksache 20/12628 – Anerkennung von Berufskraftfahrern aus Drittstaaten, Drucksache 20/12764 [German Bundestag (Parliament?): Answer of the Federal Government to the minor interpellation of the CDU/CSU parliamentary group – Printed Matter 20/12628 – Recognition of professional drivers from third countries, Printed Matter 20/12764], September 6, 2024, <https://dserver.bundestag.de/btd/20/127/2012764.pdf>, p. 2–3.

²² BALM: Mautverkehr kompakt 2024 [Toll traffic compact, February 2025, https://www.balm.bund.de/SharedDocs/Downloads/DE/Verkehrsdatenmanagement/Mautverkehr_KOMPAKT/Mautverkehr_KOMPAKT_Jahresausgaben/Mautverkehr_KOMPAKT_Jahresausgabe_2024.pdf?__blob=publicationFile&v=3, p. 10.

²³ BALM (February 2025), p. 6

²⁴ Regulation (EC) No 484/2002 of the European Parliament and of the Council of 1 March 2002 amending Council Regulations (EEC) No 881/92 and (EEC) No 3118/93 for the purposes of establishing a driver attestation; Lynn De Smedt/Frederic De Wispelaere: Road freight transport in the EU. In search of a balance between the economic and social dimension of the internal market. A quantitative sectoral analysis, 2020, https://transfair-project.eu/wp-content/uploads/2020/12/1st-TransFair-Report-deSmedt_deWispelaere.pdf, p. 63.

(7) Such a systematic breach of national legislation has led to serious distortion of competition between hauliers engaged in such practices and those resorting solely to lawfully employed drivers.”²⁵

The driver attestation – also known among drivers and in advisory practice as "the red/pink paper" – is to be issued upon application by the holder of a Community licence for any driver who is a national of a third country and is lawfully employed. The attestation contains information about the driver, the duration of employment, and the transport company. It is issued by the competent authority in the Member State where the company is headquartered and subsequently becomes the property of the transport company. The original must be provided to the driver if they are carrying out transport operations with a community licence issued to the company. The company itself must keep a certified copy on its premises.

The driver attestation is issued for a maximum of five years. In case of infringements, the driver attestation and, if applicable, even the Community licence can be withdrawn.²⁶

From 2012 to 2022, the number of newly issued driver attestations in the EU more than septupled.²⁷ Of the 212,394 new attestations issued in 2022, 106,599 were issued in Poland, 44,988 in Lithuania, 18,339 in Slovenia, and 1,567 in Germany. A total of 302,526 driver attestations were in circulation at the end of 2022 (2020: 228,054). Of these, over half (160,664) were issued in Poland alone (2020: 170,572), 66,073 in Lithuania (a significant decrease compared to 2021), and 3,208 in Germany. In 2020, 89.51 percent of all driver certificates in circulation were issued in the EU-13 countries²⁸; in 2012, this figure had been only 42.07 percent.

4 Employment forms of third country drivers working in Germany

It is evident that numerous third-country nationals are working for German companies, but they do not have German employment contracts; instead, they are formally employed in other EU member states. This circuitous route is likely due, on the one hand, to the lower labour costs in these countries and, on the other hand, to the fact that it is easier for employers there to hire third-country nationals as truck drivers. German law, however, regulates more strictly which countries' driver's licenses are recognised and, if necessary, requires that these and other entry requirements for the driving profession be met in accordance with German standards.

²⁵ Regulation (EC) No 484/2002, Considerations 5-7.

²⁶ Regulation (EC) No 484/2002, Art 1.7; Europäische Union: Güter- und Personenverkehr: Fahrerbescheinigung [European Union: Goods and passenger transport: Driver's certificate], 20.1.2003, <https://eur-lex.europa.eu/DE/legal-content/summary/passengers-and-goods-driver-attestation.html>.

²⁷ European Commission: Driver attestations in road freight transport 2007–2022, https://transport.ec.europa.eu/document/download/87bf9b74-2216-4605-bbd1-da915f5ca1a6_en?filename=driver-attestations-in-road-freight-transport_2007-2022.pdf.

²⁸ The EU-13 countries are Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Slovenia, Malta, Cyprus, Bulgaria, Romania and Croatia.

Various contractual structures are used in employment relationships based on foreign contracts. In our observation, this frequently leads to violations of immigration law, posting regulations, or laws governing market and professional access.

4.1 Standard Case “Expense Model”

Truck drivers from third countries generally have an employment contract with a company in Poland or Lithuania, or less frequently in other countries such as Slovenia, Latvia, Slovakia, the Czech Republic, or Hungary. They operate predominantly or exclusively in Germany and neighbouring countries and rarely, if ever, travel to the country where they signed their contract. Under certain conditions, these drivers would have to be considered “posted” for this work and would therefore be entitled to the local minimum wages of the countries where loading and unloading take place.

It is common for these drivers to work permanently on behalf of a single German freight forwarding company. These companies are considered the clients. According to the Posted Workers Act (AEntG) in conjunction with the Minimum Wage Act (MiLoG), they are liable for the net minimum wages for all hours worked on their behalf, including on-call time.²⁹ However, it also happens that clients change constantly. A particularly high turnover of clients occurs when employers themselves are active on online freight exchanges and acquire orders from constantly changing clients. In these cases, the drivers are often unaware of the contractual relationships, even if the freight documents provide at least some information.

To illustrate the situation of third-country nationals in international road transport, here are some examples from our work:

- A Ukrainian national has a Romanian employment contract and transports containers exclusively on behalf of a Belgian company using a truck with Romanian license plates (Hesse rest area 2024).
- A Filipino national has a Hungarian employment contract and carries out air freight transport in Germany using a truck with Hungarian license plates (Hesse rest area 2024).
- A Georgian national has an employment contract with a Polish company, which also registers the tractor unit. The Polish employer's transport license is issued to a person who is also an authorised signatory of a German transport company. This German company provides the truck trailers and directly subcontracts orders, primarily from a German DIY store chain, to the Polish subcontractor. The transports are carried out from Germany to Austria and Italy (Consultation 2023).³⁰

A Serbian truck driver with a Slovenian employment contract drives a truck with Slovenian license plates exclusively on behalf of a German transport company. All his journeys begin and end at the company's depot. The contract stipulates that the driver receives the Slovenian minimum wage. A daily rate of 75 euros was verbally agreed upon.³¹

²⁹ §14 AentG; §13 MiLoG

³⁰ Faire Mobilität (February 2025).

³¹ Anna Debreczeni: Story of a truck driver claiming 20,000 euros of unpaid wage – Interview with Marko Tanasić, 19.2.2024, <https://www.fair-labour-mobility.eu/2023/12/13/story-of-a-truck-driver-claiming-20000-euros-of-unpaid-wage/>.

Country	Gross minimum wage per month (as of January 01, 2026)
Poland ³²	4 806 PLN (~1135 Euro)
Lithuania ³³	1153 Euro
Romania ³⁴	4050 Lei (~815 Euro)
Slovenia ³⁵	1.481,88 Euro
Hungary ³⁶	322.800 HUF ~890 Euro
Czech Republic ³⁷	22.400 CZK 921 Euro
Slovakia ³⁸	915 Euro

Table 1: Payment modalities in the expense model by country (2026)

For a long time, we observed that drivers employed abroad and working in Germany were only paid a gross wage based on the statutory minimum wages of their home country (see Table 1). The entitlement to the significantly higher German minimum wage was, if at all, compensated with net payments, often declared as expense or overnight allowances.

³² Ministry of Family, Labour and Social Policy. Republic of Poland: Minimum Wage, <https://www.gov.pl/web/family/minimum-wage> (accessed on 26.05.2025).

Lietuvos respublikos vyriausybė: nutarimas dėl 2026 metais taikomo minimaliojo darbo užmokesčio [Government of the republic of lithuania: resolution on the minimum wage applicable in 2026]. 2025 m. spalio 16 d. Nr. 700, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/0d569730aab011f09acade6e6b5e7456?positionInSearchResults=3&searchModelUUID=92ca92b9-bf5b-436c-a4ae-ac3bb14be6d2>

³⁴ In Romania the minimum wage is set to rise to 4.325 RON on July 1st, 2026. Ministerul Muncii, Familiei, Tineretului și Solidarității Sociale: Comunicat de presă. Salariul de bază minim brut pe țară garantat în plată se majorează la 4.325 lei lunar, începând cu data de 1 iulie 2026 [Ministry of Labor, Family, Youth and Social Solidarity: The minimum gross basic salary per country guaranteed in payment increases to 4,325 lei per month, starting with July 1, 2026], March 12th, 2026, <https://mmuncii.gov.ro/salariul-de-baza-minim-brut-pe-tara-garantat-in-plata-se-majoreaza/>.

³⁵ Uradni list Republike Slovenije: Znesek Minimalne Plače za leto 2026 [Official Gazette of the Republic of Slovenia: Minimum Wage Amount for 2026], St. 6, 30.01.2026, p.391, https://www.uradni-list.si/_pdf/2026/Ur/u2026006.pdf.

³⁶ Magyar Közlöny 127.szám: A Kormány 394/2024. (XII. 12.) Korm. rendelethe a kötelező legkisebb munkabér (minimálbér) és a garantált bérminimum megállapításáról [Government Decree No. 394/2024. (XII. 12.) on the establishment of the mandatory minimum wage (minimum wage) and the guaranteed minimum wage], <https://magyarkozlony.hu/dokumentumok/b67f170c4a59331ea671722123425a8b57fe7b8e/megtekintes>.

³⁷ Ministerstvo práce a sociálních vecí: Minimální mzda [Ministry of Labor and Social Affairs: Minimum Wage], <https://mpsv.gov.cz/minimalni-mzda>.

³⁸ Ministerstvo práce, sociálnych vecí arodiny slovenskej republiky: Historický nárast minimálnej mzdy je realitou. V roku 2026 je minimálna mzda vo výške 915 eur [Ministry of Labor, Social Affairs and Home Affairs of the Slovak Republic: The historic increase in the minimum wage is a reality. In 2026, the minimum wage will be 915 euros], 02.01.2026, https://www.employment.gov.sk/sk/uvodna-stranka/informacie-media/aktuality/historicky-narast-minimalnej-mzdy-je-realitou-roku-2026-je-minimalna-mzda-vo-vyske-915-eur.html?utm_source=chatgpt.com.

This resulted in situations where only one-third of the monthly net payments consisted of wages subject to social security contributions and income tax, while two-thirds were earmarked allowances.

This led to the emergence of the term "expense model." In 2021, the European Court of Justice clarified that companies have not been permitted to offset these flat-rate payments against locally applicable minimum wages since the 1996 Posting of Workers Directive.³⁹ This was further clarified with the revision of the Posting of Workers Directive in June 2018,⁴⁰ whereupon the paragraph concerning the "credibility of posting allowances" in the German implementation of the Directive was revised.⁴¹ Other Member States subsequently adapted their legislation or implementing guidelines as well.

For this reason, employers in the various EU Member States have also partially adapted their payment practices – taking into account the respective tax and expense laws, which vary from country to country. Their focus appears to be primarily on avoiding problems and back payments in the event of audits and complaints.

Pos	Name, Vorname / Фамилия, Имя	Оклад	Количество отработанных дней	Доплата к миним. удержанию (Телефон, Утил., Страх. Взносы, Аренда)	Телефон / Телефон	Страховка	Утил. / Аренда	Страх. / Штраф	Аренда / Другое	Депозит / + удержано - возврат	Бонус	Рückzahlung/ Bonuses	Аванс Касса	Аванс Банк	Аванс 06.03.23	Зарплата 28.03.23	Бemerkungen / Замечания
21	Name des Fahrers	1.900,00 €	01.03.23	16	488,57 €			40,00 €		200,00 €		50,00 €			488,57 €	0,00 €	80€ vorzahlt daroga 200€ deposit Februar 2023 mit straf 05.01.23

Figure 1: Example Payroll and expense statement of a Georgian truck driver (2023). Source: Fair Mobility.

Example: Poland

In Poland, the legislature reacted to the revision of the EU Posting of Workers Directive as follows: It was stipulated that truck drivers in international transport are no longer considered to be on business trips, and therefore they are no longer entitled to tax-free expense allowances.⁴² In return, transport companies may, under certain conditions, claim social security⁴³ and tax exemptions⁴⁴ on the wages paid. The calculation of the amount of these exemptions is based on the expense regulations in Polish tax law, which is why the term "virtual expenses" has become common among payroll companies.

This makes payroll accounting during an employee's posting increasingly opaque – even when Polish law is observed. Furthermore, payslips in Poland only have to be provided upon request and are even then difficult to understand. Figure 1 shows a typical example of how confusing monthly payroll and expense statements are in Polish transport companies. In this case, a Polish employment contract, which he did not understand, was concluded with a Georgian truck driver. The verbally promised payments of 80 euros per day of work could not be found in the payslip.

³⁹ Judgement of the European Court of Justice (First Chamber) of 8th July, 2021, Case C-428/19 (ECLI:EU:C:2021:548).

Art. 3, 7 Directive (EU) 2018/957.

⁴¹ § 2b AEntG.

⁴² Art. 26f Ustawa o czasie pracy kierowców [Drivers' Working Time Act], 6.3.2024.

⁴³ Art. 26g Ustawa o czasie pracy kierowców [Drivers' Working Time Act], 6.3.2024.

⁴⁴ Art. 21 Punkt 23d Ustawa z dnia 26 lipca 1991 r. o podatku dochodowym od osób fizycznych, [income tax law of 26th July, 1991].

Example: Lithuania

The Lithuanian Labour Code (LR DK) stipulates a minimum hourly wage and a minimum monthly wage, each set by government decree.⁴⁵ In 2025, this will amount to €1,038 per month and €6.35 per hour.⁴⁶

Lithuanian legislation distinguishes between daily allowance/posting allowance (Dienpinigiai) and subsistence allowance (Maitinimo išlaidos).⁴⁷ For postings, the payment of daily allowance is legally mandatory, with the maximum amount and the procedure laid down in the Labour Code.⁴⁸ These maximum amounts may only be reduced if agreed upon in a collective agreement or a local regulatory act – but not by more than 50 percent. Posting allowances may be credited towards the minimum wage entitlement in other countries.

In addition, the employer may reimburse subsistence allowances,⁴⁹ but is not obliged to do so. These reimbursements may not be credited towards the minimum wage.

Example: Romania

We have been hearing regularly from drivers with Romanian employment contracts that they receive the Romanian minimum wage as a base wage on a continuous basis, even during periods without assignments, which they spend at home. For days spent working, they also receive daily allowances, which, according to our information, amounted to approximately 80 euros in 2024. Furthermore, Romanian drivers have increasingly stated that the amount of expenses is stipulated in their employment contract or an addendum.

Example: Slovenia

Third-country nationals with Slovenian employment contracts come predominantly, but not exclusively, from Bosnia and Herzegovina and Serbia. In contrast, we almost never encounter Slovenians with Slovenian employment contracts in our consultations or at rest stops.

Table 2: Minimum wage in Slovenia (2018–2025).⁵⁰ Source: Slovenian Government.

year	Gross minimum wage per month
2019	€ 842,79
2021	€ 1025

⁴⁵ Art. 141 LR DK.

⁴⁶ Teises Aktu Gidas: Minimalioji mėnesinė alga (MMA) ir minimalusis valandinis atlygis (MVA) [Guide to the law: Monthly minimum wage and minimum hourly wage], <https://www.tagidas.lt/savadai/9003/>; Lietuvos Respublikos vyriausybė: Nutarimas. Dėl 2025 metais taikomo minimaliojo darbo užmokesčio [Government of the Republic of Lithuania: On the minimum wage for 2025], <https://www.e-tar.lt/portal/lt/legalAct/3ce10ac065fc11efafbb8694c098bac5>.

⁴⁷ Information from the Lithuanian Labour Inspectorate via email dated March, 21, 2025.

⁴⁸ Art. 107 (3) LR DK.

⁴⁹ Art. 107 (2) LR DK.

⁵⁰ Republika Slovenija: Minimalna plača [Minimum wage], <https://www.gov.si/teme/minimalna-placa/>.

2025	€1253,90 ⁵¹
2026	€1.481,88

Until 2023, Slovenian legislation allowed posting companies to pay social security contributions only up to the amount of the Slovenian minimum wage (see Table 2), regardless of the minimum wage applicable in the host country. This changed with the implementation of EU Directive 2020/1057 of 15 July 2020.⁵² However, according to the European Labour Authority (ELA), Slovenian employment contracts for third-country nationals are still generally based on the Slovenian minimum wage, supplemented by deviating oral agreements. These agreements would often refer to kilometers driven (e.g., 7–8 cents/km in addition to the minimum wage or 50 cents/km as the sole basis for calculation).⁵³ We also receive similar information from drivers during rest area encounters.⁵⁴ However, payment based on performance, for example per kilometer driven, is clearly prohibited under the Driving Personnel Act (FPersG) and EC Regulation 561/2006 of 15 March 2006, as it jeopardises road safety.⁵⁵ For precisely this reason, these types of agreements are not put in writing. Payments exceeding the Slovenian minimum wage would typically be declared as expenses on any pay slips, on which no taxes or social security contributions are due.⁵⁶

The composition of truck drivers' wages in international road transport often remains completely opaque. They receive payments more or less regularly into their bank accounts or in cash, the amounts of which often vary. It is difficult to ascertain which components of these monthly payments are exempt from social security contributions and taxes.

Drivers from third countries can usually only report that their employers have verbally assured them they will receive approximately 70 to 80 euros net per day spent in the cabin. Often, amounts are deducted from this, under the pretext of costs for preparation of documents or by accident or transport damage, without any supporting documentation (see Chapter 5.4).

In short: We observe that, even after the revision of the posting of workers regulations, employers pay at most the net amount of the German minimum wage for approximately 40 hours per week, usually without compensating for overtime. These net payments are frequently still offset against meal and accommodation allowances, so that these allowances effectively replace part of the wage instead of being paid separately. The drivers therefore have no additional funds available beyond

⁵¹ Siehe ELA (2025), S. 59.

⁵² ELA: Posting of third-country nationals: contracting chains, recruitment patterns, and enforcement issues. Insights from case studies, 2025, <https://www.ela.europa.eu/sites/default/files/2025-03/ELA-posting-third-country-nationals-report.pdf>, p. 22.

⁵³ ELA: Posting of third-country nationals: contracting chains, recruitment patterns, and enforcement issues. Insights from case studies, 2025, <https://www.ela.europa.eu/sites/default/files/2025-03/ELA-posting-third-country-nationals-report.pdf>, p. 45.

⁵⁴ For example, in June 2025, a Bosnian driver with a Slovenian employment contract reported in a parking lot near Stuttgart that he was paid a rate of 0.17 euros/km and consequently often covered over 15,000 km per month.

⁵⁵ § 3 FPersG; Art. 10 Regulation (EG) Nr. 561/2006.

⁵⁶ ELA: Posting of third-country nationals: contracting chains, recruitment patterns, and enforcement issues. Insights from case studies, 2025, <https://www.ela.europa.eu/sites/default/files/2025-03/ELA-posting-third-country-nationals-report.pdf>, p. 59.

their wages for extra expenses, which are certainly needed for meals, sanitary facilities, or overnight stays. Furthermore, the net amounts paid are reduced by unjustified deductions.

4.2 Employment Contract with a Letterbox Office of the German Haulier

The employment relationship via a contract with a letterbox branch of the German Haulier is a sub-form of the expense model. The special feature here is that the formal employer is a foreign branch of a transport company based in Germany, while the German transport company is the "economic employer." The term "economic employer" is based on the tax guidelines of the Organisation for Economic Co-operation and Development (OECD) applied in Germany and is intended to reflect the fact that the formal employer of a mobile worker is not automatically their actual employer.⁵⁷

According to the OECD, the economic employer is the one:

- ☐ **who has the authority to instruct the individual regarding the manner in which the work has to be performed;**
- ☐ **who controls and has responsibility for the place at which the work is performed;**
- ☐ **for whom the services are provided and who is charged for the remuneration of the individual by the formal employer;**
- ☐ **who puts the tools and materials necessary for the work at the individual's disposal;**
- ☐ **who determines the number and qualifications of the individuals performing the work;**
- ☐ **who has the right to select the individual who will perform the work and to terminate the contractual arrangements entered into with that individual for that purpose;**
- ☐ **who has the right to impose disciplinary sanctions related to the work of that individual; who determines the holidays and work schedule of that individual.**

This is not a discussion of tax law. However, we consider the criteria proposed by the OECD useful for describing the role of companies that avoid being formally registered as employers themselves and therefore employ drivers through a foreign branch, only to then assign them work at their own headquarters.

In this scenario, the German transport company is the economic employer and the sole client. Its headquarters is often also a regular base for the trucks. Clearly, the employment contract is concluded abroad solely because labour costs and professional entry requirements for third-country nationals are lower there than in Germany.

Example from an advising case:

A Georgian truck driver worked under a Polish employment contract and was integrated into the operations of a company in Baden-Württemberg, Germany, as if he were employed there. The authorised signatory of the German company was simultaneously the transport manager of the Polish employer and thus, according to EU regulations, a "natural person(s) with the requisite good reputation and professional competence" that should [...] continuously manage the transport activities

⁵⁷ OECD: Model Tax Convention on Income and on Capital. Full Version, 2015 (8.14), <https://doi.org/10.1787/9789264239081-en>.

of road transport undertakings.”⁵⁸ The employment contract stipulated a gross monthly salary of 4,900 złoty, equivalent to approximately 1,200 euros. According to a verbal agreement, he was to receive 85 euros net per day in the truck cabin; in a 30-day month, this would amount to 2,550 euros net. He signed his employment contract in Poland – otherwise, he never traveled there as part of his work. The German headquarters served as the “base” of the transport company. The driver brought the truck there for technical inspections and also returned it there after receiving his termination notice via text message. The company with a German address was listed as the client on all waybills. When he asserted his outstanding wage claims against this German company, the managing director and the authorised signatory denied any responsibility and referred him to the Polish company. This company, in turn, denied that a payment of 85 euros per day of work had been agreed upon.

4.3 Service Contracts in Poland

We frequently encounter truck drivers employed by Polish companies not under regular employment contracts (*umowa o pracę*), but under service contracts (*Umowa zlecenia*). This form of employment is still unique to Poland, yet unfortunately widespread. According to the Central Statistical Office (GUS), as of March 31, 2024, nearly 2.3 million people in Poland were working under service contracts or similar agreements, double the number compared to the previous year.⁵⁹ Due to low employer costs and short notice periods, this type of contract is attractive to employers, but not to employees. In Polish, it is therefore sometimes referred to as a “garbage contract.”

The service contract is a civil law contract governed by the Polish Civil Code, meaning that labour law provisions do not apply. Consequently, employees have no legal entitlement to paid vacation, working time restrictions, statutory breaks, or protection against dismissal. Put simply, they are only entitled to those rights that arise directly from the contract. While there are social security regulations, such as the requirement to contribute to the statutory pension insurance, the coverage is far less comprehensive than with employment contracts. Furthermore, service contracts often contain clauses designed to shift business risks onto the employees, such as liability for improper execution of the task or for damage to the vehicle.

If employees decide to pursue outstanding claims in court, they are referred to a Polish civil court.⁶⁰

The use of service contracts is not unique to road haulage: We also observe in other sectors, and particularly in home care, that people with a Polish service contract are employed in Germany. The question arises as to whether this should be considered posting. The European Commission clarifies that the EU Posting of Workers Directive only applies to employees, but Member States are free to

⁵⁸ Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC, (8)

⁵⁹ Główny Urząd Statystyczny (GUS): Wykonujący pracę na podstawie umów zlecenia i pokrewnych w Polsce w marcu 2024 roku [Central Statistical Office: Performing work under mandate contracts and related contracts in Poland in March 2024], <https://stat.gov.pl/statystyki-eksperymentalne/kapital-ludzki/wykonujacy-prace-na-podstawie-umow-zlecenia-i-pokrewnych-w-polsce-w-marcu-2024-roku,16,5.html>.

⁶⁰ See Marcin Kielbasa/Monika Szaraniec/Małgorzata Mędrala/Marek Benio: Posted Workers from and to Poland – Facts and figures, Juli 2022, <https://hiva.kuleuven.be/nl/nieuws/docs/posted-workers-from-and-to-poland>.

adopt comparable regulations for other groups of workers.⁶¹ The Polish Social Insurance Institution (ZUS) has issued an official statement on this: Regardless of whether drivers have an employment contract or a Umowa zlecenia (postal service agreement), the same rules apply for accounting purposes when dealing with posted truck drivers.⁶² We understand this as an indication that the ZUS accepts "posting" via Umowa zlecenia and considers it equivalent to posting with a Polish employment contract when it comes to minimum protection rights in the host country. According to the ELA, the service contract for the posting of third-country nationals has now become the norm.⁶³

Example from the consultation:

The truck drivers from third countries who participated in the two protests at the Gräfenhausen motorway service area in 2023 (see Chapter 2) also worked on the basis of Polish service contracts. They were employed by the Polish Mazur consortium and transported goods throughout Europe. Mazur repeatedly stated to the press that the drivers had a choice between an employment contract and a service contract and had voluntarily opted for the latter (the contract also contained a corresponding clause). However, the drivers did not confirm this. In addition to other legal uncertainties, the drivers also faced the following problem:

They could not prove valid health insurance coverage during their posting because they did not have A1 certificates.⁶⁴ Some drivers paid €450 per year for private health insurance. Although many drivers were able to present documents from the Polish Social Insurance Agency (ZUS), none of these were accepted for billing purposes with doctors during their posting to Germany. Treatments were offered to them only on a private basis or against high advance payments.

4.4 International Temporary Employment

In Lithuania, in particular, companies have specialised in temporary employment and "hire" drivers—in our experience, primarily from Central Asia—to various locations, including Germany. These temporary employment agencies require a permit from the Federal Employment Agency. For Lithuanian companies, the employment agency in Kiel is responsible.⁶⁵

⁶¹ European Commission: Questions and Answers on posting of drivers under Directive (EU) 2020/1057, o. D., https://transport.ec.europa.eu/transport-modes/road/mobility-package-i/posting-rules/questions-and-answers-posting-drivers-under-directive-eu-20201057_en?prefLang=de.

⁶² Pismo z dnia 26 sierpnia 2022 r. Centrala Zakładu Ubezpieczeń Społecznych WPI/200000/43/941/2022 Ustalenie podstawy wymiaru składek dla kierowców-zleceniobiorców zatrudnionych w transporcie międzynarodowym [Letter of 26 August 2022, Headquarters of the Social Insurance Institution WPI/200000/43/941/2022 Determination of the basis for calculating contributions for drivers-contractors employed in international transport], <https://sip.lex.pl/orzeczenia-i-pisma-urzedowe/pisma-urzedowe/wpi-200000-43-941-2022-ustalenie-podstawy-wymiaru-skladek-185204712>.

⁶³ EIA (2025), p. 23. See also Kielbasa et al., 2022, S. 61.

⁶⁴ Employers must apply for an A1 certificate for employees working in other EU countries. This certificate confirms that the social security law of the sending country continues to apply during the work abroad. See section 6.6 for more information.

⁶⁵ Bundesagentur für Arbeit: Erlaubnis Arbeitnehmerüberlassung (Zeit- oder Leiharbeit) [Federal Employment Agency: Permit for temporary employment (temporary or agency work)], <https://www.arbeitsagentur.de/unternehmen/personalfragen/pflichten-arbeitgeber/arbeitnehmerueberlassung/erlaubnis-arbeitnehmerberlassung>.

TCN who work for German transport companies on the basis of working contracts with temporary employment agencies in other countries face a high risk of deportation. Temporary employment of Third Country Nationals is not compatible with German residence law. German residence law stipulates that the Federal Employment Agency should refuse its approval of a residence permit for the purpose of employment if the foreigner intends to work as a temporary worker (§40.1.2 AufenthG).

The administrative court in Karlsruhe⁶⁶ has ruled in 2022 that a hiring company⁶⁷ must apply for a driver's certificate for the driver in the country of assignment (Germany) and that a German residence permit is a prerequisite for this. However, we repeatedly observe that truck drivers (if they have one at all) are on the road with a driver's certificate issued to the temporary employment agency (in this case, in Lithuania). In the event of inspections, immigration issues often arise, potentially leading to deportation.

As of March 5, 2025, a total of 1,002 companies from other EU countries held a permit for temporary employment services from the Federal Employment Agency.⁶⁸ It is not specified whether this includes or exclusively refers to the "leasing" of truck drivers. 153 of the temporary employment agencies were registered in Lithuania – besides Poland, the country where most of the companies operating authorised temporary employment services in Germany are based (see Table 3).⁶⁹

Table 3: Number of approved temporary employment contracts in Germany by EU Member State (2025). Source: Federal Employment Agency (2025); own count.

Country	Number of companies
Denmark	11
France	94
Ireland	14
Croatia	31
Latvia	18
Lithuania	153
Netherlands	30
Austria	112
Poland	296

⁶⁶ VG Karlsruhe, Urteil vom 15.11.2022 - 12 K 1022/22.

⁶⁷ A "borrowing company" or "hiring company" (also "borrower") is a company that temporarily obtains workers from a personnel service provider or a temporary employment agency as part of employee leasing (also called temporary work).

⁶⁸ Bundesagentur für Arbeit: Arbeitnehmerüberlassung. Inhaber einer Erlaubnis der Bundesagentur für Arbeit zur Arbeitnehmerüberlassung [Federal Employment Agency: Temporary employment. Holders of a permit from the Federal Employment Agency for temporary employment], as of March 5, 2025, <https://www.spitzenverbaende.arbeitsagentur.de/>.

⁶⁹ Table 3 lists only those countries where more than ten temporary employment agencies are registered that hold a permit to provide temporary workers in Germany. Fewer than ten companies were registered in Belgium, Bulgaria, Estonia, Finland, Italy, Luxembourg, Malta, Portugal, Sweden, Spain, and Cyprus, and none in Greece.

Romania	16
Slovakia	66
Slovenia	17
Check Republic	33
Hungary	54

Example from advising:

A Kyrgyz truck driver had an employment contract with a Lithuanian temporary employment agency, stipulating a gross monthly salary of just under €1,800. The employer verbally promised him a daily rate of €95, but this was never put in writing. Within a three-month period, the driver was assigned to at least five different client companies in Germany, but he received no work assignment certificates. Since the Lithuanian company ceased operations and continued under a new name, the driver could no longer pursue his claims against it as his original employer. The Lithuanian labour inspectorate determined that this temporary employment agency had never paid taxes or social security contributions for him. The client companies also acted in a highly unethical manner, for example, forcing the driver to drive in adverse weather conditions with unroadworthy tires that had no tread left.

In our consulting work, we are aware of cases where the hiring company bills the temporary staffing agency for alleged damages supposedly caused by the hired truck driver. These damages are then deducted from the driver's wages. Legally, the temporary staffing agency could refuse to be held liable for damages incurred at the hiring company (thus implicitly siding with its driver). However, it seems easier for temporary staffing agencies to pass the costs on to the drivers, who are heavily dependent on the agency and unfamiliar with liability issues. In one case, for example, a German company billed a Lithuanian temporary staffing agency for two allegedly lost specialty pallets. The agency then passed these costs on to the Kyrgyz driver. Fortunately, the driver had complete documentation, allowing it to be proven that no pallets had actually been lost. On the other hand, pressure could be exerted through the supply chain, so that in the end the driver was paid €1,500, which had initially been deducted from his wages.

4.5 Recruitment via bogus companies

The recruitment of truck drivers via shell companies is a form of illegal temporary employment. These companies usually conceal their identity and do not have authorization from the Federal Employment Agency to supply drivers to Germany. Recruitment takes place via job postings on the internet, which promise work in Germany. However, company names are not mentioned. A telephone number and, if applicable, the first name of a recruiter, for example from Poland, is provided as contact information. This recruiter establishes contact with companies in Germany. If an employment relationship is established, the company demands a placement fee. These companies issue the drivers an employment contract but then send them directly to German employers.

A study by the European Transport Workers' Federation concludes that such shell companies do not meet the requirements for road freight transport activities under EU Regulation 1071/2009, as they do not, for example, have their own fleet of vehicles.⁷⁰

Example from advising:

In 2024, an Uzbek truck driver contacted our advice centre. He had been recruited through an intermediary in Poland to work for a German company and carry out transport exclusively within Germany. The contract and payment were to be handled through the Polish company. For this purpose, he even had to travel to Warsaw to open a Polish bank account. He had to agree via text message that the placement fee would be deducted from his first paycheck. The German employer initially paid him in cash but later stopped all payments.

4.6 Bilateral Transport

During our rest area surveys, we increasingly encountered drivers from Central Asian countries using trucks registered there to carry out bilateral transport (including of car parts) between their respective non-EU countries and unloading points in Germany.⁷¹ They reported receiving orders for loads from, for example, Kyrgyzstan or Kazakhstan, which they were to deliver to the vicinity of Dortmund. They were paid per kilometer for the approximately 6,000-kilometer route. After unloading, they waited for a new loading order, which in some cases could take a week or more. For this waiting time, they received either no payment at all or only minimal compensation, for example, €20 per day. The legal basis for this appears to be bilateral agreements, which are issued in Germany under quotas according to the Ordinance on Cross-Border Road Haulage and Cabotage (GüKGrKabotageV).⁷²

5 Problems specific to truck drivers from non-EU-countries

Many labour law infringements and problems at work faced by truck drivers from third countries are similar to those experienced by drivers from EU countries. These problems have been observed and criticised by Fair Mobility and other trade union actors over the last years.⁷³

However, the severity of the problems and the scale of the consequences are greater for third-country nationals.

In simplified terms: the greater the distance between the place of origin and the place of contract, the worse the working conditions.

⁷⁰ Baranska/Picard (2023), p. 13–14.

⁷¹ So far, we have not received any requests for advice from truck drivers employed in such contractual situations.

§ 8 GüKGrKabotageV; BALM: Bilaterale Genehmigungen [Bilateral Permissions], o. D., https://www.balm.bund.de/DE/Themen/Genehmigungen/BilateraleGenehmigungen/bilateralegenehmigungen_node.html

⁷³ See VNB/ITF/IUL (2020).

5.1 Oral Agreements

A number of complex European and national laws regulate working conditions in international road transport and are intended to ensure legal certainty/security in a sector vulnerable to exploitation. However, in our advisory practice, we observe that many of these regulations are violated on a daily basis – third-country nationals are particularly affected.

This can be explained by a combination of the following factors:

- ☐ greater economic pressure,
- ☐ fewer choices or alternatives,
- ☐ higher costs associated with initiating employment (for documents, visas, flights, recruitment) and resulting debt,
- ☐ unfamiliarity with labour rights, support services, and ways to protect oneself from exploitation,⁷⁴
- ☐ lack of social networks that can provide support in emergencies,
- ☐ us usually no residence or accommodation in the EU, and
- ☐ a precarious residency situation, which is sometimes tied to the employment relationship.

Due to these circumstances, third-country nationals are more likely than EU citizens to be forced to tolerate exploitation and poor working conditions. The power imbalance between them and employers is particularly pronounced.

In international road transport, the primary problem is not regulation, but enforcement. To illustrate the growing gap between legal requirements and the realities of the workplace, Fair Mobility speaks of three realities: the paper reality, the verbal reality, and the legal reality.

The term "paper reality"⁷⁵ refers to the sheer volume of paperwork and documents generated in the employment relationship between a carrier and a truck driver. Right from the start of their employment, drivers are often pressured to sign numerous documents they don't understand. They are given no time to review the content, let alone comprehend it. Often, they don't even have the opportunity to use translation software or third parties to understand the content of these documents and photographically document what they've signed for their own protection. Even later in their employment, drivers are repeatedly presented with documents to sign under time pressure.

This puts employees in a situation where, for example, by signing documents or improperly operating the tachograph, they are forced to contribute to the creation of a paper reality that neither reflects the reality of their work nor respects the legal rights of drivers. This practice, however, allows employers to protect themselves against inspections and any potential claims from drivers. Furthermore, drivers are given false documents to deceive the authorities about their employment status, wages, and compliance with driving and rest time regulations. They are sometimes even instructed to answer such questions untruthfully. Regarding the documents that drivers carry in their trucks on their journeys, they are sometimes instructed on when (i.e., in which

⁷⁴ See Benedetti (2024).

⁷⁵ The term "papercircus" is used by Vilnius Regional Prosecutor Edita Ignatavičiūtė, who investigates cases of foreign truck driver exploitation to describe this phenomenon. Arturas Lysionok: Drivers are not accessories to a tractor unit: the prosecutor's office takes a tougher stance on driver exploitation, 18.02.2026, <https://trans.info/en/lithuania-driver-exploitation-455711>.

country) they should present which document during an inspection. The various prepared folders, sorted by EU member state and intended to be presented during inspections in the respective country, often contain completely contradictory information.

The “verbal reality” is based on explicit agreements between travellers and employers. These agreements usually deviate from the written reality and are sealed verbally or with a handshake. Since they are not recorded anywhere, the workers cannot prove them at the crucial moment.

The “legal reality” should actually be the decisive one. This refers to European and national laws that guarantee posted drivers certain minimum working conditions. However, because they are often unaware of their rights or lack the corresponding documentation, they cannot invoke these rights.

The following section examines some aspects of working and living conditions in more detail, which can reflect the discrepancy between the three realities (see Table 4).

	On-paper reality	Practical reality	Legal reality
	Produced by the employer for their own protection; content is often unknown and/or incomprehensible to the drivers.	Verbal agreements between employer and driver or information from job advertisements etc. (not verifiable in case of doubt)	European and national laws on working conditions in road freight transport (primacy of European regulations and directives)
Wage/salary	Fixed monthly salary (often €300-800 gross; at the level of the minimum wage in the country of employment)	Fixed daily rate (approx. €60-85 net); this often includes so-called "posting allowances" ☒ "allowances model"	Every hour of work and on-call time must be paid: posted workers are entitled to local hourly wages.
Expenses and accommodation allowances	[no written agreement]	Included in the fixed daily rate	In some countries payment non-obligatory

Source: Author's own illustration

When lorry drivers decide to sign on with a particular employer, they sign a written employment contract. However, these contracts are often very vague. They frequently lack specific details about wage levels, regular working hours and/or expense allowances. Instead, verbal agreements are usually made regarding pay: employers promise specific net payments per day or month. These are often far below the amount that would result from the statutory minimum wage for the hours worked at the respective place of work. In addition, these net amounts often combine wages and expenses, which is also illegal.

The standard benchmark for remuneration in the truck sector is a net daily rate (without specifying the wage components), which is usually promised for each day on duty (including the days of weekly rest periods during the tours). Depending on the company and agreement, this is

not paid for days off, which employees sometimes spend at the ‘base’ or in a hostel. Job advertisements aimed at Eastern European and Russian-speaking drivers usually include such daily rates.

At the end of 2024, these daily rates were around 70 to 90 euros.⁷⁶ They are subject to economic fluctuations and vary depending on the company, type of transport, route, length of service, work experience and negotiating skills of the driver in question. Car transporters traditionally earn slightly more, as their work is more challenging due to the lower and narrower driver's cab and the high risk of damage to new cars. The daily rates for trips to England are higher due to the de facto longer working days caused by ferry crossings, as well as the stress of customs clearance and the concern about unknowingly smuggling illegal migrants between France and England. Drivers who are new to a company (or to Europe in general) usually have to complete a kind of internship (Russian: Starjirovka) during which they are paid only small net amounts. In addition, drivers repeatedly report that they have the impression that certain nationalities receive lower daily rates than others.

5.2 Unpaid overtime

Many lorry drivers are paid a flat rate per day or month, without any contractual provision for overtime pay. Drivers who live in their lorries during the working weeks and months must, in effect, be available to their employer around the clock when required. As this is not permitted under working time legislation and would at least have to result in higher remuneration if correct accounting were carried out, employees in international road transport are under constant pressure to violate the recording requirements for working and on-call times. As a result, there is a lack of evidence for a huge number of overtime hours.

In the everyday working life of a lorry driver, ‘shift time’ is usually defined as the time between two mandatory daily rest periods. In other words, it is the time from the first to the last activity before a daily rest period.⁷⁷ Lorry drivers are usually scheduled in such a way that ‘shift times’ can be fully utilised.

Driving and rest times are regulated in detail in Regulation (EC) 561/2006. According to this, drivers must rest for at least eleven hours three times a week and at least nine hours three times a week .

These rest periods are usually recorded in the tachograph. It is not uncommon for the start and end of these rest periods to be exactly thirteen or fifteen hours apart three times a week. During these thirteen to fifteen-hour shifts, drivers are often encouraged to record loading and unloading times as breaks rather than other work. This is to prevent the permitted active daily working time, which is only ten hours, from being exceeded. Waiting times, which should actually be recorded as on-call times and would be subject to remuneration, are generally not recorded at all. Overall, truck drivers are therefore pressured not to record their remuneration-based working and on-call times in a manner that reflects reality and to document too few hours to their own disadvantage. ~~Some dispatchers do not shy away~~ from issuing written instructions to this effect (see Figure 2).

⁷⁶ See also RTDD (2023), p. 12–13.

⁷⁷ See Murat Kilinc: Schichtzeit für LKW-Fahrer: Was gilt es zu beachten? [Shift times for truck drivers: What needs to be considered?], 12.2.2025, <https://www.bussgeldkatalog.org/schichtzeit-lkw/>.

The pressure to falsify working time records not only results in wage theft, but also leads to excessively long working days, which are only made possible by this practice. A side effect is driver fatigue, which is widespread in the industry.⁷⁸

Example from advising: Text message from an employer to his driver (own translation from German)

Hello,

I've noticed you're frequently pressing "standby." Please don't switch to standby, as this disrupts your shift/work time. Instead of shift time, please ALWAYS switch to break.

Standby mode fills up your shift time more quickly, making it harder for us as a company to operate efficiently and earn money.

5.3 Recruitment fees

If you have any questions, please contact your dispatcher.

Drivers from third countries repeatedly report that they had to pay fees to an agency or their future employer in order to obtain the job and the necessary paperwork (such as visas or invitations required for visas, driver certificates, driver qualification certificates, etc.), and in some cases also to cover travel expenses. As a result, they start work already in a debt relationship with the company.⁷⁹ Although this is not explicitly prohibited by German and European legislation, it contradicts, for example, the principles and guidelines of the International Labour Organisation (ILO) for fair recruitment.⁸⁰

Such recruitment fees are mainly incurred when interested parties apply directly to job advertisements on the internet, for example on social media platforms, which are often posted by agencies rather than the companies themselves. If, on the other hand, contact with the employer is established through acquaintances, which is often the case, the chances of not having to pay agency fees in the strict sense seem to be better. In these cases, however, non-transparent 'debts' for 'documents' often arise nonetheless. For employees, travel and visa applications are an additional expense. They often have to go into debt or sell their possessions before they can start working in Germany.⁸¹

Example: Gräfenhausen

⁷⁸ In a study by the European Transport Workers' Federation from June 2021, 60 percent of the truck drivers surveyed stated that they drive when overtired, a third have fallen asleep at the wheel, and 57 percent would like to take more breaks but instead continue working under pressure. ETF: ETF report reveals eliminating fatigue in professional drivers is critical to road safety, 3. Juni 2021, <https://www.etf-europe.org/etf-report-reveals-eliminating-fatigue-in-professional-drivers-is-critical-to-road-safety/>.

⁷⁹ See also ELA (2025), p. 39; RTDD (2023), p. 4 u. p. 11–12.

⁸⁰ ILO: General principles and operational guidelines for fair recruitment and Definition of recruitment fees and related costs, 2019, https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536755.pdf.

⁸¹ See also RTDD (2023), p. 27; Benedetti (2024), p. 1.

During the protests in Gräfenhausen in 2023 (see Chapter 2), individual drivers told us that they were charged for the preparation of documents entitling them to stay in Poland and the EU and to drive a lorry commercially in the EU, and that these charges were offset against their first payments for their work. This kept the drivers in a supposed debt relationship, especially in the early months. During individual negotiations about outstanding payments, a ‘trainee’ was told that he had no claims whatsoever, but rather debts to the company. This third-country national had been waiting several months for his papers so that he could start working as a driver. During this time, he accompanied another driver as a ‘trainee’ without ever receiving a wage or gaining access to the papers to which he was entitled.

5.4 Unjustified wage deductions

We are regularly contacted by lorry drivers who have had part of their wages withheld. The following excuses are often given as reasons for this: fines and administrative penalties for violations of the law (such as speeding, violations of driving and rest times, spending the weekly rest period in the lorry or the absence of essential documents), damage and insurance claims arising from accidents, penalties allegedly charged by customers for damaged or delayed loads, or for missing pallets and other packaging materials in the deposit system.⁸² Internal company regulations on diesel consumption (‘Ekovojsdenie’⁸³), route selection (‘excess kilometres’/‘detours’) or tachograph operation are also sometimes used to justify wage deductions. Drivers are often not given or provided with any evidence for these deductions or for their liability (e.g. the degree of their negligence). Figure 3 shows an excerpt from a confusing accounting table. This comes from a Polish company for which several Kyrgyz drivers worked who contacted our advice centre.

Figure 2: Billing table of a Polish company (2024)

Staż € do dni	podstawa	KURS €	Premia +dodat. na inny plac. €	delegacja PLN	Podstawa +dodat. PLN	Podstawa +dodat. €	MŁOTKI	BALANŚ JAKOŚĆ	OCENA PRACY	PALWIO	BIEG JALOWY	STAZY SCI	KM DODATK. OWE. km	Potrącenia	Premia za dodatkowe załadunki +inne Premie i drobaki	PODSTAWA ZŁOTYMI	URLOPOW E
2 000.00	453.51	4.3647	1 346.49	1 425.99	6 224.01	1 876.39	-100.00		140.00	50.00	0.00		-10.50			2 862.38	

Source: Fair Mobility

The table includes the category ‘Młotki’ (Polish for “hammers”), which refers to the tachograph symbol for ‘other work’. The employer had therefore unlawfully introduced a deduction for what he considered to be ‘excessive’ use of the speedometer symbol for ‘other work’ subject to remuneration (instead of the bed symbol for a break not subject to remuneration). In the payroll example, he deducted 100 złoty, or approximately 25 euros, from the monthly wage.

Unlike in Germany, where it is required by the Trade Regulation Act (GewO)⁸⁴, payslips are not mandatory in all European countries. In Romania and Poland, for example, they must be issued to employees only upon request. Even when payslips are provided, they are often difficult to understand and do not contain the information that was promised verbally.

⁸² See also ELA (2025), S. 59.

⁸³ "Ekovojsdenie" is a Russian term from industry jargon and literally translates to "ecological driving." This euphemism is used to penalize (allegedly) above-average diesel consumption with wage deductions.

§ 108 GewO.

In some cases, truck drivers only receive wage advances and the ‘final settlement’ takes place at the end of the several-week assignment period, which is called “kadenzija” in Russian. In these cases, a ‘deposit’ may be retained, which is supposedly only to be paid to the drivers upon their return to the company – as an incentive to come back.

5.5 No paid leave

According to our observations, third-country nationals with employment contracts abroad generally do not receive any paid leave, even if this is stipulated in their contract. Rather, the rule is that employers only pay for the days worked, but not for periods not worked at the ‘base’ or stays in the country of origin, not even on a pro rata basis. Statutory holiday entitlements are completely ignored.

5.6 Life on the motorway

During their weeks-long work assignments, professional drivers working in international road transport live exclusively in their vehicles. For third-country nationals, the further away their country of origin is, the less frequently they travel to this location. Serbian or Belarusian drivers, for example, often work in a rotation system similar to their colleagues from Poland or Romania, working for six weeks and then spending three weeks at home. Georgians or Kyrgyz, on the other hand, usually live in their truck cabins and on the road for months at a time – at least as long as their employment relationship lasts and does not come to an unexpected end. We repeatedly meet drivers who are on the road for a whole year or even longer without spending a single night in accommodation of their own choosing or at their actual place of residence.⁸⁵

In their research on truck drivers from Kyrgyzstan and Uzbekistan, Giulio Benedetti et al.⁸⁶ have impressively demonstrated that this leads to a complete separation of work and ‘real life’ (home, family, healthcare) in the perception and evaluation of lifetime among truck drivers. This phenomenon, which is typical of transnational labour migration, is particularly pronounced in international road transport. It also determines the economic logic according to which labour exploitation works. In the country of the employment contract, little or no social security is guaranteed; instead, this is left solely to the driver (and thus to formal and informal structures in the country of origin). This separation also has an impact on the logic of cost calculation in a multinational reality: although the drivers are formally registered and employed in an Eastern European EU country, apart from this formal employment with its bureaucratic requirements, they generally have no connection to this country. They are physically on the move all the time, mainly in Western Europe. The decisive factor in assessing remuneration is how much the wage is worth in the driver’s country of origin and what goals can be achieved with it in terms of ‘actual life’ there (e.g. necessary medical treatment for family members, education and training for

⁸⁵ These experiences are confirmed by other trade unions, advice centres, researchers, and journalists. See, for example, Sarah Butler: Low pay, fuel fines, cramped cabs: drivers at haulier used by major retailers speak out, *The Guardian*, May 7, 2023, <https://www.theguardian.com/business/2023/may/07/low-pay-fuel-fines-cramped-cabs-drivers-at-haulier-used-by-major-retailers-speak-out>; RTDD (2023), p. 3.

⁸⁶ Giulio Benedetti/Arnis Sauka/Milena Pavlova/Olga Zvonareva/Wim Groot: Pioneering new migration routes: central Asian truck drivers’ experiences in the EU, *CentralAsianSurvey*, April, 10, 2025, <https://www.tandfonline.com/doi/full/10.1080/02634937.2025.2479099>.

children and grandchildren, house construction or renovation work, means of production and investments that could potentially lead to more lucrative earnings in the place of origin).

As a rule, employers do not cover the costs of using car parks, toilets, showers or accommodation at rest stops, nor do they treat these as part of the remuneration. The existing infrastructure at German rest stops is either subject to a fee or often in a disastrous state of hygiene. In addition, as there are not enough parking spaces available, truck drivers sometimes have to resort to industrial areas or emergency parking bays, where there are no sanitary facilities at all. According to the European Commission, there is a shortage of almost 400,000 truck parking spaces along motorways in Europe, with Germany having one of the largest gaps.⁸⁷

The right enshrined in the European Mobility Package to return to one's place of origin or company headquarters every four weeks⁸⁸ cannot be enforced in practice for lorry drivers if their employer does not cooperate. We repeatedly receive reports of drivers being forced to sign papers for their employer in which they (sometimes unknowingly) declare that they voluntarily waive their right to return.⁸⁹

For most third-country nationals, spending their free time at the company headquarters is simply unattractive, except for the occasional visit to the authorities. When they do spend time at the company headquarters, drivers often have to sleep in their lorries or in shared rooms, which they have to pay for themselves. Due to the costs involved and the lack of privacy, this is even less attractive than living in their lorries.

3.7 Ban on sleeping in cabs versus lorries as homes

For employers, employees and anyone familiar with the industry, one thing is clear: lorry drivers live and sleep in their lorries.⁹⁰ Even job advertisements on relevant social media sites do not usually hide this fact (see Figure 4).

Figure 3: Russian-language job advertisement for employment in Germany with a foreign employment contract (2023)⁹¹

⁸⁷ European Commission: Study on the availability of suitable rest facilities for professional drivers and of secured parking facilities, as well as on the development of safe and secure parking facilities in the EU. Final Report. MOVE/C1/SER/2023-138, January 2025, <https://op.europa.eu/en/publication-detail/-/publication/42b15ca1-1680-11f0-b1a3-01aa75ed71a1>.

⁸⁸ Regulation (EU) Nr. 561/2006

⁸⁹ RTDD (2023), p. 21.

⁹⁰ See for example RTDD (2023), p. 21.

⁹¹ Translation into English: "Accommodation: Provided free of charge. In the cab of the truck. There is a base with all amenities."

 График/период работы: Пн.-сб., ночные смены 17:00-04:00. Выезд вечером - утром разгрузка по месту прибытия. 8-11 час/день.

 Жилье: Предоставляется бесплатно. В кабине автомобиля. Есть база со всеми удобствами.

 Спецодежда: Не предоставляется. Можно брать свою одежду.

 Трансфер на работу: Предоставляется бесплатно.

In Europe, it is not permitted to spend the weekly rest period of 45 hours in the lorry. For drivers, the ban on sleeping in the cab means less protection and more of a threat of punishment in the event of an inspection. Some companies therefore go to great lengths to create a false paper reality. For example, they give lorry drivers fake hotel bills and instruct them to remove their driver card from the tachograph during the 45-hour weekly rest period, as if they had left the lorry.

The lorry is the driver's home and is furnished accordingly. In the context of labour disputes, it often happens that employees are dismissed without notice and left somewhere on the motorway with all their belongings (if these are not immediately taken away by the company in the lorry). For the drivers affected, this means de facto homelessness.

Technical defects in lorries not only compromise road safety, but also the physical well-being of drivers in their accommodation. Time and again, drivers report suffering from hypothermia because the auxiliary heating has failed or because the truck's power supply is defective.⁹² At the beginning of 2025, it was documented how cutting the truck battery was deliberately used to break the protest of Zimbabwean truck drivers.⁹³

5.8 Insufficient health insurance cover

Truck drivers from third countries often do not go to the doctor even when they have serious health problems. They spend months on motorways and country roads, living permanently in their trucks in industrial areas and at service stations, where they have no access to the basic healthcare services they need. Due to the short-term planning of routes, uncertainties such as traffic volume and the unpredictable duration of loading and unloading, it is also practically impossible for them to make doctor's appointments. A lorry driver on tour often only sees a

⁹² See also RTDD (2023), p. 4.

⁹³ Pitt von Bebenburg: Kein Lohn und schlechte Bedingungen: Lkw-Fahrer aus Simbabwe streiken [No pay and poor conditions: Zimbabwean truck drivers go on strike], Frankfurter Rundschau, 31.1.2025, <https://www.fr.de/wirtschaft/lkw-fahrer-in-not-93546931.html>; Jules Thomas: Three Zimbabwean truckers suffer reprisals at French freeway rest areas after criticizing work conditions, Le Monde, 2.2.2025, https://www.lemonde.fr/en/economy/article/2025/02/02/three-zimbabwean-truckers-suffer-reprisals-at-french-freeway-rest-areas-after-criticizing-their-working-conditions_6737683_19.html.

doctor in the event of a serious medical emergency.⁹⁴ This is all the more remarkable given that, according to figures from the AOK, the sick leave rate of professional drivers with German employment contracts is statistically slightly above average (sick leave rate of 5.7 per cent compared to 5.4 per cent for the overall average).⁹⁵

While EU citizens are often on the road at regular intervals of, for example, two to eight weeks and then spend two to four weeks at their place of origin, where they can see a doctor with their European Health Insurance Card if necessary, third-country nationals often only visit their place of origin once a year.

For Benedetti et al., this is an expression of the fundamental simultaneous temporal and geographical separation of work and ‘real life’, which also includes social and healthcare and which shapes the reality of third-country nationals in international road transport.⁹⁶

When truck drivers from third countries turn to their employers with health problems, they usually cannot expect any support. There are many documented cases in which companies have responded negatively to such requests for help.⁹⁷

Truck drivers who have an employment contract in an EU Member State should have health insurance in that country and possess a European Health Insurance Card, which is also accepted in other EU countries for the settlement of healthcare costs.⁹⁸ If the company treats its employees as posted workers and has submitted posting notifications via the Internal Market Information System (IMI) portal (see Chapter 6.5), the drivers should also carry an A1 form confirming that they continue to be covered by social security in the sending country. However, we repeatedly encounter truck drivers who have neither an A1 form nor a European Health Insurance Card with them (see Chapter 6.6).

6 Legal background to the employment of truck drivers from third countries

When third-country nationals are employed as cross-border truck drivers in the EU, provisions from various areas of law are relevant: in addition to labour and social law, these also include residence and administrative law (e.g. access to the profession of driver, driver attestations). These provisions are regulated by law at national and even state level and vary accordingly. At EU level, there are regulations and directives that either coordinate the different legal systems or set binding requirements for their harmonisation. This results in a complex legal situation that is difficult even for experts to understand, not to mention those actually affected, the lorry drivers.

⁹⁴ Butler (2023).

⁹⁵ Drivers have above-average periods of incapacity for work due to musculoskeletal disorders, injuries, and cardiovascular diseases. BALM (January 2024), p. 12.
Benedetti/Sauka/Pavlova/Zvonareva/Groot (2025).

⁹⁷ See for example RTDD (2023), p. 4.

⁹⁸ Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients’ rights in cross-border healthcare; Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems

The business model in international road transport apparently involves concluding contracts where the rules for employers are most favourable or interpreted in the most favourable way. This is usually not the country in which the economic employer is based. The ones who suffer are the drivers, who have less social security and little legal certainty in the current contractual arrangements.

6.1 Freedom of movement for workers and permanent residence

Since the establishment of the European Community (EC) in 1957, freedom of movement for workers has been a core component of EU law, which is binding on all Member States. Accordingly, all EU citizens have the opportunity to take up and pursue employment in any Member State under the same conditions as a national of that State.⁹⁹ The legal basis for the free movement of workers is Article 45 of the Treaty on the Functioning of the European Union (TFEU).¹⁰⁰ Freedom of movement is also enshrined as a fundamental right in Article 15 (2) of the Charter of Fundamental Rights of the European Union and is implemented by Regulations (EU) No 492/2011 and (EC) No 883/2004.¹⁰¹

Under EU law, third-country nationals are persons who are neither nationals of an EU Member State ('EU citizens')¹⁰² nor nationals of a Member State of the European Economic Area (EEA), nor Swiss nationals or family members of the latter.¹⁰³ Under certain conditions relating to residence, third-country nationals may also invoke the free movement of workers.¹⁰⁴

However, the legal basis for this is not to be found in the chapter on the free movement of workers or in the context of Article 45 TFEU, but in Title V of the TFEU on the area of freedom, security and justice.

In order to obtain these rights, a third-country national must have resided in a first EU Member State for five years without interruption.¹⁰⁵ He or she can then obtain long-term residence status in that country¹⁰⁶ and subsequently reside permanently in other EU Member States. In addition, they are then entitled to equal treatment with nationals of EU Member States in certain areas, including access to employment or self-employment.¹⁰⁷ However, according to our observations, truck drivers from third countries do not generally meet these requirements for permanent residence in a second EU Member State.

⁹⁹ The specific framework conditions for the free movement of workers are regulated in: Regulation (EEC) No 1612/68 of the Council of the European Communities of 15 October 1968.

¹⁰⁰ Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, 2012/C 326/01.

¹⁰¹ Charter of Fundamental Rights of the European Union, 18 December 2000; Regulation (EU) No 492/2011; Regulation (EC) No 883/2004.

Art. 20 (1) AEUV.

¹⁰³ Article 5 of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).

¹⁰⁴ Articles 67 to 89 TFEU, in particular Article 79(2a) and (2b).

¹⁰⁵ Articles 4 et seq. of Council Directive 2003/109/EC of 25 November 2003 on the status of third-country nationals who are long-term residents (Long-term Resident Directive).

¹⁰⁶ Article 19(2) of the Long-Term Residence Directive.

¹⁰⁷ For the right to equal treatment, see Art 21(1) of the Long-Term Residence Directive. For the areas covered, see Article 11 of the Long-Term Residence Directive.

6.2 Freedom to provide services and posting

The freedom to provide services enables companies based in one EU Member State to offer their services in other Member States without having to establish a branch there. A specific case of freedom to provide services is the posting of workers, whereby a company temporarily posts its employees to another EU country while the employment relationship continues to be governed by the law of the sending country. The EU Posting of Workers Directive regulates the posting of workers and aims to ensure that posted workers enjoy certain minimum working conditions in the host country.¹⁰⁸

In principle, the Posting of Workers Directive also applies to third-country nationals. Unlike the free movement of workers (where workers enter into an employment relationship in another country), however, under the freedom to provide services, employment in another EU Member State on the basis of a posting is to be limited in time.¹⁰⁹ For correctly posted lorry drivers, regardless of their origin, the labour law applicable to their employment contract in the carrier's country of establishment should therefore continue to apply. In addition, the minimum labour law standards of the Member State to which they are posted should be guaranteed. If the posting means that the labour laws of two Member States apply, the principle of favourability applies in favour of the employee.

The Posting of Workers Directive sets minimum standards in the following areas: remuneration, working hours and rest periods, paid leave, conditions for the supply of workers, health and safety at work, protective measures for pregnant women, mothers, children and young people, non-discrimination provisions, conditions for workers' accommodation, and allowances or reimbursements to cover travel, accommodation and meal costs for workers.¹¹⁰ In order for these minimum standards to apply, they must be regulated by law or in a generally binding collective agreement. If there is a generally binding collective agreement in the industry, it is fully applicable to posted workers. Unfortunately, this is not the case for road freight transport in Germany, as there is no generally binding collective agreement for international road transport.¹¹¹

The case law of the European Court of Justice (ECJ) has repeatedly confirmed that posting is only lawful if the business activity is usually carried out in the country of establishment and the employees are not exclusively deployed abroad.¹¹² Following this logic, the criteria for posting are unlikely to be met if a driver is hired and then immediately posted to another country without ever having worked in the country of establishment. The same applies if there are no business activities in the country of establishment.

¹⁰⁸ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 (Posting of Workers Directive); Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC.

¹⁰⁹ Art 2(1) of the Posting of Workers Directive; Article 57(3) TFEU; Article 4(3) of Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 implementing Directive 96/71/EC.

¹¹⁰ Art 3 Posting of Workers Directive

¹¹¹ For an overview of collective bargaining practices in various European countries, see Vitols/Voss (2019).

¹¹² Art. 4 Abs. 3 RL 2014/67/EU; ELA: Report on the cooperation practices, possibilities and challenges between Member States – specifically in relation to the posting of third-country nationals, Februar 2023, <https://www.ela.europa.eu/sites/default/files/2023-04/ela-report-posting-third-country-nationals.pdf>, S. 18.

6.3 Exceptions for driving personnel in the EU Posting of Workers Directive

Whether drivers fall under the protection of EU posting rules was the subject of legal disputes following the adoption of the first Posting of Workers Directive in December 1996.¹¹³ With the Mobility Package I, which came into force in February 2022, special criteria were established for the posting of lorry and bus drivers, among other things.¹¹⁴ According to this directive, known as ‘Lex Specialis’, temporary agency workers and drivers posted within a group of companies are entitled to the full protection of the EU Posting of Workers Directive – just like all other posted workers in other sectors.

Exceptions to this rule only apply to drivers who transport goods or passengers on the basis of a transport contract between a foreign employer and a domestic client. In the ninth recital of the Posting of Workers Directive, these exceptions are justified on the grounds that, in the case of certain types of transport, there is no ‘sufficient link between the driver and the service provided, and the territory of a host Member State’¹¹⁵. The Posting of Workers Directive essentially distinguishes between four types of road transport¹¹⁶, two of which are considered posting and two of which are not (see Table 5).

Table 5: Types of road transport according to the EU Posting of Workers Directive

Posting		No Posting	
Cabotage	(Non bilateral) cross border transport	Bilateral transports	Transit
Cargo is loaded and unloaded in the same Member State (which is not the carrier's country of establishment).	Cargo is transported between two Member States, neither of which is the State of establishment of the carrier.	Cargo is loaded in the carrier's country of establishment and transported directly to another country (or vice versa).	Crossing one or more Member States, none of which is the carrier's Member State of establishment, without loading or

¹¹³ Regarding the prohibition on crediting expenses towards the minimum wage under the German Minimum Wage Act (MiLoG), see the judgment of the European Court of Justice (First Chamber) of 8 July 2021, Case C-428/19, paragraph 54. Regarding the determination of the actual place of work in Germany, despite the conclusion of the employment contract abroad, see the judgment of the European Court of Justice (Grand Chamber) of 15 March 2011, Case C-29/10, paragraphs 45, 48 and 49. Regarding the application of the MiLoG when the employment contract is concluded abroad but the actual place of work is in Germany, see the judgment of the European Court of Justice (First Chamber) of 15 July 2021, Cases C-152/20 and C-218/20, paragraph 42.

¹¹⁴ Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 (Road Transport Directive).

¹¹⁵ Directive (EU) 2020/1057, Recital (9)

¹¹⁶ For combined transport, where goods are transported by truck, but the majority of the total distance is covered by rail or ship, special rules apply. See Article 1.6 of Directive (EU) 2020/1057; Section 39 of the German Posted Workers Act (AEntG).

			unloading.
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Sources: Art. 1(3), (5) and (7) of Directive (EU) 2020/1057; Sections 37–38 of the German Posting of Workers Act (AEntG)

These regulations are very detailed and too complex for our consulting practice. Apart from the confusing exceptions, the detailed calculation of minimum wage entitlements would require each transport to be divided into transport sections in different countries, accurate to the minute. Within the scope of a single transport, this can sometimes lead to the application of three different minimum protection rights, i.e. three different wage entitlements for the same transport.¹¹⁷

6.4 Temporary employment (agency work)

Cross-border temporary employment (agency work) differs from the traditional form of posting in that a temporary employment agency based in another EU country or a third country assigns an employee to work for a company in Germany (the hirer). The employment relationship continues to exist with the temporary employment agency, while the hiring company has the authority to issue instructions.¹¹⁸ A characteristic feature of temporary employment is that the hiring company has the right to supervise and instruct the temporary workers. In traditional posting, on the other hand, the hirer only has the right to check that the service contract is being properly fulfilled.

This form of worker mobility is subject to several legal provisions. On the one hand, it falls under the Temporary Agency Work Directive, which regulates the principles of temporary agency work at EU level. On the other hand, the EU Posting of Workers Directive applies, as temporary agency workers who are transferred to Germany are considered posted workers. They are therefore entitled to the essential working conditions that apply to comparable German workers, in particular with regard to minimum wage, maximum working hours and paid leave.

In addition, the provisions of the German Temporary Employment Act (AÜG) apply. The AÜG imposes special requirements on cross-border temporary work, including a permit requirement for the temporary employment agency. Companies based in another EU country require a permit from the Federal Employment Agency to send workers to Germany.

¹¹⁷ European Commission/Directorate-General For Mobility And Transport: Questions and Answers on posting of drivers under Directive (EU) 2020/1057 in the context of transport of goods, o. D., https://transport.ec.europa.eu/document/download/52bf10eb-ee5c-4bd9-a3fc-876499c246be_en?filename=guidance-on-posting-of-drivers-transport-of-goods_en.pdf

¹¹⁸ Art. 1.1 Guideline 2008/104/EG on temporary agency work; § 1.1 Arbeitnehmerüberlassungsgesetz (AÜG) [Temporary Employment Act]; Art. 8 Guideline 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship; ECJ judgment of 10 February 2011, C-307/09 (Vicoplus), paragraph 51; ECJ judgment of 18 June 2015, C-586/13 (Martin Meat), paragraph 33.

6.5 Posting notifications

Postings of road transport workers must be reported via the Internal Market Information System (IMI) in accordance with the EU Road Transport Directive.¹¹⁹ However, it is not necessary to submit a posting notification for each individual transport operation that constitutes a new posting. Instead, these notifications can refer to a general period of time. The service recipients in the host country do not have to be registered either.

For this reason, we regularly encounter lorry drivers who carry five or more posting certificates for different European countries in their documents, but each of these certificates refers to the same, unspecific period, for example six months. As a rule, drivers do not know what these certificates are, only that they are supposed to show them during checks. They are not informed about the rights that derive from a posting in case of doubt, and they cannot use these certificates to prove a specific posting.

6.6 Social security

Under the European coordination of social security systems, the sending country usually remains responsible for the health and social security of employees who are posted abroad. In order to prove this to authorities or other supervisory bodies, the A1 form should be applied for on behalf of the posted workers. A1 forms can be issued for work in one or more Member States.¹²⁰ Our experience shows that A1 forms are often not applied for on behalf of lorry drivers, even if they have proof of their posting.¹²¹

6.7 Residence and work permits

Third-country nationals are particularly dependent on their employers, as their residence status in the Schengen area is closely linked to their employment relationship. If they are dismissed and do not find a new job within a very short period of time, they must leave the Schengen area. This connection is often exploited by employers to prevent mobile workers from standing up for their rights.¹²² A double dependency already exists when third-country nationals are only employed and work in one EU Member State. This is because, in order to be allowed to work in the EU, they usually need a visa to enter the country as well as a residence and work permit.

In principle, every EU Member State has the right to issue work permits to third-country nationals.¹²³ However, this right ends at the national borders, as otherwise it would restrict the sovereignty of the other EU Member States. If a third-country national is to be posted from one EU country to another, a special visa for the host country must often be applied for: the so-called Vander Elst visa.¹²⁴

¹¹⁹ Art.1.11 Guideline (EU) 2020/1057. See also European Commission: Internal Market Information System (IMI), https://ec.europa.eu/internal_market/imi-net/index_en.htm
Regulation (EG) Nr. 883/2004.

¹²¹ See also ELA (2025), p. 64.

¹²² See also RTDD (2023), S. 4–5.

¹²³ Art. 79 AEUV.

¹²⁴ Deutsche Vertretungen in Polen: Regelungen zur Visumspflicht für LKW-Fahrer aus Drittstaaten [German Embassy in Poland: Visa Obligations for truck drivers from third countries], o. D., <https://polen.diplo.de/pl->

Example from advising

An Uzbek lorry driver with an employment contract and residence permit from Latvia contacted Fair Mobility. The reason: his monthly wages were significantly lower than promised by his employer. When the driver wanted to contact the trade union about this, his employer replied: ‘Then we will cancel your residence permit and you will be deported.’

Infobox: Vander Elst Visa

The Vander Elst visa dates back to a legal dispute between the Belgian company Vander Elst and the French authorities in the early 1990s. The dispute¹²⁵ centred on the question of whether Moroccan citizens with residence and work permits in Belgium were allowed to carry out demolition work on a French construction site on behalf of their Belgian employer, even though they did not have French work permits. The case was decided by the European Court of Justice. In 1994, Vander Elst won the case with reference to Articles 59 and 60 of the EEC Treaty, which regulated the free movement of services within the European Community.

Based on the ECJ ruling of 1994, the Vander Elst visa, named after the plaintiff at the time, still regulates the provision of services by third-country nationals in an EU or EEA Member State. Accordingly, companies based in the EU or the EEA can temporarily post third-country nationals to provide services within the EU and the EEA without requiring a work permit or other employment authorisations in the host country.¹²⁶ Whether third-country nationals require a residence permit from the host country when posted varies from one EU Member State to another. The term ‘Vander Elst visa’ is ultimately a collective term for various national residence permits that legitimise the residence of posted third-country nationals during their posting. The specific details are left to the individual Member States. Some do not require a Vander Elst visa at all.¹²⁷ The regulations of the Member States also differ with regard to the period of validity of the residence permit issued in this context.¹²⁸

According to information from German customs, the Vander Elst visa is not a residence permit within the meaning of the Residence Act (AufenthG), but rather replaces a work visa within the meaning of the Employment Regulation (BeschV).¹²⁹ It is issued if ‘a foreigner is duly employed in

de/03-service/03-01-visainformationen-de/lkw-fahrer/490702.

¹²⁵ ECJ ruling August 9th, 1994, C-43/93.

¹²⁶ Techniker Krankenkasse: Drittstaaten: Was ist ein Vander-Elst-Visum? [Third countries: What is a Vander Elst Visa?], 24.2.2025, <http://www.tk.de/firmenkunden/service/fachthemen/ausland/vander-elst-visum-2137508>; ELA (2023), p. 16.

¹²⁷ European Parliamentary Research Service: Posting of third-country nationals in the EU, Oktober 2023, [https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/753957/EPRS_ATA\(2023\)753957_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/753957/EPRS_ATA(2023)753957_EN.pdf); ELA (2023), p. 58–61.

¹²⁸ ELA (2023), p. 61.

¹²⁹ Zoll: Übersicht der verschiedenen Aufenthaltstitel. Vander Elst-Visum [Customs: Overview of different residence permits. Vander Elst visa], o. D., https://www.zoll.de/DE/Fachthemen/Arbeit/Aufenthaltstitel/Drittstaatsangehoerige/uebersicht_aufenthaltstitel.html; § 4 AufenthG; § 21 BeschV. Rechtslupe: „Vander Elst-Visum“ – für

a sending country (member state of the European Union or the European Economic Area) and is temporarily working in Germany while retaining his or her employment relationship with the sending employer.¹³⁰ Visas for secondment to Germany are issued by German embassies abroad. According to the above information from customs, the approval of the Federal Employment Agency is not required for this visa to be issued, as stipulated by the German Employment Regulation (“Beschäftigungsverordnung” – BeschV)¹³¹ in other cases.

In contrast to other countries that require a Vander Elst work visa, the Federal Republic of Germany also distinguishes between third-country nationals who have long-term or no residence permits in another EU member state and those who only have short-term residence permits. Long-term residents are exempt from the Vander Elst visa requirement if the posting lasts less than three months within a period of twelve months.¹³² In this case, a Schengen visa issued in the country of employment is sufficient. Truck drivers who only carry out transit journeys in Germany are allowed to stay in Germany for a maximum of 90 days within a 180-day period.¹³³ The Federal Republic of Germany requires a Vander Elst visa in cases where other countries waive this requirement. Furthermore, the specific issuing practice is criticized. On the one hand, the visa must be applied for and issued before entry, while on the other hand, there are sometimes insurmountable bureaucratic obstacles that practically prevent obtaining the visa.¹³⁴ In this context, infringement proceedings were even initiated in January 2026 (INFR(2025)4025)¹³⁵.

All residence regulations relating to the Vander Elst visa require that the work is usually carried out in the country from which the employees are posted. The concept of the ‘regular place of work’ is central to this.¹³⁶ Third-country nationals therefore also encounter residence law problems arising from the usual employment contract structures. Many truck drivers from third countries report that they are formally recruited in EU Member States such as Lithuania, Poland or Slovenia and are also employed under local labour law. However, the companies do not actually conduct any business activities in these countries. The information that they need one or

Dienstleistungen durch einen Drittstaatsangehörigen [„Vander Elst Visa“ – for services provided by third country nationals], 9.9.2019, <https://www.rechtslupe.de/europarecht/vander-elst-visum-fuer-dienstleistungen-durch-einen-drittstaatsangehoerigen-3174803>.

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Zoll (o. D.).

¹³¹ §21 BeschV

¹³² § 2.8 AufenthG [Residence Law]; § 38a AufenthG i. V. m. § 17a Aufenthaltsverordnung (AufenthV) [§38a Residence Law in conjunction with §17a residence ordinance].

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Deutsche Vertretungen in Polen (o. D.).

¹³⁴ Schwarz, Stefan/Marcin Kielbasa: Cases of deportation of Ukrainian citizens duly posted to Germany Legal analysis, October 29th, 2021, https://labourinstitute.eu/wp-content/uploads/2023/04/paper-ELMI_Cases-of-deportation-of-Ukrainian-posted-workers-from-Germany_IV.2023.pdf

¹³⁵ European Commission: Commission asks Germany to comply with EU rules on free movement of services and legally resident third-country nationals, January 30th, 2026, https://ec.europa.eu/commission/presscorner/api/files/document/print/en/inf_26_115/INF_26_115_EN.pdf

¹³⁶ See Auswärtiges Amt: Visumhandbuch [Foreign Ministry: Handbook Visa], Stand: April 2025, <https://www.auswaertiges-amt.de/resource/blob/207816/a0f24b5e2808a52f5f83c069d4b75bc0/visumhandbuch-data.pdf>.

more Vander Elst visas as soon as they are posted is almost always completely new to the drivers we speak to. This suggests that they are systematically being put in a situation where they have to carry out transport operations in other EU Member States without the Vander Elst visas that are actually required for this.

In conversations with truck drivers, we have found that employers are sometimes lax about other requirements as well, putting drivers at risk of being accused of illegal residence and facing the corresponding legal consequences. One example of this irresponsibility is employment in one EU country despite the work and residence permit having been issued in another country. We are aware of cases in which a Kyrgyz lorry driver with a Croatian residence permit and a Lithuanian employment contract, and an Uzbek driver with a Lithuanian residence permit and an undocumented employment relationship, were working in Germany.

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