

Short business trips: The effort is no longer proportional to the benefit!

A typical case: A CEO from a middle sized company (M) based in NRW receives a morning call from an important customer in neighbouring country A. Its production plant is defective and production has stopped. The malfunction is to be rectified as quickly as possible. M promises to send one of its service technicians. Since an order for plant maintenance including software updates has already been received from country B, the technician is to drive to country A by car immediately and process the order in country B on the journey back to home.

Required steps of the HR department (varies according to EU Member State)

- Determination of the respective reporting obligations in country A and B
 - Determine national online portals (normally not in German, but only available in EN)
 - Observe additional sectoral formalities (e.g. work on a construction site)
 - Determine exceptions for posting notification; if not available in country A and B:
 - **Compiling information/documents for the posting notification**, e.g.
 - Name, company details and legal form of the sending company as well as entry in the German Commercial Register
 - Personal details of the legal representative of the company in Germany
 - if necessary, name contact persons for contact person in country A and B (e.g. FRA: "Representant" → first and last name, date and place of birth, e-mail and postal address, company name and telephone number if applicable)
 - Information on the place of work and expected duration
 - Name, date and place of birth, home address and nationality of employee
 - Date of deployment of the technician
 - if applicable, professional qualifications for certain activities
 - If necessary, translation of the documents into the national language(s) (e.g. FR, IT)
- **Check legal basis for passing on personal data (GDPR)**
- **Generating of the posting notification and uploading the documents**
- **Apply for A1 certificates for country A and B from the employee's health insurance**
- **Print out the documents for the employee and hand out to him (translated if necessary):**
 - Posting notification
 - A1 certificates as proof of health insurance or the applications (currently sufficient in most cases, as the A1 certificate is too short-term for health insurersⁱ)
 - Labour contract of the technician
 - Remuneration statement
 - if applicable, valid health certificate of the employee (e.g. in FRA)
- **Determination and observance of labour law obligations in the country of assignment** (e.g. currently minimum wages, compliance with maximum working hours and rest periods, health and safety regulations)

Which duties will the revision of the Posting of Workers Directive add to this by July 2020?

- Determination of the **concrete remuneration provisions** in country A and B (statutory wage components, generally binding or representative collective agreements)
- **Determination of the remuneration package of a comparable employee** (here: technician)
 - Determine relevant collective agreements including all additional allowances for the relevant sector and the respective region (possibly only available in national language)
 - Classify employees into foreign pay scale systems (qualification, length of service, etc.)
 - Comparing the wage package with wage package paid in the German company of M
 - If necessary, adjust remuneration upwards plus payroll adjustment (rarely for Germany).
- Document, translate if necessary, and provide the employee with a remuneration comparison for controls in the host country.

ⁱ In the ongoing revision of regulation 883/2004, the EMPL considers that an application isn't sufficient!