

Transposition of the “posting of workers” directive

The European “posting of workers” directive was recently transposed into Luxembourgish law by an act of 14 March 2017 which lays down new rules against social dumping.

The object of the 2014 directive is twofold, namely to:

- Guarantee posted workers an appropriate level of protection
- Facilitate the freedom to provide services and to promote fair competition between service providers

More specifically, the abuses observed under posting constitute not only social dumping, but also unfair competition practices that distort the proper functioning of the market and penalise companies which comply with social legislation in particular. It is important for the European Union and the Luxembourgish legislator to fight such abuses more effectively.

To that end, the new act of 14 March 2017 puts in place a joint and several liability mechanisms for all companies involved, whether they be companies that post workers or companies established on Grand Ducal territory.

The administrative practice for the “posting of workers” already put in practice is already officialised. It enables companies that post workers to Luxembourg to apply for the social badge electronically.

The list of documents to be produced by the posting company has moreover been expanded for the sake of efficient control so that posted workers can be assured of actual payment of wages due for the number of hours actually worked.

The posted workers are in parallel endowed with efficient recourse mechanisms to lodge a complaint or initiate proceedings before the Luxembourg courts.

The new act moreover establishes a system of administrative fines and penalties that can be enforced beyond borders.

Finally the ITM (Inspection du Travail et des Mines) [Inspectorate of Labour and Mines] can now proceed to close down a work site in the event of labour law shortcomings.

To avoid all risk for the posting company, Securex proposes to guide its customers through the different formalities required in order to comply with the regulations in force.

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