



## Transport: Commission takes legal action against the systematic application of the French and German minimum wage legislation to the transport sector

Brussels, 16 June 2016

**Today, the European Commission decided to take legal action against France and Germany owing to the consequences of the application of their respective minimum wage legislation to the road transport sector.**

While fully supporting the principle of a minimum wage, the Commission considers that the systematic application of the minimum wage legislation by France and Germany to all transport operations touching their respective territories restricts in a disproportionate manner the freedom to provide services and the free movement of goods.

Following an exchange of information with the **French** authorities and a thorough legal assessment of the applicable French legislation, which will become applicable on 1 July 2016, the Commission has decided to send a letter of formal notice to France. This constitutes the first step in the infringement procedure.

In addition, the Commission decided to send a supplementary letter of formal notice to the **German** authorities. This follows the launch of an infringement procedure [in May 2015](#) and subsequent extensive talks with the German authorities with a view to reaching an amicable solution. However, neither the reply of the German authorities to the letter of formal notice nor the subsequent discussions have dispelled the Commission's main concerns.

In both cases, the Commission considers that the application of the minimum wage to certain international transport operations having only a marginal link to the territory of the host Member State cannot be justified, as it creates disproportionate administrative barriers, which prevent the internal market from functioning properly. The Commission considers that more proportionate measures should be taken to safeguard the social protection of workers and to ensure undistorted competition, whilst allowing for free movement of services and goods.

The French and the German authorities now have two months to respond to the arguments put forward by the Commission.

### Background

The Commission supports the principle of a minimum wage, as it ensures social fairness and is in line with the social policy commitment of this Commission. However, as Guardian of the Treaties, the Commission must also ensure that the application of the national measures is fully compatible with EU law. This includes the current posting of workers directive ([Directive 96/71/EC](#)), the Enforcement Directive ([Directive 2014/67/UE](#)) which has to be transposed into national law by 18 June 2016, existing transport legislation and the Treaty principle of freedom to provide services, the free movement of goods, and having regard to the principle of proportionality.

In 2015, **France** adopted a law concerning the application of the French minimum wage to the transport sector. The minimum wage applies to cabotage<sup>[1]</sup> and all international transport operations (transit excluded). The implementing act (décret) was adopted on 7 April 2016 setting out strict enforcement and administrative requirements, including an obligation to establish a representative on the French territory, responsible for keeping the working records and payslips of the posted worker for the purpose of controls, for 18 months following the date of the last posting situation. The law will enter into force on 1 July 2016.

**Germany's** Minimum Wage Act entered into force on 1 January 2015. The law also applies to companies outside Germany that provide services in Germany. Companies outside Germany in certain sectors, including transport, are obliged to notify the German customs authorities via specific forms. Penalties for a breach of these notification obligations can be as high as € 30 000, and € 500 000 in case where the remuneration paid does not comply with the German law.

On 8 March 2016, the Commission proposed a revision of [Directive 96/71/EC](#) on the [posting of workers](#). In addition, forthcoming initiatives for the road transport sector should contribute to more clarity and better enforcement of the rules applicable to employment contracts in the transport sector and may address the specific challenges the application of the provisions of the Posting of Workers

Directive raises in this specific sector.

**For more information:**

- On infringements in the area of [EU mobility and transport](#).
- On the key decisions of the June infringements package, please refer to the full [MEMO/16/2097](#).
- On the general infringement procedure, see [MEMO/12/12](#).
- Information on the [infringement procedures](#).

[1] Cabotage refers to the national carriage of goods carried out by non-resident hauliers on a temporary basis in a host Member State.

IP/16/2101