



CAS/BR4481/JNE

Brussels, 16 June 2016

SEMINAR ON LOI MACRON - SUMMARY

Summary of the information given by the French authorities on Loi Macron during a seminar organised by the French Permanent Representation in Brussels on 9 June.

I.BACKGROUND

As Members were informed, after considerable IRU pressure, the French administration organised a Seminar on *Loi Macron* in Brussels on 9 June 2016 (14:00 - 18:00). IRU was represented by the CAS and CTP Presidents and the IRU Head of Social Affairs. A number of IRU Members were also present.

The representatives of the French administration (Ministry of Transport and the Permanent Representation) gave a general presentation on the aims of the new law and provided sources of information that are yet to be filled with content.

IRU Members are also reminded of the previous communication on *Loi Macron* – see [CAS/BR4317](#)

II.ANALYSIS

In general, the information given lacked details and it was evident that the political decision to introduce *Loi Macron* has not been accompanied by practical instructions to the administration on how to implement and enforce the legislation. Therefore, the presentation and answers had only limited added value for the industry representatives. It is therefore with this limitation that the below-mentioned summary has to be read. The IRU and its Members repeatedly underlined that operators need (and vigorously require) exact instructions in order to comply with (and be responsible for) *Loi Macron*.

IRU reminded the French representatives that more than two months ago, over 40 legal and practical questions on *Loi Macron* were sent to the French State Secretary for Transport, yet without an answer. Given the lack of practical guidance, IRU suggested introducing a moratorium on the controls and organising a similar seminar soon to provide additional information.

Summary of the answers:

1.Scope

It was confirmed that the French administration intends to apply the widest possible interpretation of posting; therefore, *Loi Macron* applies with regard to operators established outside France to:

- all transport operations in the French territory (be it cabotage, point-to-point international transport, cross – trade);
- pure transit operations are exempted (this includes occasional coach transport with tours being made in France without picking up or letting off passengers);
- self-employed drivers are exempted (self-employed status to be proven by presenting an excerpt from a business register);
- own account transports are exempted.

In reply, IRU reminded of the direct contract conditionality, as stipulated by the Posting of Workers Directive (Article 1, par. 3a of Directive 96/71) and of a statement¹ from 1996 of the Council and the Commission regarding the application of the Posting of Workers Directive on highly mobile sectors.

2. Certificate of posting

According to the information given, a form (in French and English) will be available on the dedicated webpage soon.

The certificate for one driver will be valid up to 6 months and **CAN** include more transport operations (i.e. it is to be understood as en bloc registration).

3. Documents on board

A copy of the valid certificate must be kept on board the vehicle for control purposes and/or at the request of competent authorities.

In addition, the following documents must be kept on board the vehicle:

- the employment contract of the driver (translated into French);
- if applicable, a copy translated into French of collective agreements applicable to the employment contract.

4. Obligation to have a representative

Inconclusive information was given. For the French administration, it is important to have a point for contact in case of foreign established hauliers. The representative can be, for example, a haulier or a lawyer who will need to have a complete set of documents should the French authorities want to review a particular case. The representative can be contacted for various issues such as the remuneration of the foreign driver and with respect to the ban on weekly rest in the cabin.

5. Minimum wage calculation

Inconclusive information was given, namely on the structure and admissibility of allowances. The French administration indicated that allowances **MAY NOT** be taken into account when calculating the minimum wage.

Additional information will be published on the dedicated website. If employment (and remuneration) conditions are more favourable to the driver in his or her Member State, *Loi Macron* does not apply in terms of wage, but evidence must be presented (on board or via the representative).

6. Enforcement

Very inconclusive information was given.

Controls should start on 2 July, although the French representatives indirectly admitted that there would be some leniency towards the operators in the first phase.

7. FAQ (no content yet)

<http://www.developpement-durable.gouv.fr/Formalites-declaratives,47857.html>

8. Contact

transportposting@developpement-durable.gouv.fr

III. ACTION

IRU continues to follow the developments concerning *Loi Macron* on a daily basis and will inform Members in case new information becomes available. The Secretariat is also contacting Commissioner Bulc, urging the EC to support the IRU call for a moratorium and to conclude the EU Pilot procedure as soon as possible.

IRU Members are also invited to submit questions and comments directly to the French Authorities using the mailbox above. * * * * *

¹ Council document No 10048/96 SOC 264 CODEC 550, statement No 3.