



# GMS Flash Alert

Immigration Edition

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## Finland - Implementation Status of Revised Posting of Workers Directive

Finland is in the process of implementing the revised European Union (EU) directive for posted workers (2018/957/EU)<sup>1</sup> into its national legislation. Currently, the government proposal for amending the law is under debate in committees.<sup>2</sup>

In the government proposal,<sup>3</sup> the law is proposed to apply immediately, except for changes regarding the online notification submission, which are proposed to take effect on 1 October 2021.

Regarding postings that have started prior to the law's implementation, it is proposed that the terms related to the posting period would apply immediately. Other terms and conditions are proposed to apply after a 12-month transition period, except for the online notification changes that would take effect on 1 October 2021.

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### WHY THIS MATTERS

The revised EU posted workers directive changes the rules and regulations concerning sending employees to other EU member states. The revised directive is expected to be implemented in the national legislation of the EU member states by 30 July 2020.<sup>4</sup>

The revised directive provides that (1) the host country's mandatory elements of remuneration will apply, instead of minimum rates of pay; and (2) after 12 (or 18 months with extension), all the applicable terms and conditions of employment in the host country apply, except for those related to conclusion and termination of the employment contract, including non-competition clauses and supplementary occupational retirement pension schemes. (See KPMG's GMS [Flash Alert 2020-329](#) (27 July 2020) for more information on the revised directive in general.)

The actual implementation and impacts of the directive on postings will vary between EU member states. The revised EU posting of workers directive does not affect social security regulations.

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## Background

In 2018, the EU adopted its new directive (2018/957/EU) revising the posted workers directive (96/71/EC)<sup>5</sup> adopted in 1996.

The original directive of 1996 set the rules for applicable terms and minimum salary in posting situations to the EU member states and was further supplemented with the enforcement directive<sup>6</sup> adopted in 2014. The enforcement directive determined the duty to notify postings, nominate a representative in the host country, and maintain information.

The revised directive adopted in 2018, to be implemented by 30 July 2020, brings changes in remuneration, applying collective bargaining agreements more extensively, and in reimbursing accommodation and costs in certain situations. For long-term postings, after 12 (or 18) months, all the applicable terms and conditions of employment in the host country apply, except for those related to concluding and terminating the employment contract including non-competition clauses and supplementary occupational retirement pension schemes.

Finland has not yet implemented the revised posted workers directive in its national legislation despite the 30 July 2020 deadline. Currently, the government proposal (HE 71/2020 vp) for amending the law is under debate in committees.

## Situation for Posted Workers in Finland

Finland considers employees posted to Finland from another country as posted workers if they perform work under a subcontract, as an internal transfer inside a company, or as a temporary agency worker (regardless of the domicile of the foreign employer or the nationality of the employee). The posting company must notify the authorities about the posting of workers prior to starting work, except for short intra-company transfers.<sup>7</sup>

Finnish legislation does not specify a minimum wage, but the posted workers must be paid at least the wages specified in the relevant universally binding collective agreement in the given sector in the given jurisdiction. In case there is no universally binding collective agreement for the sector and no other agreement or practice in force, the employee must be paid a "usual and reasonable wage."<sup>8</sup>

The posted workers are also subject to several Finnish laws that regulate occupational health and safety, working hours, holidays and non-discrimination, to mention a few.<sup>9</sup>

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### KPMG NOTE

The revised directive is not expected to cause significant changes to postings to Finland, because in Finland, employers posting workers have already had to apply Finnish employment rules and regulations quite extensively, as well as the salary specified in universally binding collective agreements.

Some changes are expected: mainly the online notification of posting of workers, which is proposed to change on 1 October 2021. It is likely that the revised notification will require from employers more detailed information concerning the employees.

As the government proposal is still being debated by legislative committees, it seems likely that the proposal will not be passed by 30 July 2020.

The KPMG International member firm in Finland continues to monitor the matter closely.

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## FOOTNOTES:

- 1 See [Directive \(EU\) 2018/957](#) of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.
- 2 See [Finnish Parliament's summary](#) of the law status (in Finnish).
- 3 See Finnish Government proposal (HE 71/2020 vp) for amending the law on posting of workers (in Finnish).
- 4 For coverage of the revised directive, as well as what other countries are doing to transpose the directive into national law, see the following issues of GMS *Flash Alert*: [2020-329](#) (27 July 2020), [2020-327](#) (23 July 2020), [2020-292](#) (23 June 2020), [2018-111](#) (24 August 2018), and [2017-160](#) (6 November 2017).
- 5 See [Directive 96/71/EC](#) of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.

## FOOTNOTES continued

- 6 See [Directive 2014/67/EU](#) of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation')
- 7 See (in English) the webpage for [Finland's Occupational Safety and Health Administration's instructions on reporting duty](#).
- 8 See (in English) the webpage for [Finland's Occupational Safety and Health Administration's instructions on pay in Finland](#).
- 9 See (in English) the webpage for [Finland's Occupational Safety and Health Administration's instructions on applicable legislation in Finland](#).

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