

**Question for written answer E-004635/2018
to the Commission**

Rule 130

Dominique Martin (ENF)

Subject: Posted workers: the Advocate General of the European Court of Justice gives blessing to the replacement of local workers

In Austrian abattoirs, meat was cut by 250 posted workers from the Hungarian company Martimpex-meat from 2012 to 2014. These Hungarian 'butchers' were replaced by 'other' Hungarian butchers, who had been posted previously, from Martin-Meat, 'another' Hungarian company also headquartered at 69 Korut Street in Budapest.

On the basis of the 'Putin replaces Medvedev who replaces Putin' principle, the Advocate General concluded that no 'replacement' of workers had taken place¹. Therefore, these butchers pay social security contributions to their country of origin, despite Article 12 of Regulation 883/2004 stating that this exception is only valid if the person is sent to replace another posted worker.

The Court also confirms that courts in the host country are not empowered to check the validity of an A1 certificate (formerly E101) certifying social security affiliation in the country of origin. Worse still, this is applicable even retroactively and even if the Administrative Commission for the Coordination of Social Security Systems between European countries has concluded that they were invalid.

This marks the end of 'lex loci laboris'. First we had the abandonment of jus sanguinis, now jus soli.

Which countries are ignoring the recommendations of the Administrative Commission for the Coordination of Social Security Systems²?

¹ Item 96:

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d0f130dceac0be60f0c149de897ce629fac104e1.e34KaxiLc3eQc40LaxqMbN4Pb3yRe0?text=&docid=198887&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=339802#Footnote10>

² Number of proceedings initiated by country; number of recommendations applied by country; countries which have most often refused to cancel or to withdraw A1 certificates following a recommendation.