Amendment 205
Marita Ulvskog
on behalf of the Committee on Employment and Social Affairs

Report
Merja Kyllönen
Enforcement requirements and specific rules for posting drivers in the road transport sector

Proposal for a directive
Article 2 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Member States shall apply Directives 96/71/EC and 2014/67/EU for the entire period of posting to their territory of drivers in the road transport sector employed by undertakings referred to in points (a), (b) and (c) of Article 1(3) when performing road haulage legs of combined transport as referred to in Article 4 of Directive 92/106/EEC.

Or. en
Amendment 206
Marita Ulvskog
on behalf of the Committee on Employment and Social Affairs

Report
Merja Kyllönen
Enforcement requirements and specific rules for posting drivers in the road transport sector

Proposal for a directive
Article 2 – paragraph 3 b (new)

Text proposed by the Commission

3b. For the purposes of points (b) and (c) of the first subparagraph of Article 3(1) of Directive 96/71/EC, where operations are conducted in more than one Member State on the same day, the terms and conditions of employment that are the most favourable to the posted driver shall apply.

Amendment

Or. en
4. Member States **may only** impose the following administrative requirements and control measures:

(a) an obligation for the road transport operator established in another Member State to send a posting declaration to the national competent authorities at the latest at the commencement of the posting, in electronic form, **in an official language of the host Member State or in English**, containing only the following information:

(i) the identity of the road transport operator;

(ii) the contact details of a transport manager or other contact person(s) in the Member State of establishment to liaise with the competent authorities of the host Member State, in which the services are

(i) the identity of the road transport operator **and, in the case of a subsidiary, the address of the headquarter**;

(ii) the contact details of a transport manager or other contact person(s) in the Member State of establishment to liaise with the competent authorities of the host Member State, in which the services are
provided and to send out and receive documents or notices;

(iii) **the anticipated number and the identities of** posted drivers;

(iv) **the anticipated duration**, envisaged beginning and end date of the posting;

(v) the number plates of vehicles used in posting;

(vi) the type of transport services, that is to say carriage of goods, carriage of passengers, international carriage, cabotage operation;

(b) an obligation for the **driver to keep and make available, where requested at the roadside control**, in paper or electronic form, a copy of the posting declaration and evidence of transport operation taking place in the host Member State, **such as an electronic consignment note (e-CMR) or evidence** referred to in Article 8 of Regulation (EC) No 1072/2009 of the European Parliament and of the Council.

The simple declaration referred to in the first subparagraph may cover a maximum period of six months and shall be updated electronically by the road transport operator in line with the current factual situation without undue delay.

4a. Member States may additionally impose the following administrative requirements and control measures:

(a) an obligation for the **road transport operator to provide the driver with the following documents, in paper or electronic form, for the purpose of roadside checks:**

(i) a copy of the **simple declaration referred to in paragraph 4.**

(ii) evidence of transport operation taking place in the host Member State as referred to in Article 8 of Regulation (EC) No 1072/2009 of the European Parliament
(c) an obligation for the driver to keep and make available, where requested at the roadside control, the tachograph records, and in particular the country codes of Member States where the driver has been present when carrying out international road transport operations or cabotage operations;

(d) a copy of the employment contract or an equivalent document within the meaning of Article 3 of Council Directive 91/533/EEC, translated into one of the official languages of the host Member State or into English;

(e) an obligation for the driver to make available, where requested at the roadside control, in paper or electronic form, a copy of payslips for the last two months; during the roadside check, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may provide this copy;

(f) an obligation for the road transport operator to deliver, after the period of posting, in paper or electronic form, copies of documents referred to in points (b), (c) and (e), at the request of the authorities of the host Member State within a reasonable period of time;

(c) an obligation for the road transport operator to deliver, after the period of posting, in paper or electronic form, copies of documents referred to in points (a) and (b), including copies of relevant pay slips, at the request of the authorities of the host Member State without undue delay.


(iii) the electronic consignment note (e-CMR)

(iv) a copy of the employment contract in an official language of the host Member State, or in English;

(v) a copy of the payslips for the past two months;

(b) an obligation for the driver to keep and make available, where requested at the roadside control, the relevant tachograph records, and in particular the driver card with the recorded border crossings and country codes of Member States where the driver has been present when carrying out international road transport operations or cabotage operations;
Amendment 208
Marita Ulvskog
on behalf of the Committee on Employment and Social Affairs

Report
Merja Kyllönen
Enforcement requirements and specific rules for posting drivers in the road transport sector

Proposal for a directive
Article 2 – paragraph 4 b (new)

Text proposed by the Commission

4b. Member States may impose other administrative requirements and control measures, in the event that situations or new developments arise from which it appears that existing administrative requirements and control measures are not sufficient or efficient to ensure effective monitoring of compliance with the obligations set out in Directive 96/71/EC, [Directive 2014/67/EU] and in this Directive, provided that these are justified and proportionate.

Amendment

Or. en
Amendment 209
Marita Ulvskog
on behalf of the Committee on Employment and Social Affairs

Report
Merja Kyllönen
Enforcement requirements and specific rules for posting drivers in the road transport sector

Proposal for a directive
Article 2 – paragraph 4 c (new)

Text proposed by the Commission

4c. Member States shall communicate to the Commission and inform service providers of any measures referred to in paragraph 4a that they apply or that have been implemented by them. The Commission shall communicate those measures to the other Member States. The information for the service providers shall be made generally available on the single official national website referred to in Article 5 of Directive 2014/67/EU. The Commission shall monitor the application of the measures referred to in paragraph 4c, evaluate their compliance with Union law and shall, where appropriate, take the necessary measures in accordance with its competence under the TFEU. The Commission shall report regularly to the Council on measures communicated by Member States and, where appropriate, on the state of play of its analysis or assessment.

Amendment

Or. en
Amendment 210
Marita Ulvskog
on behalf of the Committee on Employment and Social Affairs

Report
Merja Kyllönen

Proposal for a directive
Article 2 – paragraph 4 d (new)

Text proposed by the Commission

Amendment

4d. Evidence referred to in points (a), (b) and (c) of Article 2(4a) shall be kept on board the vehicle and presented to the authorised inspecting officers of the Member State hosting the posted driver during the roadside check.

Or. en
21.3.2019 A8-0206/211

Amendment 211
Marita Ulvskog
on behalf of the Committee on Employment and Social Affairs

Report A8-0206/2018
Merja Kyllönen

Proposal for a directive
Article 2 – paragraph 4 e (new)

<table>
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<tr>
<th>Text proposed by the Commission</th>
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<tr>
<td>4e. For the purpose of assessing whether the provisions of Directives 96/71/EC and 2014/67/EU are met, the competent authorities of the host Member State shall verify the following during roadside checks:</td>
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<td>(a) the tachograph data of the current day and that of the previous 56 days;</td>
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<tr>
<td>(b) the electronic consignment notes of the current day and of the previous 56 days;</td>
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<td>(c) the documents referred to in points (a), (b) and (c) of paragraph 4a.</td>
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<tr>
<td>The roadside check authorities shall transmit all information referred to in the above paragraph to the competent authorities of the Member State responsible for assessing compliance with Directives 96/71/EC and 2014/67/EU.</td>
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<td>In order to facilitate the implementation of this Directive, the competent authorities of the Member States shall cooperate with mutual assistance and all relevant information, within the conditions laid down in Directive 2014/67/EU and in Regulation (EC) No 1071/2009.</td>
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For the purpose of increasing the effectiveness of cross-border enforcement and of targeted checks, the Member States shall provide access in real time to all relevant authorised inspecting authorities, to the IMI, to the national electronic registers established by Regulation (EC) No 1071/2009, to the simple declarations referred to in paragraph 4 of this Article, and to any other relevant databases.

Justification

Posting of workers cannot entirely be checked at the roadside, as the roadside control authorities do not have the primary competence and knowledge to evaluate posting situations. However, roadside checks can play a key role in the enforcement of posting of workers rules in road transport, if adequately combined with company checks by labour and transport authorities. Thus roadside checks are meant to collect the data relevant to posting and transmit it to the competent authorities of the Member State where the check takes place, which will engage an exchange of information with its counterparts from across the EU. This is an effective combination of momentary and cross-border controls to deal with mobile nature of the sector.
Amendment 212  
Marita Ulvskog  
on behalf of the Committee on Employment and Social Affairs

Report  
Merja Kyllönen  
Enforcement requirements and specific rules for posting drivers in the road transport sector  

Proposal for a directive  
Article 2 – paragraph 4 f (new)

Text proposed by the Commission  

Amendment

4f. A Union list of road hauliers that do not meet the relevant legal requirements shall be made public in order to ensure the greatest transparency. This Union list shall be based on common criteria developed at Union level and reviewed annually by the European Labour Authority. Road Hauliers listed on the Union list shall be subject to an operating ban. The operating prohibitions on the Union list shall apply throughout the territory of the Member States. In exceptional cases, Member States may take unilateral measures. In an emergency, and when faced with an unforeseen security problem, Member States shall have the possibility of immediately issuing an operating ban for their own territory.
Amendment 213
Marita Ulvskog
on behalf of the Committee on Employment and Social Affairs

Report
Merja Kyllönen
Enforcement requirements and specific rules for posting drivers in the road transport sector

Proposal for a directive
Article 2 – paragraph 5

Text proposed by the Commission

Amendment

5. For the purposes of point (a) of paragraph 4 the road transport operator may provide a posting declaration covering a period of a maximum of six months.

deleted

Or. en

Justification

A posting declaration for a group of drivers and all types of transport for a period of six months does not have any added value for enforcement as it includes only very general information on basis of which enforcers cannot make an assessment over genuineness of posting. On the contrary, a posting declaration per driver and per posting situation provides a genuine and enforceable link between a transport operation on the one hand, the driver and vehicle engaged in it on the other hand. This is the only way to eliminate potential abuses.
Amendment 214
Marita Ulvskog
on behalf of the Committee on Employment and Social Affairs

Report
Merja Kyllönen
Enforcement requirements and specific rules for posting drivers in the road transport sector

Proposal for a directive
Article 2 – paragraph 5 a (new)

Text proposed by the Commission

5a. The competent authorities in the Member States shall cooperate closely and shall provide each other with mutual assistance and all relevant information, within the conditions laid down in Directive 2014/67/EU and in Regulation (EC) No 1071/2009.

Amendment

Or. en