22.3.2019

Amendment 751
Andrey Novakov

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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<tr>
<td>When <em>the period of posting is longer than 3 days</em>, Member States shall apply points (b) and (c) of the first subparagraph of Article 3 (1) of Directive 96/71/EC for the entire period of posting to their territory during the period of one calendar month referred to in the first subparagraph.</td>
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<th>Amendment</th>
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<td>A driver shall not be considered to be posted within the meaning of Directive 96/71/EC when performing bilateral international operations.</td>
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</table>

For the purpose of this Directive, a bilateral transport operation in relation to goods is the movement of goods on the basis of a transport contract from the Member State of establishment as defined in Article 2(8) of Regulation (EC) No 1071/2009 or from a third country or from the first crossing point of the EU external border to another Member State or a third country, or from another Member State or third country to the Member State of establishment.

2(a) Member States shall also apply the exemption set out in Article 2 in relation to goods carriage when a driver performs up to ten international cross-trade operations within a one month period. Such operations are deemed to be performed during the outward journey or following the last bilateral international transport operation or during the inbound journey to the Member State of establishment.

2(ab) For the purpose of this Directive, an international cross-border transport operation is the movement of goods, on the basis of a transport contract, between
two different Member States other than the Member State of establishment of the undertaking carrying out the operation. When the conditions specified in Article 2(a) are not fulfilled, Member States shall apply Article 3 of Directive 96/71/EC for the entire period of posting to their territory in connection with the performance of international cross-trade transport operations.

2(b) A driver engaged in international occasional or regular carriage of passengers, as defined in Regulation (EC) No 1073/2009, shall not be considered to be posted for the purpose of Directive 96/71/EC when: collecting passengers in the Member State of establishment and delivering them to another Member State or a third country; collecting passengers in a Member State or a third country and delivering them to the Member State of establishment; or collecting and setting down passengers in the Member State of establishment for the purpose of local excursions, as defined in Regulation (EC) No 1073/2009.

2(c) A driver engaged in cabotage, as defined in Regulations 1072/2009/EC and 1073/2009/EC, shall be considered a posted driver under Directive 96/71/EC. Notwithstanding Article 2(1) of Directive 96/71/EC, a driver shall not be considered posted to the territory of a Member State when that driver transits through without loading or unloading freight and without picking up or setting down passengers.

2(d) Where the driver is performing the initial or final road leg of a combined transport operation as defined in Directive 92/106/EEC, that driver shall not be considered posted for the purpose of Directive 96/71/EC if the road leg on its own consists of bilateral transport operations as defined in paragraph 2.

2(e) Member States shall ensure that, in line with Directive 2014/67/EU, the
conditions governing hiring referred to in Article 3 of Directive 96/71/EC and laid down in collective agreements in accordance with Article 3(1) and (8) of that Directive are made available in an accessible and transparent way to transport undertakings from other Member States and to posted drivers. The relevant information shall, in particular, cover the different remunerations and their constituent elements, including elements of remunerations provided for in locally or regionally applicable collective agreements, the method used to calculate the remuneration due and, where relevant, the qualifying criteria for classification in the different wage categories. In accordance with Directive (EU) 2018/957 amending Directive 96/71/EC transport undertakings shall not be penalised for non-compliance with elements of remuneration, the method used to calculate the remuneration due and, where relevant, the qualifying criteria for classification in the different wage categories which are not publically accessible.

2(f) Transport undertakings established in third countries shall not be treated preferentially to those established in the Member States. Member States shall implement equivalent measures to Directive 96/71/EC and this Directive [XX/XX] (lex specialis) in their bilateral agreements with third countries when granting access to the EU market to road transport undertakings established in such third countries. Member States shall also strive to implement such equivalent measures in the context of multilateral agreements with third countries. Member States shall communicate the relevant provisions of their bilateral and multilateral agreements with third countries to the Commission. For the purpose of ensuring proper control of these equivalent measures on posting by
third country operators, Member States shall ensure that the revised rules in Regulation (EU) XXX/XXX as regards positioning by means of tachograph [Regulation modifying Regulation 165/2014] are implemented in the framework of the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR).

Or. bg
Amendment 752
Andrey Novakov

Report
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Proposal for a directive
Article 2 – paragraph 3 – point b

Text proposed by the Commission
(b) a daily working period of six hours 

Amendment
(b) a daily working period of longer 

than six hours spent in the territory of a host Member State shall be considered as a full day;

Or. bg
22.3.2019 A8-0206/753

Amendment 753
Andrey Novakov

Report A8-0206/2018
Merja Kyllönen

Proposal for a directive
Article 2 – paragraph 3 – point c

*Text proposed by the Commission*

(c) breaks and rest periods *as well as* periods of availability spent in the territory of a host Member State shall be considered as working period.

*Amendment*

(c) breaks and rest periods *outside* periods of availability spent in the territory of a host Member State shall *not* be considered as working period.

Or. bg
(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.

(b) an obligation for the driver to keep and make available, where requested at the roadside control, in paper or electronic form, without this leading to any increase in unnecessary red tape, 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.

Or. bg
(d) 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 employment contract or an equivalent document within the meaning of Article 3 of Council Directive 91/533/EEC\(^{20}\), translated into one of the official languages of the host Member State or into English;

Amendment 756
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Report
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Enforcement requirements and specific rules for posting drivers in the road transport sector

Proposal for a directive
Article 2 – paragraph 4 – point e

Text proposed by the Commission

(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 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;

Amendment

(e) an obligation for the driver to make available, where requested at the roadside control, in paper or electronic form, a copy of their last month’s payslip; 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;

Or. bg
22.3.2019

Amendment 757
Andrey Novakov

Report
Merja Kyllönen

Proposal for a directive
Article 2 – paragraph 4 – point f

Text proposed by the Commission

(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;

Amendment

(f) an obligation for the road transport operator to deliver, after the period of posting, in paper or electronic form, copies of the 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 approved by both sides;

Or. bg