2. **Member States** shall not apply points (b) and (c) of the first subparagraph of Article 3 (1) of Directive 96/71/EC to drivers in the road transport sector employed by undertakings referred to in Article 1(3)(a) of that Directive, when performing international carriage operations as defined by Regulations 1072/2009 and 1073/2009 where the period of posting to their territory to perform these operations is shorter than or equal to 3 days during a period of one calendar month.

**Amendment 758**


Report
Merja Kyllönen


Proposal for a directive

Article 2 – paragraph 2 – subparagraph 1

**Text proposed by the Commission**

2. **Member States** shall not apply points (b) and (c) of the first subparagraph of Article 3 (1) of Directive 96/71/EC to drivers in the road transport sector employed by undertakings referred to in Article 1(3)(a) of that Directive, when performing international carriage operations as defined by Regulations 1072/2009 and 1073/2009 where the period of posting to their territory to perform these operations is shorter than or equal to 3 days during a period of one calendar month.

**Amendment**

2. A driver shall not be considered to be posted for the purpose of Directive 96/71/EC when performing bilateral international transport operations. For the purpose of this Directive, a bilateral transport operation in respect of goods is the movement of goods, based on a transport contract, from the Member State of establishment, as defined in Article 2(8) of Regulation (EC) No 1071/2009 or from 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.

2a. **Member States** shall also apply the exemption set out in art. 2 in respect of goods transport when: - the driver performing up to ten international cross trade operations in total within a period of...
one month. Those operations are performed during the outbound journey or following the last bilateral international transport operation or during the return journey to the Member state of establishment.

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

2c. 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: - picking up passengers in the Member State of establishment and setting them down in another Member State or a third country; or - picking up passengers in a Member State or a third country and setting them down in the Member State of establishment; or - picking up and setting down passengers in the Member State of establishment for the purpose of local excursions, as defined in Regulation (EC) No 1073/2009.

2d. A driver performing cabotage as defined by Regulations (EC) No 1072/2009 and 1073/2009 shall be considered to be posted under Directive 96/71/EC.

2e. Notwithstanding Article 2(1) of Directive 96/71/EC, a driver shall not be considered to be posted to the territory of a Member State that the driver transits through without loading or unloading
freight and without picking up or setting down passengers.

2f. Where the driver is performing the initial or final road leg of a combined transport operation as defined in Directive 92/106/EEC, the 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.

2g. Member States shall ensure that, in line with Directive 2014/67/EU, terms and conditions of employment referred to in Article 3 of Directive 96/71/EC, which are 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 the 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/EU 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 available.

2h. Transport undertakings established in a non-member State must not be given more favourable treatment than undertakings established in a Member State. Member States shall implement equivalent measures to Directive 96/71/EC and this Directive.
United in diversity

[XXX] (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 notify the relevant provisions of their bilateral and multilateral agreements with third countries to the Commission. For the purpose of ensuring adequate 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. en
Amendment 759

Report A8-0206/2018
Merja Kyllönen

Proposal for a directive
Article 2 – paragraph 2 – subparagraph 2

Text proposed by the Commission

When the period of posting is longer than 3 days, 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.

Amendment

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Or. en