REPORT


Committee on Transport and Tourism

Rapporteur: Merja Kyllönen

Rapporteur for the opinion (*):
Martina Dlabajová, Committee on Employment and Social Affairs

(* ) Associated committee – Rule 54 of the Rules of Procedure
### Symbols for procedures

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(The type of procedure depends on the legal basis proposed by the draft act.)

### Amendments to a draft act

#### Amendments by Parliament set out in two columns

Deletions are indicated in **bold italics** in the left-hand column. Replacements are indicated in **bold italics** in both columns. New text is indicated in **bold italics** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### Amendments by Parliament in the form of a consolidated text

New text is highlighted in **bold italics**. Deletions are indicated using either the symbol or strikeout. Replacements are indicated by highlighting the new text in **bold italics** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.
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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION


(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2017)0278),
– having regard to Article 294(2) and Article 91(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0170/2017),
– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
– having regard to the opinion of the European Economic and Social Committee of 18 January 2018¹,
– having regard to Rule 59 of its Rules of Procedure,
– having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Employment and Social Affairs (A8-0206/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its president to forward its position to the Council, the Commission and the National Parliaments;

Amendment 1

Proposal for a directive
Title 1

Text proposed by the Commission Amendment
Proposal for a Proposal for a
DIRECTIVE OF THE EUROPEAN DIRECTIVE OF THE EUROPEAN

¹ Not yet published in the Official Journal.

Amendment 2
Proposal for a directive
Recital -1 (new)

Text proposed by the Commission

-Amendment

(-1) Given the high mobility of workforce in the road transport sector, sector-specific rules are needed to ensure the balance between the freedom to provide cross-border services for operators, the free movement of goods and the social protection of drivers. Therefore, the aim of this directive is to provide legal certainty and clarity, to contribute to the harmonization and fostering of enforcement and to the fight against illegal practices and lower administrative burden.

Amendment 3
Proposal for a directive
Recital 1

Text proposed by the Commission

-Amendment

(1) In order to create a safe, efficient and socially responsible road transport sector it is necessary to ensure adequate working conditions and social protection for drivers, on the one hand, and suitable business and fair competition conditions for operators, on the other.
while respecting the fundamental freedoms, the free movement of goods and the freedom to provide services in particular as guaranteed by the Treaties.

Amendment 4

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Any national rules applied to road transport must be proportionate and justified and must not hinder or make less attractive the exercise of fundamental freedoms guaranteed by the Treaty, such as the freedom of movement of services, in order to maintain or increase the competitiveness of the Union, whilst respecting the working conditions and social protection for the drivers.

Amendment 5

Proposal for a directive
Recital 2

Text proposed by the Commission

Amendment

(2) The inherent high mobility of road transport services requires particular attention in assuring that drivers benefit from the rights to which they are entitled and that operators are not faced with disproportionate administrative barriers unduly restricting their freedom to provide cross-border services.

(2) The inherent high mobility of road transport services requires particular attention in assuring that drivers benefit from the rights to which they are entitled and that operators, most (90%) of which are SMEs with fewer than 10 workers, are not faced with disproportionate administrative barriers or abusive and discriminatory controls, unduly restricting their freedom to provide cross-border services.

Amendment 6

Proposal for a directive
Recital 2 a (new)
(2a) Any national rules applied to road transport must be proportionate as well as justified and must not hinder or make less attractive the exercise of fundamental freedoms guaranteed by the Treaty, such as the free movement of goods and the freedom to provide services in order to maintain or even increase the competitiveness of the Union, including the costs of products and services by respecting the working conditions and social protection for drivers as well as respecting the specificities of the sector since drivers are highly mobile workers, not posted workers.

Amendment 7
Proposal for a directive
Recital 3

(3) The balance between enhancing social and working conditions for drivers and facilitating the exercise of the freedom to provide road transport services based on fair competition between national and foreign operators is crucial for the smooth functioning of the internal market.

Amendment

(3) The balance between enhancing social and working conditions for drivers and facilitating the exercise of the freedom to provide road transport services based on fair, proportionate, non-discriminatory competition between national and foreign operators is crucial for the smooth functioning of the internal market. Any piece of national legislation or policy for implementation at national level in the transport sector must therefore be conducive to the development and strengthening of the single European transport area and in no way contribute to the fragmentation of the internal market.

Amendment 8
Proposal for a directive
Recital 4
Having evaluated the effectiveness and efficiency of the current Union social legislation in road transport, certain loopholes in the existing provisions and deficiencies in their enforcement were identified. Furthermore, a number of discrepancies exist between Member States in interpretation, application and implementation of the rules. This creates legal uncertainty and unequal treatment of drivers and operators, which is detrimental to the working, social and competition conditions in the sector.

Amendment 9

Proposal for a directive
Recital 4 a (new)

In order to ensure that Directives 96/71/EC\(^1\) and 2014/67/EU\(^2\) of the European Parliament and of the Council are correctly applied, controls and cooperation at Union level to combat fraud relating to the posting of drivers should be strengthened, and stricter checks should be carried out to ensure that social contributions for posted drivers are actually paid.

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Amendment 10
Proposal for a directive
Recital 5

Text proposed by the Commission  

(5) Adequate, effective and consistent enforcement of the working time provisions is crucial for protecting the working conditions of drivers and preventing the distortions of competition resulting from non-compliance. Therefore it is desirable to extend the existing uniform enforcement requirements set out in Directive 2006/22/EC to controlling compliance with the working time provisions set out in Directive 2002/15/EU.

Amendment  

(5) Adequate, effective and consistent enforcement of the working time and rest time provisions is crucial for improving road safety, protecting the working conditions of drivers and preventing the distortions of competition resulting from non-compliance. Therefore it is desirable to extend the existing uniform enforcement requirements set out in Directive 2006/22/EC to controlling compliance with the working time provisions set out in Directive 2002/15/EU. The possibility of combining checks on driving time and working time with checks on rules on posting of drivers should be also available without additional administrative burden. Checks of compliance with working time should be limited to checks carried out at the premises of transport operators until technology is available that allows the checks on working time to be carried out effectively at the roadside.

Amendment 11
Proposal for a directive
Recital 5 a (new)
(5a) Having in mind the specific character of transport services and the direct impact on the free movement of goods, with special focus on road safety and security, roadside checks should be limited to the minimum. Drivers should not be liable for additional administrative obligations of their respective companies. Rules on working time should be controlled at the premises of the transport operator only.

Amendment 12
Proposal for a directive
Recital 5 b (new)

Text proposed by the Commission

(5b) In order to allow more efficient, faster and more numerous roadside checks while reducing the administrative burden on drivers, compliance with Directive 2002/15/EC should be verified in the context of inspections on company premises rather than roadside checks.

Amendment 13
Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

(6 a) With a view to fostering effective administrative cooperation and an effective exchange of information, Member States should interconnect their national electronic registers (NER) through the European Register of Road Transport Undertakings (ERRU) system, with a legal basis in Article 16(5) of Regulation (EC) No 1071/2009. Member States should take all necessary measures to ensure that the national electronic registers are interconnected, so that the competent authorities of the Member States, including road inspectors, can
have direct real-time access to the data and information in the ERRU.

Amendment 14
Proposal for a directive
Recital 6 b (new)

Text proposed by the Commission

(6 b) To facilitate better and more uniform application of the minimum conditions for the implementation of Regulation (EC) No 561/2006, Regulation (EU) No 165/2014 and Directive 2002/15/EC, and to facilitate road transport operators' compliance with administrative requirements when posting drivers, the Commission should develop one or several modules of IMI for submitting declarations in posting and electronic application that will provide inspectors direct real-time access to the ERRU and IMI during roadside checks.

Amendment 15
Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

(7 a) In order to ensure a fair competition and level playing field for workers and business there is a need to make progress towards smart enforcement and to provide all possible support for the full introduction and use of risk-rating systems. To this end, the enforcement authorities need to be given real-time access to national electronic registers (NERs), while making maximum use of the European Register of Road Transport Undertakings (ERRU).
Amendment 16
Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

(8a) Rules for the posting of workers applicable to road transport activities should be balanced, simple, and with a low administrative burden for Member States and transport undertakings. They should not aim to discourage operations outside the country of establishment of an undertaking.

Amendment 17
Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Difficulties have also been experienced in applying the rules on posting of workers specified in Directive 96/71/EC of the European Parliament and of the Council\(^\text{15}\) and the rules on the administrative requirements laid down in Directive 2014/67/EU of the European Parliament and of the Council\(^\text{16}\) to the highly mobile road transport sector. The uncoordinated national measures on the application and enforcement of the provisions on posting of workers in the road transport sector have generated high administrative burdens for non-resident Union operators. This created undue restrictions to the freedom to provide cross-border road transport services having negative side-effects on jobs.

Amendment

(9) Difficulties have also been experienced in applying the rules on posting of workers specified in Directive 96/71/EC of the European Parliament and of the Council\(^\text{15}\) and the rules on the administrative requirements laid down in Directive 2014/67/EU of the European Parliament and of the Council\(^\text{16}\) to the highly mobile road transport sector. The uncoordinated national measures on the application and enforcement of the provisions on posting of workers in the road transport sector have generated **legal uncertainty**, **distortions of competition in the transport sector** and high administrative burdens for non-resident Union operators. This created undue restrictions to the freedom to provide cross-border road transport services having negative side-effects on jobs and **the competitiveness of transport companies**. Administrative requirements and control measures need to be harmonised to prevent carriers from suffering unnecessary or arbitrary delays.


Amendment 18

Proposal for a directive
Recital 9 a (new)

*Text proposed by the Commission*

(9 a) Member States should exchange data and information, engage in administrative cooperation and provide mutual assistance via the Internal Market Information System (IMI) – whose legal basis is provided by Regulation (EU) No 1034/2012 – with a view to ensuring full compliance with the rules. Similarly, the IMI should be used to submit and update posting declarations between transport operators and the competent authorities of the receiving Member States. In order to achieve this latter objective, it would be necessary to develop a parallel public interface within the IMI system to which transport operators would have access.

Amendment 19

Proposal for a directive
Recital 9 b (new)
Text proposed by the Commission

(9 b) All actors in the delivery chain for goods should bear their fair share of responsibility for infringements of the rules provided for in this Directive. This should be the case where the actor have actually known of infringements or where, in the light of all the relevant circumstances, they ought to know of them.

Amendment 20
Proposal for a directive
Recital 9 c (new)

Text proposed by the Commission

(9 c) In order to ensure that control measures for the posting of drivers in the road transport sector are correctly applied as defined by Directives 96/71/EC and 2014/67/EU, controls and cooperation at Union level to tackle fraud relating to the posting of drivers should be strengthened.

Amendment 21
Proposal for a directive
Recital 9 d (new)

Text proposed by the Commission

(9 d) Contractors should be encouraged to act with social responsibility by using transport operators that comply with the rules provided for by this Directive. To make it easier for contractors to find such transport operators, the Commission should assess existing instruments and best practices promoting socially responsible behaviour of all actors in the delivery chain for goods with a view to establishing a European platform of trusted transport companies, if
Amendment 22
Proposal for a directive
Recital 10 a (new)

Amendment

Text proposed by the Commission

(10a) Given the fact that there is a lack of drivers in Europe, working conditions should be significantly improved in order to increase the attractiveness of the profession.

Amendment 23
Proposal for a directive
Recital 11

Amendment

Text proposed by the Commission

(11) In order to ensure the effective and proportionate implementation of Directive 96/71/EC in the road transport sector, it is necessary to establish sector-specific rules reflecting the particularity of the highly mobile workforce in the road transport sector and providing a balance between the social protection of drivers and the freedom to provide cross-border services for operators.

Provisions on the posting of workers, in Directive 96/71/EC, and on the enforcement of those provisions, in Directive 2014/67/EU should apply to road transport sector under the terms of this Directive.

Amendment 24
Proposal for a directive
Recital 12

Amendment

Text proposed by the Commission

(12) Such balanced criteria should be
based on a concept of a sufficient link of a driver with a territory of a host Member State. **Therefore, a time threshold should be established, beyond which the minimum rate of pay and the minimum annual paid holidays of the host Member State shall apply** in case of international transport operations. This time threshold should not apply to cabotage operations as defined by Regulations 1072/2009\(^{18}\) and 1073/2009\(^{19}\) since the entire transport operation is taking place in a host Member State. As a consequence, the **minimum rate of pay and the minimum annual paid holidays of the host Member State** should apply to cabotage irrespective of the frequency and duration of the operations carried out by a driver.

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**Amendment 25**

**Proposal for a directive**

**Recital 12 a (new)**

**Text proposed by the Commission**

(12a) **The Directive 96/71/EC should apply to cabotage operations as defined by Regulations (EC) No 1072/2009 and 1073/2009 since the entire transport operation is taking place in a host Member State and there is a direct competition with local undertakings. As a consequence Directive 96/71/EC should**

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apply to cabotage irrespective of the frequency and duration of the operations carried out by a driver.

**Amendment 26**

Proposal for a directive
Recital 12 b (new)

*Text proposed by the Commission*

(12b) Since there is no sufficient link of a driver with a territory of a Member State of transit, transit operations should not be considered as posting situations.

**Amendment 27**

Proposal for a directive
Recital 12 c (new)

*Text proposed by the Commission*

(12c) Road transport is a highly mobile sector and requires a common approach to certain aspects of remuneration in the sector. Transport undertakings need legal certainty about the rules and requirements with which they have to comply. Those rules and requirements should be clear, understandable and easily accessible to transport undertakings, and should enable effective checks. It is important that new rules do not introduce unnecessary administrative burden and that they duly take into account the interests of SMEs.

**Amendment 28**

Proposal for a directive
Recital 13

*Text proposed by the Commission*

(13) In order to ensure effective and efficient enforcement of the sector-specific...
rules on posting of workers and to avoid disproportionate administrative burdens for non-resident operators sector, specific administrative and control requirements should be established in the road transport sector, taking full advantage of control tools such as the digital tachograph. With a view to minimising the complexity of the obligations laid down in this Directive and Directive 96/71, Member States should be free to impose only the administrative requirements specified in this Directive – which have been tailored to suit the road transport sector – on road transport operators.

Amendment 29
Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

(13a) With a view to minimising the administrative burden and document management tasks incumbent on drivers, transport operators shall provide, at the request of the competent authorities in the Member State in which the operator is based, all necessary documents, as set out in the provisions of Chapter III of Directive 96/71 on mutual assistance and cooperation between Member States.

Amendment 30
Proposal for a directive
Recital 13 b (new)

Text proposed by the Commission

(13b) In order to facilitate the implementation, application and enforcement of this Directive, the internal Market Information System (IMI) established by Regulation (EU) No 1024/2012 should be used in Member States.
States for the enhanced exchange of information between regional and local authorities across borders. It could also be an advantage to extend the features of IMI to include the submission and transmission of simple declarations.

Amendment 31
Proposal for a directive
Recital 13 c (new)

Text proposed by the Commission

Amendment

(13c) In order to reduce administrative burden of transport operators which are often small and medium-sized enterprises, it would be appropriate to simplify the process of sending declarations on posting by transport operators through standardised forms with some pre-defined elements translated in all official languages of the Union.

Amendment 32
Proposal for a directive
Recital 13 d (new)

Text proposed by the Commission

Amendment

(13d) A general implementation and application of the rules for the posting of workers to road transport could impact the structure of the Union road freight transport industry. Therefore, Member States and the Commission should closely monitor the impact of this process.

Amendment 33
Proposal for a directive
Recital 13 e (new)

Text proposed by the Commission

Amendment
(13e) Enforcement should concentrate on inspections at the premises of the undertakings. Roadside checks should not be excluded but should be undertaken in a non-discriminatory manner only for consignment notes or their electronic versions, confirmations of the pre-registration and attestation for return to country of operator’s establishment or driver’s residence. Roadside checks should control in the first place tachographs data which is important to determine the activity of a driver and vehicle over a four-week rolling period and the geographical coverage of this activity. The recording of the country code can help.

Amendment 34
Proposal for a directive
Recital 13 f (new)

Text proposed by the Commission

Amendment

(13f) The impact of the application and the enforcement of the rules for the posting of workers on the road transport industry should be repeatedly evaluated by the Commission and reported to the Parliament and the Council, and proposals should be made to further simplify them and reduce the administrative burden.

Amendment 35
Proposal for a directive
Recital 13 g (new)

Text proposed by the Commission

Amendment

(13g) In recognition of the need for specific treatment for the transport sector, in which movement is the very essence of the work undertaken by drivers, the application of Directive 96/71/EU to the
road transport sector should coincide with the date of entry into force of the amendment of Directive 2006/22/EC as regards enforcement requirements, and specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector.

Amendment 36
Proposal for a directive
Recital 13 h (new)

Text proposed by the Commission

(13h) In order to adapt the Annexes of this Directive to developments in best practice, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending those Annexes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making*. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States’ experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Amendment 37
Proposal for a directive
Recital 14 a (new)
Text proposed by the Commission

(14 a) The exchange of information in the context of effective administrative cooperation and mutual assistance between Member States should comply with the rules on personal data protection laid down in Regulation 2016/679.

Amendment 38

Proposal for a directive
Recital 14 b (new)

Text proposed by the Commission

(14b) Rules to safeguard good social conditions across the European road haulage market should be respected by all partners in the supply chain. In order to create an economically and socially sustainable European internal market, a chain of responsibility that covers all actors in the logistical chain should be established and implemented. Enforcing transparency and liability and increasing social and economic equality will increase the attractiveness of the driver as a profession and promote healthy competition.

Amendment 39

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2006/22/EC
Article 2 – paragraph 1 – subparagraph 2

Text proposed by the Commission

These checks shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles falling within the scope of Regulations (EC) No 561/2006 and (EU) No 165/2014 and of mobile workers and drivers falling

Amendment

These checks shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles falling within the scope of Regulations (EC) No 561/2006 and (EU) No 165/2014 and, in the case of checks at premises, of
within the scope of Directive 2002/15/EC.

Member States shall organise roadside checks on the implementation of Directive 2002/15/EC only after the introduction of technology enabling effective checks to be carried out. Until then those checks shall be carried out exclusively at the premises of the transport undertakings.

Amendment 40

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point b
Directive 2006/22/EC
Article 2 – paragraph 3 – subparagraph 1

Text proposed by the Commission
Each Member State shall organise checks in such a way that at least 3% of days worked by drivers of vehicles falling within the scope of Regulation (EC) No 561/2006, Regulation (EU)165/2014 and Directive 2002/15/EC are checked.

Amendment
Each Member State shall organise checks in such a way that at least 3% of days worked by drivers of vehicles falling within the scope of Regulation (EC) No 561/2006, Regulation (EU)165/2014 and Directive 2002/15/EC are checked. Following roadside checks and where the driver is not in capacity to submit one or more of the required documents, the drivers shall be released to continue their transport operation and the transport operator in the Member State of establishment is obliged to submit the required documents via competent authorities.

Amendment 41

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point c
Directive 2006/22/EC
Article 2 – paragraph 4

Text proposed by the Commission
4. The information submitted to the Commission in accordance with Article 17 of Regulation (EC) No 561/2006 shall

Amendment
4. The information submitted to the Commission in accordance with Article 17 of Regulation (EC) No 561/2006 shall
include the number of drivers checked at
the roadside, the number of checks at the
premises of undertakings, the number of
working days checked and the number and
type of infringements reported, together
with a record of whether passengers or
goods were transported.

Amendment 42

Proposal for a directive
Article 1 – paragraph 1 – point 3 a (new)
Directive 2006/22/EC
Article 5

Present text

Member States shall, at least six times per
year, undertake concerted roadside checks
on drivers and vehicles falling within the
scope of Regulations (EEC) No 3820/85
or (EEC) 3821/85. Such checks shall be
undertaken at the same time by the
enforcement authorities of two or more
Member States, each operating in its own
territory.

Amendment

(3a) Article 5 is replaced by the
following:

Member States shall, at least six times per
year, undertake concerted roadside checks
and at the premises on drivers and vehicles
falling within the scope of Regulation
(EC) No 561/2006 or (EU) 165/2014. Such
checks shall be undertaken at the same
time by the enforcement authorities of two
or more Member States, each operating in
its own territory. The summary results of
the concerted checks shall be made public
in line with Regulation (EU) 2016/679 of
the European Parliament and of the
Council of 27 April 2016 on the protection
of natural persons with regard to the
processing of personal data and on the
free movement of such data.

Amendment 43

Proposal for a directive
Article 1 – paragraph 1 – point 4
Directive 2006/22/EC
Article 6 – paragraph 1

Text proposed by the Commission

1. Checks at premises shall be planned

Amendment

1. Checks at premises shall be planned
in the light of past experience in relation to the various types of transport and undertakings. They shall also be carried out if serious infringements of Regulation (EC) No 561/2006 or (EU) No 165/2014 or Directive 2002/15/EC have been detected at the roadside;

Amendment 44

Proposal for a directive
Article 1 – paragraph 1 – point 4 a (new)
Directive 2006/22/EC
Article 7 - paragraph 1- point b

Present text

(b) to forward the biennial statistical returns to the Commission under Article 16 (2) of Regulation (EEC) No 3820/85;

Amendment

(4a) in Article 7, paragraph 1, point b is replaced by the following:

“(b) to forward the biennial statistical returns to the Commission under Article 17 of Regulation (EC) No 561/2006;”;

Amendment 45

Proposal for a directive
Article 1 – paragraph 1 – point 6 – point -a (new)
Directive 2006/22/EC
Article 8 – paragraph 1 – introductory part

Present text

1. Information made available bilaterally under Article 17(3) of Regulation (EEC) No 3820/85 or Article 19 (3) of Regulation (EEC) No 3821/85 shall be exchanged between the designated bodies notified to the Commission in accordance with Article 7(2):

Amendment

(-a) In article 8 (1), the introductory part is replaced by the following:

1. Information made available bilaterally under Article 22(2) of Regulation (EC) No 561/2006 or Article 40 of Regulation (EU) No 165/2014 shall be exchanged between the designated bodies notified to the Commission in accordance with Article 7.
Amendment 46

Proposal for a directive
Article 1 – paragraph 1 – point 6 – point b
Directive 2006/22/EC
Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) upon reasoned request by a Member State in individual cases.

Amendment

(b) at the specific request of a Member State in individual cases, provided that the information required is not available through direct consultation of national electronic registers referred to in Article 16 (5) of Regulation (EC) No 1071/2009.

Amendment 47

Proposal for a directive
Article 1 – paragraph 1 – point 6 – point b
Directive 2006/22/EC
Article 8 – paragraph 1 a – subparagraph 1

Text proposed by the Commission

1a. Member State shall submit the information requested by other Member States pursuant to paragraph 1(b) of this Article within 25 working days from the receipt of the request in cases requiring in-depth examination or involving checks at premises of the undertakings concerned. A shorter time limit may be mutually agreed between the Member States. In urgent cases or cases requiring simple consultation of registers, such as of a risk rating system, the requested information shall be submitted within three working days.

Amendment

1a. Member States shall submit the information requested by other Member States pursuant to paragraph 1(b) of this Article within 10 working days from the receipt of the request. In duly justified cases requiring in-depth examination or involving checks at the premises of the undertakings concerned, the time limit shall be 20 working days. A shorter time limit may be mutually agreed between the Member States. In urgent cases or cases requiring simple consultation of registers, such as of a risk rating system, the requested information shall be submitted within three working days.

Amendment 48

Proposal for a directive
Article 1 – paragraph 1 – point 6 – point b
Directive 2006/22/EC
Article 8 – paragraph 1 a – subparagraph 2
Where the requested Member State considers that the request is insufficiently reasoned, it shall inform the requesting Member State accordingly within 10 working days. The requesting Member State shall further substantiate the request. Where this is not possible, the request may be rejected by the Member State.

Amendment 49

Proposal for a directive
Article 1 – paragraph 1 – point 6 – point b
Directive 2006/22/EC
Article 8 – paragraph 1 a – subparagraph 3a (new)

Where it is difficult or impossible to comply with a request for information or to carry out checks, inspections or investigations, the Member State in question shall inform the requesting Member State accordingly within 10 working days, giving reasons. The Member States concerned shall discuss with each other with a view to finding a solution for any difficulty raised.

Amendment 50

Proposal for a directive
Article 1 – paragraph 1 – point 6 – point b
Directive 2006/22/EC
Article 8 – paragraph 1 a – subparagraph 4

Where the Commission becomes aware of a persisting problem in the exchange of information or a permanent refusal to supply information, it may take all
necessary measures to remedy the situation, including, where necessary, it may open an investigation and eventually apply sanctions to the Member State.

Amendment 51

Proposal for a directive
Article 1 – paragraph 1 – point 6 – point b a(new)
Directive 2006/22/EC
Article 8 – paragraph 2

Present Text

2. Member States shall seek to establish systems for the electronic exchange of information. In accordance with the procedure referred to in Article 12(2), the Commission shall define a common methodology for effective information exchange.

Amendment

(ba) In article 8 paragraph 2 is replaced by the following:

2. By way of derogation from Article 21 of Directive 2014/67/EU, the exchange of information between the competent authorities of the Member States provided for in paragraphs 1 and 1a of this Article shall be implemented through the Internal Market Information System (IMI), established by Regulation (EU) No 1024/2012. Competent authorities of the Member States shall have direct access in real time to data in national electronic registers via the European Register of Road Transport Undertakings (ERRU) as referred to in Article 16 of Regulation (EC) No 1071/2009.

Amendment 52

Proposal for a directive
Article 1 – paragraph 1 – point 6 – point b b (new)
Directive 2006/22/EC
Article 8 – paragraph 2 a

Text proposed by the Commission

(bb) In article 8 the following paragraph 2a, is added:

2a. The Commission shall develop an electronic application common to all EU Member States, that will provide
inspectors direct real-time access to the ERRU and IMI during roadside checks and premises by 2020. This application shall be developed via a pilot project.

Amendment 53

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point a
Directive 2006/22/EC
Article 9 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Commission shall, by means of implementing acts, establish a common formula for calculating a risk rating of undertakings, which shall take into account the number, severity and frequency of occurrence of infringements as well as the results of controls where no infringement has been detected and whether a road transport undertaking has been using the smart tachograph, pursuant to Chapter II of Regulation (EU) No 165/2014, on all its vehicles. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2) of this Directive.

Amendment

The Commission is empowered to adopt delegated acts in accordance with Article 15a establishing a common formula for calculating a risk rating of undertakings, which shall take into account the number, severity and frequency of occurrence of infringements as well as the results of controls where no infringement has been detected and whether a road transport undertaking has been using the smart tachograph, pursuant to Chapter II of Regulation (EU) No 165/2014, on its vehicles.

Amendment 54

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point b a (new)
Directive 2006/22/EC
Article 9 – paragraph 3–subparagraph 1

Present Text

3. An initial list of infringements of Regulations (EEC) No 3820/85 and (EEC) No 3821/85 is set out in Annex III.

Amendment

(ba) In paragraph 3, the first and second are replaced by the following:

3. An initial list of infringements of Regulations (EC) No 561/2006 and (EU) No 165/2014 is set out in Annex III.
Amendment 55

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point b a (new)
Directive 2006/22/EC
Article 9 – paragraph 3 – subparagraph 2

Text proposed by the Commission

With a view to giving guidelines on the weighting of infringements of Regulations (EEC) No 3820/85 or (EEC) 3820/85, the Commission may, as appropriate, in accordance with the procedure referred to in Article 12(2), adapt Annex III with a view to establishing guidelines on a common range of infringements, divided into categories according to their gravity.

Amendment

With a view to giving guidelines on the weighting of infringements of Regulation (EC) No 561/2006 or (EU) No 165/2014, the Commission is empowered to adopt delegated acts in accordance with Article 15a amending Annex III with a view to establishing guidelines on a common range of infringements, divided into categories according to their gravity.

Amendment 56

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point b a (new)
Directive 2006/22/EC
Article 9 – paragraph 3 – subparagraph 3

Text proposed by the Commission

The category for the most serious infringements should include those where failure to comply with the relevant provisions of Regulations (EEC) No 3820/85 or (EEC) 3821/85 create a serious risk of death or serious personal injury.

Amendment

The category for the most serious infringements should include those where failure to comply with the relevant provisions of Regulations (EC) No 561/2006 or (EU) 165/2014 create a serious risk of death or serious personal injury.

Amendment 57

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point c (new)
Directive 2006/22/EC
Article 9 – paragraph 4

Text proposed by the Commission

4. In order to facilitate targeted roadside checks, the data contained in the

Amendment

4. In order to facilitate targeted roadside checks, the data contained in the
national risk rating system shall be accessible at the time of control to all the competent control authorities of the Member State concerned.

The national risk rating system and the national registers of transport undertakings and activities shall be accessible at the time of the check to all the competent control authorities of the Member State concerned through at least an electronic application common to all EU Member States, through which they will have direct real-time access to the ERRU.

Amendment 58
Proposal for a directive
Article 1 – paragraph 1 – point 7 – point c (new)
Directive 2006/22/EC
Article 9 – paragraph 5

Text proposed by the Commission

5. Member States shall make the information contained in the national risk rating system available upon request or directly accessible to all competent authorities of other Member States in accordance with the time limits set out in Article 8.

Amendment

5. Member States shall make the information contained in the national risk rating system directly accessible through interoperable national electronic registers as referred to in Article 16 of Regulation (EC) No. 1071/2009 to all competent authorities of other Member States. (AM 228, 229, 230, 231). In this regard, the exchange of information and data on transport operators infringements and risk rating shall be concentrated and carried out through the interconnection that ERRU provides between the different national registers in the Member States.

Amendment 59
Proposal for a directive
Article 1 – paragraph 1 – point 8
Directive 2006/22/EC
Article 11 – paragraph 3

Text proposed by the Commission

3. The Commission shall establish a common approach to recording and controlling periods of other work, as defined in point (e) of Article 4 of Regulation (EC) No 561/2006, and periods

Amendment

3. The Commission is empowered to adopt delegated acts in accordance with Article 15a establishing a common approach to the recording and controlling of periods of other work, as defined in
of at least one week during which a driver is away from the vehicle, by implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2);

point (e) of Article 4 of Regulation (EC) No 561/2006, including the form of the recording and specific cases in which it is to take place and to the recording and controlling of periods of at least one week during which a driver is away from the vehicle and is unable to carry out any activities with that vehicle.

Amendment 60

Proposal for a directive
Article 1 – paragraph 1 – point 8 a (new)
Directive 2006/22/EC
Article 12

Text proposed by the Commission

1. The Commission shall be assisted by the Committee set up by Article 18(1) of Regulation (EEC) No 3821/85.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its Rules of Procedure.


Amendment

Article 12 is replaced by the following:

1. The Commission shall be assisted by the Committee set up by Article 42(1) of Regulation (EU) No 165/2014. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Amendment 61

Proposal for a directive
Article 1 – paragraph 1 – point 8 a (new)
Directive 2006/22/EC
Article 13 – point b
Present text

(b) to encourage a coherence of approach between enforcement authorities and a harmonised interpretation of Regulation (EEC) No 3820/85 between enforcement authorities;

Amendment

in Article 13, point b is replaced by the following:

(b) to encourage a coherence of approach between enforcement authorities and a harmonised interpretation of Regulation (EC) No 561/2006 between enforcement authorities;

Amendment 62

Proposal for a directive
Article 1 – paragraph 1 – point 8 b (new)

Directive 2006/22/EC
Article 14

Present text

Article 14
Negotiations with third countries
Once this Directive has entered into force, the Community shall begin negotiations with the relevant third countries with a view to the application of rules equivalent to those laid down in this Directive.
Pending the conclusion of these negotiations, Member States shall include data on checks carried out on vehicles from third countries in their returns to the Commission as set out in Article 16 (2) of Regulation (EEC) No 3820/85.”

Amendment

(8b) Article 14 is replaced by the following:

Article 14
Negotiations with third countries
Once this Directive has entered into force, the Union shall begin negotiations with the relevant third countries with a view to the application of rules equivalent to those laid down in this Directive.
Pending the conclusion of these negotiations, Member States shall include data on checks carried out on vehicles from third countries in their returns to the Commission as set out in Article 17 of Regulation (EC) No 561/2006.”

Amendment 63

Proposal for a directive
Article 6 – paragraph 1–point 8 c (new)

Directive2006/22/EC
Article 15
Amendments to the Annexes which are necessary to adapt them to developments in best practice shall be adopted in accordance with the procedure referred to in Article 12(2).

Amendment 64

Proposal for a directive
Article 6 – paragraph 1–point 8 d (new)
Directive 2006/22/EC
Article 15a (new)

Amendment

(8c) Article 15 is replaced by the following:
The Commission is empowered to adopt delegated acts in accordance with Article 15a amending Annexes I and II to introduce necessary adaptations to developments in best practice.

Text proposed by the Commission

(8d) The following Article 15a is added by the following:

Article 15a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 9(3) and Article 15 shall be conferred on the Commission for a period of 5 years from [date of entry into force of this Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 5-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 9(3) and Article 15 may be revoked at any time by the European Parliament or by the Council. A decision
to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 9(3) and Article 15 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment 65

Proposal for a directive
Article 1 – paragraph 1 – point 9 – point a (new)
Directive 2006/22/EC
Annex I – Part A – point 1

Present text
Amendment

(-a) in Part A, point (1) is replaced by the following:

(1) daily and weekly driving times, breaks and daily and weekly rest periods;

(1) daily and weekly driving times, breaks and daily and weekly rest periods;
also the preceding days' record sheets which have to be carried on board the vehicle in accordance with Article 15 (7) of Regulation (EEC) No 3821/85 and/or the data stored for the same period on the driver card and/or in the memory of the recording equipment in accordance with Annex II to this Directive and/or on printouts;

also the preceding days' record sheets which have to be carried on board the vehicle in accordance with Article 36 (1) and (2) of Regulation (EU) No 165/2014 and/or the data stored for the same period on the driver card and/or in the memory of the recording equipment in accordance with Annex II to this Directive and/or on printouts;

Amendment 66

Proposal for a directive
Article 1 – paragraph 1 – point 9 – point -a a (new)
Directive 2006/22/EC
Annex I – Part A – point 2

Present text

(2) for the period referred to in Article 15 (7) of Regulation (EEC) No 3821/85, any cases where the vehicle's authorised speed is exceeded, to be defined as being any periods of more than one minute during which the vehicle's speed exceeds 90 km/h for category N 3 vehicles or 105 km/h for category M 3 vehicles (categories N 3 and M 3 being defined in Annex II, Part A to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers1a,a.

Amendment

(-a a) in Part A, the point (2) is replaced by:

“(2) for the period referred to in Article 36 paragraphs (1) and (2) of Regulation (EU) No 165/2014, any cases where the vehicle's authorised speed is exceeded, to be defined as being any periods of more than one minute during which the vehicle's speed exceeds 90 km/h for category N 3 vehicles or 105 km/h for category M 3 vehicles (categories N 3 and M 3 as defined in Directive 2007/46/EC1a).

Amendment 67

Proposal for a directive
Article 1 – paragraph 1 – point 9 – point -a b (new)
Directive 2006/22/EC
Annex I – Part A – point 4

Present text

(4) the correct functioning of the recording equipment (determination of possible misuse of the equipment and/or the driver card and/or record sheets) or, where appropriate, presence of the documents referred to in Article 14 (5) of Regulation (EEC) No 3820/85;

Amendment

(-ab) in Part A, point (4) is replaced by the following:

(4) the correct functioning of the recording equipment (determination of possible misuse of the equipment and/or the driver card and/or record sheets) or, where appropriate, presence of the documents referred to in Article 16 (2) of Regulation (EC) No 561/2006;

Amendment 68

Proposal for a directive
Article 1 – paragraph 1 – point 9 – point a
Directive 2006/22/EC
Annex I – part A – point 6

Text proposed by the Commission

(6) weekly working times as set out in Articles 4 and 5 of Directive 2002/15/EC;

Amendment

(6) weekly working times as set out in Articles 4 and 5 of Directive 2002/15/EC, provided that technology enables effective checks to be carried out.

Amendment 69

Proposal for a directive
Article 1 – paragraph 1 – point 9 – point b a (new)
Directive 2006/22/EC
Annex I – part B – subparagraph 2

Present text

Member States may, if appropriate, check on the joint liability of other instigators or

Amendment

(ba) in Part B, subparagraph 2 is replaced by:

Member States may, if appropriate, check on the joint liability of other instigators or
accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permit compliance with Regulations (EEC) No 3820/85 and (EEC) No 3821/85.

Amendment 70
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. Member States shall not apply 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 (EC) No 1072/2009 and 1073/2009 and transit operations when a driver transits through a Member State without loading or unloading freight and without picking up or setting down passengers.

Amendment 71
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

deleted
Proposal for a directive
Article 2 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. For the purposes of the calculation of the periods of posting referred to in paragraph 2:

deleted.

Amendment 73

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

Text proposed by the Commission

Amendment

(a) a daily working period shorter than six hours spent in the territory of a host Member State shall be considered as half a day;

deleted.

Amendment 74

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

Text proposed by the Commission

Amendment

(b) a daily working period of six hours or more spent in the territory of a host Member State shall be considered as a full day;

deleted.

Amendment 75

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

Text proposed by the Commission

Amendment

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

Amendment 76

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

_Text proposed by the Commission_  

Amendment

2 a. Member States shall apply 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:

(a) cabotage operations defined by Regulations (EC) No 1072/2009 and 1073/2009;

(b) the road haulage leg of combined transport as referred to in Article 4 of Directive 92/106/EEC, provided that the road haulage leg is carried out in the same Member State.

Amendment 77

Proposal for a directive
Article 2 – paragraph 2 b

_Text proposed by the Commission_  

Amendment

2b. Member States shall not apply Article 3(1a) [on duration of posting] of Directive 96/71/EC, as amended, to road transport operations falling under the scope of this Directive.

Amendment 78

Proposal for a directive
Article 2 – paragraph 4 – introductory part
4. Member States may only impose the following administrative requirements and control measures:

4. By way of derogation from Article 9 of Directive 2014/67/EU, Member States may only impose the following administrative requirements and control measures:

Amendment 79

Proposal for a directive
Article 2 – paragraph 4 – point a – introductory part

Text proposed by the Commission

(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:

Amendment

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

Text proposed by the Commission

(i) the identity of the road transport operator;

Amendment

(i) the identity of the road transport operator by means of its intra-Community tax identification number;

Amendment 81

Proposal for a directive
Article 2 – paragraph 4 – point a – point iii
(iii) **the anticipated** number and the **identities of posted drivers**;

(iii) **information about the posted drivers** including the following: the **identity**, the **country of residence**, the **country of payment of social contributions**, the **social security number** and the **number of the driving licence**;

Amendment 82

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

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

(iv) **the host Member States**, the envisaged beginning **date and the estimated duration**, and end date of the posting and **the law applicable to the employment contract**;

Amendment 83

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

(iv a) **the identity and the contact details of consignees**, provided that the transport operator does not use e-CMR;

Amendment 84

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

(vi a) **addresses of loading(s)** and
unloading(s), provided that the transport operator does not use e-CMR

Amendment 85

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

Text proposed by the Commission

(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.

Amendment

(b) an obligation for the road transport operator to ensure that the driver has at his/her disposal, where requested at the roadside control, in paper or electronic form, a copy of the 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.

Amendment 86

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

Text proposed by the Commission

(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;

Amendment

(c) an obligation for the road transport operator to ensure that the driver has at his/her disposal, 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;

Amendment 87

Proposal for a directive
Article 2 – paragraph 4 – point c a (new)
Amendment 88

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

(c) During the roadside checks referred to in point (b) and (c) of this Article, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may provide the requested documents;

(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;

(cb) 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) and (c), at the request of the authorities of the host Member State within a reasonable period of time as well as documentation of the remuneration of posted drivers which relate to the period of posting and their employment contract or an equivalent document within the meaning of Article 3 of Council Directive 91/533/EEC, timesheets relating to the driver’s work and proof of payments. In accordance with Articles 6 and 7 of Directive 2014/67/EU the competent authority of the host Member State shall make the corresponding request to the competent authority of the Member State of establishment, which latter shall request that information from the operator. The operator may use IMI for submitting the documentation.

1a Council Directive 91/533/EEC of 14 October 1991 on an employer’s obligation to inform employees of the conditions applicable to the contract or employment

Amendment 89
Proposal for a directive
Article 2 – paragraph 4 – point d

Text proposed by the Commission

(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, translated into one of the official languages of the host Member State or into English;

Amendment

deleted


Amendment 90
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

deleted.

Amendment 91
Proposal for a directive
Article 2 – paragraph 5

Text proposed by the Commission
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.

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

Amendment 92
Proposal for a directive
Article 2 – paragraph 5 a (new)

Text proposed by the Commission
5 a. The information from the declarations shall be saved in the repository of IMI for the purpose of checks for a period of 18 months and shall be directly and real time accessible to all competent authorities of other Member States designated according to Article 3 of Directive 2014/67/EU, Article 18 of Regulation (EC) No 1071/2009, and Article 7 of Directive 2006/22/EC.

Amendment 93
Proposal for a directive
Article 2 – paragraph 5 b (new)

Text proposed by the Commission
5 b. The Commission shall adopt implementing acts developing a standardised forms in all official languages of the Union to be used for submitting declarations, specify the functionalities of the declaration in the IMI and how the information referred to points (i) to (via) of paragraph 4 point (a) is to be presented in the declaration and
ensure that those information from declarations are automatically translated in a language of a host Member State. The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 2a (2).

Amendment 94

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

Text proposed by the Commission

Amendment

Article 2

5c. Member States shall avoid unnecessary delays in the implementation of the control measures that may affect the duration and dates of the posting.

Amendment 95

Proposal for a directive
Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

1. The Commission shall be assisted by the Committee set up by Article 42(1) of Regulation (EU) No 165/2014. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Amendment 96

Proposal for a directive
Article 2 b (new)
Text proposed by the Commission

Amendment

Article 2 b

Liability

Member States shall provide for sanctions against consignors, freight forwarders, contractors and subcontractors for non-compliance with Article 2 of this Directive, where they know, or, in the light of all relevant circumstances ought to know, that the transport services that they commission infringe of this Directive.

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Directive and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective, proportionate, dissuasive and non-discriminatory.

Amendment 97

Proposal for a directive
Article 2 c (new)

Text proposed by the Commission

Amendment

Article 2 c

Review clause on European platform of trusted companies

The Commission shall assess existing instruments and best practices promoting socially responsible behaviour of all actors in the delivery chain for goods and make a legislative proposal to establish a European Platform of Trust, if appropriate, within 2 years after entry into force of this Directive.
Proposal for a directive

Article 2d (new)

Text proposed by the Commission

Amendment

Article 2d

Smart enforcement

1. Without prejudice to Directive 2014/67/EU and in order to further enforce the obligations stipulated under Article 2 of this Directive, Member States shall ensure that a coherent national enforcement strategy is applied on their territory. That strategy shall focus on undertakings with a high risk rating, referred to in Article 9 of Directive 2006/22/EC of the European Parliament and of the Council.

2. Each Member State shall ensure that the checks provided for in Article 2 of Directive 2006/22/EC will include, where relevant, a check on posting and that these checks shall be carried out without discrimination, in particular without discrimination based on the number plates of vehicles used in posting.

3. Member States shall target those undertakings which are classed as posing an increased risk of infringing the provisions of Article 2 of this Directive, applicable to them. For that purpose, Member States shall, within the risk classification system established by them under Article 9 of Directive 2006/22/EC of the European Parliament and of the Council and extended in accordance with Article 12 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council, treat the risk of such infringements as a risk in its own right.

4. For the purpose of paragraph 3, Member States shall have access to relevant information and data recorded, processed or stored by the smart...
tachograph referred to in Chapter II of Regulation (EU) No 165/2014, posting declarations referred to in Article 2 (4) of this Directive and in electronic transport documents, such as electronic consignment notes under the Convention on the Contract for the International Carriage of Goods by Road (eCMR).

5. The Commission is empowered to adopt delegated acts to stipulate the characteristics of the data to which Member States shall have access to, the conditions for their use and the technical specifications for their transmission or access, specifying in particular:

(a) a detailed list of information and data to which national competent authorities shall have access to, which shall include at least the time and location of border crossings, loading and unloading operations, the registration plate of the vehicle and the driver details;

(b) the access rights of the competent authorities, differentiated where appropriate according to the type of competent authorities, the type of access and the purpose for which the data is used;

(c) the technical specifications for the transmission or access to the data referred to in point (a), including, where relevant, the maximum duration that the data is retained, differentiated where appropriate according to the type of data.

6. Any personal data referred to in this Article shall be accessed or stored for no longer than is strictly necessary for the purposes for which the data were collected or for which they are further processed. Once such data are no longer needed for those purposes, they shall be destroyed.

7. Member States shall, at least three times per year, undertake concerted roadside checks on posting, which may coincide with checks performed in
accordance with Article 5 of Directive 2006/22/EC. Such checks shall be undertaken at the same time by the national authorities in charge of enforcing the rules in the field of posting of two or more Member States, each operating in its own territory. Member States shall exchange information on the number and type of infringements detected after the concerted roadside checks have taken place.

The summary results of the concerted checks shall be made public in line with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

Amendment 99

Proposal for a directive

Article 2 e (new)

*Text proposed by the Commission*

**Amendment**

**Article 2 e**

**Amendment to Regulation (EU) No 1024/2012**

In the Annex to Regulation (EU) No 1024/2012 the following points are added:


Amendment 100

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. The Commission shall evaluate the implementation of this Directive, in particular the impact of Article 2, by [3 years after the date for transposition of this Directive] and report to the European Parliament and the Council on the application of this Directive. The report by the Commission shall, if appropriate, be accompanied by a legislative proposal.

Amendment

1. The Commission shall evaluate the implementation of this Directive, in particular the impact of Article 2(2), by [three years after the date of entry into force of this Directive] and report to the Parliament and the Council on the application of that Article. The report by the Commission shall, if appropriate, be accompanied by a legislative proposal.

Amendment 101

Proposal for a directive
Article 3 a (new)

Text proposed by the Commission

Article 3a
In the interests of ensuring compliance with the provisions of this Directive, both the Commission and the Member States shall establish a comprehensive and integrated programme of training and adaptation to the new rules and requirements for drivers and all other actors involved in the procedure, undertakings, administrations, inspectors

Amendment


Amendment 102

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1
Member States shall adopt and publish, by [...] [The time limit for transposition will be as short as possible and, generally, will not exceed two years] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment 103

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

The transport sector, due to its recognised highly mobile nature, is exempt from the measures deriving from the legislative act amending Directive 96/71/EC until this Directive shall become applicable.

Amendment 104

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 b (new)

Text proposed by the Commission

The transport sector is exempt from the measures deriving from the legislative act amending Directive 96/71/EC until the entry into force of enforcement requirements laying down specific rules with respect to transport of this Directive.
EXPLANATORY STATEMENT

One of the main objectives of the Juncker Commission is to build a fairer Europe by strengthening its social dimension. In transport policy, particularly regarding road transport, a step in this direction was taken when the European Commission published the first of its three mobility packages on 31 May 2017.

The European road transport sector provides jobs for over five million people, while its annual greenhouse gas emissions account for around one fifth of emissions from the transport sector as a whole. The first mobility package, of course, aims to modernise the European transport/mobility sector and make it more socially equitable and more competitive in a transition towards cleaner transport.

The amendments proposed by the Commission aim to make existing road transport legislation fairer and more efficient and to increase social responsibility in the field. At the same time, the aim is to lighten excessive regulatory burden for operators and to prevent distortions of competition.

An assessment of social legislation in the road transport sector has shown that the current legislative framework is marred by a number of shortcomings and problems, particularly as regards implementation of legislation. Moreover, Member States interpret, apply and implement it in significantly different ways. This has led not only to legal uncertainty but also to unequal treatment of drivers and road transport operators.

The main social regulations in the road transport sector are:
- Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities;
- Directive 2014/67/EU 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’), and
- Directive 96/71/EC on the posting of workers in the framework of the provision of services.

Position of the rapporteur

The rapporteur believes that the proposals in the first mobility package for amendments to Directive 2006/22/EC and the adoption of specific legislation, ‘lex specialis’, concerning posting of workers in the road transport sector (proposals for amendments to Directives 96/71/EC and 2014/67/EU) constitute a coherent legal package together with the amendments to Regulations 561/2006, 165/2014, 1071/2009 and 1072/2009. Among the initiatives in the first mobility package, these proposals concerning the social pillar and the internal market pillar should in particular be treated as a whole.

As a general remark, the rapporteur wishes to thank the Commission for submitting this comprehensive proposal rather than individual legislative proposals. The rapporteur believes that the Commission’s proposal comprises sufficient elements to make significant improvements in order to create a more socially just EU internal market, improve drivers’ working conditions, promote road safety and prevent social dumping. The numerous proposals to reduce the amount of environmental damage caused by road transport are also
important, in the case of both the first and the second mobility package. Considerable efforts need to be made with regard to climate, and the Commission’s proposals will help in this respect.

Lex specialis – specific legislation on posted drivers

The rapporteur draws attention to the fact that Directive 96/71/EC on the posting of workers is currently being entirely revised. A comprehensive reform can be considered to be justified, but its end result must be taken into account in the drafting of specific legislation on road transport. The rapporteur sees it as possible to consider in parallel the proposals concerning posted workers and posted drivers, but not to adopt a final position until the final outcome of the revision of the Directive on posting of workers is known.

The rapporteur considers it justifiable to deal with road transport drivers and road transport in legislation separate from the Directive on posting of workers, and endorses this approach. In this regard, the rapporteur wishes to thank the Commission for its proposal on road transport and decision to deal with it as a separate issue, as she considers that the Posting of Workers Directive was not conceived in such a way as to take into account the mobile nature of the profession of driver. This is also one of the main reasons why the existing Directive on the posting of workers has been so difficult to implement in the road transport sector. On the other hand, problems of interpretation have led to a situation in which the Commission has initiated legal proceedings against EU Member States. These actions are still pending before the Court of Justice of the EU and, so far as the rapporteur is aware, are awaiting guidance from the Council of the EU and Parliament. Ambiguities have made possible a situation in which unfair competition has emerged in the transport sector, together with social dumping affecting drivers and inequalities of status between drivers in different EU Member States. The rapporteur considers that the lex specialis should address these shortcomings and make the transport industry, which is the backbone of the EU internal market, socially just in such a way that the legislation is clear to all parties and easy for them to implement and enforce.

The Commission has proposed that, where international transport operations are performed on a subcontracting basis, there should be a threshold of 3 days/18 hours before the provisions of the Directive on the posting of workers concerning annual leave and minimum pay apply. Here, the rapporteur takes the view that consideration should be given to an alternative solution in the interests of ease of implementation and enforcement and with reference to the administrative burden on businesses. In addition, for the sake of clarity, the Lex specialis should also cover other transport situations, to which the Directive on the posting of workers applies immediately, from Day 1.

As regards administrative requirements and checks, the rapporteur welcomes the Commission’s proposal for a closed list. This will avoid arbitrariness in performing checks and make the rules of the game clear to everyone. Regarding the information to be provided in the declaration, the rapporteur considers that the Commission proposal needs to be further clarified, at least as regards particulars of the party that has ordered the transport. The Commission also proposes a list of the items of information that the driver must provide during roadside checks. In the rapporteur’s view this list should be further examined from the point of view of administrative burden, and it should be possible to communicate the information by electronic means. In addition to this, it is also desirable to examine whether the obligation to provide information should apply to the company performing the transport...
operation rather than to the driver. The rapporteur is also of the opinion that responsibility of the ordering party should be considered as a possible element that Member States could take into account in implementation if they so wish.

Administrative requirements and checks should be considered as a whole in relation to the types of transport to which the regulations on posting of workers are applied. The requirements must be reasonable from the point of view of administrative burden, as well as effective where roadside checks are concerned, in order not to delay the transport. The rapporteur considers it important that the opportunities presented by digitisation to improve exchanges of information between Member States’ authorities should be assessed carefully and that the scope for introducing the one-stop shop principle on the basis of existing information exchange systems, including the IMI system, should be investigated.

The rapporteur considers it extremely important that the penalties for non-compliance with the rules on posting should be adequate. In this regard, the good repute system, the risk rating system and the opportunities afforded by Implementing Directive 2014/67/EU and their adequacy should be assessed.

In addition, the rapporteur considers it necessary that in the further procedure assessments should also be made of the situation with regard to drivers and businesses in/from third countries (countries outside the EU). EU rules on posted drivers must not, in the rapporteur’s view, lead to a situation in which social dumping directed against drivers is transferred outside the EU. It remains important to assess possible exceptions applicable to both goods and passenger transport.

Proposed amendments to Directive 2006/22/EC

The rapporteur welcomes the Commission's proposal, in particular with reference to making cross-border exchanges of information between authorities more effective. Moving forward, it will be important to assess the scope afforded by digitisation for further enhancing the exchange of information between authorities.

The rapporteur has reservations about the Commission’s proposal to incorporate monitoring of working time in roadside checks. The practical performance of checks on working time, and the authorities that undertake them, vary between Member States, which should be taken into account in further work on this proposal. If checks on compliance with the rules on working time are included in roadside checks, a system needs to be established under which, as part of the operation of smart tachographs, working time would also be monitored in real time, without the need to carry forms on board the vehicle.

With regard to the risk rating system, the rapporteur welcomes the Commission proposal on the adoption of a uniform formula.

In view of the above facts, it is important to accelerate the introduction of smart tachographs. The scope for using smart tachographs also to monitor comprehensively compliance with the rules on posted drivers also needs to be examined closely in the further procedure.

Conclusion
The rapporteur wishes to point out that within Parliament, the dispute between the TRAN and EMPL committees as to which of them should be the committee responsible was resolved only on 15 November 2017, which delayed the start of work. In addition, taking account of the complexity of the legislation and the ongoing reforms to legislation on posted workers, the rapporteur will continue her work in order to supplement her report with specific proposals for amendments.
OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on Transport and Tourism


Rapporteur: Martina Dlabajová

(*) Associated committee – Rule 54 of the Rules of Procedure

SHORT JUSTIFICATION

Road transport requires sector-specific rules to make the Single Market stronger and more competitive. These rules should be simple, uniform, clear and easily enforceable to facilitate transport operations while protecting the workers employed in this industry. Rules that are unclear or difficult to enforce are likely to lead to Member States interpreting the common rules differently as well as to reduce the effectiveness of their enforcement, thereby risking the fragmentation of the internal market. In addition, rules that are unclear and are not enforced effectively do not lead to better protection of workers.

As the Commission’s impact assessment concluded, the existing posting provisions and administrative requirements do not suit the highly mobile nature of the work of drivers. This causes disproportionate regulatory burdens for operators and creates unjustified barriers to provision of cross-border services.

This draft opinion seeks to further simplify the rules on posting that apply to the road transport sector and to reduce the administrative burden for companies and for their drivers. The rapporteur proposes explicitly excluding transit and international transport from the scope of the Posting of Workers Directive. This is justified on several grounds. Firstly, the workers employed in these activities are highly mobile; they can find themselves working in several
different countries during the course of a single day. Secondly, the companies engaged in transit or international transport in a particular country are not in competition with the haulage firms of that country.

Moreover, in such cases, the situation of the workers is not comparable to posted workers in other sectors who frequently stay in a particular host Member State for extended periods of time. Applying and enforcing Directive 96/71/EC to transit and international transport would lead to enormous administrative burdens, i.e. the applicable national laws could change on a daily basis during the course of a single journey. In the rapporteur’s view, such a situation would impose unjustified barriers on one of the fundamental freedoms of the EU; the free movement of services.

The rapporteur recognises the need to address problems arising from so-called “nomadic driving” (workers who remain outside their home country for many months and who may effectively live and sleep in their trucks during these extended periods). However, she does not believe that the current proposal is the appropriate place to address this issue. Instead, it should be tackled through the legislative act based on Commission proposal COM(2017) 277 on maximum daily and weekly driving times. This proposal includes a requirement for the driver and the vehicle to return to their place of employment.

The current opinion proposes to apply certain elements of the Posting of Workers Directive 96/71/EC and Enforcement Directive 2014/67/EU to cabotage operations. In such cases, foreign and local undertakings are in direct competition with each other; essentially similar rules regarding workers’ pay therefore should apply. However, these two Directives should only apply to cabotage to the extent outlined in this lex specialis, bearing in mind the highly mobile nature of the sector and the need to reduce administrative burdens.

The rapporteur therefore proposes to abolish the methodology put forward by the Commission to calculate daily working periods for the purpose of identifying posting situations. She believes this would be barely enforceable in practice and would create unnecessary administrative burdens, particularly when applied together with Regulation 561/2006 on the harmonisation of certain social legislation relating to road transport.

Finally, the opinion suggests that this lex specialis is the place to determine the date of application and the entry into force of the specific rules for posting drivers in the road transport sector. Allowing these dates to be determined by the general Posting of Workers Directive would create a risk that new rules would apply to the road transport sector well before any other sector (taking account of the Council general approach which gives Member States 3 years for to adopt their legislation and 4 for the measures to be effective). Furthermore, she suggests that the transport sector should be exempt from Directive 96/71 until this sector specific legislation is adopted.

**AMENDMENTS**

The Committee on Employment and Social Affairs calls on the Committee on Transport and Tourism, as the committee responsible, to take into account the following amendments:
Amendment 1
Proposal for a directive
Recital 1

Text proposed by the Commission

(1) In order to create a safe, efficient and socially responsible road transport sector it is necessary to ensure adequate working conditions and social protection for drivers, on the one hand, and suitable business and fair competition conditions for operators, on the other.

Amendment

(1) Freedom of movement for workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market. They are enshrined in the Treaty on the Functioning of the European Union (TFEU) and are essential to the proper functioning of the internal market. In order to create a safe, efficient and socially responsible road transport sector it is necessary to ensure a balance between free movement of transport services and decent working conditions, equal treatment and social protection for drivers and a competitive and fair business environment for operators.

Amendment 2
Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

(1a) In his State of the Union speech on 13 September 2017, the President of the Commission announced that a European Labour Authority would be created.

Amendment

Amendment 3
Proposal for a directive
Recital 2

Text proposed by the Commission

(2) The inherent high mobility of road transport services requires particular

Amendment

(2) The inherent high mobility of road transport services requires particular
attention in assuring that drivers benefit from the rights to which they are entitled and operators are not faced with disproportionate administrative barriers unduly restricting their freedom to provide cross-border services.

Amendment 4

Proposal for a directive
Recital 2 a (new)

*Text proposed by the Commission*

(2a) Any national rules applied to road transport should be proportionate and justified and should not hinder or make less attractive the exercise of fundamental freedoms guaranteed by the TFEU, such as freedom to provide services, in order to maintain or increase the competitiveness of the Union, while respecting decent working conditions and the social protection of drivers.

Amendment 5

Proposal for a directive
Recital 2 a (new)

*Text proposed by the Commission*

(2a) The road transport sector is highly competitive and characterised by particular distortions generated by the abusive forum shopping practices of operators in order to lower or avoid wage costs and social security contributions, or other social and working conditions which have led to a race to the bottom competition in the past. A functioning internal market must be based on a level playing field. Further steps are therefore necessary to prevent abusive practices by road transport operators though forum shopping, including horizontal measures
in Union company law to end regime shopping and regulatory arbitrage by road transport operators.

Amendment 6
Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The balance between enhancing social and working conditions for drivers and facilitating the exercise of the freedom to provide road transport services based on fair competition between national and foreign operators is crucial for the smooth functioning of the internal market.

Amendment

(3) The balance between facilitating the exercise of the freedom to provide road transport services based on non-discriminatory competition between national and foreign operators, reducing unnecessary administrative burdens and improving the social and working conditions of drivers is crucial for creating a smoothly functioning road transport sector in the internal market.

Amendment 7
Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Having evaluated the effectiveness and efficiency of the current Union social legislation in road transport, certain loopholes in the existing provisions and deficiencies in their enforcement were identified. Furthermore a number of discrepancies exist between Member States in interpretation, application and implementation of the rules. This creates legal uncertainty and unequal treatment of drivers and operators, which is detrimental to the working, social and competition conditions in the sector.

Amendment

(4) Having evaluated the effectiveness and efficiency of the current Union social legislation in road transport, certain loopholes in the existing provisions and deficiencies in their enforcement were identified, as well as illegal practices, such as the use of letterbox companies. Additional emphasis should be put on fighting against undeclared work in the transport sector. Furthermore a number of discrepancies exist between Member States in interpretation, application and implementation of the rules, creating a heavy administrative burden for drivers and operators. This creates legal uncertainty, which is detrimental to the
working, social and competition conditions in the sector.

Amendment 8
Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

(4a) In order to ensure that Directives 96/71/EC\(^1\) and 2014/67/EU\(^2\) of the European Parliament and of the Council are correctly applied, controls and cooperation at Union level to combat fraud relating to the posting of drivers should be strengthened, and stricter checks should be carried out to ensure that social contributions for posted drivers are actually paid.


Amendment 9
Proposal for a directive
Recital 5
Amendment

Proposal for a directive
Recital 6

Text proposed by the Commission

(5) Adequate, effective and consistent enforcement of the working time provisions is crucial for protecting the working conditions of drivers and preventing the distortions of competition resulting from non-compliance. Therefore it is desirable to extend the existing uniform enforcement requirements set out in Directive 2006/22/EC to controlling compliance with the working time provisions set out in Directive 2002/15/EU.

(5) Adequate, effective and consistent enforcement of the working time and rest time provisions is crucial for improving road safety, protecting the working conditions of drivers and preventing the distortions of competition resulting from non-compliance. Therefore it is desirable to extend the existing uniform enforcement requirements set out in Directive 2006/22/EC to controlling compliance with the working time provisions set out in Directive 2002/15/EU. The possibility of combining checks on driving time and working time with checks on rules on posting of drivers should be also available without additional administrative burden. Checks of compliance with working time should be limited to checks carried out at the premises of transport operators until technology is available that allows the checks on working time to be carried out effectively at the roadside.

Amendment 10

(6) The administrative cooperation between Member States with regard to the implementation of the social rules in road transport has proven insufficient, making cross-border enforcement more difficult, inefficient and inconsistent. It is therefore necessary to establish a framework for effective communication and mutual assistance, including exchange of data on infringements and information on good practices in enforcement.

(6) The administrative cooperation between Member States and Union support with regard to the implementation of the social rules in road transport has proven insufficient, making cross-border enforcement more difficult, inefficient and inconsistent. It is therefore necessary to establish a framework for effective communication and mutual assistance, including exchange of data on infringements and information on good practices in enforcement.
Amendment 11

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Difficulties have also been experienced in applying the rules on posting of workers specified in Directive 96/71/EC of the European Parliament and of the Council\textsuperscript{15} and the rules on the administrative requirements laid down in Directive 2014/67/EU of the European Parliament and of the Council\textsuperscript{16} to the highly mobile road transport sector. The uncoordinated national measures on the application and enforcement of the provisions on posting of workers in the road transport sector have generated high administrative burdens for non-resident Union operators. \textit{This created undue restrictions to the freedom to provide cross-border road transport services having negative side-effects on jobs.}

Amendment

(9) Difficulties have also been experienced in applying the rules on posting of workers specified in Directive 96/71/EC of the European Parliament and of the Council\textsuperscript{15} and the rules on the administrative requirements laid down in Directive 2014/67/EU of the European Parliament and of the Council\textsuperscript{16} to the highly mobile road transport sector. The uncoordinated national measures on the application and enforcement of the provisions on posting of workers in the road transport sector have generated high administrative burdens for Union operators, \textit{and have created unfairness in inter-company competition in the sector.}


Amendment 12

Proposal for a directive
Recital 9 a (new)
(9a) Failure to comply with the rules on the establishment of international road transport companies creates differences across the internal market and contributes to unfairness in inter-company competition. The conditions governing the establishment of international road transport companies should therefore be tightened and made easier to monitor, particularly with a view to combating the creation of ‘letterbox’ companies.

Amendment 13
Proposal for a directive
Recital 10

(10) The Commission, in its proposal of 8 March 2016\textsuperscript{17} for the revision of Directive 96/71/EC, recognized that the implementation of that Directive raises particular legal questions and difficulties in the highly mobile road transport sector and indicated that those issues should be best addressed through sector-specific road transport legislation.

\textsuperscript{17} COM(2016)128

Amendment 14
Proposal for a directive
Recital 10 a (new)

(10a) Since there is a lack of drivers in
the Union, working conditions should be significantly improved in order to increase the attractiveness of the profession.

Amendment 15
Proposal for a directive
Recital 11

Text proposed by the Commission

(11) In order to ensure the effective and proportionate implementation of Directive 96/71/EC in the road transport sector, it is necessary to establish sector-specific rules reflecting the particularity of the highly mobile workforce in the road transport sector and providing a balance between the social protection of drivers and the freedom to provide cross-border services for operators.

Amendment

(11) In order to ensure the effective and proportionate implementation of Directive 96/71/EC in the road transport sector, it is necessary to establish sector-specific rules and enhance their enforcement reflecting the particularity of the highly mobile workforce in the road transport sector and providing a balance between the social protection of drivers and the freedom to provide cross-border services for operators.

Amendment 16
Proposal for a directive
Recital 12

Text proposed by the Commission

(12) Such balanced criteria should be based on a concept of a sufficient link of a driver with a territory of a host Member State. Therefore, a time threshold should be established, beyond which the minimum rate of pay and the minimum annual paid holidays of the host Member State shall apply in case of international transport operations. This time threshold should not apply to cabotage operations as defined by Regulations 1072/2009 and 1073/2009 since the entire transport operation is taking place in a host Member State. As a consequence the minimum rate of remuneration and the minimum annual paid holidays of the host Member State should apply to cabotage irrespective of the frequency and duration of the operations carried out by a driver.

Amendment

(12) Cabotage operations as defined by Regulations 1072/2009 and 1073/2009 are service provisions which are covered by Directive 96/71/EC as the transport operation is entirely taking place in another Member State. As a consequence the minimum rate of remuneration and the minimum annual paid holidays of the host Member State should apply to cabotage irrespective of the frequency and duration of the operations carried out by a driver.
frequency and duration of the operations carried out by a driver.


Amendment 17
Proposal for a directive
Recital 12 a (new)

*Text proposed by the Commission*

(12a) Due to the specificities of transit operations and the lack of a sufficient link of the driver with the territory of the host Member State, they should be excluded from the scope of this Directive.

Amendment 18
Proposal for a directive
Recital 13

*Text proposed by the Commission*

(13) In order to ensure effective and efficient enforcement of the sector-specific rules on posting of workers and to avoid disproportionate administrative burdens for non-resident operators, specific administrative and control requirements should be established in the road transport sector.
sector, taking full advantage of control tools such as the digital tachograph. burdens for non-resident operators sector, standardised forms developed by the Commission and reduced specific administrative and control requirements should be established in the road transport sector, taking full advantage of control tools, such as the Internal Market Information System (IMI), the GNSS (Global Navigation Satellite System) portal for road transport and smart tachographs.

Amendment 19
Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Practices in which parent companies in one Member State are attributed most of the profit and subsidiary transport companies in other Member States are left with limited resources although they are responsible for most of the turnover from their transport business, can lead to inequalities and disproportionate profit shifting among the Member States and should be avoided. A negative social consequence of such practices is that the income of the drivers in the Member States in which the subsidiary transport companies operate is kept at a lower level. In order to tackle possible unfair competition in the road transport sector, such practices should be closely analysed with a view to preventing them.

Amendment 20
Proposal for a directive
Recital 13 b (new)
Text proposed by the Commission

(13b) In order to ensure full compliance with social legislation, and pending the establishment of the European Labour Authority, the competent control authorities should have access to, and verify all data transmitted through, the IMI and the GNSS portal.

Amendment

Amendment 21
Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2006/22/EC
Article 2 – paragraph 1 – subparagraph 2

Text proposed by the Commission

These checks shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles falling within the scope of Regulations (EC) No 561/2006 and (EU) No 165/2014 and of mobile workers and drivers falling within the scope of Directive 2002/15/EC.;

Amendment

These checks shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles of all transport categories falling within the scope of Regulations (EC) No 561/2006 and (EU) No 165/2014 and of mobile workers and drivers falling within the scope of Directive 2002/15/EC;

Amendment 22
Proposal for a directive
Article 1 – paragraph 1 – point 4
Directive 2006/22/EC
Article 6 – paragraph 1

Text proposed by the Commission

1. Checks at premises shall be planned in the light of past experience in relation to the various types of transport and undertakings. They shall also be carried out if serious infringements of Regulation (EC) No 561/2006 or (EU) No 165/2014 or Directive 2002/15/EC have been detected

Amendment

1. Checks at premises shall be planned in the light of past experience in relation to the various types of transport and undertakings. They shall also be carried out if serious infringements of Regulation (EC) No 561/2006 or (EU) No 165/2014 or Directive 2002/15/EC, with regard to the maximum weekly and daily working time,
at the roadside; and requirements relating to breaks, rest periods and night work, have been detected at the roadside;

Amendment 23

Proposal for a directive
Article 1 – paragraph 1 – point amnt 6 – point a
Directive 2006/22/EC
Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) upon reasoned request by a Member State in individual cases.

Amendment

(b) upon the specific request by a Member State in individual cases.

Amendment 24

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point a
Directive 2006/22/EC
Article 9 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Commission shall, by means of implementing acts, establish a common formula for calculating a risk rating of undertakings, which shall take into account the number, severity and frequency of occurrence of infringements as well as the results of controls where no infringement has been detected and whether a road transport undertaking has been using the smart tachograph, pursuant to Chapter II of Regulation (EU) No 165/2014, on all its vehicles. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2) of this Directive.

Amendment

The Commission shall, by means of implementing acts, establish a common formula for calculating a risk rating of undertakings, which shall take into account the number, severity and frequency of occurrence of infringements as well as the results of controls where no infringement has been detected. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2) of this Directive.

Amendment 25

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point c
Directive 2006/22/EC
Article 9 – paragraph 4

**Text proposed by the Commission**

4. In order to facilitate targeted roadside checks, the data contained in the national risk rating system shall be accessible at the time of control to all the competent control authorities of the Member State concerned.

**Amendment**

4. In order to facilitate targeted roadside checks, the data contained in the national risk rating system shall be accessible at the time of control to all competent control authorities of the Member States.

**Amendment 26**

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point c a (new)

**Text proposed by the Commission**


**Amendment**

(1) The smart tachograph, which indicates the location of drivers over the span of a 56-day period, shall be introduced on all vehicles engaged in international transport and cabotage by 2 January 2020.

**Amendment 27**

Proposal for a directive
Article 2 – paragraph 1

**Text proposed by the Commission**

Amendment 28
Proposal for a directive
Article 2 – paragraph 1 a (new)

Text proposed by the Commission

1a. The smart tachograph, which indicates the location of drivers over the span of a 56-day period, shall be introduced on all vehicles engaged in international transport and cabotage by 2 January 2020.

Amendment 29
Proposal for a directive
Article 2 – paragraph 1 b (new)

Text proposed by the Commission

1b. Transit shall be excluded from the application of this Directive and of Directive 96/71/EC.

Amendment 30
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. Member States shall 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 or cabotage operations as defined by Regulations 1072/2009 and 1073/2009.
Amendment 31
Proposal for a directive
Article 2 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

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.

Amendment 32
Proposal for a directive
Article 2 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

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 33
Proposal for a directive
Article 2 – paragraph 4

Text proposed by the Commission

Amendment

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

4. Member States shall impose for each posted driver, an obligation for the road transport operator established in another Member State to send via the
Internal Market Information System (IMI) a simple declaration to the national competent authorities at the latest at the commencement of the posting, in a standardised electronic form developed and made available by the Commission, without undue delay, in all official languages of the Union, containing the following information:

(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 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.

The simple declaration referred to in the
(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.

(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 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.


(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;
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 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.

Amendment 35

Proposal for a directive
Article 2 – paragraphs 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 36

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

_text proposed by the Commission_

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

Text proposed by the Commission

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:

(a) the tachograph data of the current day and that of the previous 56 days;
(b) the electronic consignment notes of the current day and of the previous 56 days;
(c) the documents referred to in points (a), (b) and (c) of paragraph 4a.

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.

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.

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 38

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 39

Proposal for a directive

Article 2 – paragraph 5
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.

**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 40**

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 41**

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

**Text proposed by the Commission**

5c. For the purpose of increasing the effectiveness of cross-border enforcement and of targeted checks, the Member States shall provide all relevant authorities real time, access to the IMI, to the national electronic registers established by Regulation (EC) No 1071/2009, to the
simple declarations referred to paragraph 4 of this Article, and to any other relevant databases.

Amendment 42

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*
Member States shall adopt and publish, by [...] 
*Amendment*
Member States shall adopt and publish, by [...] 

... [two years after the date of entry into force of this Directive], the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment 43

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

Until the date referred to in the second subparagraph, Directives 2003/88/EC, 96/71/EC and 2014/67/EC shall remain applicable in their entirety.
# Enforcement requirements and specific rules for posting drivers in the road transport sector

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<tr>
<th>Title</th>
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–: 23  
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| Substitutes present for the final vote | Georges Bach, Heinz K. Becker, Rosa D’Amato, Karima Delli, Christelle Lechevalier, Paloma López Bermejo, Evelyn Regner, Anne Sander, Jasenko Selimovic, Michaela Sojdrová, Neoklis Sylikiotis, Flavio Zanonato, Kosma Złotowski |
| Substitutes under Rule 200(2) present for the final vote | Dominique Bilde, Maria Grapini, Christel Schaldemose, Marco Valli |
## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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Key to symbols:
+ : in favour
- : against
0 : abstention
**PROCEDURE – COMMITTEE RESPONSIBLE**

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## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

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