

25.5.2018

A8-0319/40

Amendment 40

Dominique Martin

on behalf of the ENF Group

Report

A8-0319/2017

Elisabeth Morin-Chartier

Posting of workers in the framework of the provision of services
(COM(2016)0128 - C8-0114/2016 - 2016/0070(COD))

Proposal for a directive

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3 a) In order to ensure that this Directive is correctly applied, coordination between the Member States' competent authorities and/or bodies and cooperation on combating fraud relating to the posting of workers should be strengthened.

Or. en

Amendment 41

Dominique Martin

on behalf of the ENF Group

Report

A8-0319/2017

Elisabeth Morin-Chartier

Posting of workers in the framework of the provision of services
(COM(2016)0128 - C8-0114/2016 - 2016/0070(COD))

Proposal for a directive

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5 a) The principle of equal treatment and the prohibition of any discrimination based on nationality have been enshrined in Union law since the founding Treaties. It is therefore necessary, in order to avoid any discrimination and abuse, to ensure that remuneration is calculated in a transparent manner and is paid according to the hourly rate paid to domestic workers performing the same work in the host Member State, thus insuring that workers receive proper payment for their worktime. This provision should apply to temporary agencies established in the Member State where the work is carried out.

Or. en

25.5.2018

A8-0319/42

Amendment 42

Dominique Martin

on behalf of the ENF Group

Report

A8-0319/2017

Elisabeth Morin-Chartier

Posting of workers in the framework of the provision of services
(COM(2016)0128 - C8-0114/2016 - 2016/0070(COD))

Proposal for a directive

Recital 5 b (new)

Text proposed by the Commission

Amendment

(5 b) The principle of equal treatment and free competition cannot be achieved until a fair rules are implemented concerning social contribution. The rules and rates of social contributions of the host Member State should apply to posted workers from the first day of their employment relationship.

Or. en

Amendment 43**Dominique Martin**

on behalf of the ENF Group

Report**A8-0319/2017****Elisabeth Morin-Chartier**Posting of workers in the framework of the provision of services
(COM(2016)0128 - C8-0114/2016 - 2016/0070(COD))**Proposal for a directive****Recital 8***Text proposed by the Commission**Amendment*

(8) *In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will*

(8) *Posting is of a temporary nature and posted workers usually return to their country of origin after the completion of the work for which they were posted. In case of posting the worker should fall under the employment law of the host Member State from the first day of the employment relationship until the end of the posting. Upon returning to the home Member State, they should once again fall under the employment law of the home Member State. Such changes are made possible through new technologies and better cooperation between Member States.*

*in particular enjoy the protection and
benefits pursuant to the Rome I
Regulation.*

Or. en

Amendment 44

Dominique Martin

on behalf of the ENF Group

Report

A8-0319/2017

Elisabeth Morin-Chartier

Posting of workers in the framework of the provision of services
(COM(2016)0128 - C8-0114/2016 - 2016/0070(COD))

Proposal for a directive

Recital 10

Text proposed by the Commission

Amendment

(10) *Because of the highly mobile nature of work in international road transport, the implementation of the posting of workers directive raises particular legal questions and difficulties (especially where the link with the concerned Member State is insufficient). It would be most suited for these challenges to be addressed through sector-specific legislation together with other EU initiatives aimed at improving the functioning of the internal road transport market.*

(10) International road transport *should be covered by this* Directive.

Or. en

25.5.2018

A8-0319/45

Amendment 45

Dominique Martin

on behalf of the ENF Group

Report

A8-0319/2017

Elisabeth Morin-Chartier

Posting of workers in the framework of the provision of services
(COM(2016)0128 - C8-0114/2016 - 2016/0070(COD))

Proposal for a directive

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14 a) With a view to tackling abuses in subcontracting situations and in order to protect posted workers' rights, the undertakings concerned should be held jointly responsible in cases of fraud or abuses.

Or. en

Amendment 46

Dominique Martin

on behalf of the ENF Group

Report

A8-0319/2017

Elisabeth Morin-Chartier

Posting of workers in the framework of the provision of services
(COM(2016)0128 - C8-0114/2016 - 2016/0070(COD))

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point a

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) remuneration, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes;

(c) remuneration, ***calculated on the basis of the hourly rate paid to domestic workers performing the same work in the host Member State***, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes;

Or. en

Amendment 47**Dominique Martin**

on behalf of the ENF Group

Report**A8-0319/2017****Elisabeth Morin-Chartier**Posting of workers in the framework of the provision of services
(COM(2016)0128 - C8-0114/2016 - 2016/0070(COD))**Proposal for a directive****Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2

*Text proposed by the Commission**Amendment*

For the ***purpose*** of this Directive, remuneration means all the elements of remuneration rendered mandatory by national law, regulation or administrative provision, collective agreements or arbitration awards which have been declared universally applicable ***and/or, in the absence of a system for declaring collective agreements or arbitration awards to be of universal application, other collective agreements or arbitration awards within the meaning of paragraph 8 second subparagraph, in the Member State to whose territory the worker is posted.***

For the ***purposes*** of this Directive, ***the concepts of remuneration and hourly rate shall be determined by the national law and/or practice of the Member State to whose territory the worker is posted and*** means all the elements of remuneration rendered mandatory by national law, regulation or administrative provision, collective agreements or arbitration awards which ***in that Member State*** have been declared universally applicable ***or otherwise apply in accordance with Article 3(8).***

Or. en

25.5.2018

A8-0319/48

Amendment 48

Dominique Martin

on behalf of the ENF Group

Report

A8-0319/2017

Elisabeth Morin-Chartier

Posting of workers in the framework of the provision of services
(COM(2016)0128 - C8-0114/2016 - 2016/0070(COD))

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point a

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

***In cases of fraud or abuses, some or all of
the parties involved may be held liable,
regardless of their role in the
subcontracting chain.***

Or. en

Amendment 49**Dominique Martin**

on behalf of the ENF Group

Report**A8-0319/2017****Elisabeth Morin-Chartier**Posting of workers in the framework of the provision of services
(COM(2016)0128 - C8-0114/2016 - 2016/0070(COD))**Proposal for a directive****Article 1 – paragraph 1 – point 2 – point b**

Directive 96/71/EC

Article 3 – paragraph 1a

*Text proposed by the Commission**Amendment*

1a. *If undertakings established in the territory of a Member State are obliged by law, regulation, administrative provision or collective agreement, to sub-contract in the context of their contractual obligations only to undertakings that guarantee certain terms and conditions of employment covering remuneration, , the Member State may, on a non-discriminatory and proportionate basis, provide that such undertakings shall be under the same obligation regarding subcontracts with undertakings referred to in Article 1 (1) posting workers to its territory.*

1a. *Member States shall ensure, irrespective of which law applies to the employment relationship, that the undertakings referred to in Article 1(1) guarantee workers posted to their territory on a basis of equality of treatment, from the first day of the employment relationship, in addition to the terms and conditions of employment referred to in paragraph 1 of this Article, all the applicable terms and conditions of employment which are laid down, in the Member State where the work is carried out:*

(a) by law, regulation or administrative provision, and/or

(b) by collective agreements or arbitration awards which have been declared universally applicable or otherwise apply in accordance with Article 3(8).

The first subparagraph of this paragraph does not apply to the following matters:

(a) procedures, formalities and conditions of the conclusion and termination of the employment contract, including non-competition clauses;

(b) supplementary occupational

retirement pension schemes.

The Member State in which the service is provided shall, on the basis of the motivated notification of a service provider, extend to 18 months the period before which the provisions of this paragraph apply.

Where the undertaking referred to in Article 1(1) replaces a posted worker by another posted worker performing the same task at the same place, the duration of the posting shall, for the purposes of this paragraph, be the cumulative duration of the posting periods of the individual workers concerned. For the purposes of this Article, the concept 'the same task at the same place' shall be determined taking into consideration inter alia the nature of the service to be provided, the work to be performed and the address(es) of the workplace.

Or. en