



**2016/0070(COD)**

8.3.2017

# **AMENDMENT**

## **256 - 523**

**Draft report**

**Elisabeth Morin-Chartier, Agnes Jongerius**  
(PE582.163v01-00)

Posting of workers in the framework of services

Proposal for a directive  
(COM(2016)0128 – C8-0114/2016 – 2016/0070(COD))



## Amendment 256

Arne Gericke

### Proposal for a directive

#### Article 1

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

Or. de

*Justification*

*This is a disproportionate encroachment on the freedom of the social partners and the freedom to provide services. This change creates unnecessary bureaucracy and undermines necessary economic incentives.*

## Amendment 257

Ádám Kósa, András Gyürk, György Schöpflin, József Szájer, László Tőkés, Andrea Bocskor, Andor Deli, Tamás Deutsch, Kinga Gál, Ildikó Gáll-Pelcz, Pál Csáky

### Proposal for a directive

#### Article 1 – paragraph 1 – point -1 (new)

Directive 96/71/EC

Article 1 – paragraph 1

*Present text*

*Amendment*

1. This Directive shall apply to undertakings *established in a Member State* which, *in the framework of the transnational provision of services*, post workers, *in accordance with paragraph 3, to the territory of a Member State.*

*(–1) In Article 1, paragraph 1 is amended as follows:*

1. This Directive shall *not* apply to undertakings which post workers, *if the period of posting does not exceed three days within one month reference period.*

Or. en

## Amendment 258

Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Elżbieta Katarzyna Łukacijewska, Krzysztof Hetman, Agnieszka Kozłowska-Rajewicz, Janusz Lewandowski

**Proposal for a directive**  
**Article 1 – paragraph 1 – point -1 (new)**  
Directive 96/71/EC  
Article 1 – paragraph 2

*Present text*

"2. This Directive shall not apply to merchant navy undertakings as regards seagoing personnel."

*Amendment*

**(–1) In Article 1, paragraph 2 is amended as follows:**

"2. This Directive shall not apply to merchant navy undertakings as regards seagoing personnel **as well as transport services such as transit, international transport and linked cabotage.**"

Or. en

*Justification*

*Sector-specific provisions are needed in order to provide legal clarity. The European Commission has already clearly stated, that transit should not be treated as posting. According to the Report of the High Level Working Group on the Development of the EU Road haulage Market linked cabotage should be regarded as an international operation. Subsequently, international transport and linked cabotage should not be subject to pre-registration nor to Directive 96/71/EC.*

**Amendment 259**  
**Csaba Sógor**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point -1 (new)**  
Directive 96/71/EC  
Article 1 – paragraph 2

*Present text*

"2. This Directive shall not apply to merchant navy undertakings as regards seagoing personnel."

*Amendment*

**(–1) In Article 1, paragraph 2 is replaced by the following:**

"2. This Directive shall not apply to merchant navy undertakings as regards seagoing personnel **and to transport services such as transit, international transport and linked cabotage.**"

Or. en

### *Justification*

*Due to the highly mobile nature of transport services, certain transport operations should be regulated by sector-specific provisions in order to provide legal clarity.*

#### **Amendment 260**

**Czesław Hoc, Richard Sulík, Kosma Złotowski, Zdzisław Krasnodębski, Angel Dzhambazki, Zigmantas Balčytis, Roberts Zīle, Ryszard Czarnecki, Bolesław G. Piecha, Marian-Jean Marinescu, Ramona Nicole Mănescu, Sandra Kalniete, Beata Gosiewska, Zbigniew Kuźmiuk, Tomasz Piotr Poręba, Stanisław Ożóg, Andor Deli, Kinga Gál, Anna Elżbieta Fotyga, Edward Czesak, Urszula Krupa, Jadwiga Wiśniewska, Sławomir Kłosowski, Cristian-Silviu Buşoi, Traian Ungureanu, Pavel Svoboda**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point -1 (new)**

Directive 96/71/EC

Article 1 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**(–1) In Article 1, the following paragraph 2a is inserted :**

**2a. This Directive shall not apply to transport undertakings.**

Or. en

#### **Amendment 261**

**Michaela Šojdrová**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point -1 (new)**

Directive 96/71/EC

Article 1 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**(–1) In Article 1, the following paragraph 2a is inserted:**

**2a. In view of recital 10, until the date of effect of specific sector legislation, directive 96/71/EC shall apply to international road transport in its version preceding this revision.**

**Amendment 262**

**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu**

**Proposal for a directive**

**Article 1 – paragraph 1 – point -1 (new)**

Directive 96/71/EC

Article 1 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(–1) In Article 1, the following paragraph 2a is inserted:***

***2a. This Directive shall not apply to transport services such as transit, international transport and cabotage.***

Or. en

**Amendment 263**

**Czesław Hoc, Zdzisław Krasnodębski, Kosma Złotowski, Ryszard Czarnecki, Bolesław G. Piecha, Jadwiga Wiśniewska, Beata Gosiewska, Sławomir Kłosowski, Zbigniew Kuźmiuk, Tomasz Piotr Poręba, Stanisław Ożóg, Anna Elżbieta Fotyga, Urszula Krupa, Ryszard Antoni Legutko, Edward Czesak**

**Proposal for a directive**

**Article 1 – paragraph 1 – point -1 (new)**

Directive 96/71/EC

Article 1 – paragraph 2 b (new)

*Text proposed by the Commission*

*Amendment*

***(–1) In Article 1, the following paragraph 2b is added:***

***2b. This Directive shall not apply to undertakings referred to in Article 1(1) which post workers, if the period of posting does not exceed three days within one month reference period.***

Or. en

## Amendment 264

Rina Ronja Kari, Thomas Händel, João Pimenta Lopes, Kostadinka Kuneva, Paloma López Bermejo, Patrick Le Hyaric, Tania González Peñas, Lynn Boylan

### Proposal for a directive

#### Article 1 – paragraph 1 – point -1 (new)

Directive 96/71/EC

Article 1 – paragraph 3 – point b

#### *Present text*

"(b) post workers to an establishment or to an undertaking owned by the group in the territory of a Member State, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting; or"

#### *Amendment*

***(–1) In Article 1, paragraph 3, point (b) is amended as follows:***

"(b) post workers to an establishment or to an undertaking owned by the group in the territory of a Member State, provided ***it concerns a genuine provision of service and*** there is an employment relationship between the undertaking making the posting and the worker during the period of posting; or"

Or. en

## Amendment 265

João Pimenta Lopes

### Proposal for a directive

#### Article 1 – paragraph 1 – point -1 (new)

Directive 96/71/EC

Article 1 – paragraph 3 – point c

#### *Text proposed by the Commission*

#### *Amendment*

***(–1) Point c of paragraph 3 of Article 1 is deleted.***

Or. pt

## Amendment 266

Thomas Händel, Paloma López Bermejo, Rina Ronja Kari, Patrick Le Hyaric, Gabriele Zimmer

### Proposal for a directive

#### Article 1 – paragraph 1 – point -1 (new)

*Present text*

(c) being a temporary employment undertaking or placement agency, hire out a worker of a user undertaking established or operating in the territory of a Member State, provided ***there is an employment undertaking or placement agency and the worker during the period of posting.***

*Amendment*

***(–1) in Article 1, paragraph 3, point (c) is replaced by the following:***

(c) being a temporary employment undertaking or placement agency, hire out a worker to a user undertaking established or operating in the territory of a Member State, provided ***that:***

- there is an employment relationship between the temporary employment undertaking or placement agency and the worker during the period of posting; and***
- the worker temporarily carries out a task in a Member State other than the one in which he or she usually works, in accordance with Article 4(3) of Directive 2014/67/EC.***

Or. en

*Justification*

*The enforcement Directive on posting 2014/67 clarifies in its Article 4 that genuine posting entails the existence of a lasting employment relationship in the country of origin, to which the posted worker is expected to return following the period of posting. The rules on temporary work agencies must mirror these provisions. A temporary agency worker without stable employment with the agency in the country of origin should be considered as a worker of the host country only. Temporary agency workers who are posted to another Member State on a temporary basis should also be covered by the temporary work agency Directive, ensuring equal treatment provided for in Article 5 of Directive 2008/104/EC to all temporary agency workers in the EU.*

**Amendment 267**

**Rina Ronja Kari, Thomas Händel, Kostadinka Kuneva, Paloma López Bermejo, Patrick Le Hyaric, Tania González Peñas, Lynn Boylan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point -1 (new)**

Directive 96/71/EC

Article 1 – paragraph 3 – point c



*Present text*

"(c) being a temporary employment undertaking or placement agency, hire out a worker to a user undertaking established or operating in the territory of a Member State, provided there is **an** employment relationship between the temporary employment undertaking or placement agency and the worker during the period of posting."

*Amendment*

**(-1) In Article 1, paragraph 3, point c) is amended as follows:**

"(c) being a temporary employment undertaking or placement agency, hire out a worker to a user undertaking established or operating in the territory of a Member State, provided there is **a genuine** employment relationship between the temporary employment undertaking or placement agency and the worker **at least 3 months prior to and** during the period of posting **and provided the worker temporarily carries out work in a Member State other than in the habitual place of work in accordance with Article 4(3) of Directive 2014/67/EU.**"

Or. en

**Amendment 268**

**Maria Arena, Edouard Martin, Georgi Pirinski**

**Proposal for a directive**

**Article 1 – paragraph 1 – point -1 a (new)**

Directive 96/71/EC

Article 1 – paragraph 3 – point c

*Present text*

(c) being a temporary employment undertaking **or placement agency**, hire out a worker to a user undertaking established or operating in the territory of a Member State, provided **there is an employment relationship between the temporary employment undertaking or placement agency and the worker during the period of posting.**

*Amendment*

**(-1a) Article 1(3)(c) is amended as follows:**

(c) being a temporary employment undertaking, hire out a worker to a user undertaking established or operating in the territory of a Member State, provided the **following three cumulative conditions are met:**

**– there is an employment relationship between the temporary employment undertaking and the worker during the**

*period of posting;*

*– the worker posted by the temporary employment undertaking may only be posted for the purpose of performing a service at the end user undertaking;*

*– posted workers are guaranteed the employment and working conditions, including remuneration, which are applicable in accordance with Article 5 of Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work;*

Or. fr

*(For the purpose of this article: ‘employment relationship’ means all the facts relating to the performance of work, subordination and the remuneration of the worker, notwithstanding how the relationship is characterised in any arrangement, whether contractual or not, that may have been agreed between the parties.)*

#### **Amendment 269**

**Maria Arena, Edouard Martin, Georgi Pirinski**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point -1 a (new)**

Directive 96/71/EC

Article 1 – paragraph 3 – point c a (new)

*Text proposed by the Commission*

*Amendment*

*(-1a) In Article 1(3), the following point (ca) is added:*

*(ca) being a placement agency, hire out a worker to a user undertaking established or operating in the territory of a Member State, provided the following three cumulative conditions are met:*

*– there is a direct employment relationship between the placement agency and the worker during the period of posting;*

*– the placed worker may only be posted for the purpose of performing a service at the end user undertaking;*

*– the placement agency demonstrates that, in the territory of the Member State in which it is established, it has been operating for more than 90 days in the same economic sector defined at NACE Rev. 2 division as the user undertaking, established or operating in the territory of a Member State, to which the worker it placed is posted.*

Or. fr

*(For the purpose of this article: ‘employment relationship’ means all the facts relating to the performance of work, subordination and the remuneration of the worker, notwithstanding how the relationship is characterised in any arrangement, whether contractual or not, that may have been agreed between the parties.)*

### **Amendment 270**

**Maria Arena, Edouard Martin, Georgi Pirinski**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point -1 b (new)**

Directive 96/71/EC

Article 1 – paragraph 3 – point c a (new)

*Present text*

*Amendment*

*(–1a) In Article 1(3), the following point (ca) is added:*

*(ca) being a placement agency, hire out a worker to a user undertaking established or operating in the territory of a Member State, provided the following three cumulative conditions are met:*

*– there is a direct employment relationship between the placement agency and the worker during the period of posting;*

*– the placed worker may only be posted for the purpose of performing a service at the end user undertaking;*

*– the placement agency demonstrates that, in the territory of the Member State in which it is established, it has been operating for more than 90 days in the same economic sector defined at NACE*

*Rev. 2 division as the user undertaking, established or operating in the territory of a Member State, to which the worker it placed is posted.*

Or. fr

*(For the purpose of this article: ‘employment relationship’ means all the facts relating to the performance of work, subordination and the remuneration of the worker, notwithstanding how the relationship is characterised in any arrangement, whether contractual or not, that may have been agreed between the parties.)*

**Amendment 271**  
**Michaela Šojdrová**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point -1 (new)**  
Directive 96/71/EC  
Article 1 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

*(–1) In Article 1 the following paragraph 3a is added:*

*3a. In accordance with Article 1 paragraph 3, workers which temporarily perform work in a Member State other than the Member State of their employer’s establishment are excluded from the scope of the directive in the absence of a contract concluded between the undertaking employing the worker and an undertaking in the Member State in which the work is temporarily performed. Activities which are not governed by this directive include inter alia orchestra performances, representation of undertakings by their employees at exhibitions and fairs and the attendance of conferences by scientists.*

Or. en

**Amendment 272**  
**Rina Ronja Kari, Thomas Händel, João Pimenta Lopes, Kostadinka Kuneva, Paloma López Bermejo, Patrick Le Hyaric, Lynn Boylan**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point -1 (new)**  
Directive 96/71/EC  
Article 1 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**(–1) In Article 1, the following paragraph 4a is added:**

**4a. This Directive is without prejudice to the competence of the Member States to apply or introduce laws, regulations or administrative provisions, which are more favourable to workers, or to permit or promote the application of collective agreement provisions, which are more favourable to workers.**

Or. en

*Justification*

*It should be clarified in the scope of the directive that this directive establish minimum rights and obligations and that this directive is without prejudice to the competences of the Member States to apply or introduce rules, which are more favourable to workers, or to permit or promote the application of collective agreements, which are more favourable to workers.*

**Amendment 273**  
**Agnieszka Kozłowska-Rajewicz**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point -1 (new)**  
Directive 96/71/EC  
Article 1 – paragraph 4a (new)

*Text proposed by the Commission*

*Amendment*

**–1. In Article 1, the following paragraph 4a is added:**

**‘4a. Charging a lower price for a service shall not be regarded as engaging in unfair competition where that price is the result of generally lower costs and wages, or, in the case of undertakings operating in the international road transport sector,**

*minimum rates of pay, in the Member State in which the posted worker normally works and the wage or minimum rate of pay received by the posted worker is not lower than that received by other workers in that Member State.'*

Or. pl

**Amendment 274**

**Laura Agea, Tiziana Beghin, Rosa D'Amato, Marco Valli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point -1 (new)**

Directive 96/71/CE

Article 2 – paragraph 1

*Present text*

"1. For the purposes of this Directive, 'posted worker' means a worker who, for a limited period, carries out his work in the territory of a Member State other than the State in which he normally works.

*Amendment*

**–1) Article 2, paragraph 1, is amended as follows:**

"1. For the purposes of this Directive, 'posted worker' means a worker who, for a limited period **of at least three months**, carries out his work in the territory of a Member State other than the State in which he normally works **and has a social security legislation attestation (A1) issued by the competent authority of the sending Member State, in accordance with Articles 11 to 16 of Regulation (EC) No 883/2004 and Article 19 of Regulation (EC) No 987/2009.**

Or. it

**Amendment 275**

**Guillaume Balas, Karima Delli, Patrick Le Hyaric, Edouard Martin, Christine Revault D'Allonnes Bonnefoy**

**Proposal for a directive**

**Article 1 – paragraph -1 a (new)**

Directive 96/71/CE

Article 2 – paragraph 2 a (new)

***(-1a) In Article 2, the following paragraph 2a is added:***

***2a. Workers can only be considered posted within the meaning of this Directive if their employer meets the following cumulative conditions in relation to the Member State in which it is established:***

***– its principal place of business, e.g. its registered office or a subsidiary, branch or agency, is located in that Member State;***

***– it is liable for applicable direct taxes or turnover taxes in that Member State;***

***– it is registered as an employer and for payment of social security contributions in that Member State;***

***– its operating authorisation is issued by that Member State;***

***– in the preceding year it generated, in the country of origin, a turnover of at least 33.3% of the total turnover generated in the country of establishment and in the country to which the employee is posted.***

Or. fr

**Amendment 276**

**Marita Ulvskog**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2 a

*Text proposed by the Commission*

*Amendment*

***(1) The following Article 2a is added:***

***deleted***

***Article 2a***

***Posting exceeding twenty-four months***

*1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.*

*2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.*

Or. en

#### **Amendment 277**

**Ádám Kósa, György Schöpflin, József Szájer, László Tóké, Andrea Bocskor, Andor Deli, Tamás Deutsch, Kinga Gál, Ildikó Gáll-Pelcz, András Gyürk, Pál Csáky**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a

*Text proposed by the Commission*

*Amendment*

**(1) The following Article 2a is added: *deleted***

#### **Article 2a**

#### ***Posting exceeding twenty-four months***

*1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.*

*2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective*



*duration of at least six months.*

Or. en

*Justification*

*It is not possible to set out a *lex specialis* in the area of posting as posting is an area already covered by Rome I, in its Article 8 (2). If another, different legal provision is created for posting, then consequently the rule in the Rome I Regulation would be inconsistent with that new provision. The only possible way to circumvent this problem is to modify the Regulation itself.*

**Amendment 278**

**Csaba Sógor**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2 a

*Text proposed by the Commission*

*Amendment*

**(1) The following Article 2a is added: deleted**

**Article 2a**

***Posting exceeding twenty-four months***

***1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.***

***2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.***

Or. en

*Justification*

*Necessary, in order to maintain the current situation, as it stands. Limiting the duration of*

*posting assignments to 24 months is not in line with article 56 of the TFEU guaranteeing freedom to provide services on the internal market.*

**Amendment 279**

**Czesław Hoc, Richard Sulík, Kosma Złotowski, Zdzisław Krasnodębski, Roberts Zīle, Angel Dzhambazki, Zigmantas Balčytis, Sandra Kalniete, Ryszard Czarnecki, Bolesław G. Piecha, Marian-Jean Marinescu, Ramona Nicole Mănescu, Beata Gosiewska, Zbigniew Kuźmiuk, Tomasz Piotr Poręba, Stanisław Ożóg, Andor Deli, Anna Elżbieta Fotyga, Edward Czesak, Urszula Krupa, Jadwiga Wiśniewska, Sławomir Klosowski**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a

*Text proposed by the Commission*

*Amendment*

**(1) The following Article 2a is added: deleted**

**Article 2a**

***Posting exceeding twenty-four months***

***1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.***

***2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.***

Or. en

**Amendment 280**

**Ádám Kósa, György Schöpflin, József Szájer, László Tóké, Andrea Bocskor, Andor Deli, Tamás Deutsch, Kinga Gál, Ildikó Gáll-Pelcz, András Gyürk, Pál Csáky**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC  
Article 2a

*Text proposed by the Commission*

*Amendment*

**(1) The following Article 2a is added:** *deleted*

**Article 2a**

***Posting exceeding twenty-four months***

***1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.***

***2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.***

Or. en

**Amendment 281**  
**Danuta Jazłowiecka**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – title

*Text proposed by the Commission*

*Amendment*

***Posting exceeding twenty-four months***

***Habitual place of work***

Or. en

*Justification*

*Putting in line the PWD with the Regulation on the coordination of the social security rules.*

**Amendment 282**  
**Helga Stevens, Anders Primdahl Vistisen**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – title

*Text proposed by the Commission*

Posting exceeding *twenty-four* months

*Amendment*

Posting exceeding *six* months *in risk sectors*

Or. en

**Amendment 283**  
**Rina Ronja Kari, Patrick Le Hyaric, Thomas Händel, Paloma López Bermejo, João Pimenta Lopes, Tania González Peñas, Kostadinka Kuneva**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – title

*Text proposed by the Commission*

Posting exceeding *twenty-four* months

*Amendment*

Posting exceeding *three* months

Or. en

**Amendment 284**  
**Georges Bach, Claude Rolin**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – title

*Text proposed by the Commission*

Posting exceeding *twenty-four* months

*Amendment*

Posting exceeding *six* months

Or. en

**Amendment 285**  
**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/CE  
Article 2 a – title

*Text proposed by the Commission*

*Amendment*

*Posting exceeding twenty-four months*

*For all postings*

Or. fr

**Amendment 286**  
**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2 a – title

*Text proposed by the Commission*

*Amendment*

*Posting exceeding twenty-four months*

*Duration of posting*

Or. en

**Amendment 287**  
**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2 a – paragraph 1

*Text proposed by the Commission*

*Amendment*

*1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.*

*deleted*

*Justification*

*Article 2 A of the Commission proposal uses time limits to address the problem of bogus postings. A set time limit is not going to address the real concern relating to ingenuine postings. Bogus posting can be addressed via Articles 3 and 4 of the Enforcement Directive which gives the competent national authorities the prerogative to identify ingenuine posting and abuse. This amendment also provides coherence between PWD and Rome I Regulation.*

**Amendment 288****Danuta Jazłowiecka****Proposal for a directive****Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1

*Text proposed by the Commission*

*1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.*

*Amendment*

*1. A Member State to whose territory a worker is posted shall be deemed to be a country in which his work is habitually carried out if he is subject to social security legislation of that country.*

*Justification*

*Putting in line the PWD with the Regulation on the coordination of the social security rules.*

**Amendment 289****Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Janusz Lewandowski****Proposal for a directive****Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2 a – paragraph 1

*Text proposed by the Commission*

1. When the *anticipated or the* effective duration of posting exceeds

*Amendment*

1. When the effective duration of posting *of an individual worker* exceeds

twenty-four months, the Member State to whose territory a worker is posted shall **be deemed to be the country in** which **his or her** work is **habitually** carried out.

twenty-four months, the Member State to whose territory a worker is posted shall **ensure, whatever the law applicable to the employment relationship, that the undertaking referred to in Article 1(1) guarantee workers posted to their territory, in addition to the terms and conditions of employment referred to in paragraph 1 of this article, the terms and conditions of employment covering the following matters** which, **in the Member State where the work is carried out, are laid down by:**

– **law, regulation or administrative provision, and/ or**

– **by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8:**

**(a) other mandatory rules relating to work periods and rest periods, in addition to paragraph 1(a);**

**(b) other mandatory rules relating to leave and holidays, in addition to paragraph 1(b);**

**(c) other mandatory rules in addition to paragraph 1 (c);**

**(d) rules on parental and paternal leave.**

**The duration of posting of an individual worker shall be calculated within the reference period of 36 months, with a possibility to refrain from the application of paragraph 1 following an agreement with regards to concrete cases between competent authorities from the two Member States concerned.**

**When a period of two months has elapsed from the date of expiry of the previous posting period, the calculation shall restart.**

Or. en

## *Justification*

*For the purpose of legal clarity, it has to be clarified how the duration of posting is being calculated and what “the same place and the same task” means. The notion of anticipated duration of posting should be deleted as it may cause diverse interpretations. Putting a single time-limit does not take into account different sectors- a degree of flexibility is needed (reference period). Also legal consequence of applying the time- limit have to be specified.*

### **Amendment 290**

**Emilian Pavel, Viorica Dăncilă, Daciana Octavia Sârbu, Victor Negrescu, Maria Grapini, Cătălin Sorin Ivan, Victor Boștinăru, Doru-Claudian Frunzuliță, Claudia Țapardel, Claudiu Ciprian Tănăsescu, Dan Nica**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1

#### *Text proposed by the Commission*

1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

#### *Amendment*

1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out. ***When it can be foreseen (or becomes clear after the posting period has already commenced) that the activity will take more than 24 months, the employer or the person concerned can submit, without delay, a request to the competent authority in the Member State whose legislation will continue to be applied to the posted worker. Based on an agreement reached between the posting State and State/s of employment, the duration of the posting can be extended. The undertakings shall include in the request for extension of the posting, reasoned grounds justifying that the nature of the service provided still remains temporary after the lapse of the initial 24 months, as well as specify the time frame to which these reasoned grounds apply.***

Or. en



## Amendment 291

Anthea McIntyre, Arne Gericke, Richard Sulík

### Proposal for a directive

#### Article 1 – paragraph 1 – point 1

Directive 96/71/EC

Article 2a – paragraph 1

#### *Text proposed by the Commission*

1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be **deemed** to be the country in which his or her work is habitually carried out.

#### *Amendment*

1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be **presumed** to be the country in which his or her work is habitually carried out, **unless the parties determine their choice of applicable law in accordance with Regulation 593/2008 or upon the application of the settled decisions of the Court of Justice the habitual residence of the worker is clearly another member state.**

Or. en

## Amendment 292

Sergio Gutiérrez Prieto

### Proposal for a directive

#### Article 1 – paragraph 1 – point 1

Directive 96/71/EC

Article 2a – paragraph 1

#### *Text proposed by the Commission*

1. When the anticipated or the effective duration of posting exceeds **twenty-four months**, the Member State to whose territory a worker is posted **shall be deemed to be the country in which his or her work is habitually carried out.**

#### *Amendment*

1. When the anticipated or the effective duration of posting exceeds **six months or the posting is not considered genuine pursuant to Directive 2014/67/EU, the terms and conditions of employment of the Member State to whose territory a worker is posted and where the service is being provided shall apply, provided that they are more favourable for the worker than those provided for by**

*the law under which the individual employment contract was agreed.*

Or. es

**Amendment 293**

**Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Siôn Simon, Alex Mayer, Ole Christensen, Maria Arena, Miapetra Kumpula-Natri, Brando Benifei, Flavio Zanonato, Elena Gentile**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1

*Text proposed by the Commission*

1. When the *anticipated or the* effective duration of posting exceeds *twenty-four* months, the Member State to whose territory a worker is posted shall *be deemed to be the country in which his or her work is habitually carried out.*

*Amendment*

1. When the effective duration of posting exceeds *six* months, *or when the posting is not considered to be genuine under Directive 2014/67/EU, the terms and conditions of employment of* the Member State to whose territory a worker is posted *and where the service is provided* shall *apply as long as they are more favourable for the worker than those pursuant to the law under which the individual employment contract was agreed.*

Or. en

**Amendment 294**

**Terry Reintke, Karima Delli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1

*Text proposed by the Commission*

1. When the anticipated or the effective duration of posting exceeds *twenty-four* months, the Member State to

*Amendment*

1. When the anticipated or the effective duration of posting exceeds *12* months, the Member State to whose

whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

territory a worker is posted *or where the service is provided* shall be deemed to be the country in which his or her work is habitually carried out, *without prejudice to any terms and conditions of employment that are more favourable to the worker.*

Or. en

#### *Justification*

*Art. 2.1 defines a posted worker someone carrying out their work for a limited period of time. If someone is posted for a very long period of time, their habitual place of work changes. Therefore, the applicable law should change to the place of habitual work. It is important to specify the Rome I provisions on applicable law to protect the workers concerned, to avoid law-shopping, and to end the abusive practice of endless posting.*

#### **Amendment 295**

**Sven Schulze, Thomas Mann, Dieter-Lebrecht Koch, Markus Ferber, Markus Pieper**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2 a – paragraph 1

#### *Text proposed by the Commission*

1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

#### *Amendment*

1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out, *unless the parties have agreed on the application of a different law in accordance with Article 3(1) of the Rome I Regulation.*

Or. de

#### **Amendment 296**

**Dominique Martin, Joëlle Mélin**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

*Text proposed by the Commission*

1. When the anticipated or the effective duration of posting exceeds ***twenty-four months***, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

*Amendment*

1. When the anticipated or the effective duration of posting exceeds ***one month or the limit set by the national social partners for adapting to the specific characteristics of each sector***, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

Or. fr

**Amendment 297**

**Rina Ronja Kari, Patrick Le Hyaric, Thomas Händel, Paloma López Bermejo, João Pimenta Lopes, Tania González Peñas, Kostadinka Kuneva**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1

*Text proposed by the Commission*

1. ***When*** the anticipated or the effective duration of posting ***exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.***

*Amendment*

1. The anticipated or the effective duration of posting shall ***not exceed three months.***

Or. en

**Amendment 298**

**Mara Bizzotto**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1

*Text proposed by the Commission*

1. When the anticipated or the effective duration of posting exceeds **twenty-four** months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

*Amendment*

1. When the anticipated or the effective duration of posting exceeds **six** months **or the time limit set by national social partners on the basis of specific circumstances in the sector concerned**, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

Or. it

**Amendment 299**

**Guillaume Balas, Karima Delli, Patrick Le Hyaric, Edouard Martin**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1

*Text proposed by the Commission*

1. When the anticipated or the effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

*Amendment*

1. When the anticipated or the effective duration of posting exceeds twenty-four months **over a maximum continuous period of 36 months**, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

Or. fr

**Amendment 300**

**Helga Stevens, Anders Primdahl Vistisen**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1

*Text proposed by the Commission*

1. **When the anticipated or** the effective duration of posting exceeds **twenty-four** months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

*Amendment*

1. **In so far as it concerns the activities referred to in the Annex,** when the effective duration of posting exceeds **six** months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

Or. en

**Amendment 301**

**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1

*Text proposed by the Commission*

1. When the **anticipated or the** effective duration of posting exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

*Amendment*

1. When the effective duration of posting **of an individual worker** exceeds twenty-four months, the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

Or. en

**Amendment 302**

**Georges Bach, Claude Rolin**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1

*Text proposed by the Commission*

1. When the anticipated or the effective duration of posting exceeds **twenty-four** months, the Member State to

*Amendment*

1. When the anticipated or the effective duration of posting exceeds **six** months, the Member State to whose

whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out.

Or. en

### **Amendment 303**

**Anthea McIntyre, Arne Gericke**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1a (new)

*Text proposed by the Commission*

*Amendment*

***1a. 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 shall 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.***

Or. en

## **Amendment 304**

**Guillaume Balas, Karima Delli, Patrick Le Hyaric, Edouard Martin**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1a (new)

*Text proposed by the Commission*

*Amendment*

***1a. For the purpose of this Directive, an employee working in the Member State in which the employer on whose behalf he or she has been assigned for a period of at least 90 days full time in the 12 months preceding the first day of the posting is established shall be considered to be habitually working in the territory of that Member State.***

***In respect of temporary workers within the meaning of Article 1(3)(c), the length of service condition provided for in the preceding subparagraph shall be assessed in the territory of the Member State in which their employer is established.***

Or. fr

## **Amendment 305**

**Jutta Steinruck**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1a (new)

*Text proposed by the Commission*

*Amendment*

***1a. The undertakings referred to in Article 1(1) may submit to the competent authority of the Member State where the service is provided reasoned grounds justifying that the nature of the service provided remains temporary even after the lapse of the period referred to in***



*paragraph 1. The undertaking shall specify the time frame to which these reasoned grounds apply. It shall not exceed a maximum of six months overall.*

Or. en

**Amendment 306**

**Thomas Händel, Rina Ronja Kari, Paloma López Bermejo, Patrick Le Hyaric, Gabriele Zimmer**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*1a. In case of prima facie evidence, which justifies doubts about a genuine self-employed worker, the concerned worker shall be deemed a posted worker.*

*In case of prima facie evidence, which justifies doubts about a genuine posted worker or a genuine posting company, the concerned worker shall be deemed a worker of the host member state.*

Or. en

**Amendment 307**

**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*1a. The duration of posting of an individual worker shall be calculated within a reference period of 36 months, with a possibility to refrain from the application of par.1 following an*

*agreement between the two Member States concerned.*

Or. en

**Amendment 308**

**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/CE

Article 2 a – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. For the purpose of paragraph 1, Member States shall be free, where necessary, to negotiate the limit referred to above with the national social partners in the sectors affected by this Directive.***

Or. fr

**Amendment 309**

**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. To evaluate whether the employment contract falls under Art 8(4) of Rome I Regulation, the national competent authorities will rely on Article 4 of the Enforcement Directive 2014/67/EU.***

Or. en

*(Article 8 (4) of Enforcement Directive: Where it appears from the circumstances as a whole that the contract is more closely connected with a country other than that indicated in paragraphs 2 or 3, the law of that other country shall apply.)*

**Amendment 310**

**Rina Ronja Kari, Patrick Le Hyaric, Paloma López Bermejo, Tania González Peñas, Kostadinka Kuneva**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. The anticipated or the effective duration of posting shall not exceed three months. Where the posting period expires, Article 45 TFEU apply to the terms and conditions of employment.***

Or. en

**Amendment 311**

**Agnieszka Kozłowska-Rajewicz**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. This article shall not apply to undertakings operating in the international road transport sector.***

Or. pl

**Amendment 312**

**Rina Ronja Kari, Patrick Le Hyaric, Paloma López Bermejo, Thomas Händel, João Pimenta Lopes, Tania González Peñas, Kostadinka Kuneva**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. The applicable terms and conditions of employment shall be those of the Member State to whose territory the worker is posted. This is without prejudice to terms and conditions of employment that are more favourable to the worker.***

Or. en

**Amendment 313**  
**Sergio Gutiérrez Prieto**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96//71/CE  
Article 2a – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Where the provision of the work or service extends beyond six months, the firms providing the work or services shall duly justify the need to maintain posted workers to the national employment authorities of the home State, which shall approve or reject this justification in every case.***

***The national authorities of the home State may request all the information necessary from the competent authorities in the host State before taking a decision on the further extension of the posting in accordance with the previous subparagraph.***

***At all events, the extensions approved shall be considered to have been granted for a maximum period of a further six months, after which they must be renewed, with successive extensions being duly justified in accordance with this Directive.***

***Where a posting contract relates to the provision of services, the maximum period***

*that can be authorised in any case shall not exceed 12 months from the start of the posting.*

Or. es

**Amendment 314**  
**Jutta Steinruck**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***1b.** When the posting is considered not to be genuine under Directive 2014/67/EU, the terms and conditions of employment of the Member State to whose territory a worker is posted and where the service is provided shall apply as long as they are more favourable to the worker than those pursuant to the law under which the individual employment contract was agreed.*

Or. en

**Amendment 315**  
**Anthea McIntyre**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***1b.** Where an employer has obtained from its national social security administration a derogation to the 24 months within the meaning of Article 16 of Regulation 883/2004/EC, the duration mentioned in paragraph 1 shall be that of*

*the derogation.*

Or. en

**Amendment 316**

**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/CE

Article 2 a – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***1b. The more favourable employment law (between that of the host Member State and that of the Member State of origin) shall apply from the first day of the posted worker's period of employment.***

Or. fr

**Amendment 317**

**Jutta Steinruck**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1 c (new)

*Text proposed by the Commission*

*Amendment*

***1c. The application of this Directive shall not have the result of depriving workers of more favourable terms and conditions of employment afforded to them pursuant to the law under which the individual employment contract was agreed.***

Or. en

**Amendment 318**

**Jutta Steinruck**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 1 d (new)

*Text proposed by the Commission*

*Amendment*

***1d. The posting of workers shall only be temporary. It is the responsibility of the host the Member State, where the service is provided, to ensure that this principle is adhered to.***

Or. en

**Amendment 319**

**Terry Reintke, Karima Delli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 2

*Text proposed by the Commission*

*Amendment*

***2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.*** ***deleted***

Or. en

**Amendment 320**

**Danuta Jazłowiecka**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

*Text proposed by the Commission*

*Amendment*

**2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.** *deleted*

Or. en

*Justification*

*Putting in line the PWD with the Regulation on the coordination of the social security rules.*

#### **Amendment 321**

**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 96/71

Article 2a – paragraph 2

*Text proposed by the Commission*

*Amendment*

**2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.** *deleted*

Or. en

*Justification*

*Article 2 A of the Commission proposal uses time limits to address the problem of bogus postings. A set time limit is not going to address the real concern relating to ingenuine postings. Bogus posting can be addressed via Articles 3 and 4 of the Enforcement Directive which gives the competent national authorities the prerogative to identify ingenuine posting*



and abuse. This amendment also provides coherence between PWD and Rome I Regulation

## **Amendment 322**

**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 2

#### *Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted **workers** performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.

#### *Amendment*

2. For the purpose of **calculating the effective duration of posting of an individual posted worker according to** paragraph 1, in case of replacement of **that individual posted worker by another worker** performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.

Or. en

#### *Justification*

*For the purpose of legal clarity the notion of “the same task at the same place” has to be clarified. Putting a single time-limit with regards to posting does not take into account different features of various sectors. Therefore a degree of flexibility is needed such as reference period as well as possibility for MSs to agree to refrain from applying time-limit in certain cases. For the purpose of legal clarity the notion of “the same task at the same place” has to be clarified. Putting a single time-limit with regards to posting does not take into account different features of various sectors. Therefore a degree of flexibility is needed such as reference period as well as possibility for MSs to agree to refrain from applying time-limit in certain cases.*

## **Amendment 323**

**Danuta Jazłowiecka, Marek Plura, Agnieszka Kozłowska-Rajewicz, Richard Sulík, Romana Tomc, Michaela Šojdrová, Krzysztof Hetman, Janusz Lewandowski**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

*Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted **workers** performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.

*Amendment*

2. For the purpose of **calculating the effective duration of posting of an individual posted worker according to** paragraph 1, in case of replacement of **that individual posted worker by another worker** performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.

Or. en

**Amendment 324**  
**Anthea McIntyre**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – paragraph 2

*Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers **performing** the same **task** at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, **with regard to workers that are posted for an effective duration** of at least six months.

*Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers **undertaking** the same **activities** at the same place **of work**, the cumulative duration of the posting periods of the workers concerned shall be taken into account **in determining the period of 24 months, provided that each period is** of at least six **continuous months duration and the expiry of each period is no more than four years from the commencement of any other period to be taken into account.**

Or. en

*Justification*

*Long-term mobility – beyond 24 months – are commonly used by companies when posting*

*their employees either in the frame of intra-corporate transfer (e.g. for career development, or the opening of a new plant abroad) or major contracts of provision of services which require the employees to stay abroad for long periods. In these cases, companies may obtain from their social security administrations the possibility to keep their employees affiliated to the country of origin for periods which can go up to 60 months. In order not to hamper the mobility of these workers and to facilitate the life of companies, a similar provision should be foreseen in the field of labour law, e.g. under the 96/71 directive. This would bring coherence to the posting device.*

#### **Amendment 325**

**Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 96/71/CE

Article 2a – paragraph 2

#### *Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, ***with regard to workers that are posted for an effective duration of at least six months.***

#### *Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account.

Or. fr

#### **Amendment 326**

**Guillaume Balas, Karima Delli, Patrick Le Hyaric, Edouard Martin**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 96/71/CE

Article 2a – paragraph 2

#### *Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned

#### *Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned

shall be taken into account, *with regard to workers that are posted for an effective duration of at least six months.*

shall be taken into account.

Or. fr

**Amendment 327**  
**Helga Stevens, Anders Primdahl Vistisen**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – paragraph 2

*Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, *with regard to workers that are posted for an effective duration of at least six months.*

*Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account.

Or. en

**Amendment 328**  
**Herbert Dorfmann, Heinz K. Becker**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/CE  
Article 2a – paragraph 2

*Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, *with regard to workers that are posted for an effective duration of at least six months.*

*Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account.

**Amendment 329**

**Georges Bach, Claude Rolin**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 2

*Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, ***with regard to workers that are posted for an effective duration of at least six months.***

*Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account.

Or. en

**Amendment 330**

**Rina Ronja Kari, Thomas Händel, João Pimenta Lopes, Kostadinka Kuneva, Patrick Le Hyaric, Paloma López Bermejo, Lynn Boylan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 2

*Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same ***task*** at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, ***with regard to workers that are posted for an effective duration of at least six months.***

*Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same ***or similar tasks*** at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account.

Or. en

## Amendment 331

Elena Gentile, Brando Benifei, Flavio Zanonato

### Proposal for a directive

#### Article 1 – paragraph 1 – point 1

Directive 96/71/EC

Article 2a – paragraph 2

#### *Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, ***with regard to workers that are posted for an effective duration of at least six months.***

#### *Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account ***retroactively.***

Or. en

## Amendment 332

Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Guillaume Balas, Siôn Simon, Alex Mayer, Ole Christensen, Maria Arena, Miapetra Kumpula-Natri, Marita Ulvskog, Brando Benifei, Flavio Zanonato, Elena Gentile, Evelyn Regner

### Proposal for a directive

#### Article 1 – paragraph 1 – point 1

Directive 96/71/EC

Article 2a – paragraph 2

#### *Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, ***the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least six months.***

#### *Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same ***or a similar*** task at the same place - ***be it by another posted worker or the same posted worker returning after a break - the cumulative duration of the posting periods of the workers concerned shall be taken into account.***

Or. en

**Amendment 333**  
**Eduard Kukan**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – paragraph 2

*Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least *six* months.

*Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, with regard to workers that are posted for an effective duration of at least *eight* months.

Or. en

**Amendment 334**  
**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/CE  
Article 2 a – paragraph 2

*Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place, the cumulative duration of the posting periods of the workers concerned shall be taken into account, *with regard to workers that are posted for an effective duration of at least six months.*

*Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same place *of work*, the cumulative duration of the posting periods of the workers concerned shall be taken into account *from the first day of work of the first worker posted to the post in question.*

Or. fr

**Amendment 335**  
**Mara Bizzotto**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/CE  
Article 2 a – paragraph 2

*Text proposed by the Commission*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same **place**, the cumulative duration of the posting periods **of the workers concerned** shall be taken into account, **with regard to workers that are posted for an effective duration of at least six months**.

*Amendment*

2. For the purpose of paragraph 1, in case of replacement of posted workers performing the same task at the same **workplace**, the cumulative duration of the posting periods shall be taken into account **as from the first working day of the first worker posted to perform that task**.

Or. it

**Amendment 336**  
**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***For the purpose of calculating the posting period the concept of "the same task at the same place" shall be understood as the very same working place (address) where the worker is posted to the same working position to perform the same task under agreement between the same service provider and the same service receiver.***

Or. en

*Justification*

*For the purpose of legal clarity the notion of "the same task at the same place" has to be clarified. Putting a single time-limit with regards to posting does not take into account different features of various sectors. Therefore a degree of flexibility is needed such as reference period as well as possibility for MSs to agree to refrain from applying time-limit in*



*certain cases. For the purpose of legal clarity the notion of “the same task at the same place” has to be clarified. Putting a single time-limit with regards to posting does not take into account different features of various sectors. Therefore a degree of flexibility is needed such as reference period as well as possibility for MSs to agree to refrain from applying time-limit in certain cases.*

**Amendment 337**  
**Georgi Pirinski**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2a – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. By way of derogation from paragraph 1 the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out when the effective duration of the posting exceeds 36 months if the following conditions are met:**

**– the posting is related to the implementation of a specific project following a preliminary fixed time-line not exceeding 36 months;**

**– the nature of the project and its duration are explicitly mentioned and justified in the posting assignment.**

Or. en

**Amendment 338**

**Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Guillaume Balas, Siôn Simon, Alex Mayer, Emilian Pavel, Ole Christensen, Edouard Martin, Javi López, Maria Arena, Miapetra Kumpula-Natri, Marita Ulvskog, Sergio Gutiérrez Prieto, Evelyn Regner**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 96/71/EC  
Article 2 a – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. The application of this Directive shall not have the result of depriving workers of more favourable terms and conditions of employment afforded to them under provisions from which the parties cannot derogate by agreement under the national law which would have applied in the absence of the situation referred to in paragraph 1.***

Or. en

**Amendment 339**

**Georges Bach**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 2a (new)

*Text proposed by the Commission*

*Amendment*

***2a. For the purpose of this Article, the concept "the same task at the same place" shall be determined, taking into account the nature of the service provided and the work performed, and the address(es) of the workplace(s) according to the service contract or as defined in article 9(1), (a)(v), (a)(vi) of Directive 2014/67/EU***

Or. en

**Amendment 340**

**Elena Gentile, Brando Benifei, Flavio Zanonato**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 71/96/EC

Article 2a – paragraph 2a (new)

*Text proposed by the Commission*

*Amendment*

**2a.** *The limited period for posting activities shall be fixed through a mandate to the European sectorial social partners, which will negotiate accordingly to need of their sector.*

Or. en

**Amendment 341**

**Laura Agea, Tiziana Beghin, Rosa D'Amato, Marco Valli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2 a – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a..** *For the purpose of paragraph 2, there may be no more than three replacements of posted workers performing the same task at the same workplace.*

Or. it

**Amendment 342**

**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a.** *When a period of two months have elapsed from the date of expiry of the previous posting period, the calculation restarts.*

Or. en

**Amendment 343**

**Guillaume Balas, Karima Delli, Patrick Le Hyaric, Edouard Martin, Christine Revault D'Allonnes Bonnefoy**

**Proposal for a directive**

**Article 1 – paragraph -1 a (new)**

Directive 96/71/CE

Article 2a – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. Workers can only be considered posted within the meaning of this Directive if their employer meets the following cumulative conditions in relation to the Member State in which it is established:***

***– its principal place of business, e.g. its registered office or a subsidiary, branch or agency, is located in that Member State;***

***– it is liable for applicable direct taxes or turnover taxes in that Member State;***

***– it is registered as an employer and for payment of social security contributions in that Member State;***

***– its operating authorisation is issued by that Member State;***

***– in the preceding year it generated, in the country of origin, a turnover of at least 33.3% of the total turnover generated in the country of establishment and in the country to which the employee is posted.***

Or. fr

**Amendment 344**

**Georgi Pirinski**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 2 b (new)

*Text proposed by the Commission*

*Amendment*

**2b.** *Postings exceeding in duration 24 months in line with the provisions of paragraph 2a shall be subject to prior approval by the competent authorities of the host Member State.*

Or. en

**Amendment 345**

**Elena Gentile, Brando Benifei, Flavio Zanonato**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 2b (new)

*Text proposed by the Commission*

*Amendment*

**2b.** *In order to avoid abusive contractual relations, a worker shall be employed by a company at least 6 months before being posted to another country.*

Or. en

**Amendment 346**

**Georgi Pirinski**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1**

Directive 96/71/EC

Article 2a – paragraph 2 c (new)

*Text proposed by the Commission*

*Amendment*

**2c.** *By way of derogation from paragraph 1, the Member State to whose territory a self-employed worker is posted shall be deemed to be the country in which his or her work is habitually carried out when the effective duration of the posting exceeds 6 months.*

**Amendment 347**

**Terry Reintke, Karima Delli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1 a (new)**

Directive 96/71/EC

Article 2 b (new)

*Text proposed by the Commission*

*Amendment*

**(1a) The following Article 2b is added:**

**Article 2b**

***Law applicable where a posting is found not to be genuine***

***1. Where it is established that a posted worker is not only temporarily carrying out work in the host Member State, in accordance with Article 3(2), the law of the host Member State is presumed to apply in full.***

***The employer and the employee may, however, provide evidence that the law of another Member State applies to the contract by virtue of Article 8 of the Rome I Regulation. If so, the host Member State shall nevertheless ensure that the worker is guaranteed the minimum protection offered by this Directive and may, in accordance with Union law, extend that protection to other overriding mandatory provisions within the meaning of Article 9 of the Rome I Regulation.***

***2. Where the law of the host Member State applies pursuant to Article 8 of the Rome I Regulation, whether or not as a result of the choice of the employer and the employee, nothing in this Directive shall prevent the full application of that Member State's law.***

***3. Paragraphs 1 and 2 shall be without prejudice to any terms and conditions of employment of the sending Member State***

*that are more favourable to the worker.*

Or. en

*Justification*

*If labour inspectors discover a violation of this Directive or Directive 2014/67/EC and conclude that this is a situation of non-genuine posting, the respective worker(s) must be protected by the law of the country where they provide their work without prejudice to the term and conditions of employment that are more favourable to the worker. In order to ensure the protective nature of this provision both the company and the worker(s) may yield evidence to prove another habitual place of employment.*

**Amendment 348**

**Georges Bach, Claude Rolin, Ivo Belet, Jeroen Lenaers, Elmar Brok**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1 a (new)**

Directive 96/71/EC

Article 2 b (new)

*Text proposed by the Commission*

*Amendment*

**(1a) The following Article 2b is inserted:**

**Article 2b**

**Sectoral derogations**

***By way of derogation from Article 2a (1) and (2), Member States may determine for specific sectors, after consultation with the concerned sectoral social partners, the anticipated or effective duration after which the Member State to whose territory a worker is posted shall be deemed to be the country in which his or her work is habitually carried out. Any derogation shall be justified, proportionate and transparent***

Or. en

**Amendment 349**

**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1 a (new)**  
Directive 96/71/CE  
Article 2 b

*Text proposed by the Commission*

*Amendment*

**(1a) The following Article 2b is added:**

**Article 2b**

- 1. For the purpose of this Directive, all posting procedures shall be subject to the obligations laid down in Article 9 of Directive 2017/67/EU.**
- 2. For the purpose of paragraph 1, in addition to the information set out in Article 4 of Directive 2014/67/EU, it shall be necessary to state the date on which the posting is expected to end, the details of the assignment or of the post in the host country, the working hours, the hourly remuneration, the place of work, the working conditions and any other information specific to the post or assignment.**
- 3. For the purpose of paragraph 1, and in order to combat social dumping and labour shopping, the posting undertaking must be able to officially declare that its posting activity is not its main activity but a secondary and occasional activity.**

Or. fr

**Amendment 350**  
**Terry Reintke, Karima Delli**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1 a (new)**  
Directive 96/71/EC  
Article 2 c (new)

*Text proposed by the Commission*

*Amendment*

**(1a) The following Article 2c is inserted:**



## **Article 2c**

### **Rule against derogation**

***The application of this Directive shall not result in depriving workers the terms and conditions of employment under provisions that cannot be derogated from by agreement under the law that applies in the country of service provision.***

Or. en

### **Justification**

*There are significant national variations in the application of this Directive in Member States, which result from provisions within the Directive that allow for flexibility in terms of modes of regulation, scope of sectors covered, further provisions or derogations. It needs, however, to be ensured that the workers may never be deprived of the protection afforded to them under provisions that cannot be derogated from by agreement under the law that applies in the country of service provision.*

### **Amendment 351**

**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 1 b (new)**

Directive 96/71/EC

Article 2 c (new)

*Text proposed by the Commission*

*Amendment*

**(1c) The following Article 2c is added:**

### **Article 2c**

***1. In order to prevent social dumping, the posting undertaking must be able to officially prove the existence of a professional link of at least three months between it and the worker it is posting.***

***2. In order to prevent social dumping, the host undertaking must include in its obligatory posting declaration, as provided for in Article 9 of Directive 2014/67/EU, an ‘anti-dumping declaration’, stating that it is unable to use a service provider in the country in which it is established and that it is***

*therefore forced to have recourse to posting.*

Or. fr

**Amendment 352**

**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1 c (new)**

Directive 96/71/EC

Article 2 d (new)

*Text proposed by the Commission*

*Amendment*

**(1d) The following Article 2d is added:**

**Article 2d**

***Member States shall also retain the authority to carry out all the checks required to combat the fraudulent use of Directive 96/71/EC. Where this is deemed necessary to prevent dumping, the exploitation of workers or any other practice which undermines the competitiveness of a sector, Member States may take whatever measures they regard as appropriate to prevent the misuse of Directive 96/71/EC or even suspend its application in their territory.***

Or. fr

**Amendment 353**

**Arne Gericke**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2**

Directive 96/71/EC

Article 3 – paragraphs 1, 1a, 1b, 9 and second subparagraph of paragraph 10

*Text proposed by the Commission*

*Amendment*

**[...]**

***deleted***

*Justification*

*This creates legal uncertainty. It would lead to a disproportionate restriction on the freedom to provide services, and would destroy the competitive advantages associated with particular locations. The social partners are responsible for regulating elements of pay.*

**Amendment 354**  
**Michaela Šojdrová**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point a**  
 Directive 96/71/EC  
 Article 3 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. Member States shall ensure that, whatever the law applicable to the employment relationship, the undertakings referred to in Article 1 (1) guarantee workers posted to their territory the terms and conditions of employment covering the following matters which, in the Member State where the work is carried out, are laid down:

*Amendment*

1. Member States shall ensure that, whatever the law applicable to the employment relationship, the undertakings referred to in Article 1(1) guarantee workers posted to their territory ***in the context of a longer posting, in addition to the legal terms and conditions of employment referred to in paragraph 1 of this Article***, the terms and conditions of employment covering the following matters which, in the Member State where the work is carried out, are laid down:

Or. en

**Amendment 355**  
**Rina Ronja Kari, Thomas Händel, João Pimenta Lopes, Kostadinka Kuneva, Patrick Le Hyaric, Paloma López Bermejo, Tania González Peñas, Lynn Boylan**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point a**  
 Directive 96/71/EC  
 Article 3 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. Member States shall ensure that, whatever the law applicable to the

*Amendment*

1. ***According to the principle of equal pay for equal work at the same place of***

employment relationship, the undertakings referred to in Article 1 (1) guarantee workers posted to their territory the terms and conditions of employment covering the following matters which, in the Member State where the work is carried out, are laid down:

*work*, Member States shall ensure that, whatever the law applicable to the employment relationship, the undertakings referred to in Article 1 (1) guarantee workers posted to their territory *at least* the terms and conditions of employment covering the following matters which, in the Member State where the work is carried out, are laid down:

Or. en

### **Amendment 356**

**Michaela Šojdrová, Heinz K. Becker**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – introductory part

#### *Text proposed by the Commission*

1. Member States shall ensure that, whatever the law applicable to the employment relationship, the undertakings referred to in Article 1 (1) guarantee workers posted to their territory the terms and conditions of employment covering the following matters which, in the Member State where the work is carried out, are laid down:

#### *Amendment*

1. Member States shall ensure that, whatever the law applicable to the employment relationship, the undertakings referred to in Article 1 (1) guarantee workers posted to their territory the *legal* terms and conditions of employment covering the following matters which, in the Member State where the work is carried out, are laid down:

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

Or. en

### **Amendment 357**

**Michaela Šojdrová, Agnieszka Kozłowska-Rajewicz**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2

*Text proposed by the Commission*

- by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8:

*Amendment*

- by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8 ***insofar as they are published on the single official national website referred to in Article 5 of Directive 2014/67/EU:***

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

Or. en

*Justification*

*The purpose of this modification is to limit the obligation of undertakings to abide by collective agreements. Undertakings should only be obliged to respect collective agreements which have been duly published. They cannot be expected to follow rules that they cannot inform themselves about without excessive administrative burdens.*

**Amendment 358**

**Eduard Kukan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2

*Text proposed by the Commission*

- by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8:

*Amendment*

- by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8 ***as long as they are published on the single official national website referred to in Article 5 of Directive 2014/67/EU:***

Or. en

**Amendment 359**

**Rina Ronja Kari, Thomas Händel, Kostadinka Kuneva, Patrick Le Hyaric, Paloma**

**López Bermejo, Tania González Peñas, Lynn Boylan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2

*Text proposed by the Commission*

– by collective agreements or arbitration awards ***which have been declared universally applicable within the meaning of paragraph 8:***

*Amendment*

– by collective agreements or arbitration awards:

Or. en

*Justification*

*All collective agreements should apply to the terms and conditions of employment*

**Amendment 360**

**Elena Gentile, Brando Benifei, Flavio Zanonato**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2

*Text proposed by the Commission*

– by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8:

*Amendment*

– by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8 ***at national and subnational levels.***

Or. en

**Amendment 361**

**Terry Reintke, Karima Delli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2

*Text proposed by the Commission*

– by collective agreements or arbitration awards ***which have been declared universally applicable*** within the meaning of ***paragraph 8***:

*Amendment*

– by ***all types of*** collective agreements or arbitration awards within the meaning of ***paragraphs 8 and 8a***:

Or. en

*Justification*

*The restriction regarding collective agreements does not seem appropriate here. It can hinder a Member States' approach in which terms and conditions of employment are defined via different types of collective agreements which apply non-discriminatory to all service providers and their workers.*

**Amendment 362**

**Rina Ronja Kari, João Pimenta Lopes, Tania González Peñas, Kostadinka Kuneva, Patrick Le Hyaric, Paloma López Bermejo, Lynn Boylan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point a

*Text proposed by the Commission*

(a) maximum work periods and minimum rest periods;

*Amendment*

(a) maximum work periods and minimum rest periods, ***including specific measures regarding night work, work performed during weekends and holidays and work performed in shifts***;

Or. en

**Amendment 363**

**Emilian Pavel, Viorica Dăncilă, Daciana Octavia Sârbu, Victor Negrescu, Maria Grapini, Cătălin Sorin Ivan, Victor Boștinăru, Doru-Claudian Frunzuliță, Claudia Țapardel, Dan Nica**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 1 – paragraph 1 – indent 2 – point b

*Text proposed by the Commission*

*Amendment*

(b) *minimum paid annual holidays* **deleted**

Or. en

#### **Amendment 364**

**Eduard Kukan**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point b

*Text proposed by the Commission*

*Amendment*

(b) minimum paid annual *holidays*

(b) minimum paid annual *leave*

Or. en

#### **Amendment 365**

**Danuta Jazłowiecka, Marek Plura, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Janusz Lewandowski**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – 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) *the minimum rates of pay*, including overtime rates; *allowances for work carried out on public holidays and Sundays; sector- specific allowances and bonuses with regards to specific working conditions as well as health and safety; seniority allowances; end of year bonuses; daily allowances including board and lodging allowances with regard to assignment within the Member State to which a worker is posted*; this point does not apply to supplementary occupational retirement pension schemes, *benefits in*



*kind as well as bonuses and allowances which are not directly paid to posted workers;*

Or. en

**Amendment 366**

**Czesław Hoc, Richard Sulík, Kosma Złotowski, Zdzisław Krasnodębski, Roberts Zile, Angel Dzhambazki, Zigmantas Balčytis, Sandra Kalniete, Ryszard Czarnecki, Bolesław G. Piecha, Marian-Jean Marinescu, Ramona Nicole Mănescu, Ryszard Antoni Legutko, Beata Gosiewska, Zbigniew Kuźmiuk, Tomasz Piotr Poręba, Stanisław Ożóg, Andor Deli, Kinga Gál, Anna Elżbieta Fotyga, Edward Czesak, Urszula Krupa, Jadwiga Wiśniewska, Sławomir Kłosowski, Cristian-Silviu Buşoi, Traian Ungureanu, Theodor Dumitru Stolojan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point c

*Text proposed by the Commission*

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

*Amendment*

(c) *minimum rates of pay*, including overtime rates, *unless the Member State fails to publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of minimum rates of pay, their geographic and personal scope and the method of calculation*; this point does not apply to supplementary occupational retirement pension schemes;

Or. en

**Amendment 367**

**Dominique Martin, Joëlle Mélin**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/CE

Article 3 – paragraph 1 – indent 2 – point c

*Text proposed by the Commission*

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

*Amendment*

(c) remuneration, including overtime rates *and social security contributions, all calculated in accordance with the criteria of the country where the posting takes place, without any reference to Article 12 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004;*

Or. fr

**Amendment 368**

**Agnieszka Kozłowska-Rajewicz**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point c

*Text proposed by the Commission*

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

*Amendment*

(c) remuneration – *and, in the case of undertakings operating in the international road transport sector, minimum rates of pay* –, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes;

Or. pl

**Amendment 369**

**Emilian Pavel, Viorica Dăncilă, Daciana Octavia Sârbu, Victor Negrescu, Maria Grapini, Cătălin Sorin Ivan, Victor Boștinăru, Doru-Claudian Frunzuliță, Claudia Țapardel, Claudiu Ciprian Tănăsescu, Dan Nica**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – 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) **rates of pay**, including overtime rates, **minimum paid annual leave, bonuses for dirty, heavy or dangerous work, board and lodging allowances**; this point does not apply to supplementary occupational retirement pension schemes;

Or. en

*Justification*

*The value of all the elements paid to posted workers by the service provider, shall be taken into consideration by the host Member State in order to prove the payment of a rate of pay of a comparable value with the remuneration established by the host Member State.*

**Amendment 370**

**Martina Dlabajová, Renate Weber, Mircea Diaconu**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – 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) **the minimum rates of pay**, including **pay for hourly work and/or piecework according to pay groups and** overtime rates; this point does not apply to supplementary occupational retirement pension schemes;

Or. en

**Amendment 371**

**Csaba Sógor**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – 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) **the minimum rates of pay**, including overtime rates **and mandatory bonuses and allowances**; this point does not apply to supplementary occupational retirement pension schemes;

Or. en

*Justification*

*The notion of remuneration lacks legal clarity for posting companies and workers.*

**Amendment 372**

**Herbert Dorfmann, Heinz K. Becker**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – 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, including overtime rates **and social security contributions, to be calculated according to the criteria of the country where workers are posted**;

Or. en

**Amendment 373**

**Ádám Kósa, József Szájer, László Tőkés, Andrea Bocskor, Andor Deli, Tamás Deutsch, Kinga Gál, Ildikó Gáll-Pelcz, András Gyürk, György Schöpflin, Pál Csáky**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point c

*Text proposed by the Commission*

*Amendment*

(c) **remuneration**, including overtime rates; this point does not apply to

(c) **minimum rates of pay, bonuses and allowances**, including overtime rates;

supplementary occupational retirement pension schemes;

this point does not apply to supplementary occupational retirement pension schemes;

Or. en

**Amendment 374**  
**Anthea McIntyre**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point a**  
Directive 96/71/EC  
Article 3 – paragraph 1 – indent 2 – point c

*Text proposed by the Commission*

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

*Amendment*

(c) remuneration ***as determined by the settled law of the Court of Justice***; this point does not apply to supplementary occupational retirement pension schemes;

Or. en

**Amendment 375**  
**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point a**  
Directive 96/71/EC  
Article 3 – paragraph 1 – indent 2 – point c

*Text proposed by the Commission*

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

*Amendment*

(c) remuneration, including overtime rates ***and social security contributions, all calculated in accordance with the criteria of the country where the posting takes place***;

Or. fr

**Amendment 376**  
**Jasenko Selimovic, Enrique Calvet Chambon**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point c

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 377**

**Eduard Kukan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point c

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 378**

**Ádám Kósa, László Tőkés, Andrea Bocskor, Andor Deli, Tamás Deutsch, Kinga Gál, Ildikó Gáll-Pelcz, András Gyürk, György Schöpflin, József Szájer, Pál Csáky**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point d

*Text proposed by the Commission*

(d) the conditions of hiring-out of workers, in particular the supply of workers by temporary employment

*Amendment*

(d) the conditions of hiring-out of workers, in particular the supply of workers by temporary employment

undertakings;

undertakings, *except the conditions of collective accommodation for workers*;

Or. en

*Justification*

*Collective accommodation as a notion would be a very problematic, new and vague idea in relation to the posting of workers directive and an unfair disadvantageous factor for the temporarily posted workers.*

**Amendment 379**

**João Pimenta Lopes**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point d

*Text proposed by the Commission*

*Amendment*

(d) the conditions of hiring-out of workers, *in particular the supply of workers by temporary employment undertakings*;

(d) the conditions of hiring-out of workers;

Or. pt

**Amendment 380**

**Terry Reintke, Karima Delli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point g a (new)

*Text proposed by the Commission*

*Amendment*

*(ga) reimbursement of expenditure incurred as a result of the posting, such as expenditure with regard to travel, board and lodging.*

Or. en

**Amendment 381**

**Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Guillaume Balas, Siôn Simon, Alex Mayer, Maria Arena, Ole Christensen, Javi López, Edouard Martin, Miapetra Kumpula-Natri, Marita Ulvskog, Brando Benifei, Flavio Zanonato, Elena Gentile, Sergio Gutiérrez Prieto, Evelyn Regner**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point g a (new)

*Text proposed by the Commission*

*Amendment*

*(ga) provisions to cover travel, board and lodging expenses for workers away from home for professional reasons*

Or. en

**Amendment 382**

**Rina Ronja Kari, Thomas Händel, João Pimenta Lopes, Kostadinka Kuneva, Patrick Le Hyaric, Paloma López Bermejo, Tania González Peñas, Lynn Boylan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point g a (new)

*Text proposed by the Commission*

*Amendment*

*(ga) allowances associated with the posting and/or reimbursement of expenditures on travel, board and lodging.*

Or. en

**Amendment 383**

**Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/CE

Article 3 – paragraph 1 – indent 2 – point g a (new)



*Text proposed by the Commission*

*Amendment*

***(ga) conditions of workers' accommodation.***

Or. fr

**Amendment 384**

**Jutta Steinruck**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point g a (new)

*Text proposed by the Commission*

*Amendment*

***(ga) provisions for working outside the regular working place.***

Or. en

**Amendment 385**

**Tom Vandenkendelaere, Ivo Belet**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point g a (new)

*Text proposed by the Commission*

*Amendment*

***(ga) conditions of collective accommodation for workers;***

Or. en

**Amendment 386**

**Georges Bach, Claude Rolin**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC  
Article 3 – paragraph 1 – indent 2 – point g a (new)

*Text proposed by the Commission*

*Amendment*

***(ga) conditions of accommodation for workers;***

Or. en

### **Amendment 387**

**Tom Vandenkendelaere, Ivo Belet, Claude Rolin, Georges Bach, Elmar Brok**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – point g b (new)

*Text proposed by the Commission*

*Amendment*

***(gb) allowance rates to cover travel, board and lodging expenses for workers away from home for professional reasons.***

Or. en

### **Amendment 388**

**Michaela Šojdrová**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

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

*Text proposed by the Commission*

*Amendment*

***For the purposes of this Directive, the concept of minimum rates of pay referred to in paragraph 1(c) is defined by the national law and/or practice of the Member State to whose territory the worker is posted.***

***Member States shall ensure, whatever the law applicable to the employment relationship, that the undertaking referred***

*to in Article 1(1) guarantee workers posted to their territory in the context of a longer posting, in addition to the legal terms and conditions of employment referred to in paragraph 1 of this Article, the terms and conditions of employment covering the following matters which, in the Member State where the work is carried out, are laid down:*

*– by law, regulation or administrative provision, and/or*

*– by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8 insofar as they are published on the single official national website referred to in Article 5 of Directive 2014/67/EU:*

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

*(b) conditions of collective accommodation for workers.*

*For the purposes of this paragraph, paragraph 6, second subparagraph shall not apply.*

*For the purposes of this paragraph, "workers posted in the context of a longer posting" shall mean:*

*(a) any worker posted for an anticipated or effective duration of at least 6 months; and*

*(b) where a posted worker is replaced by another posted worker performing the same task at the same place by the undertaking referred to in Article 1(1) and the cumulative duration of the posting periods of the individual workers concerned exceeds 12 months, any worker posted for a duration of at least 3 months.*

*For the purpose of this Directive, the concept of "remuneration" shall be determined by national law and/or practice of the Member State to whose*

*territory the worker is posted and mean 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 that Member State.*

Or. en

*Justification*

*For posting longer than 6 months full remuneration principle shall apply in accordance with point a).*

**Amendment 389**

**Eduard Kukan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

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

*Text proposed by the Commission*

*Amendment*

*The subparagraph of paragraph 1(b) and (c) shall not apply if the period of posting does not exceed eight days.*

Or. en

**Amendment 390**

**Laura Agea, Tiziana Beghin, Rosa D'Amato, Marco Valli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/CE

Article 3 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

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.

*Amendment*

For the purpose of this Directive, remuneration means all the elements of remuneration rendered mandatory by national law, regulation or **practice (e.g. administrative provisions)**, 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, **if** the Member State to whose territory the worker is posted **so decides, by:**

**– collective agreements or arbitration awards which are generally applicable to all similar undertakings in the geographical area and in the profession or industry concerned, and/or**

**– collective agreements which have been concluded by the most representative employers' and employees' organisations at national level and which are applied throughout their national territory, provided that they are applied in respect of the undertakings referred to in Article 1(1) in such a way as to ensure equal treatment as regards pay between those undertakings and undertakings under this subparagraph that are in a similar situation, and that a Member State wishing to make use of collective agreements of this kind that have not been declared universally applicable has notified the Commission that the obligation to publish the relevant information on the single national website referred to above has been met.**

Or. it

**Amendment 391**  
**Michaela Šojdrová**

**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*

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.*

*Amendment*

For the purpose of this Directive, *the concept of "remuneration" shall be determined by national law and/or practice of the Member State to whose territory the worker is posted and mean* 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 that* Member State.

Or. en

**Amendment 392**

**Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Janusz Lewandowski**

**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*

*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

*Amendment*

*The minimum rates of pay as well as bonuses and allowances are defined* by national law, regulation or administrative provision, collective agreements or arbitration awards which have been declared universally applicable and/or, in

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.

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.

Or. en

### **Amendment 393**

**Emilian Pavel, Viorica Dăncilă, Daciana Octavia Sârbu, Victor Negrescu, Maria Grapini, Cătălin Sorin Ivan, Victor Boștinăru, Doru-Claudian Frunzulică, Claudia Țapardel, Dan Nica**

#### **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*

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.*

#### *Amendment*

For the purpose of this Directive, *rates of pay are defined by the national law and/or practice of the Member State to whose territory the worker is posted.*

Or. en

### **Amendment 394**

**Ole Christensen**

**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*

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.

*Amendment*

For the purpose of this Directive, **the concept** of remuneration **is defined by the national law and/or practice of** the Member State to whose territory the worker is posted.

Or. en

**Amendment 395**  
**Agnes Jongerius, Elisabeth Morin-Chartier**

**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*

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**

*Amendment*

For the purpose of this Directive, **the concept** of remuneration **shall be determined by the national law and/or practice of** the Member State to whose territory the worker is posted.



**8 second subparagraph, in** the Member State to whose territory the worker is posted.

Or. en

**Amendment 396**  
**Marita Ulvskog**

**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*

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.

*Amendment*

For the purpose of this Directive, **the concept** of remuneration **shall be determined by the national law and practice of** the Member State to whose territory the worker is posted.

Or. en

**Amendment 397**  
**Terry Reintke, Karima Delli**

**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*

For the **purpose** of this Directive,

*Amendment*

For the **purposes** of this Directive, **the**

**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.

**concept** of remuneration **is defined by the national law and/or practice of** the Member State to whose territory the worker is posted.

Or. en

### *Justification*

*It is and should remain within the Member States' competence to define the concept and elements of remuneration. By virtue of the Enforcement Directive, Member States have the obligation to inform all service providers of their definition and composition, thus ensuring transparency.*

### **Amendment 398**

**Rina Ronja Kari, Thomas Händel, Kostadinka Kuneva, Paloma López Bermejo**

#### **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*

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

#### *Amendment*

For the purpose of this Directive, **the concept** of remuneration **shall be defined** by national law **and/or practice of** the Member State to whose territory the worker is posted.

State to whose territory the worker is posted.

Or. en

#### **Amendment 399**

**Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Guillaume Balas, Siôn Simon, Alex Mayer, Maria Arena, Miapetra Kumpula-Natri, Marita Ulvskog, Brando Benifei, Flavio Zanonato, Elena Gentile, Evelyn Regner**

#### **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*

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.*

*Amendment*

For the purpose of this Directive, *the concept of remuneration shall be determined by the national law and/or practice of the Member State to whose territory the worker is posted.*

Or. en

#### **Amendment 400**

**Czesław Hoc, Richard Sulík, Kosma Złotowski, Zdzisław Krasnodębski, Roberts Zīle, Angel Dzhambazki, Zigmantas Balčytis, Sandra Kalniete, Ryszard Czarnecki, Marian-Jean Marinescu, Ramona Nicole Mănescu, Ryszard Antoni Legutko, Beata Gosiewska, Zbigniew Kuźmiuk, Tomasz Piotr Poręba, Stanisław Ożóg, Andor Deli, Kinga Gál, Anna Elżbieta Fotyga, Edward Czesak, Urszula Krupa, Jadwiga Wiśniewska, Sławomir Kłosowski, Cristian-Silviu Buşoi, Traian Ungureanu, Theodor Dumitru Stolojan**

#### **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*

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.***

*Amendment*

For the ***purposes*** of this Directive, ***the concept of minimum rates of pay referred to in paragraph 1 (c) is defined by the national law and/or practice of the Member State to whose territory the worker is posted.***

Or. en

#### **Amendment 401**

**Ádám Kósa, Andrea Bocskor, Andor Deli, Tamás Deutsch, Kinga Gál, Ildikó Gáll-Pelcz, András Gyürk, György Schöpflin, József Szájer, László Tókécs, Pál Csáky**

#### **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*

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***

*Amendment*

For the purpose of ***the clear and unambiguous application of this Directive***, ***pay, bonuses and allowances mean all the elements rendered mandatory by national law and/or practice of the Member State to whose territory the worker is posted.***

State to whose territory the worker is posted.

Or. en

### *Justification*

*In order to make sure the application of this Directive will be clear for all parties, as well as to avoid generating any legal and practical uncertainty and imposing a massive bureaucratic burden of posting enterprises, that of SMEs in particular. Remuneration is still a vague and uncertain legal category in this form, hence it is counterproductive to introduce such a new definition. It can consist of non-comparable elements varying member state by member state and so the very purpose of the definition would cease to exist.*

### **Amendment 402** **Eduard Kukan**

#### **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*

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.

#### *Amendment*

For the purpose of this Directive, ***the total amount of remuneration referred to in paragraph 1(c), including its obligatory elements, shall be determined by the national law and practice of*** the Member State to whose territory the worker is posted.

Or. en

### **Amendment 403** **Sergio Gutiérrez Prieto**

**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*

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.

*Amendment*

For the purpose of this Directive, *the concept of* remuneration *shall include* all the *concepts* of remuneration *determined* by national law *and by national practices*, collective agreements, *sectorial agreements and company agreements* in the Member State to whose territory the worker is posted

Or. es

**Amendment 404**  
**Georgi Pirinski**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point a**  
Directive 96/71/EC  
Article 1 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

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*

*Amendment*

For the purpose of this Directive, remuneration means all the elements *and the minimum rates* of remuneration rendered mandatory by national law, regulation or administrative provision, collective agreements or arbitration awards which have been declared universally applicable in the Member State to whose territory the worker is posted.

**8 second subparagraph**, in the Member State to whose territory the worker is posted.

Or. en

**Amendment 405**  
**Anthea McIntyre**

**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*

*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.*

*Amendment*

*In the context of this Directive, remuneration and social security contributions shall be defined in accordance with the national law and/or practice of the Member State on whose territory the worker is posted. Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration in accordance with point (c).*

Or. en

**Amendment 406**  
**Agnieszka Kozłowska-Rajewicz**

**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*

For the purpose of this Directive,

*Amendment*

*Except in respect of undertakings*

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.

*operating in the international road transport sector*, 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.

Or. pl

#### **Amendment 407**

**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/CE

Article 3 – paragraph 1 – subparagraph 2

#### *Text proposed by the Commission*

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.

#### *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 ***or the conditions laid down in the contract concluded between the parties.***

Or. fr



## Amendment 408

Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman

### 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*

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.

##### *Amendment*

For the purpose of this Directive, remuneration means **minimum rates of pay and other** 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.

Or. en

## Amendment 409

Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu

### 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*

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

##### *Amendment*

For the **purposes** of this Directive, **the concept of minimum rates of pay referred to in paragraph 1 (c) is defined** 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.

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.

Or. en

#### **Amendment 410**

**Jasenko Selimovic, Enrique Calvet Chambon**

##### **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*

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.

##### *Amendment*

For the purpose of this Directive, remuneration means all the *minimum rules on* 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.

Or. en

#### **Amendment 411**

**Csaba Sógor**

##### **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.

***The minimum rates of pay as well as mandatory bonuses and allowances are defined*** 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.

Or. en

*Justification*

*The notion of remuneration lacks legal clarity for posting companies and workers.*

#### **Amendment 412**

**Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Janusz Lewandowski**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***For the purpose of calculating the sums due to a posted worker double payment of applicable bonuses and allowances of equal or similar nature shall be avoided. In case of a conflict a common decision shall be taken jointly by competent authorities of the host and of the home member state.***

***Miscalculation of sums due to a posted worker resulting from wrong or insufficient information published in the single official national website or***

*transmitted to subcontractors in written form shall not be sanctioned.*

*Posted workers shall be entitled to the gross amount which does not have to comply with all the mandatory elements but with the amount required*

Or. en

**Amendment 413**

**Siôn Simon, Alex Mayer**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*The right to form and join a trade union for the protection of the worker's interest; trade unions shall be given the possibility to collectively bargain for posted workers;*

Or. en

**Amendment 414**

**Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Guillaume Balas, Siôn Simon, Alex Mayer, Ole Christensen, Edouard Martin, Javi López, Maria Arena, Miapetra Kumpula-Natri, Brando Benifei, Flavio Zanonato, Elena Gentile, Sergio Gutiérrez Prieto, Evelyn Regner**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*In the context of remuneration as well as allowances and expenses related to work outside the regular working place, elements which are mandatory under both the national law of the host Member State and the national law applying to the*

*individual employment contract, and which are essentially similar, shall only be paid once to avoid double payment whereby the worker shall always receive the amount which is more favourable.*

Or. en

**Amendment 415**

**Agnieszka Kozłowska-Rajewicz**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2a (new)

*Text proposed by the Commission*

*Amendment*

*In respect of undertakings operating in the international road transport sector, for the purpose of this Directive, the concept of minimum rate of pay, as referred to in paragraph 1(c), shall be defined by the national law and/or practice of the Member State to whose territory the worker is posted.*

Or. pl

**Amendment 416**

**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*For the purpose of calculating the remuneration double payment of other elements of equal or similar nature shall be avoided. In case of a conflict a suitable decision shall be taken jointly by competent authorities of the host and of*

*the home member state.*

Or. en

**Amendment 417**  
**Eduard Kukan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*When the total amount of remuneration in home Member State is equal or above total amount of remuneration as set by the hosting state, all required elements are considered to be covered.*

Or. en

*Justification*

*Lowering the administrative burden for companies.*

**Amendment 418**

**Sven Schulze, Thomas Mann, Dieter-Lebrecht Koch, Markus Ferber, Markus Pieper**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*The Member States and social partners shall be responsible for determining which elements make up the remuneration.*

Or. de

**Amendment 419**

**Agnes Jongerius, Elisabeth Morin-Chartier**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*In the context of remuneration, elements which are mandatory under both the national law of the host Member State and the national law applying to the individual employment contract, and which are essentially similar, shall only be paid once to avoid double payment whereby the worker shall always receive the amount which is more favourable.*

Or. en

**Amendment 420**

**Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Janusz Lewandowski**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*For the purpose of calculating the sums due to a posted worker double payment of applicable bonuses and allowances of equal or similar nature shall be avoided. In case of a conflict a common decision shall be taken jointly by competent authorities of the host and of the home member state.*

Or. en

**Amendment 421**

**Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Janusz Lewandowski**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2 b (new)

*Text proposed by the Commission*

*Amendment*

*Miscalculation of sums due to a posted worker resulting from wrong or insufficient information published in the single official national website or transmitted to subcontractors in written form shall not be sanctioned.*

Or. en

**Amendment 422**

**Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Janusz Lewandowski**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2 c (new)

*Text proposed by the Commission*

*Amendment*

*Posted workers shall be entitled to the gross amount which does not have to comply with all the mandatory elements but with the amount required*

Or. en

**Amendment 423**

**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3



*Text proposed by the Commission*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **remuneration in accordance with point (c)**.

*Amendment*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **minimum rates of pay as established by law, regulation or administrative provision, and/or by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8**.

Or. en

*Justification*

*Recital 12 : national measures must not be liable for hindering or making less attractive the exercise of fundamental freedoms guaranteed by the Treaty and be applied in a non-discriminatory manner, they must be justified by imperative requirements in the general interest, and suitable for securing the attainment of the objective which they pursue and they must not go beyond what is necessary in order to attain it;*

**Amendment 424**

**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **remuneration in accordance with point (c)**.

*Amendment*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **minimum rates of pay as established by law, regulation or administrative provision, and/or by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8**.

Or. en

## Justification

*Recital 12 : national measures must not be liable for hindering or making less attractive the exercise of fundamental freedoms guaranteed by the Treaty and be applied in a non-discriminatory manner, they must be justified by imperative requirements in the general interest, and suitable for securing the attainment of the objective which they pursue and they must not go beyond what is necessary in order to attain it;*

### Amendment 425

**Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Janusz Lewandowski**

#### Proposal for a directive

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3

#### *Text proposed by the Commission*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU *the constituent elements of remuneration in accordance with point (c).*

#### *Amendment*

Member States shall *specify in a transparent way minimum rates of pay as well as allowances and bonuses as listed in point (c) that are applicable in their territory. They shall publish this information* in the single official national website referred to in Article 5 of Directive 2014/67/EU. *In case of universally applicable collective agreements a separate clear information on the applicable minimum rates of pay as well as bonuses and allowances shall be published.*

Or. en

### Amendment 426

**Emilian Pavel, Viorica Dăncilă, Daciana Octavia Sârbu, Victor Negrescu, Maria Grapini, Cătălin Sorin Ivan, Victor Boștinăru, Doru-Claudian Frunzuliță, Claudia Țapardel, Claudiu Ciprian Tănăsescu, Dan Nica**

#### Proposal for a directive

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 1 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

Member States *shall* publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **remuneration** in accordance with point (c).

*Amendment*

Member States **must** publish *without delay* in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **rates of pay, including all the bonuses and allowances** in accordance with point (c), **as established 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.**

Or. en

**Amendment 427**

**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

Member States shall **publish in** the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration in accordance with point (c).

*Amendment*

Member States shall **ensure that** the single official national website referred to in Article 5 of Directive 2014/67/EU **works properly and is updated on a regular basis and shall publish on that website** the constituent elements of remuneration, **and in the case of undertakings operating in the international transport sector, the elements of the minimum rate of pay, their territorial and personal scope and the method used to calculate them,** in accordance with point (c). **The Commission shall post on its website a list of the addresses of those official national websites, together with details of all**

*updates made to them.*

Or. pl

**Amendment 428**

**Czesław Hoc, Richard Sulík, Kosma Złotowski, Zdzisław Krasnodębski, Roberts Zile, Angel Dzhambazki, Zigmantas Balčytis, Sandra Kalniete, Ryszard Czarnecki, Bolesław G. Piecha, Marian-Jean Marinescu, Ramona Nicole Mănescu, Ryszard Antoni Legutko, Beata Gosiewska, Zbigniew Kuźmiuk, Tomasz Piotr Poręba, Stanisław Ożóg, Andor Deli, Kinga Gál, Anna Elżbieta Fotyga, Edward Czesak, Urszula Krupa, Jadwiga Wiśniewska, Sławomir Kłosowski, Cristian-Silviu Buşoi, Traian Ungureanu, Theodor Dumitru Stolojan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **remuneration** in accordance with point (c).

*Amendment*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **minimum rates of pay, their geographic and personal scope and the method of calculation** in accordance with point (c).

Or. en

**Amendment 429**

**Mara Bizzotto**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 1 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration in accordance with point (c).

*Amendment*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **hourly** remuneration in accordance with point (c).

***Member States shall ensure that all measures taken pursuant to this Directive are justified, proportional, do not create red tape for businesses, protect workers and help to combat improper practices.***

Or. it

**Amendment 430**

**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration in accordance with point (c).

*Amendment*

Member States shall ***specify in a transparent way different elements of remuneration applicable to their territory. They shall*** publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration in accordance with point (c). ***In case of universally applicable collective agreements a separate clear information on the applicable remuneration shall be published.***

Or. en

**Amendment 431**

**Heinz K. Becker**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

Member States shall publish in the single official national website referred to in

*Amendment*

Member States shall ***take appropriate measures, in line with national law and***

Article 5 of Directive 2014/67/EU the constituent elements of remuneration in accordance with point (c).

*practice, to* publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration in accordance with point (c).

Or. de

#### *Justification*

*It would be useful to specify this aspect in order to avoid additional confusion, given the many different remuneration systems in the EU.*

#### **Amendment 432**

**Elisabeth Morin-Chartier, David Casa, Sofia Ribeiro, Heinz K. Becker, Georges Bach, Anne Sander, Jérôme Lavrilleux, Deirdre Clune, Romana Tomc, Claude Rolin, Tom Vandenkendelaere, Agnieszka Kozłowska-Rajewicz, Jeroen Lenaers**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3

#### *Text proposed by the Commission*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration in accordance with point (c).

#### *Amendment*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration *as defined by national law and applicable collective agreements* in accordance with point (c).

Or. en

#### **Amendment 433**

**Ádám Kósa, Andor Deli, Tamás Deutsch, Kinga Gál, Ildikó Gáll-Pelcz, András Gyürk, György Schöpflin, József Szájer, László Tóké, Andrea Bocskor, Pál Csáky**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **remuneration** in accordance with point (c).

Member States shall publish in the single **and registered** official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **rates of pay, the method of calculation** in accordance with point (c).

Or. en

*Justification*

*Member State shall have one website in order to make this obligation clearer and a more easily enforceable one, which is in the interests of the workers and the cross border service providers too.*

**Amendment 434**

**Csaba Sógor**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU **the constituent elements of remuneration** in accordance with point (c).

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU **information on the minimum rates of pay and on mandatory bonuses and allowances** in accordance with point (c).

Or. en

*Justification*

*Member states need to ensure legal clarity for posting companies and workers.*

**Amendment 435**

**Dominique Martin, Joëlle Mélin**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC  
Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration in accordance with point (c).

*Amendment*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of **hourly** remuneration in accordance with point (c).

Or. fr

**Amendment 436**  
**Terry Reintke, Karima Delli**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point a**  
Directive 96/71/EC  
Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration **in accordance with point (c)**.

*Amendment*

Member States shall publish in the single official national website **and by other suitable means** referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration.

Or. en

*Justification*

*Directive 2014/67/EC explicitly invites Member States to go beyond a single official national website to publish information. The original wording of Article 5 should also be mirrored in this Directive.*

**Amendment 437**  
**Helga Stevens, Anders Primdahl Vistisen**

**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*

*For the purposes of this directive, the concept of remuneration is defined in accordance with national law and /or practice of the Member State to whose territory the worker is posted.*

Or. en

**Amendment 438**

**Czesław Hoc, Richard Sulík, Kosma Złotowski, Zdzisław Krasnodębski, Roberts Zīle, Angel Dzhambazki, Zigmantas Balčytis, Sandra Kalniete, Ryszard Czarnecki, Bolesław G. Piecha, Marian-Jean Marinescu, Ramona Nicole Mănescu, Ryszard Antoni Legutko, Beata Gosiewska, Zbigniew Kuźmiuk, Tomasz Piotr Poręba, Stanisław Ożóg, Andor Deli, Kinga Gál, Anna Elżbieta Fotyga, Edward Czesak, Urszula Krupa, Jadwiga Wiśniewska, Sławomir Klosowski, Cristian-Silviu Buşoi, Traian Ungureanu, Theodor Dumitru Stolojan**

**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*

*If the payment received by the posted worker is at least equal to the minimum rates of pay, it shall be deemed that this posted worker has received the minimum rates of pay provided for in this Directive.*

Or. en

**Amendment 439**

**Helga Stevens, Anders Primdahl Vistisen**

**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*

***For the purposes of this directive, the concept of remuneration is defined in accordance with national law and /or practice of the Member State to whose territory the worker is posted.***

Or. en

**Amendment 440**

**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71

Article 3 – paragraph 1 – subparagraph 3 a

*Text proposed by the Commission*

*Amendment*

***For the purpose of calculating the sums due to a posted worker double payments of equal or similar nature shall be avoided.***

Or. en

*Justification*

*Recital 12 : national measures must not be liable for hindering or making less attractive the exercise of fundamental freedoms guaranteed by the Treaty and be applied in a non-discriminatory manner, they must be justified by imperative requirements in the general interest, and suitable for securing the attainment of the objective which they pursue and they must not go beyond what is necessary in order to attain it;*

**Amendment 441**

**Eduard Kukan**

**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*

***Member States shall establish single information points providing information and advice for posting companies on their national labour law.***

Or. en

**Amendment 442**

**Marita Ulvskog**

**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*

***Members States shall take appropriate actions to avoid double payments.***

Or. en

**Amendment 443**

**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu**

**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*

***For the purpose of calculating the sums due to a posted worker double payments of equal or similar nature shall be avoided.***

***Miscalculation or omission of payments to a posted worker resulting from not accessible, incorrect or insufficient information published in the single official national website will not be sanctioned by national authorities.***

*Justification*

*Recital 12: national measures must not be liable for hindering or making less attractive the exercise of fundamental freedoms guaranteed by the Treaty and be applied in a non-discriminatory manner, they must be justified by imperative requirements in the general interest, and suitable for securing the attainment of the objective which they pursue and they must not go beyond what is necessary in order to attain it;*

**Amendment 444**

**Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Janusz Lewandowski**

**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 case of subcontracting the national contractors shall be obliged to inform their subcontractors in writing about applicable terms and condition of employment including minimum rates of pay, applicable bonuses and allowances.*

Or. en

**Amendment 445**

**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

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

*Text proposed by the Commission*

*Amendment*

*Posted workers shall be entitled to the gross amount of remuneration which does not have to comply with all the mandatory elements but with the amount required.*

**Amendment 446**

**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

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

*Text proposed by the Commission*

*Amendment*

***Miscalculation of remuneration due to a posted worker resulting from wrong or insufficient information published in the single official national website or transmitted to subcontractors in written form shall not be sanctioned.***

Or. en

*Justification*

*The notion of remuneration is too vague, therefore it needs more clarifications. Access to information is key and a clear obligation to publish all necessary information is necessary.*

**Amendment 447**

**Csaba Sógor**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point b**

Directive 96/71/EC

Article 3 – paragraph 1 a

*Text proposed by the Commission*

*Amendment*

***(b) The following paragraph is added: deleted***

***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.*

Or. en

*Justification*

*Necessary to maintain the current situation, as it stands.*

**Amendment 448**

**Sven Schulze, Thomas Mann, Dieter-Lebrecht Koch, Markus Ferber, Markus Pieper**

**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*

**(b) The following paragraph is added deleted**

**(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.**

Or. de

*Justification*

*This text should be deleted because it could impinge on negative freedom of association (Article 9(3) of the German Basic Law) and it is currently quite unclear how such a provision*

would be implemented in practice.

#### **Amendment 449**

**Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point b**

Directive 96/71/EC

Article 3 – paragraph 1 a

*Text proposed by the Commission*

*Amendment*

**(b) The following paragraph is added: deleted**

***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.***

Or. fr

#### **Amendment 450**

**Martina Dlabajová, Jasenko Selimovic, Renate Weber, Mircea Diaconu**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point b**

Directive 96/71/EC

Article 3 – paragraph 1 a

*Text proposed by the Commission*

*Amendment*

**(b) The following paragraph is added: deleted**

***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.*

Or. en

*Justification*

*It is for the national authorities to verify at the national level whether the terms and conditions of employment are in compliance.*

**Amendment 451**  
**Eduard Kukan**

**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*

**(b) The following paragraph is added: deleted**

***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.***





*Text proposed by the Commission*

*Amendment*

**(b) The following paragraph is added:** *deleted*

***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.***

Or. en

#### **Amendment 454**

**Ádám Kósa, Tamás Deutsch, Kinga Gál, Ildikó Gáll-Pelcz, András Gyürk, György Schöpflin, József Szájer, László Tókécs, Andrea Bocskor, Andor Deli, Pál Csáky**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point b**

Directive 96/71/EC

Article 3 – paragraph 1 a

*Text proposed by the Commission*

*Amendment*

**(b) The following paragraph is added:** *deleted*

***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.*

Or. en

*Justification*

*The reason to delete this paragraph is that even at company level collective agreements would be applicable to subcontractors. Practically this rule would likely to eliminate subcontractors from other Member States and the EU legislation cannot serve this purpose because it would decrease the level of the European competitiveness.*

**Amendment 455**  
**Georgi Pirinski**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point b**  
Directive 96/71/EC  
Article 3 – paragraph 1 a

*Text proposed by the Commission*

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.

*Amendment*

1a. If undertakings established in the territory of a Member State are obliged by law, regulation, administrative provision or collective agreement, to **subcontract** 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. ***The requirements concerning remuneration shall be applicable only to the employees of the subcontractor who are being posted in another Member State.***

Or. en

**Amendment 456**  
**Enrique Calvet Chambon, Robert Rochefort**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point b**  
Directive 96/71/EC  
Article 3 – paragraph 1 a

*Text proposed by the Commission*

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.

*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. ***The European Union shall exercise strict oversight to forestall any disproportionate use of these restrictions by certain Member States.***

Or. es

**Amendment 457**  
**Agnieszka Kozłowska-Rajewicz**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point b**  
Directive 96/71/EC  
Article 3 – paragraph 1 a

*Text proposed by the Commission*

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

*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.

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. ***This paragraph does not apply to undertakings operating in the international road transport sector.***

Or. pl

#### **Amendment 458**

**Rina Ronja Kari, Thomas Händel, João Pimenta Lopes, Kostadinka Kuneva, Patrick Le Hyaric, Paloma López Bermejo, Tania González Peñas**

#### **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*

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.

*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 ***shall***, 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. ***This shall not preclude the application of stricter national rules or the introduction of such rules***

Or. en

#### **Amendment 459**

**Helga Stevens, Anders Primdahl Vistisen**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point b**  
Directive 96/71/EC  
Article 3 – paragraph 1 a

*Text proposed by the Commission*

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.

*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, ***in so far as it concerns the activities referred to in the Annex***, 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.

Or. en

**Amendment 460**  
**Georges Bach, Claude Rolin**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point b**  
Directive 96/71/EC  
Article 3 – paragraph 1 a

*Text proposed by the Commission*

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

*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 ***shall*** provide that such undertakings shall be under the same obligation regarding subcontracts with undertakings referred to

obligation regarding subcontracts with undertakings referred to in Article 1 (1) posting workers to its territory.

in Article 1 (1) posting workers to its territory.

Or. en

#### **Amendment 461**

**Terry Reintke, Karima Delli**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point b**

Directive 96/71/EC

Article 3 – paragraph 1 a

#### *Text proposed by the Commission*

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.

#### *Amendment*

1a. If undertakings established in the territory of a Member State are obliged by law, regulation, administrative provision, **contract** 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 **shall** provide that such undertakings shall be under the same **non-discriminatory** obligation regarding subcontracts with undertakings referred to in Article 1 (1) posting workers to its territory.

Or. en

#### *Justification*

*It is a matter of fairness and legal certainty that subcontractors are fulfilling the same rules as their main contractor with regard to remuneration.*

#### **Amendment 462**

**Csaba Sógor**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point b**

Directive 96/71/EC

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

*Text proposed by the Commission*

*Amendment*

***In case of subcontracting, contractors shall be obliged to inform their subcontractors in writing in clear and unambiguous manner on conditions of employment, including minimum rates of pay and mandatory bonuses and allowances in force in the member states where work is carried out.***

Or. en

*Justification*

*The application of all legal provisions on the conditions of employment, including collective agreements to sub-contractors raises concern about their consistent application.*

**Amendment 463**

**Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point a**

Directive 96/71/EC

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

*Text proposed by the Commission*

*Amendment*

***In case of subcontracting the national contractors shall be obliged to inform their subcontractors in writing about applicable terms and condition of employment including remuneration.***

Or. en

**Amendment 464**

**Terry Reintke, Karima Delli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point b a (new)**

Directive 96/71/EC

Article 3 – paragraph 1a a (new)



*Text proposed by the Commission*

*Amendment*

**(ba) The following paragraph is added:**

***1aa. Member States shall take the necessary measures to ensure that an undertaking, which appoints a subcontractor to provide services, is liable, in addition to or in place of the employer, for the obligations of that subcontractor and any other intermediary.***

***This paragraph shall not preclude the application or introduction of more stringent rules at national level.***

Or. en

*Justification*

*The most abusive cases of posting are frequently reported in long subcontracting chains. The further down the chain the more difficult to identify the company, making it almost impossible for any enforcement to take place. Therefore, we introduce a simple joint and several liability mechanism for the full subcontracting chain.*

#### **Amendment 465**

**Thomas Händel, Rina Ronja Kari, Paloma López Bermejo, Patrick Le Hyaric, Gabriele Zimmer**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point b a (new)**

Directive 96/71/EC

Article 3 – paragraph 1a a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) The following paragraph is added:**

***1aa. The principle of joint and several liability of the employer is applicable along the whole subcontracting chain.***

Or. en

#### **Amendment 466**

**Emilian Pavel, Viorica Dăncilă, Daciana Octavia Sârbu, Victor Negrescu, Maria**

**Grapini, Cătălin Sorin Ivan, Victor Boștinaru, Doru-Claudian Frunzuliță, Sorin Moisă, Claudia Țapardel, Claudiu Ciprian Tănăsescu, Dan Nica**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point b a (new)**

Directive 96/71/EC

Article 3 – paragraph 1 a a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) The following paragraph is added:**

***Iaa. The contractor is required to timely provide the subcontractor, in written and in a clear, transparent and unambiguous manner, accurate and complete information on working conditions, rates of pay, including various allowances and bonuses, which he applies.***

Or. en

**Amendment 467**

**Georgi Pirinski**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point b a (new)**

Directive 96/71/EC

Article 3 – paragraph 1 a a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) The following paragraph is added:**

***Iaa. Posting of workers employed by temporary agencies to perform assignments in an enterprise registered as a temporary agency in another Member State is hereby prohibited.***

Or. en

**Amendment 468**

**Czesław Hoc, Richard Sulík, Kosma Złotowski, Zdzisław Krasnodębski, Roberts Zīle, Angel Dzhambazki, Zigmantas Balčytis, Sandra Kalniete, Ryszard Czarnecki, Bolesław**

G. Piecha, Marian-Jean Marinescu, Ramona Nicole Mănescu, Ryszard Antoni Legutko, Beata Gosiewska, Zbigniew Kuźmiuk, Tomasz Piotr Poręba, Stanisław Ożóg, Andor Deli, Kinga Gál, Anna Elżbieta Fotyga, Edward Czesak, Urszula Krupa, Jadwiga Wiśniewska, Sławomir Klosowski, Cristian-Silviu Buşoi, Traian Ungureanu, Theodor Dumitru Stolojan, Pavel Svoboda

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point b a (new)**

Directive 96/71/EC

Article 3 – paragraph 1 a a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) The following paragraph is added:**

***1aa. When the effective duration of posting exceeds 24 months, Member States shall ensure that, whatever the law applicable to the employment relationship, the undertaking referred to in Article 1(1) guarantee workers posted to their territory, in addition to the terms and conditions of employment referred to in paragraph 1 of this Article, the terms and conditions of employment covering the following matters which, in the Member State where the work is carried out, are laid down:***

***– by law, regulation or administrative provision, and/or***

***– by collective agreements or arbitration awards which have been declared universally applicable within the meaning of paragraph 8:***

***(a) other mandatory rules relating to leave and holiday entitlements, in addition to paragraph 1(b);***

***(b) parental and paternal leave;***

***(c) other mandatory rules relating to working hours and rest periods, in addition to paragraph 1(a);***

***(d) remuneration, including overtime rates, in addition to paragraph 1(c), unless the Member State fails to publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of***

*the remuneration, their geographic and personal scope and the method of calculation; this point does not apply to supplementary occupational retirement pension schemes;*

*Where a posted worker is replaced by another posted worker performing the same task at the same working place [by the undertaking referred to in Article 1(1), 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. This paragraph shall not apply to workers that are posted for an effective duration of six months or less.*

*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.*

*Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration, their geographic and personal scope and the method of calculation in accordance with point (d).*

*If the payment received by the posted worker is at least equal to the amount of constituent elements of remuneration, it shall be deemed that this posted worker has received the remuneration provided for in this Directive.*

Or. en

#### **Amendment 469**

**Czesław Hoc, Richard Sulík, Kosma Złotowski, Zdzisław Krasnodębski, Roberts Zīle, Angel Dzhambazki, Zigmantas Balčytis, Sandra Kalniete, Ryszard Czarnecki, Bolesław G. Piecha, Marian-Jean Marinescu, Ramona Nicole Mănescu, Ryszard Antoni Legutko, Beata Gosiewska, Zbigniew Kuźmiuk, Tomasz Piotr Poreba, Stanisław Ożóg, Andor Deli, Kinga Gál, Anna Elżbieta Fotyga, Edward Czesak, Urszula Krupa, Jadwiga Wiśniewska, Sławomir Kłosowski, Cristian-Silviu Buşoi, Traian Ungureanu, Theodor Dumitru Stolojan, Pavel Svoboda**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point b a (new)**

Directive 96/71/EC

Article 3 – paragraph 1 a b (new)

*Text proposed by the Commission*

*Amendment*

*(ba) The following paragraph is added:*

*1ab. Member States shall publish in the single official national website referred to in Article 5 of Directive 2014/67/EU the constituent elements of remuneration, their geographic and personal scope and the method of calculation in accordance with point (d).*

*If the payment received by the posted worker is at least equal to the amount of constituent elements of remuneration, it shall be deemed that this posted worker has received the remuneration provided for in this Directive.*

Or. en

#### **Amendment 470**

**João Pimenta Lopes**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c**

Directive 96/71/EC

Article 3 – paragraph 1 b

*Text proposed by the Commission*

*Amendment*

*(c) The following paragraph is added deleted*

***1-B. Member States shall provide that the undertakings referred to in Article 1(3)(c) guarantee posted workers the terms and conditions which apply pursuant to Art. 5 Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work to temporary workers hired-out by temporary agencies established in the Member State where the work is carried out.***

Or. pt

**Amendment 471**

**Mara Bizzotto**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c**

Directive 96/71/CE

Article 3 – paragraph 1 b

*Text proposed by the Commission*

*Amendment*

***1b. Member States shall provide that the undertakings referred to in Article 1(3)(c) guarantee posted workers the terms and conditions which apply pursuant to Art. 5 Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work to temporary workers hired-out by temporary agencies established in the Member State where the work is carried out.***

***1b. Temporary agencies may not, when going about their business, make use of the worker posting arrangements provided for in this Directive.***

Or. it

**Amendment 472**

**Emilian Pavel, Viorica Dăncilă, Daciana Octavia Sârbu, Victor Negrescu, Maria Grapini, Cătălin Sorin Ivan, Victor Boștinăru, Doru-Claudian Frunzuliță, Sorin Moisă, Claudia Țapardel, Claudiu Ciprian Tănăsescu, Dan Nica**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c a (new)**

Directive 96/71/EC

Article 3 – paragraph 1 b a (new)

- (ca) *the following paragraph is added:*  
*Iba. The undertakings must inform the temporary employment agency, in a clear, transparent and unambiguous manner, on the working conditions, rates of pay, including various allowances and bonuses, which they apply.*

Or. en

**Amendment 473**

**Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Guillaume Balas, Siôn Simon, Alex Mayer, Emilian Pavel, Ole Christensen, Javi López, Maria Arena, Miapetra Kumpula-Natri, Marita Ulvskog, Brando Benifei, Flavio Zanonato, Elena Gentile, Sergio Gutiérrez Prieto, Evelyn Regner**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c a (new)**

Directive 96/71/EC

Article 3 – paragraph 7 – subparagraph 1

*Present text*

"Paragraphs 1 to 6 shall not prevent *application of* terms and conditions of employment which are more favourable to workers.

*Amendment*

- (ca) *In paragraph 7, the first subparagraph is replaced by the following:*

"Paragraphs 1 to 6 shall not prevent *the host Member State or the Member State where the worker habitually carries out his or her work, to apply* terms and conditions of employment which are more favourable to workers.

Or. en

**Amendment 474**

**Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c a (new)**

Directive 96/71/EC  
Article 3 – paragraph 7 – subparagraph 2

*Present text*

Allowances specific to the posting shall be considered to be part of the minimum wage, ***unless they are*** paid in reimbursement of expenditure actually incurred on account of the posting, such as expenditure on travel, board and lodging.

*Amendment*

***(ca) Paragraph 7, second subparagraph, is replaced by the following:***

Allowances specific to the posting shall be considered to be part of the minimum wage. ***However, allowances*** paid in reimbursement of expenditure actually incurred on account of the posting, such as expenditure on travel, board and lodging, ***cannot, under any circumstances, be deducted from the minimum wage.***

Or. fr

**Amendment 475**  
**Marita Ulvskog**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point c a (new)**  
Directive 96/71/EC  
Article 3 – paragraph 7 – subparagraph 2

*Present text*

Allowances specific to the posting shall be considered to be part of ***the minimum wage, unless they are paid in reimbursement of expenditure actually incurred on account of the posting, such as expenditure on travel, board and lodging.***

*Amendment*

***(ca) In paragraph 7, the second subparagraph is replaced by the following:***

Allowances specific to the posting such as travel, board and lodging shall be considered to be part of ***remuneration. Such allowances shall be paid by the employer and cannot be deducted from wages.***

Or. en

**Amendment 476**  
**Tom Vandenkendelaere, Ivo Belet, Claude Rolin**



**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c a (new)**

Directive 96/71/EC

Article 3 – paragraph 7 – subparagraph 2

*Present text*

*Allowances specific to the posting shall be considered to be part of the minimum wage, unless they are paid in reimbursement of expenditure actually incurred on account of the posting, such as expenditure on travel, board and lodging."*

*Amendment*

*(ca) In paragraph 7, the second subparagraph is replaced by the following:*

*Expenses incurred on account of the posting, such as travel, board and lodging expenses, are provided by the employer. The allowances paid as a compensation for these expenses cannot be considered to be part of the minimum wage."*

Or. en

**Amendment 477**

**Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Guillaume Balas, Siôn Simon, Alex Mayer, Emilian Pavel, Ole Christensen, Javi López, Maria Arena, Miapetra Kumpula-Natri, Marita Ulvskog, Brando Benifei, Flavio Zanonato, Elena Gentile, Sergio Gutiérrez Prieto, Evelyn Regner**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c b (new)**

Directive 96/71/EC

Article 3 – paragraph 7 – subparagraph 2

*Present text*

*Allowances specific to the posting shall be considered to be part of the minimum wage, unless they are paid in reimbursement of expenditure actually incurred on account of the posting, such as expenditure on travel, board and lodging."*

*Amendment*

*(cb) In paragraph 7, the second subparagraph is replaced by the following:*

*Expenses incurred on account of the posting shall be provided for by the employer and shall not be deducted from the remuneration referred to in Article 3.1. (c)."*

Or. en

**Amendment 478**  
**Marita Ulvskog**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c b (new)**

Directive 96/71/EC

Article 3 – paragraph 7 a

*Text proposed by the Commission*

*Amendment*

**(cb) In paragraph 7, the following paragraph 7a is added:**

**7a. This Directive shall not affect the exercise of fundamental rights as recognised in Member States and at Union level, including the right or freedom to strike or to take other action covered by the specific industrial relations systems in Member States in accordance with national law and practice. This Directive shall not affect the right to negotiate, conclude and enforce collective agreements and to take collective action in accordance with national law and practice.**

Or. en

**Amendment 479**  
**Terry Reintke, Karima Delli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c a (new)**

Directive 96/71/EC

Article 3 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

**(ca) The following paragraph is inserted:**

**7a. Expenses incurred on the account of the posting, including with regard to travel, board and lodging, shall be provided for by the employer and shall not**

*be deducted from the remuneration referred to in Article 3(1)(c).*

Or. en

*Justification*

*Postings are no individual journeys for the sake of pleasure but done on behalf of the employer. Thus, the employer must be responsible for the reimbursement of the expenses incurred on account of the posting. We seek to improve legal certainty by clarifying that the deduction of these additional expenditures must never be deducted from their remuneration.*

**Amendment 480**

**Thomas Händel, Rina Ronja Kari, Paloma López Bermejo, João Pimenta Lopes, Patrick Le Hyaric, Gabriele Zimmer**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c a (new)**

Directive 96/71/EC

Article 3 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

*(ca) the following paragraph 7a is added:*

*7a. In case the employer deduces costs related to posting, such as housing, board and transport costs from the remuneration of the posted worker, the posted worker has the right to claim these costs from the employer at the appropriate court. The same right exists for a worker who is deemed a posted worker or is deemed a worker of the host member state*

Or. en

**Amendment 481**

**Rina Ronja Kari, Thomas Händel, João Pimenta Lopes, Kostadinka Kuneva, Paloma López Bermejo, Patrick Le Hyaric, Tania González Peñas, Lynn Boylan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point c a (new)**

Directive 96/71/EC

Article 3 – paragraph 7a (new)

*(ca) the following paragraph 7a is added:*

*7a. This Directive shall not affect the exercise of fundamental rights as recognised in Member States and at Union level, including the right or freedom to strike or to take other collective actions, or the right to collective bargaining in accordance with national law and/or practice.*

Or. en

*Justification*

*It should be clarified in the scope of the directive that this directive does not affect the exercise of fundamental rights as recognised in Member States and at Union level.*

**Amendment 482**

**Terry Reintke, Karima Delli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point c b (new)**

Directive 96/71/EC

Article 3 – paragraph 8 – subparagraph 2 – introductory part

*Present text*

"In the *absence of* a system for declaring collective agreements or arbitration awards to be of universal application within the meaning of the first subparagraph, Member States may, if they so decide, base themselves on:"

*Amendment*

*(cb) In the second subparagraph of paragraph 8, the introductory part is replaced by the following:*

*"In addition to* a system for declaring collective agreements or arbitration awards to be of universal application within the meaning of the first subparagraph, Member States may, if they so decide, base themselves on:"

Or. en

*Justification*

*The original text of Article 3(8) has introduced a priority of certain types of collective*

*agreements over others, thereby interfering with Member States' collective bargaining and wage-setting mechanisms. We consider it of importance to ensure that EU legislation is in full respect of Member States' wage-setting mechanisms and therefore remove this hierarchy. This still has to be applied non-discriminatory for both local service providers and those from abroad as well as their workers.*

**Amendment 483**

**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point d**

Directive 96/71/EC

Article 3 – paragraph 9

*Text proposed by the Commission*

*Amendment*

**(d) Paragraph 9 is deleted.**

**deleted**

Or. fr

**Amendment 484**

**Terry Reintke, Karima Delli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point d**

Directive 96/71/EC

Article 3 – paragraph 9

*Text proposed by the Commission*

*Amendment*

**(d) Paragraph 9 is deleted.**

**deleted**

Or. en

**Amendment 485**

**Anders Primdahl Vistisen**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point d**

Directive 96/71/EC

Article 3 – paragraph 9

*Text proposed by the Commission*

*Amendment*

(d) **Paragraph 9 is deleted.** *deleted*

Or. en

**Amendment 486**

**Rina Ronja Kari, Paloma López Bermejo, Patrick Le Hyaric, Kostadinka Kuneva**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point d**

Directive 96/71/EC

Article 3 – paragraph 9

*Text proposed by the Commission*

*Amendment*

(d) **Paragraph 9 is deleted.** *deleted*

Or. en

**Amendment 487**

**Terry Reintke, Karima Delli**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1 – point d**

Directive 96/71/EC

Article 3 – paragraph 9

*Present text*

*Amendment*

(d) **Paragraph 9 is deleted.**

(d) **Paragraph 9 is replaced by the following:**

"Member States *may* provide that the undertakings referred to in Article 1 (1) must guarantee workers referred to in Article 1 (3) (c) the terms and conditions which apply to temporary workers in the Member State where the work is carried out."

"Member States *shall* provide that the undertakings referred to in Article 1 (1) must guarantee workers referred to in Article 1 (3) (c) the terms and conditions which apply to temporary workers in the Member State where the work is carried out."

Or. en

## **Amendment 488**

**Thomas Händel, Paloma López Bermejo, Patrick Le Hyaric, Gabriele Zimmer**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point d**

Directive 96/71/EC

Article 3 – paragraph 9 – subparagraph 1 a (new)

*Text proposed by the Commission*

(d) ***Paragraph 9 is deleted.***

*Amendment*

(d) ***In paragraph 9, the following subparagraph is added:***

***Where the conditions listed in Article 1(3) (c) are not fulfilled, Article 2 a a new shall apply.***

Or. en

#### *Justification*

*The enforcement Directive on posting 2014/67 clarifies in its Article 4 that genuine posting entails the existence of a lasting employment relationship in the country of origin, to which the posted worker is expected to return following the period of posting. The rules on temporary work agencies must mirror these provisions. A temporary agency worker without stable employment with the agency in the country of origin should be considered as a worker of the host country only. Temporary agency workers who are posted to another Member State on a temporary basis should also be covered by the temporary work agency Directive, ensuring equal treatment provided for in Article 5 of Directive 2008/104/EC to all temporary agency workers in the EU.*

## **Amendment 489**

**Jutta Steinruck**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point d a (new)**

Directive 96/71/EC

Article 3 – paragraph 9 a (new)

*Text proposed by the Commission*

*Amendment*

(da) ***after paragraph 9, the following paragraph is inserted:***

***9a. If a posting situation falls under more than two national jurisdictions, the Member State to whose territory a worker is posted and where the service is***

*provided, shall be deemed to be the country where the work is habitually carried out by the worker. The application of this Article may not have the result of depriving workers of more favourable conditions afforded to them under provisions from which the parties cannot derogate by agreement under the national law which would have applied in the absence of the situation referred to in paragraph 1.*

Or. en

#### **Amendment 490**

**Rina Ronja Kari, Thomas Händel, Paloma López Bermejo, Patrick Le Hyaric, Tania González Peñas, Lynn Boylan, Kostadinka Kuneva**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point d a (new)**

Directive 96/71/EC

Article 3 – paragraph 9 a (new)

*Text proposed by the Commission*

*Amendment*

*(da) after paragraph 9, the following paragraph is inserted:*

*9a. Prior to posting, the posting company shall transmit information regarding the posting to the competent authority of the Member State to whose territory the worker will be posted. Information shall include inter alia the name of the posted worker, the name of the posting company, the tasks and duties of the posted worker, the place of work, the name of the company where the work is to be carried out, the first day of work and the planned duration of the posting.*

Or. en

#### **Amendment 491**

**Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Guillaume Balas, Siôn Simon, Alex Mayer, Ole Christensen, Edouard Martin, Javi López, Maria Arena, Miapetra**



**Kumpula-Natri, Marita Ulvskog, Sergio Gutiérrez Prieto, Evelyn Regner**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point d a (new)**

Directive 96/71/EC

Article 3 – paragraph 9 a (new)

*Text proposed by the Commission*

*Amendment*

*(da) after paragraph 9, the following paragraph is inserted:*

*9a. If a posting situation falls under more than two national jurisdictions, the terms and conditions of employment of the Member State to whose territory a worker is posted and where the service is provided, shall apply as long as they are more favourable for the worker than those pursuant to the law under which the individual employment contract was agreed.*

Or. en

**Amendment 492**

**Anders Primdahl Vistisen**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point d a (new)**

Directive 96/71/EC

Article 3 – paragraph 9 a (new)

*Text proposed by the Commission*

*Amendment*

*(da) after paragraph 9, the following paragraph is inserted:*

*9a. This Directive shall be without prejudice to the Member states' ability to apply or introduce laws and administrative provisions which are more favourable to workers or allow or promote the use of collective agreement provisions that are more favourable to workers.*

Or. en

**Amendment 493**  
**Jutta Steinruck**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point d a (new)**

Directive 96/71/EC

Article 3 – paragraph 9a new

*Text proposed by the Commission*

*Amendment*

*(da) after paragraph 9, the following paragraph is inserted:*

*9a. Service providers, who post a worker to another Member State, shall declare the posting to the host Member State at least five working days before the commencement of the provision of services. The European Commission shall set up a European register for posted workers for this purpose.*

Or. en

**Amendment 494**  
**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point e**

Directive 96/71/EC

Article 3 – paragraph 10 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

*(e) The second subparagraph of paragraph 10 is deleted. deleted*

Or. fr

**Amendment 495**  
**Rina Ronja Kari, Thomas Händel, João Pimenta Lopes, Kostadinka Kuneva, Paloma López Bermejo, Patrick Le Hyaric, Tania González Peñas, Lynn Boylan**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point e**  
Directive 96/71/EC  
Article 3 – paragraph 10

*Text proposed by the Commission*

(e) *The second subparagraph of paragraph 10 is deleted.*

10. This Directive shall not preclude the application by Member States, *in compliance with the Treaty, to national undertakings and to the undertakings of other States, on a basis of equality of treatment, of:*

– *terms and conditions of employment on matters other than those referred to in the first subparagraph of paragraph 1 in the case of public policy provisions,*

– *terms and conditions of employment laid down in the collective agreements or arbitration awards within the meaning of paragraph 8 and concerning activities other than those referred to in the Annex*

*Amendment*

(e) paragraph 10 is *amended as follows:*

10. This Directive shall not preclude the application by Member States, *or in accordance with the practice of the social partners, terms and conditions of employment on matters other than those referred to in Article 3 (1) in the case of social and public policy provisions and/or to comply with obligations under international conventions, including provisions for the improvement of the protection of workers, equal treatment and the prevention of abusive practices and circumvention of terms and conditions of employment.*

Or. en

**Amendment 496**  
**Marita Ulvskog**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 – point e**  
Directive 96/71/EC  
Article 3 – paragraph 10

*Text proposed by the Commission*

(e) ***The second subparagraph of paragraph 10 is deleted.***

10. This Directive shall not preclude the application by Member States, ***in compliance with the Treaty***, to national undertakings and to the undertakings of other States, ***on a basis of equality of treatment***, of;

– terms and conditions of employment on matters other than those referred to in the first subparagraph of paragraph 1 in the case of public policy provisions,

– ***terms and conditions of employment laid down in the collective agreements or arbitration awards within the meaning of paragraph 8 and concerning activities other than those referred to in the Annex.***

*Amendment*

(e) Paragraph 10 ***is replaced by the following***

10. This Directive shall not preclude the application by Member States, ***or, in accordance with the practice in the Member State, by management and labour***, to national undertakings and to the undertakings of other States, of;

– terms and conditions of employment on matters other than those referred to in the first subparagraph of paragraph 1 in the case of social and public policy provisions, ***including provisions which are appropriate to the attainment of the protection of workers, equal treatment, the prevention of social dumping, fair competition or the proper functioning of the labour market.***

Or. en

**Amendment 497**

**Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Guillaume Balas, Siôn Simon, Alex Mayer, Ole Christensen, Edouard Martin, Javi López, Maria Arena, Miapetra Kumpula-Natri, Marita Ulvskog, Sergio Gutiérrez Prieto, Evelyn Regner**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point e**

Directive 96/71/EC

Article 3 – paragraph 10

*Text proposed by the Commission*

(e) ***The second subparagraph of paragraph 10 is deleted.***

10. This Directive shall not preclude

*Amendment*

(e) Paragraph 10 ***is replaced by the following:***

10. This Directive shall not preclude

the application by Member States, in compliance with the Treaty, to national undertakings and to the undertakings of other States, *on a basis of equality of treatment, of:*

– *terms and conditions of employment on matters other than those referred to in the first subparagraph of paragraph 1 in the case of public policy provisions,*

– *terms and conditions of employment laid down in the collective agreements or arbitration awards within the meaning of paragraph 8 and concerning activities other than those referred to in the Annex.*

the application by Member States, in compliance with the Treaty *and in line with national law and practice, of terms and conditions of employment* to national undertakings and to the undertakings of other States *operating on their territory on matters other than those referred to in the first subparagraph of paragraph 1, in the case of public policy provisions including non-discriminatory measures to ensure the protection of workers, fair competition and the proper functioning of the labour market.*

Or. en

#### **Amendment 498**

**Agnes Jongerius, Elisabeth Morin-Chartier**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point e**

Directive 96/71/EC

Article 3 – paragraph 10

*Text proposed by the Commission*

(e) *The second subparagraph of paragraph 10 is deleted.*

10. This Directive shall not preclude the application by Member States, in compliance with the Treaty, to national undertakings and to the undertakings of other States, on a basis of equality of treatment, of:

*Amendment*

(e) Paragraph 10 *is replaced by the following:*

10. This Directive shall not preclude the application by Member States, in compliance with the Treaty *and in line with national law and practice, of terms and conditions of employment* to national undertakings and to the undertakings of other States *operating on their territory on*

*matters other than those referred to in the first subparagraph of paragraph 1, in the case of public policy provisions including non-discriminatory measures to ensure the protection of workers, fair competition and the proper functioning of the labour market.*

– *terms and conditions of employment on matters other than those referred to in the first subparagraph of paragraph 1 in the case of public policy provisions,*

– *terms and conditions of employment laid down in the collective agreements or arbitration awards within the meaning of paragraph 8 and concerning activities other than those referred to in the Annex.*

Or. en

#### **Amendment 499**

**Rina Ronja Kari, Thomas Händel, João Pimenta Lopes, Kostadinka Kuneva, Paloma López Bermejo, Patrick Le Hyaric, Tania González Peñas, Lynn Boylan**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point e a (new)**

Directive 96/71/EC

Article 3 – paragraph 10 a (new)

*Text proposed by the Commission*

*Amendment*

*(ea) after paragraph 10 the following paragraph 10a is added:*

*10a. Social and public policy provisions include inter alia pay clauses in public procurement.*

Or. en

#### **Amendment 500**

**Guillaume Balas, Karima Delli, Patrick Le Hyaric, Edouard Martin**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point e a (new)**

Directive 96/71/EC

Article 3 – paragraph 10 a (new)

*Text proposed by the Commission*

*Amendment*

*(ea) after paragraph 10, the following paragraph 10a is added:*

*10a. Member States shall ensure that, prior to the start of the posting period, the posted worker and the employer are linked by a work relationship of at least 4 months."*

Or. en

*((Paragraph 11 new))*

**Amendment 501**

**Anthea McIntyre, Arne Gericke**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point e a (new)**

Directive 96/71/EC

Article 3 – paragraph 10 a (new)

*Text proposed by the Commission*

*Amendment*

*(ea) after paragraph 10, the following paragraph 10a is added:*

*10a. Member States shall, after consulting the social partners, in accordance with traditions and practices of each Member State, exempt employers and workers from the requirements contained in Article 3(1) (a), (b) and (c) above where the activities of the employer and the workers take place in the following sectors:*

*(a) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products to organisations providing medical treatment to citizens of the European Union,*

*(b) the manufacture, supply, servicing*

*or maintenance of machinery, equipment and any other products in the defence sector or in any other areas necessary for the defence of a Member State or the European Union,*

*(c) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products in the aero-space sector,*

*(d) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products in the rail transport sector,*

*(e) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products of importance to the critical national infrastructure of a Member State or States, including the supply of energy and telecommunications services*

*(f) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products of importance to the preservation of the border security of a Member State or the European Union,*

*(g) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products of importance to the health and safety of workers or citizens of the European Union.*

Or. en

**Amendment 502**

**Anthea McIntyre, Arne Gericke**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 – point e b (new)**

Directive 96/71/EC

Article 3 – paragraph 10 b (new)

*Text proposed by the Commission*

*Amendment*

*(eb) the following paragraph 10b is added:*

*10b. Member States shall, after*



*consulting the social partners, in accordance with traditions and practices of each Member State, exempt employers and workers from the requirements contained in Article 3(1) (a), (b) and (c) above where the activities of the employer and the workers are for the purpose of facilitating the education and training of the workers or others.*

Or. en

**Amendment 503**  
**Sergio Gutiérrez Prieto**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 a (new)**  
Directive 96/71/EC  
Article 3 a (new)

*Text proposed by the Commission*

*Amendment*

**Article 3a**

- 1. The social security contributions of posted workers shall be paid into a common public fund set up at EU level. The social security contribution payable by companies for each posted worker shall be equal to the EU average, provided that this amount is higher than the average contribution, at the time the contract was signed, in the Member State in which the work or service for which the posted worker was contracted is performed.**
- 2. This fund shall be managed in accordance with the provisions of Regulation 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.**
- 3. This fund shall be in force within two years after the entry into force of this Directive.**

Or. es

## Amendment 504

Enrique Calvet Chambon, Robert Rochefort

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 a (new)

Directive 96/71/CE

Article 4 – paragraph 2 – subparagraph 1

#### *Present text*

Member States shall make provision for cooperation between the public authorities which, in accordance with national legislation, are responsible for monitoring the terms and conditions of employment referred to in Article 3. Such cooperation shall in particular consist in replying to reasoned requests from those authorities for information on the transnational hiring-out of workers, including manifest abuses or possible cases of unlawful transnational activities.

#### *Amendment*

#### **(2a) Article 4(2) is amended as follows:**

Member States shall make provision for cooperation between the public authorities which, in accordance with national legislation, are responsible for monitoring the terms and conditions of employment referred to in Article 3. Such cooperation shall in particular consist in replying to reasoned requests from those authorities for information on the transnational hiring-out of workers, including manifest abuses or possible cases of unlawful transnational activities. ***That cooperation may be carried out through the European Platform created to enhance cooperation in tackling undeclared work, since cross-border aspects form part of its remit.***

Or. es

## Amendment 505

Georgi Pirinski

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 a (new)

Directive 96/71/EC

Article 4 – paragraph 2 – subparagraph 1

#### *Present text*

Member States shall make provision for cooperation between the public authorities

#### *Amendment*

#### **(2a) in article 4, paragraph 2 is replaced by the following:**

Member States shall make provision for cooperation between the public authorities

which, in accordance with national legislation, are responsible for monitoring the terms and conditions of employment referred to in Article 3. Such cooperation shall in particular consist in replying to reasoned requests from those authorities for information on the transnational hiring-out of workers, including manifest abuses or possible cases of unlawful transnational activities.

which, in accordance with national legislation, are responsible for monitoring the terms and conditions of employment referred to in Article 3. Such cooperation shall in particular consist in replying to reasoned requests from those authorities for information on the transnational hiring-out of workers, including manifest abuses or possible cases of unlawful transnational activities, ***prevention and deterrence of undeclared work including bogus self-employment.***

Or. en

### **Amendment 506**

**Enrique Calvet Chambon, Robert Rochefort**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 b (new)**

Directive 96/71/CE

Article 4 – paragraph 2 – subparagraph 2

#### *Present text*

*The Commission and the public authorities referred to in the first subparagraph shall cooperate closely in order to examine any difficulties which might arise in the application of Article 3 (10).*

#### *Amendment*

*(2b) Article 4(2) is amended as follows:*

*The Commission is also called upon to consider the possibility of creating a European Labour Inspectorate consisting of European inspectors specialised in cross-border mobility to provide technical support for national inspectors in the implementation of European legislation on the posting of workers.*

Or. es

### **Amendment 507**

**Robert Rochefort**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 a (new)**

Directive 96/71/CE

Article 4 – paragraph 2 – subparagraph 2 a (new)

**(2a)** *In Article 4(2), the following new subparagraph 2a is added:*

*Where the liaison office or competent national authority in the country from which the worker is posted is unable to provide the information sought by the labour administration in the host country, the administration in the country from which the worker is posted shall seek that information from the administration or body able to provide it.*

Or. fr

**Amendment 508**

**Guillaume Balas, Karima Delli, Patrick Le Hyaric, Edouard Martin, Christine Revault D'Allonnes Bonnefoy**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 a (new)**

Directive 96/71/CE

Article 4 – paragraph 2 – subparagraph 2 a (new)

*Present text*

*Amendment*

**(2a)** *Article 4(2) is amended as follows:*

*Where the liaison office or competent national authority in the country from which the worker is posted is unable to provide the information sought by the labour administration in the host country, the administration in the country from which the worker is posted shall seek that information from the administration or body able to provide it.*

Or.fr

**Amendment 509**

**Thomas Händel, Rina Ronja Kari, Paloma López Bermejo, Patrick Le Hyaric, Gabriele Zimmer**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 a (new)**

Directive 96/71/EC

Article 4 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*(2a) in article 4, after paragraph 2 the following paragraph is added:*

*2a. The Member States' labour inspectorates shall establish a regular exchange of information about posting coordinated by the Platform for Undeclared Work.*

Or. en

**Amendment 510**

**Georgi Pirinski**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 a (new)**

Directive 96/71/EC

Article 4 – paragraph 3

*Present text*

*Amendment*

3. Each Member State *shall take the appropriate measures* to make the information on the terms and conditions of employment referred to in Article 3 generally available.

*(ca) In article 4, paragraph 3 is replaced by the following:*

3. Each Member State *is obliged* to make the information on the terms and conditions of employment referred to in Article 3 generally available.

Or. en

**Amendment 511**

**Agnes Jongerius, Jutta Steinruck, Joachim Schuster, Guillaume Balas, Siôn Simon, Alex Mayer, Emilian Pavel, Ole Christensen, Edouard Martin, Javi López, Maria Arena, Miapetra Kumpula-Natri, Marita Ulvskog, Brando Benifei, Flavio Zanonato, Elena Gentile, Sergio Gutiérrez Prieto, Evelyn Regner**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 a (new)**  
Directive 96/71/EC  
Article 4 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

*(2a) in article 4, after paragraph 3 the following paragraph is added:*

*3a. Employers shall take appropriate measures to provide essential information on the terms and conditions of employment, in accordance with Directive 91/533/EU, as regards the posting before the beginning of the posting.*

Or. en

**Amendment 512**  
**Guillaume Balas, Karima Delli, Patrick Le Hyaric, Edouard Martin, Christine Revault D'Allonnes Bonnefoy**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 a (new)**  
Directive 96/71/EC  
Article 4 – paragraph 4 a (now)

*Text proposed by the Commission*

*Amendment*

*(2a) In Article 4, the following paragraph 4a is inserted:*

*4a. In order to enhance the cooperation referred to in paragraph 2 and to examine clear abuses and fraud in relation to the posting of workers, a coordination body shall be established comprising representatives of each Member State. It shall have the power to recall liaison offices or competent national authorities in the event of a failure to reply or an incomplete reply on their part.*

*In the event of a persistent delay in providing information to the competent authority, that authority shall refer the matter to the competent body or*

*administration where the liaison office from which the information is sought is unable to provide it.*

Or.fr

### **Amendment 513**

**Terry Reintke, Karima Delli**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 a (new)**

Directive 96/71/EC

Article 5 – paragraph 1

#### *Present text*

Member States shall *take appropriate measures* in the event of *failure to comply with* this Directive.

#### *Amendment*

*(2a) in Article 5 paragraph 1 is replaced by the following:*

Member States shall *lay down rules on sanctions applicable* in the event of *infringements of national provisions adopted pursuant to* this Directive *and shall take all the necessary measures to ensure that they are implemented and complied with. The sanctions provided for shall be effective, proportionate and dissuasive."*

Or.en

#### *Justification*

*This Directive should explicitly call on the Member States to lay down rules on sanctions in the event of infringements.*

### **Amendment 514**

**Rina Ronja Kari, Thomas Händel, Kostadinka Kuneva, Paloma López Bermejo, Patrick Le Hyaric, Tania González Peñas, Lynn Boylan**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 a (new)**

Directive 96/71/EC

Article 5 – paragraph 1

*Present text*

*Amendment*

Member States shall take appropriate measures in the event of failure to comply with this Directive.

**(2a)** *Article 5 is amended as follows:*

***The host Member States and the Member States of establishment are responsible for the monitoring, control and enforcement of the obligations laid down in this directive and*** shall take appropriate measures in the event of failure to comply with this Directive.

Or.en

### **Amendment 515**

**Terry Reintke, Karima Delli**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 b (new)**

Directive 96/71/EC

Article 5 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**(2b)** *in Article 5 paragraph 2 is deleted.*

Or.en

#### *Justification*

*This Directive should explicitly call on the Member States to lay down rules on sanctions in the event of infringements.*

### **Amendment 516**

**Rina Ronja Kari, Thomas Händel, Kostadinka Kuneva, Paloma López Bermejo, Patrick Le Hyaric, Tania González Peñas, Lynn Boylan**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 b (new)**

Directive 96/71/EC

Article 5 – paragraph 2

*Present text*

*Amendment*

**(2b)** *in Article 5 paragraph 2 is*



They shall in particular ensure that adequate procedures are available to workers and/or *their* representatives for the enforcement of obligations under this Directive."

*replaced by the following:*

They shall in particular ensure that adequate procedures are available to workers and/or *workers'* representatives for the enforcement of obligations under this Directive.

Or.en

#### **Amendment 517**

**Rina Ronja Kari, Thomas Händel, Kostadinka Kuneva, Paloma López Bermejo, Patrick Le Hyaric, Tania González Peñas, Lynn Boylan**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 c (new)**

Directive 96/71/EC

Article 5 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*(2c) in Article 5 after paragraph 2 the following paragraph 2 a is added:*

*2a. In the event a posted worker or a posting undertaking do not meet the conditions to be a posted worker or a posting undertaking, Article 45 TFEU apply to the terms and conditions of employment.*

Or.en

#### **Amendment 518**

**Arne Gericke**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 3**

Directive 96/71/EC

Annex – paragraph 1

*Text proposed by the Commission*

*Amendment*

*(3) The first paragraph of the Annex is amended as follows:*

*deleted*

***The activities mentioned in Article 3 include all building work related to the construction, repair, upkeep, alteration or demolition of buildings, and in particular the following work:.***

Or. de

*Justification*

*This creates legal uncertainty. It would lead to a disproportionate restriction on the freedom to provide services, and would destroy the competitive advantages associated with particular locations. The social partners are responsible for regulating elements of pay.*

**Amendment 519**  
**Helga Stevens, Anders Primdahl Vistisen**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 3 a (new)**  
Directive 96/71/EC  
Annex – paragraph 1a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) the following paragraph 1a is added to the Annex:***

***1a. Member States shall decide for their own territory which risk sectors this annex shall be extended to.***

Or. en

**Amendment 520**  
**Dominique Martin, Joëlle Mélin, Mara Bizzotto**

**Proposal for a directive**  
**Article 2 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [two years after adoption] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [two years after adoption] at the latest ***and after verification of the results of the implementation of Directive 2014/67/EU, which, in accordance with Article 24 thereof, should take place by 18 June 2019 at the latest.*** They shall

forthwith communicate to the Commission the text of those provisions.

Or. fr

**Amendment 521**  
**Siôn Simon, Alex Mayer**

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

*Text proposed by the Commission*

*Amendment*

*Member States shall adopt further measures to tackle abuses faced by posted workers, in particular with regards to undeclared work, bogus self-employment; letter-box companies and rotational postings. Member States shall ensure the proper transposition of this Directive.*

Or. en

**Amendment 522**  
**Patrick Le Hyaric**

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

*Text proposed by the Commission*

*Amendment*

*2a. Within 12 months of the implementation of Directive 2014/67/EU, the Commission shall establish a European body of labour inspectors to assist local authorities in the application of this Directive.*

Or. fr

**Amendment 523**  
**Patrick Le Hyaric**

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

*Text proposed by the Commission*

*Amendment*

***2b. Within 12 months of the implementation of Directive 2014/67/EU, the Commission shall draw up a blacklist of undertakings convicted of failing to apply this Directive or reported as being non-cooperative by the local authorities responsible for ensuring compliance with the Directive, or by the European body of labour inspectors.***

Or. fr