DRAFT REPORT


Committee on Transport and Tourism

Rapporteur: Merja Kyllönen

Rapporteur for the opinion (*):

Martina Dlabajová, Committee on Employment and Social Affairs

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

* Consultation procedure
*** Consent procedure
****I Ordinary legislative procedure (first reading)
****II Ordinary legislative procedure (second reading)
****III Ordinary legislative procedure (third reading)

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

Amendments to a draft act

Amendments by Parliament set out in two columns

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

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

Amendments by Parliament in the form of a consolidated text

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

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.
## CONTENTS

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
</tr>
<tr>
<td>31</td>
</tr>
</tbody>
</table>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

(COM(2017) 0278 – C8-0170 – 2017/0121(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2017)0278);
– having regard to Article 294(2) and Article 91(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament;
– having regard to Article 294(3) of the Treaty on the Functioning of the European Union;
– having regard to the opinion of the European Economic and Social Committee of ...;
– having regard to Rule 59 of its Rules of Procedure;
– having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Employment and Social Affairs (A8-0000/2018);

1. Adopts its position at first reading hereinafter set out;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its president to forward its position to the Council, the Commission and the National Parliaments;

Amendment 1

Proposal for a directive
Recital 5

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(5) Adequate, effective and consistent enforcement of the working time provisions is crucial for protecting the working conditions of drivers and preventing the distortions of competition resulting from non-compliance. Therefore</td>
<td>(5) Adequate, effective and consistent enforcement of the working time provisions is crucial for protecting the working conditions of drivers and preventing the distortions of competition resulting from non-compliance. Therefore</td>
</tr>
</tbody>
</table>
it is desirable to extend the existing uniform enforcement requirements set out in Directive 2006/22/EC to controlling compliance with the working time provisions set out in Directive 2002/15/EU.

It is desirable to extend the existing uniform enforcement requirements set out in Directive 2006/22/EC to controlling compliance with the working time provisions set out in Directive 2002/15/EU.

It is difficult during road side inspections to carry out controls of compliance with working time. Such controls should therefore be limited to checks at the premises of transport operators until smart tachographs are used in the sector.

Or. en

Justification

Currently it is not possible to carry out effectively road side checks of compliance with working time of drivers. Therefore these controls of compliance with working time should be limited to checks at the premises of transport operators until new technology enables road side inspections.

Amendment 2

Proposal for a directive
Recital 11

Text proposed by the Commission

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

Amendment

(11) In order to ensure the effective and proportionate implementation of Directive 96/71/EC in the road transport sector, it is necessary to establish sector-specific rules reflecting the particularity of the highly mobile workforce in the road transport sector and providing a balance between the social protection of drivers and the freedom to provide cross-border services for operators. Provisions on posting of workers, in Directive 96/71/EC, and on the enforcement of those provisions, in Directive 2014/67/EU, apply to road transport sector unless this Directive provides otherwise.

Or. en
Justification

It is important to clarify that except of the specific rules set by this Directive all other provisions of Directive 96/71/EC and 2014/67/EU continue to apply to road transport.

Amendment 3

Proposal for a directive

Recital 12

Text proposed by the Commission

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

Amendment

(12) Such balanced criteria should be based on a concept of a sufficient link of a driver with a territory of a host Member State. Therefore, a time threshold should be established, beyond which the minimum rate of pay and the minimum annual paid holidays of the host Member State shall apply in case of international transport operations. This time threshold should not apply to cabotage operations as defined by Regulations 1072/2009\(^\text{18}\) and 1073/2009\(^\text{19}\) since the entire transport operation is taking place in a host Member State. As a consequence the minimum rate of pay and the minimum annual paid holidays of the host Member State should apply to cabotage irrespective of the frequency and duration of the operations carried out by a driver. **Rules on posting should also apply to the road leg of the combined transport, as referred to in Directive 1992/106/EC, provided that the road leg is carried out within the same Member State. Moreover, rules on posting should apply from day one to all transport operations (international transport, cabotage and road leg of combined transport) carried out under a temporary agent regime or an intra-group transport regime.**

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Amendment 4
Proposal for a directive
Recital 12 a (new)

*Text proposed by the Commission*

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

*Amendment*

Amendment 5
Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a a (new)Directive 2006/22/EC
Article 2 – paragraph 1 – subparagraph 1

*Present text*

(aa) in paragraph 1, the first subparagraph is replaced by the
“1. Member States shall organise a system of appropriate and regular checks on correct and consistent implementation, as referred to in Article 1, both at the roadside and at premises of undertakings of all transport categories. ”.

following:

“1. Member States shall organise a system of appropriate and regular checks on correct and consistent implementation, as referred to in Article 1, both at the roadside and at premises of undertakings of all transport categories. Member States shall organise roadside checks of the implementation of Directive 2002/15 provided that the technology exists to enable those checks to be effective.”;

Or. en

Justification

Currently, roadside checks of working time according to Directive 2006/22 can't be carried out effectively.

Amendment 6

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

Present text

“Article 5
Concerted checks
Member States shall, at least six times per year, undertake concerted roadside checks on drivers and vehicles falling within the scope of Regulations (EEC) No 3820/85 or (EEC) 3821/85. Such checks shall be undertaken at the same time by the enforcement authorities of two or more Member States, each operating in its own territory.

Amendment

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

“Article 5
Concerted checks
Member States shall, at least six times per year, undertake concerted roadside checks on drivers and vehicles falling within the scope of Regulations (EC) No 561/2006 or (EU) 165/2014. Such checks shall be undertaken at the same time by the enforcement authorities of two or more Member States, each operating in its own territory.”;

Or. en
Justification

This amendment is a technical adaptation, Regulations 3820/85 and 3821/85 are no longer valid.

Amendment 7

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

<table>
<thead>
<tr>
<th>Present text</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) to forward the biennial statistical returns to the Commission under Article 16 (2) of Regulation (EEC) No 3820/85;</td>
<td>“(b) to forward the biennial statistical returns to the Commission under Article 17 of Regulation (EC) No 561/2006;”;</td>
</tr>
</tbody>
</table>

Justification

This amendment is a technical adaptation, Regulation 3821/85 is no longer valid.

Amendment 8

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

<table>
<thead>
<tr>
<th>Present text</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Information made available bilaterally under Article 17(3) of Regulation (EEC) No 3820/85 or Article 19 (3) of Regulation (EEC) No 3821/85 shall be exchanged between the designated bodies notified to the Commission in accordance with Article 7(2):</td>
<td>“1. Information made available bilaterally under Article 22(2) of Regulation (EC) No 561/2006 or Article 40 of Regulation (EU) No 165/2014 shall be exchanged between the designated bodies notified to the Commission in accordance with Article 7(2):”;</td>
</tr>
</tbody>
</table>

Or. en
Justification

This amendment is a technical adaptation, Regulations 3820/85 and 3821/85 are no longer valid.

Amendment 9

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

Text proposed by the Commission
Where the requested Member State considers that the request is insufficiently reasoned, it shall inform the requesting Member State accordingly within 10 working days. The requesting Member State shall further substantiate the request. Where this is not possible, the request may be rejected by the Member State.

Amendment
Where the requested Member State considers that the request is insufficiently reasoned, it shall inform the requesting Member State accordingly within five working days. The requesting Member State shall further substantiate the request. Where this is not possible, the request may be rejected by the Member State.

Or. en

Justification

Five days should be enough to consider whether a request is sufficiently reasoned or not.

Amendment 10

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

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

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

Justification

Five days should be sufficient.

Amendment 11

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

Text proposed by the Commission

In the event of any persisting problem in the exchange of information or a permanent refusal to supply information, the Commission, being informed, may take all necessary measures to remedy the situation, including, if appropriate, investigate the matter, issue a Recommendation or start infringement proceedings.

Amendment

Justification

The Commission should be involved in case there is a problem in cooperation between competent authorities.

Amendment 12

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

Present text

2. Member States shall seek to establish

Amendment

(ba) paragraph 2 is replaced by:

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

between the competent authorities of the Member States provided for in paragraphs 1 and 2 of this Article shall be implemented through the Internal Market Information System (IMI), established by Regulation (EU) No 1024/2012.”;

Or. en

**Justification**

The existing IMI system is a system used for exchange of information at Internal market.

**Amendment 13**

Proposal for a directive

Article 1 – paragraph 1 – point 7 – point b a (new)

Directive 2006/22/EC

Article 9 – paragraph 3

**Present text**

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

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

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

**Amendment**

(ba) paragraph 3 is replaced by the following:

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

With a view to giving guidelines on the weighting of infringements of Regulations (EC) No 561/2006 or (EU) 165/2014, the Commission may, as appropriate, in accordance with the procedure referred to in Article 12(2), adapt Annex III with a view to establishing guidelines on a common range of infringements, divided into categories according to their gravity.

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

Or. en
Justification

This amendment is a technical adaptation, Regulations 3820/85 and 3821/85 are no longer valid.

Amendment 14

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

Text proposed by the Commission

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

Amendment

(8a) Article 12 is replaced by the following:

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

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

Or. en

Justification

This amendment is a technical adaptation.

Amendment 15

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

Present text

(8b) in Article 13, point b is replaced by the following:

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

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

Or. en

Justification

This amendment is a technical adaptation, Regulation 3821/85 is no longer valid.

Amendment 16

Proposal for a directive
Article 1 – paragraph 1 – point 8 c (new)
Directive 2006/22/EC
Article 14

<table>
<thead>
<tr>
<th>Present text</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 14</td>
<td>Article 14 is replaced by the following:</td>
</tr>
<tr>
<td>Negotiations with third countries</td>
<td>“Article 14</td>
</tr>
<tr>
<td>Once this Directive has entered into force, the Community shall begin</td>
<td>Negotiations with third countries</td>
</tr>
<tr>
<td>negotiations with the relevant third countries with a view to the</td>
<td>Once this Directive has entered into force, the Union shall begin</td>
</tr>
<tr>
<td>application of rules equivalent to those laid down in this Directive.</td>
<td>negotiations with the relevant third countries with a view to the</td>
</tr>
<tr>
<td>Pending the conclusion of these negotiations, Member States shall include</td>
<td>application of rules equivalent to those laid down in this Directive.</td>
</tr>
<tr>
<td>data on checks carried out on vehicles from third countries in their</td>
<td>Pending the conclusion of these negotiations, Member States shall include</td>
</tr>
<tr>
<td>returns to the Commission as set out in Article 16 (2) of Regulation (EEC)</td>
<td>data on checks carried out on vehicles from third countries in their</td>
</tr>
<tr>
<td>No 3820/85.”</td>
<td>returns to the Commission as set out in Article 17 of Regulation (EC) No</td>
</tr>
<tr>
<td></td>
<td>561/2006.”</td>
</tr>
</tbody>
</table>

Or. en

Justification

This amendment is a technical adaptation, Regulation 3821/85 is no longer valid.
Amendment 17

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

Present text

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

Amendment

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

Or. en

Justification

This amendment is a technical adaptation, Regulation 3821/85 is no longer valid.

Amendment 18

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

Text proposed by the Commission

(2) for the period referred to in Article 15 (7) of Regulation (EEC) No 3821/85, any cases where the vehicle's authorised speed is exceeded, to be defined as being any periods of more than one minute during which the vehicle's speed exceeds 90 km/h

Amendment

“(2) for the period referred to in Article 36, paragraphs (1) and (2) of Regulation (EU) No 165/2014, any cases where the vehicle's authorised speed is exceeded, to be defined as being any periods of more than one minute during which the vehicle's speed exceeds 90 km/h


speed exceeds 90 km/h for category N 3 vehicles or 105 km/h for category M 3 vehicles (categories N 3 and M 3 as defined in Directive 2007/46/EC\(^{1a}\)).

Or. en

**Justification**

This amendment is a technical adaptation.

**Amendment 19**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 9 – point -a b (new)**

**Directive 2006/22/EC**

**Annex I – Part A – point 4**

<table>
<thead>
<tr>
<th>Present text</th>
<th>Amendment</th>
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</thead>
<tbody>
<tr>
<td>(4) the correct functioning of the recording equipment (determination of possible misuse of the equipment and/or the driver card and/or record sheets) or, where appropriate, presence of the documents referred to in Article 14 (5) of Regulation (EEC) No 3820/85;</td>
<td>(4) the correct functioning of the recording equipment (determination of possible misuse of the equipment and/or the driver card and/or record sheets) or, where appropriate, presence of the documents referred to in Article 16 (2) of Regulation (EC) No 561/2006;</td>
</tr>
</tbody>
</table>

Or. en
Justification

*This amendment is a technical adaptation, Regulation 3821/85 is no longer valid.*

Amendment 20

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

Present text

(9a) in Part B, subparagraph 2 is replaced by:

Member States may, if appropriate, check on the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permit compliance with

*Regulations (EEC) No 3820/85 and (EEC) No 3821/85.*

Amendment

Member States may, if appropriate, check on the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permit compliance with


Or. en

Justification

*This amendment is a technical adaptation, Regulations 3820/85 and 3821/85 are no longer valid.*

Amendment 21

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

Text proposed by the Commission

1a. Member States shall ensure that transport operators shall use smart tachographs as referred to in Article 8 of Regulation 165/2014 in vehicles which are used for international carriage operations or cabotage operations as defined by Regulations 1072/2009 and
1073/2009 as well as for road leg of combined transport as defined in Directive 1992/106/EC.

Or. en

Justification

Smart tachographs enable recording of border crossing and can play important role in enforcement of rules on posting in road transport sector.

Amendment 22

Proposal for a directive
Article 2 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Rapporteur is analysing this provision and would possibly make an amendment at later stage.

Amendment 23

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

Text proposed by the Commission

2a. Member States shall apply Directive 96/71/EC and 2014/67/EU for

Amendment
the entire period of posting to their territory to:
- drivers in the road transport sector employed by undertakings referred to in Article 1(3)(b) and (c) of Directive 96/71/EC, and
- drivers in the road transport sector employed by undertakings referred to in Article 1(3)(a), (b) and (c) when performing cabotage operations as defined by Regulations 1072/2009 and 1073/2009 and road haulage legs of combined transport as referred to in Article 4 of Directive 92/106/EEC.

When performing international carriage operations as defined by Regulations 1072/2009 and 1073/2009, drivers employed by undertakings referred to in Article 1(3)(b) and (c) of Directive 96/71/EC shall be considered to be posted to the territory of the Member State where a user undertaking is established.

Or. en

Justification

Rules on posting as set in Directives 96/71/EC and 2014/67/EU should apply to cabotage operations, road leg of the combined transport from the very first day of posting. Rules on posting as set in Directives 96/71/EC and 2014/67/EU should also apply from first day to all transport operations (international transport, cabotage and road leg of combined transport) carried out under a regime of a temporary agent or intra-group transport (Article 1(3)(b) and (c) of Directive 96/71).

Amendment 24

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

Text proposed by the Commission

Amendment

2b. Directive 96/71/EC shall not apply to drivers in the road transport sector employed by undertakings performing international operations for the transport of properties, material, accessories and
animals to or from theatrical, musical, film, sports or circus performances.

Justification

To avoid unnecessary burden for marginal transport operations which are not in competition with national hauliers. The rapporteur is still analysing how to include exemptions in relation to passenger transport.

Amendment 25

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Member States may only impose the following administrative requirements and control measures:</td>
<td>4. <strong>By way of derogation from Article 9 of Directive 2014/67/EU</strong> Member States may only impose the following administrative requirements and control measures:</td>
</tr>
</tbody>
</table>

Justification

It should be clarified that Article 2 paragraph 4 sets exemptions to Article 9 of Directive 2014/67/EU only. All other provisions of Directive 2014/67/EU remains applicable to road transport.

Amendment 26

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) an obligation for the road transport operator established in another Member State to send a posting declaration to the national competent authorities at the latest at the commencement of the posting, in electronic form, in an official language of the host Member State or in English,</td>
<td>(a) an obligation for the road transport operator established in another Member State to send a declaration to the national competent authorities at the latest at the commencement of the posting, in electronic form, in an official language of the host Member State or in English,</td>
</tr>
</tbody>
</table>
containing only the following information:

(This amendment applies throughout the text.)

Or. en

Justification

To use the same terminology as in Directive 2014/67

Amendment 27

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

Text proposed by the Commission
(iii) the anticipated number and the identities of posted drivers;

Amendment
(iii) the anticipated number and the identities of posted drivers, including nationality and Member State of drivers employment;

Or. en

Justification

Competent authorities should know nationality and Member State of employment of drivers used by EU transport operators.

Amendment 28

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

Text proposed by the Commission
(iv) the anticipated duration, envisaged beginning and end date of the posting;

Amendment
(iv) the anticipated duration, envisaged beginning and end date of the posting and the law applicable to the employment contract;

Or. en
Justification

It is important for competent authorities to know law applicable to the employment contract.

Amendment 29

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

Text proposed by the Commission

(vi a) the identity and the contact details of consignee;

Amendment

Or. en

Amendment 30

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

Text proposed by the Commission

(b) an obligation for the driver to keep and make available, where requested at the roadside control, in paper or electronic form, a copy of the posting declaration and evidence of transport operation taking place in the host Member State, such as an electronic consignment note (e-CMR) or evidence referred to in Article 8 of Regulation (EC) No 1072/2009 of the European Parliament and of the Council.

Amendment

(b) an obligation for the road transport operator to ensure that the driver has at his disposal, where requested at the roadside control, in paper or electronic form, a copy of the posting declaration and evidence of transport operation taking place in the host Member State, such as an electronic consignment note (e-CMR) or evidence referred to in Article 8 of Regulation (EC) No 1072/2009 of the European Parliament and of the Council.

Or. en

Justification

The primary responsibility for providing a driver with various documents for relevant for posting lies with the transport undertaking.
Amendment 31

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

Text proposed by the Commission

(c) an obligation for the driver to keep and make available, where requested at the roadside control, the tachograph records, and in particular the country codes of Member States where the driver has been present when carrying out international road transport operations or cabotage operations;

Amendment

(c) an obligation for the road transport operator to ensure that the driver has at his disposal, where requested at the roadside control, the tachograph records, and in particular the country codes of Member States where the driver has been present when carrying out international road transport operations or cabotage operations;

Or. en

Justification

The primary responsibility for providing a driver with various documents for relevant for posting lies with the transport undertaking.

Amendment 32

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

Text proposed by the Commission

(d) an obligation for the driver to keep and make available, where requested at the roadside control, in paper or electronic form, a copy of the employment contract or an equivalent document within the meaning of Article 3 of Council Directive 91/533/EEC, translated into one of the official languages of the host Member State or into English;

Amendment

(d) an obligation for the road transport operator to ensure that the driver has at his disposal, where requested at the roadside control, in paper or electronic form, a copy of the employment contract or an equivalent document within the meaning of Article 3 of Council Directive 91/533/EEC, translated into one of the official languages of the host Member State or into English;

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

Justification

The primary responsibility for providing a driver with various documents for relevant for posting lies with the transport undertaking.

Amendment 33

Proposal for a directive

Article 2 – paragraph 4 – point e

Text proposed by the Commission

(e) an obligation for the driver to make available, where requested at the roadside control, a copy of payslips for last two months; during the roadside check, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may provide this copy;

Amendment

(e) an obligation for the road transport operator to ensure that the driver can make available, where requested at the roadside control, a copy of payslips as defined in paragraph 5 a of this Article for last two months; during the roadside check, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may provide this copy;

Justification

The primary responsibility for providing a driver with various documents for relevant for posting lies with the transport undertaking.

Amendment 34

Proposal for a directive

Article 2 – paragraph 4 a (new)

Text proposed by the Commission

4a. Member States shall ensure that infringements of rules on posting of drivers shall be considered as infringement for the purpose of
assessment of good repute as referred to in Article 6 of Regulation 1071/2009.

Justification

It is important to lay down that infringement of rules on posting of drivers has negative impact on good repute of transport undertaking.

Amendment 35

Proposal for a directive
Article 2 – paragraph 5

Text proposed by the Commission

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

Amendment

5. For the purposes of point (a) of paragraph 4 the road transport operator may provide a declaration covering a period of a maximum of six months. The transport operator shall provide to the national competent authorities with any update to the declaration before the commencement of the posting. Transport operator may use the Internal Market Information system (IMI), established by Regulation (EU) No 1024/2012 for sending the declaration and any update to it. Transport operator may send the declaration in an official language of its home Member State when using the Internal Market Information system.

Justification

Use of Internal Market Information system has a potential to work as a one stop shop and reduce administrative burden, in particularly when there is a pre-defined form to be filled in in language of transport operator. It is important to notify also possible changes to the declaration.

Amendment 36

Proposal for a directive
Article 2 – paragraph 5 a (new)
5a. For the purposes of point (e) of paragraph 4, the Commission shall, by ways of implementing acts, establish a common payslip of a driver engaged in international carriage, cabotage or road leg of combined transport. The common payslip shall at least contain following data:

- number of working hours divided according to Member States in which a driver worked in a given calendar month and if applicable, according to daily, weekly or any other relevant period for the purpose of calculating rates for overtimes,

- salary paid per hour or a day and in total divided according to Member States in which a driver worked in the calendar month concerned.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 2 a (2) of this Directive.

Justification

In order to facilitate ex-post checks of compliance with rules minimum rates of pay, it is necessary to create a harmonised document for a driver in international traffic showing salaries paid according to applicable law.

Amendment 37

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

5b. The use of a common payslip as referred to in paragraph 5 a of this Article is without a prejudice to national law of Member States defining use and content
of payslips for other purposes.

Or. en

Justification

This is to ensure that if Member States need different content of payslips for other purposes, they can do it.

Amendment 38

Proposal for a directive
Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2 a

Committee procedure

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

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

Or. en

Amendment 39

Proposal for a directive
Article 2 b (new)

Text proposed by the Commission

Amendment

Article 2 b

Liability

Member States shall provide for sanctions against consignors, freight forwarders, contractors and subcontractors for non-compliance with Article 2 of this
Directive, where they knowingly commission transport services which involve infringements of this Regulation.

Or. en

Justification

To introduce liability of other parties similarly to Article 14a in a proposal for amending Regulation 1072/2009.

Amendment 40

Proposal for a directive

Article 2 c (new)

Text proposed by the Commission

Amendment

Article 2 c

Amendment to Regulation (EU) No 1024/2012

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


Or. en
**Justification**

*Use of Internal Market Information system has a potential to work as a one stop shop and reduce administrative burden, in particularly when there is a pre-defined form to be filled in in language of transport operator. It is important to notify also possible changes to the declaration.*
EXPLANATORY STATEMENT

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

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

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

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

The main social regulations in the road transport sector are:
- Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities;
- Directive 2014/67/EU on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’), and
- Directive 96/71/EC on the posting of workers in the framework of the provision of services.

Position of the rapporteur

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

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

Lex specialis – specific legislation on posted drivers

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

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

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

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

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

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

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

Proposed amendments to Directive 2006/22/EC

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

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

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

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

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