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Bruxelles, le 23 décembre 2008

CONSEIL DE L'UNION EUROPEENNE

RUE DE LA LOI, 175
B – 1048 Brussels

M. Gérard Deprez
Président de la Commission des libertés civiles, de la justice et des affaires intérieures du Parlement européen

Objet: Proposition de directive du Parlement européen et du Conseil prévoyant des sanctions à l'encontre des employeurs de ressortissants de pays tiers en séjour irrégulier 2007/0094 (COD)

Monsieur le président,

Le Comité des représentants permanents (COREPER) a tenu aujourd'hui un débat concernant la proposition en objet. Comme résultat de ce débat, et après avoir considéré différentes possibilités, le COREPER a constaté que la solution qui a recueilli le plus large soutien des délégations et qui prend en compte à la fois les problèmes pratiques soulevés par les Etats membres ainsi que les préoccupations exprimées par le Parlement, est celle dont le texte figure en annexe à la présente lettre. Le Conseil espère qu'un accord en première lecture sera possible sur la base de ce texte.

Je suis dès lors en mesure de confirmer que si le Parlement européen adopte les amendements à la proposition de la Commission sous la forme exacte du compromis figurant à l'annexe de la présente lettre, le Conseil adoptera, conformément à l'article 251, paragraphe 2, premier alinéa, premier tiret, du traité, la proposition de directive dans sa version ainsi modifiée sous réserve, le cas échéant, d'une mise au point par les juristes-linguistes des deux institutions.

Au nom du Conseil, je tiens également à vous remercier pour votre étroite coopération qui devrait nous permettre de parvenir à un accord en première lecture sur ce dossier.

Je vous prie d'agréer, Monsieur le Président, l'expression de mes sentiments les meilleurs.

Pierre Sellal

Président du Comité des représentants permanents (2ère partie)

Copie à: M. Jacques Barrot (Vice-Président de la Commission)
M. Claudio Fava, Mme Edit Bauer (rapporteurs du PE)
M. Jan Andersson (Président de la Commission Emploi et affaires sociales du Parlement européen)

ANNEX

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

providing for minimum standards on sanctions against employers of illegally staying third-country nationals

(1) The European Council meeting of 14 and 15 December 2006 agreed to increase cooperation among Member States in the fight against illegal immigration and in particular that measures against illegal employment should be intensified at Member State and EU level.

(2) A key pull factor for illegal immigration into the EU is the possibility of obtaining work in the EU without the required legal status. Action against illegal immigration and illegal residence should therefore include measures against that pull factor.

(3) The centrepiece of such measures should be a general prohibition on the employment of third-country nationals who do not have the right to be resident in the EU, accompanied by sanctions against employers who infringe that prohibition.

(3a) As this Directive provides for minimum rules, Member States remain free to adopt or maintain more severe sanctions, measures and employers' obligations.

(4) The provisions should not apply to third-country nationals staying legally in the Member States whether or not allowed to work in their territory. This excludes persons who enjoy the Community right of free movement, as defined in Article 2(5) of the Schengen Borders Code. It also excludes third-country nationals who are in a situation covered by Community law, such as those who are lawfully employed in another Member State and who are posted by a service provider to another Member State in the context of the provision of services. This Directive should apply without prejudice to national law prohibiting the employment of third-country nationals staying legally but working in breach of their residence status.

(4a) For the specific purposes of this Directive, certain terms should be defined. Such definitions should be used only for the purposes of this Directive.

(4b) The definition of employment should encompass its constituent elements, namely activities that are or ought to be remunerated undertaken for or under the direction and/or supervision of the employer, irrespective of the legal relationship.

(4c) The definition of employer may also include an association of persons recognised as having the capacity to perform legal acts without legal personality.

(5) To prevent the employment of illegally staying third-country nationals, employers should be required before recruiting a third-country national, including in cases where the third-country national is being recruited for the purpose of posting to another Member State in the context of the provision of services, to check that they have a valid residence permit or another authorisation for stay showing that the third-country national is legally staying on the territory of the Member State.

(5a) To enable Member States in particular to check for forged documents, employers should also be required to notify the competent authorities of the employment of a third-country national. In order to minimise the administrative burden, Member States may provide for such notifications to be undertaken within the framework of other notification schemes. Member States should be able to decide for a simplified procedure for notification by employers who are natural persons where the employment is for their private purposes.

(6) Employers that have fulfilled the obligations set out in this Directive should not be held liable for having employed illegally-staying third-country nationals, in particular if the competent authority later finds that the document presented by an employee had in fact been forged or misused, unless the employer knew that the document was a forgery.

(6a) To facilitate the fulfilment by employers of their obligations, Member States should use their best endeavours to handle requests for renewal of residence permits in a timely manner.

(7) To enforce the general prohibition and to deter infringements, Member States should provide for appropriate sanctions. These should include financial penalties and contributions to the costs of returning illegally staying third-country nationals, together with the possibility of reduced financial penalties on employers who are natural persons where the employment is for their private purposes.

(8) The employer should in any case be required to pay to the third-country nationals any outstanding remuneration for the work they have undertaken and any outstanding taxes and social security contributions. If the level of remuneration cannot be determined, it should be presumed to be at least the wage provided for by the applicable laws on minimum wages, collective agreements or practices in the relevant occupational branches. The employer should also be required to pay, where appropriate, any costs arising from sending outstanding remuneration to the country to which the illegally employed third-country national has returned or has been returned. In case when back payments are not made by the employer, Member States should not be obliged to fulfil this obligation in place of the employer.

(8a) The illegally employed third-country national cannot derive a right to entry, stay and access to the labour marker from the illegal employment relationship or from the payment or back payment of remunerations, social security contributions or taxes by the employer or by a legal entity which has to pay instead of him.

(9) Member States should ensure that claims are or can be lodged and that mechanisms are in place to ensure that recovered amounts of outstanding remuneration are able to be received by the third-country nationals to whom they are due. Member States should not be obliged to involve their missions or representations in third countries in those mechanisms. Member States should, in the context of establishing effective mechanisms to facilitate complaints and if not already foreseen by national legislation, consider the possibility and added value of enabling a competent authority to bring proceedings against an employer for the purpose of claiming back outstanding remuneration.

(10) Member States should further provide for a presumption of an employment relationship of at least three months duration so that the burden of proof is put on the employer in respect of at least a certain period. The employee, inter alia, should also have the opportunity of proving the existence and duration of the employment relationship.

(11) Member States should provide for the possibility of further sanctions against employers, including exclusions from entitlement to some or all public benefits, aids or subsidies, including agricultural subsidies; exclusions from public procurement procedures; and recovery of some or all public benefits, aids or subsidies, including EU funding managed by Member States, that have already been granted. Member States should be able to decide not to apply those further sanctions against employers who are natural persons where the employment is for their private purposes.

(12) This Directive, and in particular its Articles 8, 11 and 13, should be without prejudice to the provisions of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Union.

(13) In view of the prevalence of subcontracting in certain affected sectors, it is necessary to ensure that at least the contractor, of which the employer is a direct subcontractor, can be held liable to pay financial sanctions next to or in place of the employer. In specific cases, other contractors should be held liable to pay financial sanctions next to or in place of an employer of illegally staying third-country nationals. Back payments which are to be covered by the liability provisions of this Directive should also include contributions to national holiday pay funds and social funds regulated by law or collective agreements.

(14) Experience has shown that the existing systems of sanctions have not been sufficient to achieve complete compliance with prohibitions against the employment of illegally staying third-country nationals. One of the reasons is that administrative sanctions alone are likely not to be enough to deter certain unscrupulous employers. Compliance can and should be strengthened by the application of criminal sanctions.

(15) To guarantee the full effectiveness of the general prohibition, there is therefore a particular need for more dissuasive sanctions in serious cases, such as: repeated infringements, illegal employment of a significant number of third-country nationals, particularly exploitative working conditions, where the employer knows that the worker is a victim of human trafficking and the illegal employment of a minor. This Directive obliges Member States to provide for criminal penalties in their national legislation in respect of those serious infringements. It creates no obligations regarding the application of such penalties, or any other available system of law enforcement, in individual cases.

(16) In all cases deemed to be serious according to the present Directive the infringement should therefore be considered a criminal offence throughout the Community when committed intentionally. The criminal offence should be without prejudice to application of the Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings.

(17) The criminal offence should be punishable by effective, proportionate and dissuasive criminal sanctions. The obligation to ensure effective, proportionate and dissuasive criminal sanctions under Article 10 of this directive is without prejudice to the internal organization of criminal law and criminal justice in the Member States.

(17a) Legal persons should also be able to be held liable for the offence referred to in Article 10, because many employers are legal persons. The provisions of this directive do not entail an obligation to introduce criminal liability of legal persons in Member States.

(18) To facilitate enforcement, there should be effective complaint mechanisms by which relevant third-country nationals can lodge complaints directly or through designated third parties such as trade unions or other associations. The designated third parties should be protected, when providing assistance to lodge complaints, against possible sanctions under rules prohibiting the facilitation of unauthorised residence.

(19) To supplement the complaint mechanisms, Member States should be able to grant residence permits of limited duration, linked to the length of the relevant national proceedings, to third-country nationals who have been subjected to particularly exploitative working conditions or who were an illegally employed minor and who cooperate in criminal proceedings against the employer. Such permits should be granted in a manner comparable to third-country nationals who fall under the terms of Council Directive 2004/81/EC on residence permits issued to third-country nationals who are victims of trafficking or who have been subject of an action to facilitate illegal immigration and who co-operate with the competent authorities.

(20) To ensure a satisfactory level of enforcement of this Directive and to reduce, as far as possible, differences in the level of enforcement in the Member States, Member States should ensure that effective and adequate inspections are carried on their territory and should communicate to the Commission data on the inspections they carry out.

(20aa) Member States should be encouraged to determine every year a national target for the number of inspections in respect of the sectors of activity in which the employment of illegally staying third country nationals are concentrated on their territory.

(20a) With a view to increasing effectiveness of inspections for the purpose of application of this Directive, Member States should ensure that: national legislation gives adequate powers to competent authorities to make the inspections; information about illegal employment, including the results of previous inspections, is collected and processed for effective implementation of this Directive; and sufficient staff are available with the skills and qualifications needed to carry out effectively the inspections.

(20b) Member States should ensure that inspections for the purpose of application of this Directive do not affect, from a quantitative or qualitative point of view, inspections carried out to assess employment and working conditions.

(20c) In the case of posted workers who are third-country nationals, Member States' inspection services may avail themselves of the cooperation and exchange of information provided for in Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, in order to verify that the third-country nationals concerned are lawfully employed in the Member State of origin.

(20d) This Directive should be seen as complementary to measures to counter undeclared work and exploitation.

(20e) In accordance with paragraph 34 of the interinstitutional agreement on better-law making, Member States will be encouraged to draw up, for themselves and in the interest of the Community, their own tables, which will, as far as possible, illustrate the correlation between this directive and the transposition measures and to make them public.

(21) Any processing of personal data undertaken in the implementation of this Directive must be in compliance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(22) Since the objective of this Directive, namely to counteract illegal immigration by acting against the employment pull factor, cannot be sufficiently achieved by the Member States alone and can therefore, by reason of the scale and effects be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

(23) This Directive respects fundamental rights and observes the principles recognised in particular by the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union. Specifically, it has to be applied with due respect for the freedom to conduct a business, equality before the law and the principle of non-discrimination, the right to an effective remedy and to a fair trail and the principles of legality and proportionality of criminal offences and penalties, in accordance with Articles 16, 20, 21, 47 and 49 of the Charter.

(23a) In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, and without prejudice to Article 4 of the said Protocol, these Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application.

(24) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.

Article 1
Subject matter and scope

This Directive prohibits the employment of illegally staying third-country nationals in order to fight illegal immigration. To this end, it lays down minimum common standards on sanctions and measures to be applied in the Member States against employers who infringe this prohibition.

Article 2
Definitions

For the specific purposes of this Directive, the following definitions shall apply:

(a) "third-country national" means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty and who is not a person enjoying the Community right of free movement, as defined in Article 2 (5) of the Schengen Borders Code;

(b) "employment" means exercise of activities covering whatever form of labour or work regulated under national law or established practice for or under the direction and/or supervision of an employer;

(c) "illegally staying" means the presence on the territory of a Member State of a third-country national who does not fulfil, or no longer fulfils, the conditions for stay or residence in that Member State;

(d) “illegal employment" means employment of a third-country national who is illegally staying on the territory of a Member State;

(e) "employer" means any natural person or any legal entity, including temporary work agencies, for or under the direction and/or supervision of whom the employment is undertaken;

(f) "subcontractor" means any natural person or any legal entity, to whom the execution of all or part of the obligations of a prior contract is assigned;

(g) "legal person" means any legal entity having such status under applicable national law, except for States or public bodies exercising State authority and for public international organisations;

(h) "temporary-work agency" means any natural or legal person who, in compliance with national law, concludes contracts of employment or employment relationships with temporary agency workers in order to assign them to user undertakings to work there temporarily under their supervision and direction;

(i) “particularly exploitative working conditions” means working conditions, including those resulting from gender based or other discrimination, where there is a striking disproportion with the terms of employment of legally employed workers, which, for example, is affecting workers’ health and safety, and which is contrary to human dignity.

(j) “remuneration of illegally staying third country national” means the wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer and that are equivalent to those which would have been enjoyed by comparable workers in a legal employment relationship.

Article 3
Prohibition of illegal employment

1. Member States shall prohibit the employment of illegally staying third-country nationals.

2. Infringements of this prohibition shall be subject to the sanctions and measures laid down in this Directive.

3. A Member State may decide not to apply the prohibition in paragraph 1 to illegally staying third-country nationals whose removal has been postponed and who are allowed to work in accordance with national law.

Article 4

Employers' obligations

1. Member States shall oblige employers to:

   (a) require that a third-country national before taking up the employment hold and present to the employer his/her valid residence permit or other authorisation for its stay;

   (b) keep for at least the duration of the employment a copy or record of the residence permit or other authorisation to stay available for possible inspection by the competent authorities of the Member States;

   (c) notify the competent authorities designated by Member States of the start of employment of third-country nationals within a period laid down by each Member State;

2. Member States may provide for a simplified procedure for notification under paragraph 1(c) where the employer is a natural person and the employment is for his or her private purposes.

   Member States may provide that notification under paragraph 1 (c) above is not required where the employee has been granted a long term residence status under Directive 2003/109/EC.

3. Member States shall ensure that employers who have fulfilled their obligations set out in paragraph 1 shall not be held liable for infringing the prohibition referred to in Article 3 unless they know that the document presented as a valid residence permit or another authorisation for stay is a forgery.

Article 5
Consequence of fulfilling the employers' obligations

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Article 6
Financial sanctions

1. Member States shall take the necessary measures to ensure that infringements of the prohibition referred to in Article 3 are subject to effective, proportionate and dissuasive sanctions against the employer.

2. Sanctions in respect of infringements of the prohibition referred to in Article 3 shall include:

   (a) financial sanctions which shall rise according to the number of illegally employed third-country nationals; and

   (b) payments of the costs of return of illegally employed third-country nationals in those cases where return procedures are carried out. Member States may instead decide to reflect at least the average costs of return in the financial sanctions under paragraph (a).

2a. Member States may provide for reduced financial penalties in cases where the employer is a natural person who employs an illegally staying third country national for his or her private purposes and where no particularly exploitative working conditions are involved.

Article 7

Back payments to be made by employers

1. In respect of each infringement of the prohibition referred to in Article 3, Member States shall ensure that the employer is responsible to pay :

   (a) any outstanding remuneration to the illegally employed third-country national. The agreed level of remuneration is presumed to have been at least the wage provided for by the applicable laws on minimum wages, collective agreements or practices in the relevant occupational branches unless one of the employer or the employee can prove differently, while respecting, where appropriate, the mandatory national provisions concerning wages;

   (b) an amount equal to any taxes and social security contributions that the employer would have paid had the third-country national been legally employed, including penalty payments for delays and relevant administrative fines;

   (c) where appropriate, any cost arising from sending back payments to the country to which the third-country national has returned or has been returned.

2. In order to ensure the availability of effective procedures to apply paragraphs 1(a) and 1(c), and having due regard to Article 14, Member States shall enact mechanisms to ensure that illegally employed third country nationals:

   (a) can introduce a claim, subject to a period of prescription defined under national law, against his/her employer and eventually enforce a judgment against the employer for any outstanding remuneration including in cases in which they have or have been returned, or;

   (b) when foreseen by national legislation, can call on the competent authority of the Member State to launch the procedures to claim back outstanding remuneration without the need for him/her to introduce a claim in that case.

Illegally employed third country nationals shall be systematically and objectively informed about their rights under this paragraph and under Article 14, before the enforcement of any return decision.

3. In order to apply paragraphs 1(a) and (b), Member States shall provide that a work relationship of at least 3 months duration be presumed unless the employer or the employee, inter alia, can prove differently.

4. Member States shall ensure that the necessary mechanisms are in place to ensure that illegally employed third-country nationals are able to receive any back payment of remuneration referred to under paragraph 1 (a) and that is recovered under the claims referred to in paragraph 2, including in cases in which they have or have been returned.

5. In respect of cases where resident permits of limited duration have been granted under Article 14(3), Member States shall define under national law the conditions under which the duration of these permits may be prolonged until the third country national has received any back payment of their remuneration recovered under paragraph 1.

Article 8

Other measures

1. Member States shall take the necessary measures to ensure that employers shall also, if appropriate, be subject to the following measures:

   (a) exclusion from entitlement to some or all public benefits, aid or subsidies, including EU funding managed by Member States for up to five years;

   (b) exclusion from participation in a public contract as defined in Directive 2004/18/EC for up to five years;

(c) recovery of some or all public benefits, aid, or subsidies, including EU funding managed by Member States, granted to the employer for up to 12 months preceding the detection of illegal employment;

(d) temporary or permanent closure of the establishments that have been used to commit the infringement, or temporary or permanent withdrawal of a licence to conduct the business activity in question, if justified by the gravity of the situation.

2. Member States may decide not to apply paragraph (1) where the employer is a natural person and the employment is for his or her private purposes.

Article 9

Subcontracting

1. Where the employer is a subcontractor and without prejudice to the provisions of national law concerning the rights of contribution or recourse or in the field of social security, Member States shall ensure that the contractor of which the employer is a direct subcontractor may, next to or in place of the employer, be held liable to pay:

(a) any financial sanction imposed under Article 6, and

(b) any back payments due under Article 7(1) (a) and (c)-(3).

2. Where the employer is a subcontractor, Member States shall ensure that the main contractor and any intermediate subcontractor, where they knew that the employing subcontractor employed illegally staying third-country nationals, may next to or in place of the employer be held liable to make the payments identified in paragraph 1 in place of the employing subcontractor or the contractor of which the employer is a direct subcontractor.

3. A contractor that has undertaken due diligence obligations as defined by national law shall not be held liable under paragraphs 1 and 2.

4. Member States may provide for more stringent liability rules under national law.

Article 10

Criminal offence

1. Each Member State shall ensure that the infringement referred to in Article 3 constitutes a criminal offence when committed intentionally, in each of the following circumstances as defined by national law:

(a) the infringement continues or is persistently repeated;

(b) the infringement is in respect of the simultaneous employment of a significant number of illegally employed third-country nationals;

(c) the infringement is accompanied by particularly exploitative working conditions;

(d) the infringement is committed by an employer who, while not having been charged with, or convicted of, an offence established pursuant to Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings, uses work or services exacted from a person with the knowledge that the illegally staying third-country national is a victim of such trafficking.

(e) the infringement relates to the illegal employment of a minor.

2. Member States shall ensure that inciting, aiding and abetting the intentional conduct referred to in paragraph 1 is punishable as a criminal offence.

Article 11

Penalties for the criminal offence

1. Member States shall take the necessary measures to ensure that natural persons who commit the criminal offence referred to in Article 10 are punishable by effective, proportionate and dissuasive criminal penalties.

2. The criminal penalties provided for in this article may under national law be applied without prejudice to other sanctions or measures of a non-criminal nature, unless it is precluded by general principles of law and may be accompanied by the publication of the judicial decision relevant to the case.

Article 12

Liability of legal persons

1. Member States shall ensure that legal persons can be held liable for the offence referred to in Article 10 where such offence has been committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on

   (a) a power of representation of the legal person, or

   (b) an authority to take decisions on behalf of the legal person, or

   (c) an authority to exercise control within the legal person.

2. Member States shall also ensure that a legal person may be held liable where the lack of supervision or control, by a person referred to in paragraph 1, has made possible the commission of the criminal offence referred to in Article 10 for the benefit of that legal person by a person under its authority.

3. Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offence referred to in Article 10.

Article 13

Penalties for legal persons

Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 10 is punishable by effective, proportionate and dissuasive penalties, which may include measures such as those referred to in Article 8.

Member States may decide that a list of employers who are legal persons and who have been held liable for the criminal offence referred to in Article 10 is rendered public.

Article 14

Facilitation of complaints

1. Member States shall ensure that there are effective mechanisms through which third-country nationals in illegal employment can lodge complaints against their employers, directly or through third parties designated by Member States such as trade unions or other associations or a competent authority of the Member State when foreseen by national legislation.

1a. Member States shall ensure that third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage either on behalf of or in support of an illegally employed third-country national, with his/her approval, in any administrative or civil proceedings provided for with the objective of implementing this Directive.

2. Providing assistance to third-country nationals to lodge complaints should not be considered as facilitation of unauthorized residence under Directive 2002/90/EC.

3. In respect of criminal offences covered by Article 10(1)(c) and (e) Member States shall define under national law the conditions under which they may grant case by case permits of limited duration linked to the length of the relevant national proceedings, to third-country nationals involved, in a manner comparable to third-country nationals who fall under the terms of Council Directive 2004/81/EC on residence permits issued to third-country nationals who are victims of trafficking or who have been subject of an action to facilitate illegal immigration and who co-operate with the competent authorities.

Article 15

Inspections

1. Member States shall ensure that effective and adequate inspections are carried out on their territory to control employment of illegally staying third-country nationals. Such inspections shall be based primarily on a risk assessment to be drawn up by the competent authorities in the Member States.

2. With a view to increasing effectiveness of inspections, Member States shall on the basis of a risk assessment regularly identify the sectors of activity in which the employment of illegally staying third-country nationals are concentrated on their territory.

   In respect of each of those sectors, Member States shall each year before 1 July communicate to the Commission the inspections, both in absolute numbers and as a percentage of the employers for each sector, carried out in the previous year as well as their results.

Article 15a

More favourable provisions

This Directive shall be without prejudice to the right of Member States to adopt or maintain provisions that are more favourable to third-country nationals to whom it applies in relation with Articles 7 and 14, provided that such provisions are compatible with this Directive.

Article 16

Reporting

1. By [three years after the data referred to in Article 17] at the latest, and every three years thereafter, the Commission shall submit a report to the European Parliament and the Council including, where appropriate, proposals for amending the provisions in Articles 7, 8, 9, 14 and 15. The Commission shall in particular examine in its report the implementation by Member States of the provisions of Article 7, paragraphs 2 and 5.

2. Member States shall send the Commission all the information that is appropriate for drawing up those reports. The information shall include the number and results of inspections carried out pursuant to Article 15 (1), measures applied under Article 14 and, as far as possible, measures applied under Articles 7 and 8.

Article 17

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [24 months from the date of publication in the Official Journal of the European Union] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

   When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 18

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 19

Addressees

This Directive is addressed to the Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*