



2016/0070(COD)

8.3.2017

AMENDMENTS

24 - 255

Draft report

Elisabeth Morin-Chartier, Agnes Jongerius

(PE582.163v01-00)

Posting of workers in the framework of the provision of services

Proposal for a directive

(COM(2016)0128 – C8-0114/2016 – 2016/0070(COD))

Amendment 24
Michaela Šojdrová

Draft legislative resolution
Citation 2

Draft legislative resolution

– having regard to Article 294(2) and Articles 53(1) and 62 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0114-2016),

Amendment

– having regard to Article 294(2) and Articles 53(1), **56** and 62 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0114-2016),

Or. en

Amendment 25
Eduard Kukan

Draft legislative resolution
Citation 2

Draft legislative resolution

– having regard to Article 294(2) and Articles 53(1) and 62 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0114-2016),

Amendment

– having regard to Article 294(2) and Articles 53(1), **56** and 62 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0114-2016),

Or. en

Amendment 26
Ádám Kósa, Andrea Bocskor, Andor Deli, Tamás Deutsch, Kinga Gál, Ildikó Gáll-Pelcz, András Gyürk, György Schöpflin, József Szájer, László Tóké, Pál Csáky

Draft legislative resolution
Citation 2

Draft legislative resolution

– having regard to Article 294(2) and

Amendment

– having regard to Article 294(2) and

Articles **53(1)** and 62 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0114-2016),

Articles **54, 56** and 62 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0114-2016),

Or. en

Justification

Article 53 (1) of TFEU refers to self-employment which has no legal relevance when regulating the posting of workers - who are employees of the sender company - in one member state to a host company in the host Member State.

Amendment 27

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

Proposal for a directive

Citation 2

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1) **and** 62 thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1), 62, **151 and 153(1)(a) and (b)** thereof,

Or. it

Amendment 28

Marita Ulvskog

Proposal for a directive

Citation 2

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles **53(1) and 62** thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular **Article 53(1), Article 62, Articles 151 and points (a) and (b) of 153(1)** thereof,

Or. en

Amendment 29

Terry Reintke, Karima Delli

on behalf of the Verts/ALE Group

Proposal for a directive

Citation 2

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles **53(1) and 62** thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles **46, 53(1), 62 and 153(1) (a) and (b)** thereof,

Or. en

Justification

The Directive aims at balancing free movement of services and the rights of the workers who move for the provision of these services. To balance these two objectives, it is important to broaden the legal basis by adding both free movement of workers and the social policy articles.

Amendment 30

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

Proposal for a directive

Citation 2

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles **53(1) and 62** thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles **53(1), 62, 151 and 153** thereof,

Or. en

Amendment 31

Anthea McIntyre, Arne Gericke, Richard Sulík

Proposal for a directive

Citation 2

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1) and 62 thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1), **56** and 62 thereof,

Or. en

Amendment 32

Eduard Kukan

Proposal for a directive

Citation 2

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1) and 62 thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1), **56** and 62 thereof,

Or. en

Amendment 33

Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu

Proposal for a directive

Citation 2

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1) and 62 thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1), **56** and 62 thereof,

Or. en

Amendment 34

Jasenko Selimovic, Enrique Calvet Chambon

Proposal for a directive

Citation 2

Text proposed by the Commission

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1) and 62 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1), **56** and 62 thereof,

Or. en

Amendment 35
Michaela Šojdrová

Proposal for a directive
Citation 2

Text proposed by the Commission

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1) and 62 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1), **56** and 62 thereof,

Or. en

Justification

Article 56 TFEU underlines the principle that restrictions to the freedom to provide services should be prohibited and exceptional. This is a key principle with superiority over all proposals within the revision of the directive which have the potential to restrict the provision of services, and should therefore be explicitly mentioned.

Amendment 36
Martina Dlabajová, Jasenko Selimovic, Renate Weber, Mircea Diaconu

Proposal for a directive
Citation 3

Text proposed by the Commission

Amendment

After transmission of the draft legislative act to the national parliaments,

After transmission of the draft legislative act to the national parliaments **and the following 11 reasoned opinions by national parliaments objecting the Commission proposal on grounds of subsidiarity,**

Amendment 37

Eduard Kukan

Proposal for a directive

Citation 3

Text proposed by the Commission

After transmission of the draft legislative act to the national parliaments,

Amendment

After transmission of the draft legislative act to the national parliaments **and following the 11 reasoned opinions by national parliaments objecting the Commission proposal,**

Or. en

Amendment 38

Anthea McIntyre, Arne Gericke, Anders Primdahl Vistisen, Richard Sulík

Proposal for a directive

Citation 3

Text proposed by the Commission

After transmission of the draft legislative act to the national parliaments,

Amendment

After transmission of the draft legislative act to the national parliaments, **and the subsequent 11 reasoned opinions by the national parliaments,**

Or. en

Amendment 39

Csaba Sógor

Proposal for a directive

Citation 3 a (new)

Text proposed by the Commission

Amendment

Having regard to the reasoned opinions issued by the national parliaments of

Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia regarding the legislative proposal of the European Commission;

Or. en

Justification

Due to the high number of Member States expressing their concern regarding the purpose and the means to achieve stated objectives, the concerns from the reasoned opinions of these national parliaments objecting the Commission proposal on grounds of subsidiarity should be addressed.

Amendment 40

Anthea McIntyre, Arne Gericke, Richard Sulík

Proposal for a directive

Citation 4

Text proposed by the Commission

Having regard to the opinion of the European Economic and Social Committee⁵,

⁵ OJ C,, p..

Amendment

Having regard to the opinion ***and counter opinion*** of the European Economic and Social Committee⁵;

⁵ OJ C,, p..

Or. en

Amendment 41

Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu

Proposal for a directive

Citation 4

Text proposed by the Commission

Having regard to the opinion of the European Economic and Social Committee⁵,

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Amendment

Having regard to the opinion of the European Economic and Social Committee⁵, ***and its counter-opinion;***

⁵ OJ C., p..

⁵ OJ C., p..

Or. en

Amendment 42

Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Krzysztof Hetman, Janusz Lewandowski

Proposal for a directive

Citation 4

Text proposed by the Commission

Having regard to the opinion of the European Economic and Social Committee⁵,

⁵ OJ C., p..

Amendment

Having regard to the opinion of the European Economic and Social Committee **and the counter- opinion;**

⁵ OJ C., p..

Or. en

Amendment 43

Danuta Jazłowiecka, Marek Plura, Richard Sulík, Agnieszka Kozłowska-Rajewicz, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Krzysztof Hetman, Janusz Lewandowski

Proposal for a directive

Citation 4 a (new)

Text proposed by the Commission

Amendment

Having regard to the reasoned opinions issued by national parliaments from 11 Member States objecting the Commission proposal on the grounds of subsidiarity;

Or. en

Amendment 44

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

Proposal for a directive
Citation 4 a (new)

Text proposed by the Commission

Amendment

Having regard to the reasoned opinions issued by national parliaments from 11 Member States objecting the Commission proposal on the grounds of subsidiarity;

Or. en

Justification

Due to the high number of Member States expressing their concern about the main purpose and the means, as well as the justification of the Commission's proposal is willing to achieve, the arguments of these 11 Member States cannot be disregarded and the proposal must be well justified based on hard facts, case law and not assumptions and vague interpretation.

Amendment 45
João Pimenta Lopes

Proposal for a directive
Recital 1

Text proposed by the Commission

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and respect for the rights of workers.

deleted

Or. pt

Amendment 46
Dominique Martin, Joëlle Mélin, Mara Bizzotto

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). ***The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and respect for the rights of workers.***

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU).

Or. fr

Amendment 47

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

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and respect for the rights of workers.

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at ***enhancing social cohesion among Member States and*** guaranteeing a level playing field for businesses and respect for the rights of workers. ***Neither wages or salaries nor the access to capital alone can be considered as unfair competition.***

Or. en

Amendment 48
Terry Reintke, Karima Delli

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and respect for the rights of workers.

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU) **and should therefore provide the combined legal basis for this Directive**. The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and **fighting unfair competition as well as ensuring respect for the rights of workers and the improvement of the working environment and working conditions**.

Or. en

Justification

A dual legal basis confirms that this Directive is to be interpreted not only as internal market tool but also as an instrument for the protection of workers.

Amendment 49
Sven Schulze, Thomas Mann, Dieter-Lebrecht Koch, Markus Ferber, Markus Pieper

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU) **and essential to a properly functioning**

further developed by the Union aimed at guaranteeing a level playing field for businesses and respect for the rights of workers.

internal market. The implementation of those principles is further developed by the Union ***in order to promote social cohesion among the Member States and is*** aimed at guaranteeing a level playing field for businesses and respect for the rights of workers.

Or. de

Amendment 50
Michaela Šojdrová, Heinz K. Becker

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and respect for the rights of workers.

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and ***fighting illegal practices as well as ensuring*** respect for the rights of workers ***and the improvement of working conditions***.

Or. en

Justification

The concept of social dumping is inapplicable to the single market and can be used as an argument for only certain Member States. Instead fighting all forms of illegal competition should be clearly set as one of the goals, because unlike social dumping, the term includes all forms of circumventions. Moreover, the improvement of working conditions should also be one of the direct goals instead of a pretext of limiting the competition advantages of certain Member States.

Amendment 51

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

**Proposal for a directive
Recital 1**

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and respect for the rights of workers.

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at ***enhancing social cohesion among Member States and*** guaranteeing a level playing field for businesses and respect for the rights of workers.

Or. en

Amendment 52

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

**Proposal for a directive
Recital 1**

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a ***level playing field for businesses and*** respect for the rights of workers.

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a ***fair business climate as well as*** respect for the rights of workers ***and the improvement of working conditions.***

Or. en

Amendment 53

Csaba Sógor

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union **aimed at guaranteeing** a level playing field for businesses and respect for the rights of workers.

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union **in order to fight illegal competition and guarantee** a level playing field for businesses and respect for the rights of workers.

Or. en

Justification

The purpose of any legal act concerning the freedom to provide services, should be to fight illegal competition and not to decrease the competitiveness of certain service providers.

Amendment 54

Eduard Kukan

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and respect for the rights of

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses, **fighting illegal practices** and

workers.

respect for the rights of workers.

Or. en

Amendment 55

Arne Gericke

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and ***respect for the rights of workers***.

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and ***combating unfair competition***.

Or. de

Amendment 56

Siôn Simon, Alex Mayer

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and respect for the rights of workers.

Amendment

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and respect for the rights of workers. ***Efforts towards coordination and***

upward convergence of social standards are necessary.

Or. en

Amendment 57

Terry Reintke, Karima Delli

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The free movement of workers is to be secured within the Union and is to entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.

Or. en

Justification

The directive aims at balancing free movement of services and workers moving for the provision of that service. It seems therefore of importance to quote Article 45 TFEU on free movement for workers.

Amendment 58

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

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) When calculating the duration of posting, the same posting within the same contract concluded by the undertaking referred to in Article 1 (1) should be identified as posting.

Amendment 59

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

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Article 153(5) TFEU explicitly does not give the Union the power to regulate pay.

Or. de

Amendment 60

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

Proposal for a directive

Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) When assessing working place for the purpose of calculating the duration of posting in the context of replacement, the working place should be viewed as the very same working place where the worker is posted to the same working position to perform the same task(s).

Or. en

Amendment 61

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

Proposal for a directive

Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) Article 62 TFEU in conjunction with Article 53(1) TFEU establishes a clearly defined system, with set limits, for the allocation of competences in the area of social policy.

Or. de

Amendment 62

Dominique Martin, Joëlle Mélin, Mara Bizzotto

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The freedom to provide services includes the right of undertakings to provide services in another Member State, ***to which they may post their own workers temporarily in order to provide those services there.***

Amendment

(2) The freedom to provide services includes the right of undertakings to provide services in another Member State ***without this giving rise to unfair competition, social dumping or the exploitation of workers.***

Or. fr

Amendment 63

Agnieszka Kozłowska-Rajewicz

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The freedom to provide services includes the right of undertakings to provide services in another Member State, to which they may post their own workers temporarily in order to provide those services there.

Amendment

(2) The freedom to provide services includes the right of undertakings to provide services in another Member State, to which they may post their own workers temporarily in order to provide those services there. ***Charging a lower price for a service should not be regarded as engaging in unfair competition where that price is the result of generally lower costs, wages and minimum rates of pay in the Member State in which the posted worker normally works and the posted worker***

does not earn less than other workers in that Member State.

Or. pl

Amendment 64

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

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The freedom to provide services includes the right of undertakings to provide services in another Member State, to which they may post their own workers temporarily in order to provide those services there.

Amendment

(2) The freedom to provide services includes the right of undertakings to provide services in another Member State, to which they may post their own workers temporarily in order to provide those services there *and the difference of wages has never been considered as "unfair competition" in the EU and in the case law of the ECJ. The Treaty provides that restrictions on the freedom to provide services are prohibited.*

Or. en

Amendment 65

Danuta Jazłowiecka, Marek Plura, Eduard Kukan, Richard Sulík, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Krzysztof Hetman, Janusz Lewandowski

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The freedom to provide services includes the right of undertakings to provide services in another Member State, to which they may post their own workers temporarily in order to provide those services there.

Amendment

(2) The freedom to provide services includes the right of undertakings to provide services in another Member State, to which they may post their own workers temporarily in order to provide those services there. *The Treaty provides that restrictions on the freedom to provide*

services are prohibited.

Or. en

Amendment 66

Anthea McIntyre, Arne Gericke, Anders Primdahl Vistisen, Helga Stevens

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) According to Article 3 TEU, the Union shall promote social justice and protection. Article 9 TFEU *gives* the Union *the task to promote a* high level of employment, *to* guarantee *an* adequate social protection *and to combat* social exclusion.

Amendment

(3) According to Article 3 TEU, the Union shall promote social justice and protection. Article 9 TFEU *requires* the Union *to take into account requirements linked to the promotion of* high level of employment, *the* guarantee *of* adequate social protection, *the fight against* social exclusion, *and a high level of education, training and protection of human health.*

Or. en

Amendment 67

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

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) According to Article 3 TEU, the Union shall promote social justice and protection. *Article 9* TFEU gives the Union the task to promote a high level of employment, to guarantee an adequate social protection and to combat social exclusion.

Amendment

(3) According to Article 3 TEU, the Union shall promote social justice and protection. *The* TFEU gives the Union the task to promote a high level of employment, to guarantee an adequate social protection and to combat social exclusion *as well as supporting and complementing measures by the Member States to improve the working environment and protect the safety and health of workers and their working conditions.*

Amendment 68
Robert Rochefort, Enrique Calvet Chambon

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) With a view to enforcing the provisions of this Directive and thereby guaranteeing effective protection of workers, coordination between the Member State labour inspectorates and EU cooperation on combating posting-related fraud should be stepped up.

Or. fr

Amendment 69
Dominique Martin, Joëlle Mélin, Mara Bizzotto

Proposal for a directive
Recital 4

Text proposed by the Commission

Amendment

(4) Almost twenty years after its adoption, ***it is necessary to assess whether*** the Posting of Workers Directive ***still strikes*** the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

(4) Almost twenty years after its adoption, the Posting of Workers Directive ***does not strike*** the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers. ***Indeed it would seem that that directive in fact encourages unfair competition and social dumping, through the activities of temporary employment agencies and triangulation between countries and phantom firms.***

Or. fr

Amendment 70

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

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is necessary to ***assess whether*** the Posting of Workers Directive ***still*** strikes the right balance between the need to ***promote the freedom to provide services*** and the need to protect the rights of posted workers.

Amendment

(4) Almost twenty years after its adoption, it is necessary to ***revise*** the Posting of Workers Directive ***in order to ensure it*** strikes the right balance between the need to ***ensure a fair business climate as well as*** the need to protect the rights of posted workers.

Or. en

Amendment 71

Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is ***necessary to assess whether*** the Posting of Workers Directive still ***strikes*** the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

Amendment

(4) Almost twenty years after its adoption, ***and in the light of the proven cases of fraud and social dumping,*** it is ***clear that*** the Posting of Workers Directive still ***does not strike exactly*** the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers ***properly. Against this backdrop of skewed and unfair competition for firms, there is an urgent need to clarify the rules, make sure that they are applied uniformly and bring about genuine social convergence.***

Or. fr

Amendment 72

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
Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is necessary to **assess whether** the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

Amendment

(4) Almost twenty years after its adoption, it is necessary to **indeed enforce the rules and confirm that** the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of **posted workers, as well as the to explore that whether there is a possibility of reintroduction of custom duties for a temporarily but limited period in some regions or areas suffering high unemployment level based on public interest in terms of the social protection of workers due to unfair competitiveness of imported products and services, which were previously produced or provided locally within the framework of the revision of the current legislation relevant to** posted workers.

Or. en

Justification

Between 1990 and 1993 in Hungary about 700 000 people lost their jobs due to more competitive products and services imported and this figure was equal to 50% of that of all posted workers in the European Union exists. In addition, the revision of the Posting of Workers Directive is premature due to the lack of legal assessment of the outcome of the execution of the Implementation Directive.

Amendment 73

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

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is necessary to assess whether

Amendment

(4) Almost twenty years after its adoption, it is necessary to assess whether

the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers. ***Alongside the review of the Posting of Workers Directive, priority should be given to enforcing and implementing the acquis and assessing the impact of the directive.***

Or. de

Amendment 74
Georgi Pirinski

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

Amendment

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers. ***The legislation should prevent the abuse of posted workers also by engaging them in any form of undeclared work including bogus self-employment.***

Or. en

Amendment 75
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
Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is ***necessary to assess whether***

Amendment

(4) Almost twenty years after its adoption, it is ***important to ensure that the***

the Posting of Workers Directive *still strikes* the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

Posting of Workers Directive *continues to strike* the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers. *The complete transposition of the Directive 2014/67/EU is essential to the protection of the rights of the posted workers.*

Or. en

Amendment 76
Terry Reintke, Karima Delli

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive *still strikes* the right balance between the *need to promote the freedom to provide services* and the need to protect the rights of posted workers.

Amendment

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive strikes the right balance between the *freedom to provide services, the free movement of workers* and the need to protect the rights of posted workers *so as to ensure a level playing field for workers and undertakings operating in the internal market.*

Or. en

Amendment 77
Anthea McIntyre, Arne Gericke, Richard Sulík

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services

Amendment

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services

and the need to protect the rights of posted workers.

and the need to protect the rights of posted workers, ***while respecting the principles enshrined in the EU, the TFEU and the Rome Convention of 19 June 1980.***

Or. en

Amendment 78
Heinz K. Becker

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

Amendment

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services, ***in order to ensure a level playing field for undertakings operating in the internal market,*** and the need to protect the rights of posted workers.

Or. de

Amendment 79
Siôn Simon, Alex Mayer

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

Amendment

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers ***and whether the Posting of Workers Directive is adequately transposed by Member States.***

Amendment 80

Enrique Calvet Chambon, Robert Rochefort, Jasenko Selimovic

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive **still strikes** the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

Amendment

(4) Almost twenty years after its adoption, it is necessary to assess whether the Posting of Workers Directive **has struck** the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers **without affecting free business competition**.

Or. es

Amendment 81

Danuta Jazłowiecka, Marek Plura, Eduard Kukan, Agnieszka Kozłowska-Rajewicz, Romana Tomc, Michaela Šojdrová, Gunnar Hökmark, Christofer Fjellner, Krišjānis Kariņš, Krzysztof Hetman, Janusz Lewandowski

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) Almost twenty years after its adoption, it is necessary to **assess whether** the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

Amendment

(4) Almost twenty years after its adoption, it is necessary to **enforce the rules and confirm that** the Posting of Workers Directive still strikes the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

Or. en

Amendment 82

Enrique Calvet Chambon, Robert Rochefort

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Part of the problems arising from the implementation of Directives 96/71/EC and 2017/67/EU stem from overt abuse or illegal cross-border activity.

The posting of workers through ‘mailbox companies’ or bogus temporary postings are evidence of this.

Protectionist demands by certain Member States cannot met by restricting freedom to provide services but by stepping controls on the cross-border movement of workers to prevent fraudulent practices in this connection.

Or. es

Amendment 83

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

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Directive 96/71/EC stipulates that the core social rights guaranteed to posted workers include the rules on ‘health, safety and hygiene at work’. The lack of any explicit reference to collective accommodation provided by the employer means that workers have no choice but to accept accommodation which does not meet the minimum standards laid down in labour law or which is even unfit for human occupation, an unacceptable state of affairs;

Or. fr

Amendment 84
Deirdre Clune

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Considers that sufficient and accurate data is still lacking in the area of posted workers, specifically in the number of workers posted in which employment sector and in which member state, considers it important that the Commission begin to collect and monitor such data, and carry out an impact assessment in the area of posted workers.

Or. en

Amendment 85
Laura Agea, Tiziana Beghin, Rosa D'Amato, Marco Valli

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) A better definition of the concept of posted workers is needed to ensure greater legal certainty within the institution and prevent avoidance.

Or. it

Amendment 86
Enrique Calvet Chambon, Robert Rochefort

Proposal for a directive
Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) By Decision (EU) 2016/344, the Union established a European Platform to

*enhance cooperation in tackling undeclared work, including cross-border aspects;
both this decision and Parliament's resolution of 14 January 2014 on effective labour inspections as a strategy to improve working conditions in Europe should lead the Commission to consider the possibility of creating a European Labour Inspectorate consisting of a body of European inspectors specialized in cross-border mobility to provide technical support for national inspectors in the implementation of European legislation on the movement of workers.*

Or. es

Amendment 87

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

Recital 5

Text proposed by the Commission

Amendment

(5) The principle of equal treatment and the prohibition of any discrimination based on nationality are enshrined in EU law since the founding Treaties. The principle of equal pay has been implemented through secondary law not only between women and men, but also between employees with fix term contracts and comparable permanent workers, between part-time and full-time workers or between temporary agency workers and comparable workers of the user undertaking.

deleted

Or. en

Amendment 88

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The principle of equal treatment and the prohibition of any discrimination based on nationality are enshrined in EU law since the founding Treaties. ***The principle of equal pay has been implemented through secondary law not only between women and men, but also between employees with fix term contracts and comparable permanent workers, between part-time and full-time workers or between temporary agency workers and comparable workers of the user undertaking.***

Amendment

(5) The principle of equal treatment and the prohibition of any discrimination based on nationality are enshrined in EU law since the founding Treaties, ***including for companies providing cross-border services.***

Or. en

(See ECJ cases Case C-76/90, Manfred Säger v Dennemeyer & Co. Ltd, [1991] ECR I-4221; Case C-55/94, Reinhard Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano, [1995] ECR I-04165 and E.g. Joined cases 62 and 63/81, See also Seco SA v. Etablissement d'Assurance contre la Vieillesse et l'Invalidité, [1982] ECR 223, para 8, including direct and indirect discrimination)

Amendment 89

Anthea McIntyre, Arne Gericke, Richard Sulík

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The principle of equal treatment and the prohibition of any discrimination based on nationality are enshrined in EU law since the founding Treaties. ***The principle of equal pay has been implemented through secondary law not only between women and men, but also between employees with fix term contracts and comparable permanent workers, between part-time and full-time workers***

Amendment

(5) The principle of equal treatment and the prohibition of any discrimination based on nationality are enshrined in EU law since the founding Treaties. ***This includes the prohibition of direct discrimination and any other measures which may indirectly discriminate between citizens of a member state.***

or between *temporary agency workers and comparable workers of the user undertaking*.

Or. en

Amendment 90

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

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The principle of equal treatment and the prohibition of any discrimination based on nationality are enshrined in EU law since the founding Treaties. The principle of equal pay has been implemented through secondary law not only between women and men, but also between employees with fix term contracts and comparable permanent workers, between part-time and full-time workers or between temporary agency workers and comparable workers of the user undertaking.

Amendment

(5) The principle of equal treatment and the prohibition of any discrimination based on nationality are enshrined in EU law since the founding Treaties. The principle of equal pay has been implemented through secondary law not only between women and men, but also between employees with fix term contracts and comparable permanent workers, between part-time and full-time workers or between temporary agency workers and comparable workers of the user undertaking. ***By doing so the related jurisprudence of the Court of Justice of the European Union must be respected and taken into consideration.***

Or. en

Justification

See inter alia C-341/05, Laval case para 60, Case C-490/04, para 19., Joined Cases C-49/98, C-50/98, C-52/98 to C-54/98 and C-68/98 to C-71/98.

Amendment 91

Enrique Calvet Chambon, Robert Rochefort

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The principle of equal treatment and the prohibition of any discrimination based on nationality are enshrined in EU law since the founding Treaties. The principle of equal pay has been implemented through secondary law not only between women and men, but also between employees with fix term contracts and comparable permanent workers, between part-time and full-time workers or between temporary agency workers and comparable workers of the user undertaking.

Amendment

(5) The principle of equal treatment and the prohibition of any discrimination based on nationality are enshrined in EU law since the founding Treaties. The principle of equal pay has been implemented through secondary law not only between women and men, but also between employees with fix term contracts and comparable permanent workers, between part-time and full-time workers or between temporary agency workers and comparable workers of the user undertaking. ***In any case, there is no reason for proper use of the posting of workers to involve any infringement of this principle.***

Or. es

Amendment 92

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

**Proposal for a directive
Recital 5 a (new)**

Text proposed by the Commission

Amendment

(5a) The objective of this Directive is to guarantee the protection of workers and ensure a fair business climate across the EU by safeguarding the principle of equal pay for equal work at the same place of work.

Or. en

Amendment 93

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

Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) *In the event no substantial employment relationship can be identified in the listed country of establishment, the applicable terms and conditions of employments should be those of the host Member State, unless these are less favourable to the worker than those of the country of establishment, in which case the latter should apply.*

Or. en

Amendment 94

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

Proposal for a directive

Recital 5 c (new)

Text proposed by the Commission

Amendment

(5c) *The right to collective bargaining and the right to take collective actions, including the right to strike, are fundamental rights recognised in Member States and at Union level. This directive guarantees the exercise of these rights.*

Or. en

Amendment 95

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

Recital 6

Text proposed by the Commission

Amendment

(6) The Rome I Regulation **generally**

(6) The Rome I Regulation permits

permits employers and employees to choose the law applicable to the employment contract. However, the employee must not be deprived of the protection of the mandatory rules of the law of the country in which or, failing that, from which the employee habitually carries out his work. In the absence of choice, the contract is governed by the law of the country in which or, failing that, from which the employee habitually carries out his work in performance of the contract.

employers and employees to choose the law applicable to the employment contract. However, the employee must not be deprived of the protection of the mandatory rules of the law of the country in which or, failing that, from which the employee habitually carries out his work. In the absence of choice, the contract is governed by the law of the country in which or, failing that, from which the employee habitually carries out his work in performance of the contract.

Or. en

Amendment 96

Anthea McIntyre, Arne Gericke, Richard Sulík

Proposal for a directive

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The freedom of employers and workers to choose the applicable law should be one of the cornerstones of both the free movement of workers and the freedom to provide services.

Or. en

Amendment 97

Anthea McIntyre, Arne Gericke, Richard Sulík

Proposal for a directive

Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Article 3 and 8 of Rome I Regulation ^{1a} specifies that an individual employment contract shall be governed by the law chosen by that of the parties concerned. Such a choice may not deprive the employee of the protection of the

mandatory rules of the law of the country which but for the choice of the parties, would have applied.

^{1a} Regulation (EC) No 593/2008.

Or. en

Amendment 98
Terry Reintke, Karima Delli

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) The Rome I Regulation provides that the country where the work is habitually carried out shall not be deemed to have changed if he is temporarily employed in another country.

Amendment

(7) The Rome I Regulation provides that the country where the work is habitually carried out shall not be deemed to have changed if he is temporarily employed in another country. ***The Rome I Regulation does not specify or define the term "temporarily employed". It is therefore essential that for posted workers, who are, by definition, carrying out work in another Member State for a limited period of time, a specific provision is introduced in this Directive in order to provide for a period after which the country of service provision is deemed to become the habitual place of employment.***

Or. en

Justification

The introduction of a defined period of time after which the country of service provision is deemed to be the habitual place of employment remains without prejudice to the possible duration of a temporary provision of services.

Amendment 99
Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Krzysztof Hetman, Janusz Lewandowski

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) The Rome I Regulation provides that the country where the work is habitually carried out shall not be deemed to have changed if he is temporarily employed in another country.

Amendment

(7) The Rome I Regulation *clarifies also the situation of posted workers as it* provides that the country where the work is habitually carried out shall not be deemed to have changed if he is temporarily employed in another country.

Or. en

Amendment 100

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
Recital 7

Text proposed by the Commission

(7) The Rome I Regulation provides that the country where the work is habitually carried out shall not be deemed to have changed if he is temporarily employed in another country.

Amendment

(7) The Rome I Regulation *clarifies also the situation of posted workers as it* provides that the country where the work is habitually carried out shall not be deemed to have changed if he is temporarily employed in another country.

Or. en

Amendment 101

Anthea McIntyre, Arne Gericke, Richard Sulík

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) The Rome I Regulation provides that the country where the **work** is habitually **carried out** shall not be deemed to have changed if he is temporarily

Amendment

(7) The Rome I Regulation ^{1a} **further** provides that the country where the **worker** is habitually **resident** shall not be deemed to have changed if he is temporarily

employed in another country.

employed in another country.

1^a Regulation (EC) No 593/2008.

Or. en

Amendment 102

Martina Dlabajová, Renate Weber, Jasenko Selimovic, Enrique Calvet Chambon, Mircea Diaconu

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) The ECJ case-law has established that posted workers do not in any way gain access to the host country's labour market if they return to their country of origin after completion of their work.

Or. en

(Case C- 113/89, Rush Portuguesa Ld^a v Office national d'immigration, [1990] ECRI-1417, judgment, para 15; Raymond Vander Elst v Office des Migrations Internationales, [1994] ECR I-3803, para. 21)

Amendment 103

Eduard Kukan

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) The ECJ case-law has established that posted workers do not in any way gain access to the host country's labour market if they return to their country of origin after completion of their work.

Or. en

Amendment 104

**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Enrique Calvet Chambon,
Mircea Diaconu**

Proposal for a directive

Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) The ECJ has held that the temporary nature of the provision of services is to be determined in the light of its duration, regularity, periodicity and continuity. The provider of services, within the meaning of the Treaty, may equip himself in the host Member State with the infrastructure necessary for the purposes of performing the services in question.

Or. en

(Case C-55/94, Reinhard Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano, [1995] ECR I-04165, para. 39; Case C-396/1, Sähköalojen ammattiliitto ry c/ Elektrobudowa Spółka Akcyjna [2015] Case C-396/1)

Amendment 105

Eduard Kukan

Proposal for a directive

Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) The aim of Directive 2014/67/EU is also to identify genuine posting and prevent abuse and circumvention.

Or. en

Amendment 106

**Martina Dlabajová, Renate Weber, Jasenko Selimovic, Enrique Calvet Chambon,
Mircea Diaconu**

Proposal for a directive

Recital 7 c (new)

Text proposed by the Commission

Amendment

(7c) The aim of Art. 4 of 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 is to identify genuine posting and prevent abuse and circumvention.

Or. en

Amendment 107

Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu

Proposal for a directive

Recital 8

Text proposed by the Commission

Amendment

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to

deleted

invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

Or. en

Amendment 108
Marita Ulvskog

Proposal for a directive
Recital 8

Text proposed by the Commission

Amendment

(8) *In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in*

deleted

circumstances also where the posting exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

Or. en

Amendment 109
Csaba Sógor

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) *In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting*

Amendment

(8) *The temporary nature of the work carried out in the host Member State is an indispensable feature of genuine posting. In view of the long duration of certain posting assignments it is therefore necessary to ascertain this feature. Article 4, paragraph 3 of the Enforcement Directive 2014/67/EU provides a clear and non-exhaustive list of elements to be examined in the assessment of whether a posted worker temporarily carries out his or her work in a Member State other than the one in which he or she normally works. The case law of the ECJ also provides clarification on the temporary nature of the posting activity, which has to be determined in the light not only of the duration of the provision of the service but also of its regularity, periodical nature or continuity. Therefore, in order to prevent the abuse and circumvention of existing rules, it is essential closely monitor the temporary character of posting assignments.*

exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

Or. en

Justification

Necessary to maintain the current legal 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 110

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 Recital 8

Text proposed by the Commission

(8) In view of the long duration of certain posting assignments, *it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months*

Amendment

(8) In view of the long duration of certain posting assignments *in line with Recital (2), it is necessary to state that posting is clearly covered by Article 8 (2) of Rome I. Regulation. The temporary nature of posting (as provision of service), which is a crucial element in the determination of habitual place of work can only be determined on a case by case basis and it is not only determined by the length of time but also by other factors and facts of the individual worker's life. In addition to this, Article 2 of this Directive defines the nature of posting as having a temporary character therefore temporary character is an indispensable feature of genuine posting. Moreover, the case law provides explanation of the notion of temporary nature of the provision of services, which is to be*

and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

determined by its duration, regularity, periodicity and continuity.

Or. en

Justification

The case law of the CJEU has clearly established that "posted workers do not in any way gain access to the host country's labour market if they return to their country of origin after completion of their work". Moreover, "as the Court has emphasized on several occasions, a Member State may not make the provision of services in its territory subject to compliance with all the conditions required for establishment and thereby deprive of all practical effectiveness the provisions whose object is to guarantee the freedom to provide services (Case C-43/93, para 17, 21) see also the judgments in Case C-154/89 Commission v France [1991] ECR I-659, paragraph 12, and in Case C-76/90 Saeger, cited above, paragraph 13)". Case C- 113/89, Rush Portuguesa Lda v Office national d'immigration, [1990] ECR I-1417, judgment, para 15; Raymond Vander Elst v Office des Migrations Internationales, [1994] ECR I-3803, para. 21) see also the Gebhard case, C-55/94 para 27. Moreover, the Rome I regulation is clear about the applicable law in case of the posting of workers to another Member State. The 24 month limitation and the legal consequences attached to that in the proposal, are, however, in collision with the provisions of Article 3 and 8 of Rome I since the proposal would change the applicable law, i.e. a directive would amend an existing regulation which is against the EU legal order.

Amendment 111

Danuta Jazłowiecka, Marek Plura, Richard Sulík, Romana Tomc, Michaela Šojdrová, Janusz Lewandowski

Proposal for a directive

Recital 8

Text proposed by the Commission

Amendment

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

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State ***shall ensure that undertakings posting workers to their territory guarantee the posted workers additional rights, beside the terms and condition of employment to which they are entitled according to paragraph 1.*** This should apply from the first day subsequent to the 24 months when it effectively exceeds this duration, ***unless two Member States concerned agree on derogation.*** 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. ***In order to take into account characteristics of various sectors, the 24 months should be calculated within the reference period of 36 months. For the purpose of calculating the posting period the concept of "the same task at the same place" is also clearly defined and should be determined taking also into consideration the nature of the service provided and the work to be performed.***

Or. en

Justification

For the purpose of legal clarity, it has to be clarified how the duration of posting is being calculated and what does it mean "the same place and the same task". The notion of anticipated duration of posting should be deleted as it is vague. 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 112

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

Proposal for a directive

Recital 8

Text proposed by the Commission

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

Amendment

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 6 months, the *applicable terms and conditions of employment should be those established by the host Member State, without prejudice to more favourable terms and conditions of employment afforded to the worker under provisions from which the parties cannot derogate* by agreement under the *national law which would have applied otherwise.* 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.

Or. en

Amendment 113
Dominique Martin, Joëlle Mélin

Proposal for a directive
Recital 8

Text proposed by the Commission

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

Amendment

(8) In view of the ***nature*** of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than ***1 month***, ***the applicable working and employment conditions should be those established by the host Member State, without prejudice to conditions which are more favourable to the worker***. 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.

Or. fr

Amendment 114
Mara Bizzotto

Proposal for a directive
Recital 8

Text proposed by the Commission

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

Amendment

(8) In view of the **nature** of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than **6** months, **the applicable terms and conditions of employment shall be those established by the host Member State, without prejudice to terms and conditions of employment which are more favourable to the worker**. 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.

Or. it

Amendment 115
Helga Stevens, Anders Primdahl Vistisen

Proposal for a directive

Recital 8

Text proposed by the Commission

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

Amendment

(8) In view of the ***high risk of social dumping in certain sectors (as defined in the Annex) and the need to ensure a level playing field***, it is necessary to provide that, in case of posting lasting for periods higher than ***six*** months, ***in so far as it concerns the activities referred to in the Annex***, 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.

Or. en

Amendment 116

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

Proposal for a directive
Recital 8

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

(8) In view of the long duration of certain posting assignments, it is necessary to provide that ***the applicable terms and conditions of employment should be those established*** by the host Member State ***in accordance with national law and/or practices, without prejudice to terms and conditions of employment which are more favourable to the worker***. In accordance with the principle of Rome I Regulation, the law of the host Member ***State*** 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 agreement under the law ***or collective agreements*** of the host Member State. This should apply from the start of the posting assignment.

Or. en

Amendment 117

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
Recital 8**

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

(8) ***In case of posting assignments lasting for periods longer than 24 months, the host Member State becomes the country in which the work is carried out, with the possibility to extend this period based on a prior request submitted to the competent authority in the Member State whose legislation the person concerned wishes to apply to him/her, and based on an agreement between the two Member States (host and sending).*** In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

Or. en

Amendment 118

Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman

Proposal for a directive
Recital 8

Text proposed by the Commission

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

Amendment

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the first day subsequent to the 24 months when it effectively exceeds this duration, ***unless two Member States concerned agree on derogation.*** 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. ***In order to take into account characteristics of various sectors, the 24 months should be calculated within the reference period of 36 months. For the purpose of calculating the posting period the concept of "the same task at the same place" is also clearly defined and should be determined taking also into consideration the nature of the service provided and the work to be performed.***

Or. en

Justification

For the purpose of legal clarity, it has to be clarified how the duration of posting is being calculated. The notion of anticipated duration of posting should be deleted as it is not clear

enough. It may also, to a wide extent, depend on circumstances independent from the service provider such as weather conditions therefore it substitutes a barrier to free provision of services. 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 119
Georgi Pirinski

Proposal for a directive
Recital 8

Text proposed by the Commission

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

Amendment

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This ***period may be exceeded up to 36 months in the case that the posting is related to the implementation of a specific project following a preliminary fixed time-line and providing that such facts are explicitly mentioned and justified in the posting assignment.*** This rule does not affect the right of undertakings posting workers to the territory of another Member

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

State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

Or. en

Amendment 120
Anthea McIntyre

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States *therefore* applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is

Amendment

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out, ***unless a derogation has been obtained by the employer from the national social security administration in accordance with Regulation 883/2004/EC***. In accordance with the principle of Rome I Regulation, the law of the host Member States applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the

merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

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 121

Terry Reintke, Karima Delli

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than **24** months, the host Member State is deemed to be the country **in which the work is carried out**. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the

Amendment

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than **12** months, the host Member State is deemed to be the country **of habitual employment, without prejudice to any terms and conditions of employment which are more favourable to the worker**. 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

employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is *merely* to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

Or. en

Amendment 122
Agnieszka Kozłowska-Rajewicz

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the

Amendment

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the

employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the ***start of the posting assignment whenever it is envisaged for more than 24 months and from the*** first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

Or. pl

Amendment 123

Eduard Kukan

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the

Amendment

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than 24 ***uninterrupted*** 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

host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 months and from the first day subsequent to the 24 months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds 24 months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

agreement under the law of the host Member State. This should apply from the start of the posting assignment whenever it is envisaged for more than 24 *uninterrupted* months and from the first day subsequent to the 24 *uninterrupted* 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 *uninterrupted* months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

Or. en

Amendment 124
Georges Bach, Claude Rolin

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than **24** months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from

Amendment

(8) In view of the long duration of certain posting assignments, it is necessary to provide that, in case of posting lasting for periods higher than **6** months, the host Member State is deemed to be the country in which the work is carried out. In accordance with the principle of Rome I Regulation, the law of the host Member States therefore applies to the employment contract of such posted workers if no other choice of law was made by the parties. In case a different choice was made, it cannot, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law of the host Member State. This should apply from

the start of the posting assignment whenever it is envisaged for more than **24** months and from the first day subsequent to the **24** months when it effectively exceeds this duration. This rule does not affect the right of undertakings posting workers to the territory of another Member State to invoke the freedom to provide services in circumstances also where the posting exceeds **24** months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

the start of the posting assignment whenever it is envisaged for more than **6** months and from the first day subsequent to the **6** 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 **6** months. The purpose is merely to create legal certainty in the application of the Rome I Regulation to a specific situation, without amending that Regulation in any way. The employee will in particular enjoy the protection and benefits pursuant to the Rome I Regulation.

Or. en

Amendment 125
Sergio Gutiérrez Prieto

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Given the need to promote fair mobility and avoid unfair competition, the social security contributions of posted workers should be paid into a common public fund set up at EU level and 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. The social security contribution payable by companies for each posted worker should be equal to the EU average, provided that this amount is higher than the average contribution in the Member State in which the work is done or the activity for which the posted worker was contracted.

Or. es

Amendment 126
Georges Bach

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) The effective duration of posting should be counted continuously for each posted period for the individual worker. Suspension of work during the posting period, whatever the reason (holidays, illness, training at the posting undertaking etc.) should not constitute a reason to justify an extension of the posting period for an equivalent period. Therefore the posting should end precisely upon expiry of the programmed period, irrespective of the number and duration of events which prompted the suspension of activity

Or. en

Amendment 127
Terry Reintke, Karima Delli
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) In the event that the posting is found not to be genuine, the applicable terms and conditions of employment should, in order to protect the worker, be those established by the Member State to whose territory the worker is posted, without prejudice to any terms and conditions of employment that are more favourable to the worker.

Or. en

Justification

This recital corresponds to the Article specifying the applicable law in situations of non-genuine posting.

Amendment 128

Martina Dlabajová, Renate Weber, Enrique Calvet Chambon, Mircea Diaconu

Proposal for a directive

Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) It is the prerogative of the national competent authorities to assess whether the professional activity pursued in the context of provision of services is genuine and whether the provisions of this Directive are applicable in each individual case according to Directive Art. 4 of Directive 2014/67/EU.

Or. en

Amendment 129

Deirdre Clune

Proposal for a directive

Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) There is a need for Member States to have at their discretion the ability to extend the time limit for posted workers due to unforeseen circumstances, for example if a project takes longer than expected to complete

Or. en

Amendment 130

Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux

**Proposal for a directive
Recital 8 a (new)**

Text proposed by the Commission

Amendment

(8a) In order to rule out any risk of the law being circumvented through the use of a series of short postings during which the same task is carried out, the aggregate duration of postings should be taken into account.

Or. fr

**Amendment 131
Dominique Martin, Joëlle Mélin**

**Proposal for a directive
Recital 8 a (new)**

Text proposed by the Commission

Amendment

(8a) The more favourable employment law (between that of the host Member State and that of the Member State of origin) should apply from the first day of the posted worker's period of employment.

Or. fr

Amendment 132

Czesław Hoc, Kosma Złotowski, Zdzisław Krasnodębski, Richard Sulík, Roberts Zile, 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 Kłosowski

**Proposal for a directive
Recital 8 a (new)**

Text proposed by the Commission

Amendment

(8a) When calculating the duration of posting, only postings within the same

contract concluded by the undertaking referred to in Article 1 (1) should be taken into account.

Or. en

Amendment 133

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

**Proposal for a directive
Recital 8 b (new)**

Text proposed by the Commission

Amendment

(8b) When assessing working place for the purpose of calculating the duration of posting in the context of replacement, the working place should be understood as the very same working place where the worker is posted to the same working position to perform the same tasks.

Or. en

Amendment 134

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, Edward Czesak, Anna Elżbieta Fotyga, Urszula Krupa, Jadwiga Wiśniewska, Sławomir Kłosowski, Pavel Svoboda

**Proposal for a directive
Recital 8 c (new)**

Text proposed by the Commission

Amendment

(8c) For the calculation of the remuneration within the meaning of this Directive, minimum rates of pay and other mandatory elements, laid down by law or

universally applicable collective agreements or arbitration awards, are to be taken into account, provided that these elements do not alter the relationship between the service provided by a workers and the consideration which the worker receives in return. The mandatory elements are the elements which apply to all workers and that are not optional or dependent on certain events or factors. Member States should specify in a transparent way the different elements of remuneration applicable on their territory. Posted worker should be entitled to the gross amount of remuneration which does not have to comply with the all mandatory elements but to the amount required.

Or. en

Amendment 135

Dominique Martin, Joëlle Mélin, Mara Bizzotto

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) It is settled case law that restrictions to the freedom to provide services are only admissible if justified by overriding reasons in the public interest and must be proportionate and necessary.

Amendment

(9) It is settled case law that restrictions to the freedom to provide services are only admissible if justified by overriding reasons in the public interest and must be proportionate and necessary. ***Member States should 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 the application of that Directive on their territory.***

Amendment 136

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

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) It is settled case law that **restrictions to** the freedom to provide services **are only admissible if justified** by overriding reasons in the public interest and **must be proportionate and necessary**.

Amendment

(9) It is settled case law that the freedom to provide services **can be restricted** by overriding reasons in the public interest and **that protection of workers constitutes such an overriding reason of public interest, including pay clauses in public procurement**.

Or. en

Amendment 137

Jasenko Selimovic, Enrique Calvet Chambon

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) It is settled case law that restrictions to the freedom to provide services are only admissible if justified by overriding reasons **in** the public interest and must be proportionate and necessary.

Amendment

(9) **Article 56 of the Treaty on the Functioning of the European Union (TFEU) requires the abolition of any restriction on the freedom to provide services, even if that restriction applies without distinction to national service providers and to those of other Member States, which is liable to prohibit, impede and render less attractive the activities of a service provider established in another Member State where it lawfully provides similar services.** It is settled case law that restrictions to the freedom to provide services are only admissible if justified by overriding reasons **related to** the public interest and must be **appropriate**,

proportionate and necessary.

Or. en

Amendment 138
Maria Arena

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) It is settled case law that restrictions to the freedom to provide services are only admissible if justified by overriding reasons in the public interest and must be proportionate and necessary.

Amendment

(9) It is settled case law that restrictions to the freedom to provide services are only admissible if justified by overriding reasons in the public interest and must be proportionate and necessary, ***as emphasised by the CJEU, for example, in its judgment of 12 October 2004 in Case C-60/03, Wolff & Müller GmbH & Co. KG v José Filipe Pereira Félix, which recognised the obligation to act as guarantor as valid in EU law.***

Or. fr

Amendment 139
Danuta Jazłowiecka, Marek Plura, Agnieszka Kozłowska-Rajewicz, Romana Tomc, Michaela Šojdrová, Krzysztof Hetman, Janusz Lewandowski

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) It is settled case law that restrictions to the freedom to provide services are only admissible if justified by overriding reasons ***in the*** public interest and must be proportionate and necessary.

Amendment

(9) It is settled case law that restrictions to the freedom to provide services are only admissible if justified by overriding reasons ***of*** public interest and must be proportionate and necessary. ***The overriding reasons relating to the public interest which have been acknowledged by the Court include the protection of workers and in particular the social protection of workers in the construction***

industry.

Or. en

Amendment 140

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

Proposal for a directive

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Directive 2014/67/EC on the enforcement of Directive 96/71/EC provides a number of provisions to make sure that rules on posting of workers are enforced and are obeyed by all service providers. Article 4 of the enforcement Directive provides a clear list of elements that should be assessed in order to identify the genuine posting and prevent abuse as well as circumvention.

Or. en

Amendment 141

Danuta Jazłowiecka, Marek Plura, Agnieszka Kozłowska-Rajewicz, Eduard Kukan, Romana Tomc, Michaela Šojdrová, Krzysztof Hetman, Janusz Lewandowski

Proposal for a directive

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Directive 2014/67/EU on the enforcement of Directive 96/71/EC provides a number of provisions to make sure that rules on posting of workers are enforced and are respected by all service providers. Article 4 of the enforcement directive provides a list of elements that should be assessed in order to identify the genuine posting and prevent abuse and circumvention.

Justification

It is important to keep in mind that Directive 96/71/EC as well as this proposal for revision establish rules on posting and regulate legal posting. The European Parliament and the Council have recently adopted an enforcement Directive 2014/67/EU in order to prevent abuse and circumvention of existing law and address cases of illegal posting such as bogus self-employment or operation of letter-box companies.

Amendment 142

Karima Delli, Terry Reintke

Proposal for a directive

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) To improve compliance with this Directive and stop circumvention it is of utmost importance that Member States make better use of Article 5 so as to ensure that this Directive is fully complied with. In the case of non-compliance effective, dissuasive and proportionate sanctions must be put into place immediately.

Or. en

Amendment 143

Tom Vandenkendelaere, Ivo Belet

Proposal for a directive

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) It is settled case law that personal means for visual identification per sector can be used by Member States to verify the registration prior to the posting (C-315/13 - N.V. Thermotec);

Amendment 144

Thomas Händel, Rina Ronja Kari, Patrick Le Hyaric, Gabriele Zimmer

Proposal for a directive

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The race to the bottom only on prices would undermine and destroy the systems of collective bargaining.

Amendment 145

Dominique Martin, Joëlle Mélin

Proposal for a directive

Recital 10

Text proposed by the Commission

Amendment

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

deleted

Amendment 146

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

Proposal for a directive
Recital 10

Text proposed by the Commission

Amendment

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

deleted

Or. fr

Amendment 147
Terry Reintke, Karima Delli

Proposal for a directive
Recital 10

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

The scope of this Directive applies to all undertakings providing transnational services. Sectoral exclusions would heavily interfere with the aim of this Directive of balancing service provision and workers protection.

Amendment 148

Jutta Steinruck

Proposal for a directive

Recital 10

Text proposed by the Commission

Amendment

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

Or. en

Amendment 149

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

Proposal for a directive

Recital 10

Text proposed by the Commission

Amendment

(10) Because of the highly mobile nature of work in international road transport, the implementation of the posting of workers directive raises particular legal questions and difficulties (especially where the link with the concerned Member State is insufficient). *deleted*

It would be most suited for these challenges to be addressed through sector-specific legislation together with other EU initiatives aimed at improving the functioning of the internal road transport market.

Or. en

Amendment 150

Michaela Šojdrová, Agnieszka Kozłowska-Rajewicz, Eduard Kukan

Proposal for a directive

Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport, the posting of workers raises particular legal questions **which should be addressed through sector-specific legislation**. **Accordingly, this directive should apply to international road transport in a way that would not hinder internal road transport market nor compromise the principles of sincere cooperation and solidarity between Member States, while some non-posting categories of international road transport such as international haulage, transit or linked cabotage should be considered as being out of the scope of the directive. Member States are also obliged to refrain from imposing excessive requirements on carriers in posting situations, namely refrain from requirements likely to render posting legally uncertain for posted workers and undertakings, and thus compromise the protection of workers.**

Or. en

Amendment 151

Ádám Kósa, Andrea Bocskor, Andor Deli, Tamás Deutsch, Kinga Gál, Ildikó Gáll-Pelcz,

Proposal for a directive

Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport ***and this Directive shall not apply to transport undertakings which are excluded from the scope of this Directive.***

Or. en

Justification

The transportation is not within the scope of the Directive, therefore this recital is redundant and irrelevant since the TRAN Committee does not provide an opinion on this proposal either.

Amendment 152

Heinz K. Becker

Proposal for a directive

Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport, the posting of workers raises particular legal questions and difficulties which should be addressed through sector-specific legislation.

the functioning of the internal road transport market.

Or. de

Amendment 153
Robert Rochefort

Proposal for a directive
Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport, the implementation of the posting of workers directive raises particular legal questions and difficulties *which should be clarified* through sector-specific legislation.

Or. fr

Amendment 154

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

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) Because of the highly mobile nature of work in international road transport, the *implementation of the* posting of workers directive raises particular legal questions and difficulties (*especially where the link with the concerned Member State is insufficient*). *It would be most suited for*

Amendment

(10) Because of the highly mobile nature of work in international road transport, the posting of workers *in this sector, which is covered by this Directive, raises particular legal questions which should be supplemented by* sector-specific legislation.

these challenges to be addressed through sector-specific legislation together with other EU initiatives aimed at improving the functioning of the internal road transport market.

Or. en

Amendment 155

Czesław Hoc, Richard Sulík, Kosma Złotowski, Roberts Zile, Zdzisław Krasnodębski, Anna Elżbieta Fotyga, 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, Edward Czesak, Urszula Krupa, Jadwiga Wiśniewska, Sławomir Kłosowski, Andor Deli

Proposal for a directive Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport it would be most suited *to address this topic* through sector-specific legislation together with other EU initiatives aimed at improving the functioning of the internal road transport market.

Or. en

Amendment 156 Csaba Sógor

Proposal for a directive Recital 10

Text proposed by the Commission

(10) Because of the highly mobile nature of work in international road transport, the

Amendment

(10) Because of the highly mobile nature of work in international road transport, the

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

implementation of the posting of workers directive raises particular legal questions and difficulties (especially where the link with the concerned Member State is insufficient) ***and should not be applied in this sector.***

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 157

Martina Dlabajová, Renate Weber, Jasenko Selimovic, Enrique Calvet Chambon, Mircea Diaconu

Proposal for a directive

Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport, the implementation of the posting of workers directive raises particular legal questions and difficulties (especially where the link with the concerned Member State is insufficient). ***Therefore transport services such as transit, international transport and linked cabotage are excluded from the scope of this Directive and should be addressed through sector-specific legislation together with other EU initiatives aimed at improving the functioning of the internal road transport market.***

Or. en

Amendment 158

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

Proposal for a directive

Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport, the implementation of the posting of workers directive raises particular legal questions and difficulties (especially where the link with the concerned Member State is insufficient). ***Therefore transport services such as transit, international transport and linked cabotage are excluded from the scope of this Directive and should*** be addressed through sector-specific legislation together with other EU initiatives aimed at improving the functioning of the internal road transport market.

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 159

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

Proposal for a directive

Recital 10

Text proposed by the Commission

Amendment

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

(10) Because of the highly mobile nature of work in *the transport sector*, the posting of workers raises particular legal questions and difficulties. It would be most suited for these challenges to be *supplemented* through sector-specific legislation together with other EU initiatives aimed at improving the *working environment and conditions in the transport sector*.

Or. en

Amendment 160

Helga Stevens, Anders Primdahl Vistisen

Proposal for a directive

Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport, the implementation of the posting of workers directive raises particular legal questions and difficulties (especially where the link with the concerned Member State is insufficient). These challenges *should* be addressed through sector-specific legislation. *Yet, as long as sector-specific legislation is not provided for, the rules of this Directive apply in full*.

Or. en

Amendment 161

Deirdre Clune

Proposal for a directive

Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport, the implementation of the posting of workers directive raises particular legal questions and difficulties (especially where the link with the concerned Member State is insufficient). It would be most suited for these challenges to be addressed through sector-specific legislation together with other EU initiatives aimed at improving the functioning of the internal road transport market; ***is concerned that any delay in bringing forth transport-specific legislation could leave transport workers without legal protections***

Or. en

Amendment 162

Agnieszka Kozłowska-Rajewicz

Proposal for a directive

Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport, the implementation of the posting of workers directive raises particular legal questions and difficulties (especially where the link with the concerned Member State is insufficient). It would be most suited for these challenges to be addressed through sector-specific legislation together with other EU initiatives aimed at improving the functioning of the internal road transport market. ***In cases where a short posting assignment involves a number of Member States, and thus a range of pay rates, pay structures, leave arrangements and allowance types and rates, as well as languages in which the relevant information is available, it is extremely complicated to calculate the amounts***

payable. Most micro-enterprises in the international road haulage sector may find the new requirements to be brought in under this proposal amending Directive 96/71/EC to be impossible to meet. There is also a risk of workers being dismissed after the first 24 months of a posting assignment because of the complications and costs involved in calculating the rate of pay that is to apply after that period. Accordingly, some of the changes to Directive 96/71/EC that are to be brought in under this proposal should not apply to the international road haulage sector.

Or. pl

Amendment 163

Herbert Dorfmann, Heinz K. Becker

Proposal for a directive

Recital 10

Text proposed by the Commission

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

Amendment

(10) Because of the highly mobile nature of work in international road transport, the implementation of the posting of workers directive raises particular legal questions and difficulties (especially where the link with the concerned Member State is insufficient). It would be most suited for these challenges to be addressed through sector-specific legislation ***to be adopted without delay*** together with other EU initiatives aimed at improving the functioning of the internal road transport market.

Or. en

Amendment 164

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

**Proposal for a directive
Recital 10 a (new)**

Text proposed by the Commission

Amendment

(10a) During the implementation of the current posting of workers directive must be enforced fully and at the same time the unlawful practice of undeclared work shall be eliminated by strengthened efforts by the European Commission in all relevant areas in order to defend the rights and opportunities of the posted workers.

Or. en

Amendment 165

Thomas Händel, Paloma López Bermejo, Patrick Le Hyaric, Gabriele Zimmer

**Proposal for a directive
Recital 10 a (new)**

Text proposed by the Commission

Amendment

(10a) As posting of workers is transnational and cross-border by nature, the Member States shall establish a European system of labour inspectorates and labour inspections. At least the exchange of information on posting companies and posted workers shall be established and fraud and misuse listed.

Or. en

Amendment 166

Rina Ronja Kari, João Pimenta Lopes, Kostadinka Kuneva, Paloma López Bermejo

**Proposal for a directive
Recital 11**

Text proposed by the Commission

Amendment

(11) In a competitive internal market, deleted

service providers compete not only on the basis of a labour costs but also on factors such as productivity and efficiency, or the quality and innovation of their goods and services.

Or. en

Amendment 167

Dominique Martin, Joëlle Mélin, Mara Bizzotto

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In a *competitive* internal market, service providers compete *not only* on the basis of a labour *costs but also on factors such as productivity and efficiency, or the quality and innovation of their goods and services.*

Amendment

(11) In a *transnational context such as the* internal market, *characterised by the involvement of national systems which are very different in social, economic and legislative terms*, service providers *in sectors with high labour intensity* compete *mainly* on the basis of labour, *giving rise to the dangerous phenomena of labour shopping and social dumping, which are used to replace domestic labour with cheaper labour.*

Or. fr

Amendment 168

Csaba Sógor

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete *not only* on the basis of *a labour costs but also on factors such as productivity and efficiency, or the quality and innovation of their goods and services.*

Amendment

(11) In a competitive internal market, service providers compete on the basis of costs, *the quality and innovation of their goods and services, as well as their productivity and efficiency.*

Justification

From the perspective of an internal market all factors of competitiveness are of equal value.

Amendment 169

Heinz K. Becker

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete ***not only*** on the basis of a labour costs but also on factors such as productivity and efficiency, ***or*** the quality and innovation of their goods and services.

Amendment

(11) In a competitive internal market, service providers compete on the basis of factors such as productivity, efficiency ***as well as*** the quality and innovation of their goods and services.

Or. de

Amendment 170

Terry Reintke, Karima Delli

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In a ***competitive*** internal market, ***service providers compete not only on the basis of a labour costs but also on*** factors such as productivity ***and efficiency, or*** the quality and innovation of their goods and services.

Amendment

(11) In a ***truly integrated*** internal market, ***ideally a level-playing field, service providers should be able to compete with regard to*** factors such as productivity, ***efficiency as well as*** the quality and innovation of their goods and services.

Or. en

Amendment 171

Claudiu Ciprian Tănăsescu

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete not only on the basis of a labour costs but also ***on factors such as*** productivity ***and*** efficiency, ***or the*** quality and innovation of their goods and services.

Amendment

(11) In a competitive internal market, service providers compete not only on the basis of a labour costs but also ***in terms of*** productivity, efficiency, quality and innovation of their goods and services.

Or. ro

Amendment 172

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

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete not only on the basis of a labour costs but also on factors such as productivity and efficiency, ***or*** the quality and innovation of their goods and services.

Amendment

(11) In a competitive internal market, service providers compete not only on the basis of a labour costs but also on factors such as productivity and efficiency, ***as well as and rates of pay, bonuses and allowances are always based on a series of parameters, including experience, profile, level of responsibilities, labour market conditions, or on*** the quality and innovation of their goods and services.

Or. en

Justification

In accordance to the answer given by Mr Oettinger on behalf of the Commission (E-008821/2016, 25.1.2017). "In the EU institutions as in any organisation remuneration is based on a series of parameters, including experience, profile, level of responsibilities, labour market conditions etc."

Amendment 173

Marita Ulvskog

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete ***not only on the basis of a labour costs but also*** on factors such as productivity ***and*** efficiency, ***or*** the quality and innovation of their goods and services.

Amendment

(11) In a competitive internal market, service providers compete on factors such as productivity, efficiency ***as well as*** the quality and innovation of their goods and services.

Or. en

Amendment 174

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

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete ***not only on the basis of a labour costs but also*** on factors such as productivity and efficiency, or the quality and innovation of their goods and services.

Amendment

(11) In a competitive internal market, service providers compete on factors such as ***cost***, productivity and efficiency, or the quality and innovation of their goods and services.

Or. en

Amendment 175

Enrique Calvet Chambon, Jasenko Selimovic

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In a competitive internal market,

Amendment

(11) In a competitive internal market,

service providers compete **not only** on the basis of labour costs **but** also on factors such as productivity and efficiency, or the quality and innovation of their goods and services.

service providers compete on the basis of labour costs **and** also **other** factors such as productivity and efficiency, or the quality and innovation of their goods and services.

Or. es

Amendment 176

Thomas Händel, Patrick Le Hyaric, Gabriele Zimmer

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In **a competitive** internal market, service providers compete **not only on the basis of a labour costs but also** on factors such as productivity and efficiency, or the quality and innovation of their goods and services.

Amendment

(11) In **an** internal market, service providers compete on factors such as productivity and efficiency, or the quality and innovation of their goods and services **but should not compete on the basis of labour costs**.

Or. en

Amendment 177

Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete not only on the basis of a labour costs but also on factors such as productivity and efficiency, or the quality and innovation of their goods and services.

Amendment

(11) In a competitive internal market, service providers compete not only on the basis of a labour costs, **giving rise to social dumping which undermines the competitiveness of firms, and in particular SMEs**, but also on factors such as productivity and efficiency, or the quality and innovation of their goods and services.

Or. fr

Amendment 178
Anthea McIntyre, Arne Gericke, Richard Sulík

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete not only on the basis of *a* labour costs but also on factors such as productivity and efficiency, or the quality and innovation of their goods and services.

Amendment

(11) In a competitive internal market, service providers compete not only on the basis of ***internal costs including*** labour costs but also on factors such as productivity and efficiency, or the quality and innovation of their goods and services ***and according to the highly variable costs of providing services in another member state.***

Or. en

Amendment 179
Deirdre Clune

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete not only on the basis of a labour costs but also on factors such as productivity and efficiency, ***or*** the quality and innovation of their goods and services.

Amendment

(11) In a competitive internal market, service providers compete not only on the basis of a labour costs but also on factors such as productivity and efficiency, ***the education and skill levels of the labour force and*** the quality and innovation of their goods and services.

Or. en

Amendment 180
Jasenko Selimovic

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete not only on the basis of ***a labour*** costs but also on factors such as productivity and efficiency, or the quality and innovation of their goods and services.

Amendment

(11) In a competitive internal market, service providers compete not only on the basis of costs but also on factors such as ***supply of skills***, productivity and efficiency, or the quality and innovation of their goods and services.

Or. en

Amendment 181

Martina Dlabajová, Renate Weber, Mircea Diaconu

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In a competitive internal market, service providers compete not only on the basis of ***a labour*** costs but also on factors such as productivity and efficiency, or the quality and innovation of their goods and services.

Amendment

(11) In a competitive internal market, service providers compete not only on the basis of costs but also on factors such as productivity and efficiency, or the quality and innovation of their goods and services.

Or. en

Amendment 182

Jasenko Selimovic, Enrique Calvet Chambon

Proposal for a directive

Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Respect for the diversity of national industrial relations systems as well as the autonomy of social partners is explicitly recognised by the TFEU.

Or. en

Amendment 183

Marita Ulvskog

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on remuneration in accordance with *their* law and practice. ***However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.***

Amendment

(12) It is within Member States' ***exclusive*** competence to set rules on remuneration in accordance with ***national*** law and practice.

Or. en

Amendment 184

Terry Reintke, Karima Delli

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on remuneration in accordance with *their* law and practice. ***However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.***

Amendment

(12) It is within Member States' competence to set rules on remuneration in accordance with ***national*** law and practice.

Or. en

Amendment 185

Helga Stevens, Anders Primdahl Vistisen

Proposal for a directive

Recital 12

Text proposed by the Commission

Amendment

(12) It is within Member States' competence to set rules on remuneration in accordance with their ***law and practice***. ***However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.***

(12) It is within Member States' ***exclusive*** competence to set rules on remuneration in accordance with their national ***law and/or practice***.

Or. en

Amendment 186
Maria Arena

Proposal for a directive
Recital 12

Text proposed by the Commission

Amendment

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. ***However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.***

(12) ***As the CJEU makes clear in the operative part of its ‘Sähköalojen ammattiliitto ry’ judgment (C-396/13), it is within Member States’ exclusive*** competence to set rules on remuneration in accordance with their law and practice.

Or. fr

Amendment 187
Rina Ronja Kari, Thomas Händel, João Pimenta Lopes, Kostadinka Kuneva, Paloma López Bermejo, Tania González Peñas, Lynn Boylan

Proposal for a directive
Recital 12

Text proposed by the Commission

Amendment

(12) It is within Member States' competence to set rules on ***remuneration in accordance with their law and practice***. ***However, national rules on remuneration***

(12) It is within Member States' ***exclusive*** competence to set rules on, ***including the definition of, remuneration in accordance with national law and/or***

applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.

practice.

Or. en

Amendment 188

Dominique Martin, Joëlle Mélin

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on remuneration in accordance with their law **and** practice. **However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.**

Amendment

(12) It is within Member States' competence to set rules on remuneration in accordance with their law, **their** practice, **their collective agreements and their employment agreements, and no EU provision must be allowed to undermine that competence.**

Or. fr

Amendment 189

Martina Dlabajová, Renate Weber, Jasenko Selimovic, Enrique Calvet Chambon, Mircea Diaconu

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on **remuneration** in accordance with their law and practice. However, national rules **on remuneration** applied to posted workers must be justified by the need to protect posted workers and must not **disproportionately** restrict the cross-border provision of services.

Amendment

(12) It is within Member States' competence to set rules on **pay** in accordance with their law and practice. However, national rules applied to posted workers must be **proportionate and** justified by the need to protect posted workers and must not restrict the cross-border provision of services. **The 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.

Or. en

(GEBHARD v CONSIGLIO DELL'ORDINE DEGLI AVVOCATI E PROCURATORI DI MILANO para 39)

Amendment 190

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

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on **remuneration** in accordance with their law and practice. However, national rules **on remuneration** applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.

Amendment

(12) It is within Member States' competence to set rules on **minimum rates of pay and bonuses and allowances** in accordance with their law and practice. However, **these** national rules applied to posted workers must be **proportionate, non-discriminatory and** justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services. **Therefore Member States should ensure that workers posted to their territory are entitled to minimum rates of pay as well as specific categories of bonuses and allowances as specified in Article 3.1.(c).**

Or. en

Amendment 191

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

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on **remuneration** in accordance with their law and practice. However, national rules **on remuneration** applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.

Amendment

(12) It is within Member States' competence to set rules on **minimum rates of pay and bonuses and allowances** in accordance with their law and practice. However, **these** national rules applied to posted workers must be **proportionate and** justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services. **Hence the Member States should ensure that workers posted to their territory are entitled to minimum rates of pay as well as specific categories of bonuses and allowances as specified in Article 3.1.(c).**

Or. en

Justification

All legislation must be clear and without ambiguousness. The notion of remuneration seems to be vague and does not established by case law either. As the established case law indicates, minimum rates of pay, bonuses and allowances are, indeed, Member States competences but they will never be the single factor to consider in relation to a possible restriction on the cross-border provision of services. This provision cannot be legally explained within the EU framework and especially in relation to the rules of the internal market.

Amendment 192
Enrique Calvet Chambon, Robert Rochefort

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and

Amendment

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and

must not disproportionately restrict the cross-border provision of services.

must not disproportionately restrict the cross-border provision of services. ***The European Union must exercise strict oversight to forestall any disproportionate use of these restrictions by certain Member States.***

Or. es

Amendment 193
Jasenko Selimovic

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.

Amendment

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. ***It is up to each member state to determine which elements of payment that applies to posted workers.*** However, national rules on remuneration applied to posted workers, ***when they exist***, must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.

Or. en

Amendment 194
Mara Bizzotto

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict ***the***

Amendment

(12) It is within Member States' ***exclusive*** competence to set rules on remuneration in accordance with their law and practice ***and no European provisions should interfere with this***. However, national rules on remuneration applied to posted workers must be justified by the

cross-border provision of services.

need to protect posted workers and must ***limit market distortion and avoid creating excessive business costs.***

Or. it

Amendment 195

Michaela Šojdrová, Agnieszka Kozłowska-Rajewicz

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.

Amendment

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice ***and in compliance with article 56 of the Treaty on the Functioning of the European Union.*** However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.

Or. en

Amendment 196

Csaba Sógor

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on ***remuneration*** in accordance with their law and practice. However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.

Amendment

(12) It is within Member States' competence to set rules on ***minimum rates of pay as well as on mandatory bonuses and allowances*** in accordance with their law and practice. However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers, ***must be proportionate*** and must not disproportionately restrict the

cross-border provision of services.

Or. en

Justification

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

Amendment 197

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

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on **remuneration** in accordance with their law and practice. However, national rules on **remuneration** applied to posted workers must be justified by the need to protect posted workers and must not **disproportionately** restrict the cross-border provision of services.

Amendment

(12) It is within Member States' competence to set rules on **rates of pay** in accordance with their law and practice. However, national rules on **rates of pay** applied to posted workers must be justified by the need to protect posted workers and must not restrict the cross-border provision of services **by enabling unfair competition**.

Or. en

Amendment 198

Anthea McIntyre, Arne Gericke, Richard Sulík

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. **However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and**

Amendment

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. Rules applied to posted workers must be **in line with Rome I Regulation** and must not disproportionately restrict the cross-border

must not disproportionately restrict the cross-border provision of services.

provision of services.

Or. en

Amendment 199
Georgi Pirinski

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not ***disproportionately*** restrict the cross-border provision of services.

Amendment

(12) It is within Member States' competence to set rules on remuneration in accordance with their law and practice. However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not restrict the cross-border provision of services.

Or. en

Amendment 200
Martina Dlabajová, Renate Weber, Jasenko Selimovic, Enrique Calvet Chambon, Mircea Diaconu

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) It is established by the ECJ case-law that social protection of workers can be acknowledged as overriding requirement justifying imposition of obligations capable of constituting restrictions on freedom to provide services, however, it is not the case where the workers employed by the employer are temporarily engaged in carrying out works in the host Member State and enjoy the same or essentially similar protection, by virtue of the obligations to which the

employer is already subject in the Member State in which he is established. This is in particular important in preventing additional obligations for which the undertakings are already liable for the same periods of employment in the Member State where they are established. The ECJ has also excluded the legality of national provisions which make it more onerous to provide service for undertakings from other Member States than those established within the national territory, therefore hindering the free movement of services.

Or. en

(Arblade, Joined cases 369/96 and 376/96 (para 51)Seco, Joined cases 62 and 63/81, Seco SA v. Etablissement d'Assurance contre la Vieillesse et l'Invalidité and Raymond Vander Elst v Office des Migrations Internationales Case C-43/93.)

Amendment 201
Deirdre Clune

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) For workers posted to a country where the native language is not their mother tongue, the member states and relevant authorities must ensure that posted workers receive contracts and any other administrative documents in a format that is clearly understandable to the worker by providing interpretation and translation where required.

Or. en

Amendment 202
Sven Schulze, Thomas Mann, Dieter-Lebrecht Koch, Markus Ferber, Markus Pieper

Proposal for a directive

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The setting of wages is a matter for the Member States and social partners alone; particular care should be taken not to undermine the freedom to negotiate wage settlements and freedom of contract, so that wages can continue to be set independently and on the responsibility of the parties involved.

Or. de

Amendment 203

Martina Dlabajová, Jasenko Selimovic, Renate Weber, Mircea Diaconu

Proposal for a directive

Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) The ECJ has further clarified that provisions concerning collective agreements cannot per se constitute a public policy exception within the meaning of Article 3(10) of Directive 96/71.

Or. en

(C-319/06, Commission of the European Communities v Grand Duchy of Luxemburg, para 64)

Amendment 204

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

Proposal for a directive

Recital 13

Text proposed by the Commission

Amendment

(13) The *elements of remuneration*

(13) The *information on minimum*

under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish **the constituent elements of remuneration** on the single website provided for by Article 5 of the Enforcement Directive.

rates of pay and applicable bonuses and allowances under national law or universally applicable collective agreements should be clear, **up to date** and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish **this information** on the single website provided for by Article 5 of the Enforcement Directive. **In order to provide more transparency and clarity generally applicable collective agreements should be also accompanied by clear information on applicable minimum rates of pay, bonuses and allowances and their method of calculation. Social partners are also obliged to make public all collective agreements, which are applicable according to this Directive. Similarly, foreign subcontractors should be informed in writing about terms and conditions of employment that they should apply towards posted workers.**

Or. en

Amendment 205
Claudiu Ciprian Tănăsescu

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) **The elements of remuneration** under national law or universally applicable collective agreements **should be clear and** transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent **elements of remuneration** on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) **Pay provisions** under national law or universally applicable collective agreements **must be specific and** transparent to all service providers **and all posted workers**. It is therefore justified to impose on Member States the obligation to publish the constituent **pay provisions** on the single website provided for by Article 5 of the Enforcement Directive, **given that access to information is of key importance for service providers. This information must comply with the provisions of**

Amendment 206

Martina Dlabajová, Jasenko Selimovic, Renate Weber, Mircea Diaconu

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The elements of **remuneration** under national law or universally applicable **collective agreements** should be clear **and transparent** to all service providers. It is therefore justified to impose on Member States the obligation to publish **the constituent elements of remuneration** on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The **information on** elements of **minimum rates of pay** under national law or **collective agreements or arbitration awards which have been declared** universally applicable **within the meaning of Article 3 (8)** should be clear, **transparent and publicly accessible** to all service providers. It is therefore justified to impose on Member States the obligation to publish **obligations deriving from Article 3 (1) of the Directive** on the single website provided for by Article 5 of the Enforcement Directive.

Amendment 207

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

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The elements of **remuneration** under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is **therefore** justified to impose on Member States **the obligation** to publish the constituent elements of **remuneration** on the single website

Amendment

(13) The elements of **rates of pay** under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is justified to impose on Member States **and should therefore be mandatory for them** to publish the constituent elements of **rates of pay including all the bonuses and**

provided for by Article 5 of the Enforcement Directive.

allowances in accordance with point (c), on the single website provided for by Article 5 of the Enforcement Directive.

Or. en

Amendment 208

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

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The elements of **remuneration** under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of **remuneration** on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The elements of **minimum pay, bonus and allowance** under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of **minimum rates of pays, bonuses and allowances** on the single website provided for by Article 5 of the Enforcement Directive.

Or. en

Amendment 209

Csaba Sógor

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The **elements of remuneration** under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish **the constituent elements of remuneration** on the single website provided for by

Amendment

(13) The **information on minimum rates of pay and mandatory bonuses and allowances** under national law or universally applicable collective agreements should be clear and transparent to all service providers **and posted workers**. It is therefore justified to impose on Member States the obligation to publish

Article 5 of the Enforcement Directive.

this information on the single website provided for by Article 5 of the Enforcement Directive.

Or. en

Justification

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

Amendment 210

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

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The elements of remuneration ***under national law or universally applicable collective agreements*** should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The elements of remuneration should be clear and transparent to all service providers ***and posted workers***. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive ***as transparency and access to information are key elements for service providers and posted workers. The provision of information on the single website should be in line with national law and practice and should respect the autonomy of the social partners. The European Commission should regularly verify if the information on these websites is comprehensive, easily accessible and up to date.***

Or. en

Amendment 211

Elisabeth Morin-Chartier, David Casa, Sofia Ribeiro, Agnieszka Kozłowska-Rajewicz,

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The elements of remuneration ***under national law or universally applicable collective agreements*** should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The elements of remuneration should be clear and transparent to all service providers ***and posted workers***. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration ***as defined by national law and applicable collective agreements*** on the single website provided for by Article 5 of the Enforcement Directive ***as the transparency and the access to information is a key element for service providers. The provision of information on the single website should be in line with national law and practice and respect the autonomy of the social partners.***

Or. en

Amendment 212
Mara Bizzotto

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified ***to impose on*** Member States ***the obligation*** to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified ***for all*** Member States to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive. ***No obligations arising from this directive should lead to an unjustified bureaucratic and administrative burden for companies in***

the Member States.

Or. it

Amendment 213

Terry Reintke, Karima Delli

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The elements of remuneration ***under national law or universally applicable collective agreements*** should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The elements of remuneration should be clear and transparent to all service providers ***and posted workers***. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive, ***because transparency and access to information are essential for legal certainty and for the proper functioning and enforcement of law.***

Or. en

Amendment 214

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

Recital 13

Text proposed by the Commission

(13) The elements of remuneration under national law ***or universally applicable*** collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The elements of remuneration under national law ***and/or*** collective agreements should be clear and transparent to all service providers ***and posted workers***. It is therefore justified to impose on Member States the obligation to publish, ***in accordance with national law and practice***, the constituent elements of remuneration, on the single website

provided for by Article 5 of the Enforcement Directive.

Or. en

Amendment 215

Michaela Šojdrová, Agnieszka Kozłowska-Rajewicz, Heinz K. Becker

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The elements of remuneration ***under national law or universally applicable collective agreements*** should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The ***legal*** elements of remuneration should be clear and transparent to all service providers ***and posted workers***. It is therefore justified to impose on Member States the obligation to publish the ***legal*** constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive ***as transparency and access to information are key elements for service providers***.

Or. en

Justification

Besides legal elements, the remuneration is calculated according to the profile of the candidate and wages/salaries applied in a specific sector, so the Member States will never be able to give a right answer concerning the non-legal elements of remuneration.

Amendment 216

Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service

Amendment

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service

providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive. ***The elements of remuneration under national law or universally applicable collective agreements should be clear, up to date and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive. In order to provide more transparency and clarity generally applicable collective agreements should be also accompanied by clear information on applicable elements of remuneration. Social partners are also obliged to make public all collective agreements, which are applicable according to this Directive. Similarly, foreign subcontractors should be informed in writing about terms and condition of employment including remuneration they should apply towards posted workers***

Or. en

Amendment 217

Eduard Kukan

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by

Amendment

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service providers ***and posted workers***. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on

Article 5 of the Enforcement Directive.

the single website provided for by Article 5 of the Enforcement Directive ***as transparency and access to information are crucial for both service providers and posted workers. A single information point established by the Member State shall provide information on national labour laws pertaining to posting companies. This single information point shall be ready to assist by email or personal support in several EU languages in order to support and encourage free movement of services across the EU.***

Or. en

Amendment 218
Heinz K. Becker

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service providers ***and posted workers***. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive ***as transparency and access to information are key elements for service providers. The provision of information on the single website should be in line with national law and practice and should respect the autonomy of the social partners.***

Or. de

Amendment 219

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive. ***It is important for each Member State to ensure that its website works properly and is updated on a regular basis. The Commission should ensure that the addresses of those websites and details of how frequently the sites are updated are available in one place.***

Or. pl

Amendment 220

Tom Vandenkendelaere, Ivo Belet

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The elements of remuneration under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

Amendment

(13) The elements of remuneration, ***the method used to calculate the remuneration due and where relevant, the qualifying criteria for classification in the different wage categories*** under national law or universally applicable collective agreements should be clear and transparent to all service providers. It is therefore justified to impose on Member States the obligation to publish the constituent elements of remuneration on the single website provided for by Article 5 of the Enforcement Directive.

Amendment 221

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

Proposal for a directive

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Member States should significantly speed up the establishment of the single official national website referred to in Article 5 of Directive 2014/67/EU; the arrangements for using the website should take particular account of the needs of small and medium-sized enterprises.

Or. de

Amendment 222

Marita Ulvskog

Proposal for a directive

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) This Directive establishes a protective framework for posted workers, which is non-discriminatory, transparent and proportionate while respecting the diversity of national industrial relations. It does not prevent application of terms and conditions of employment which are more favourable to posted workers.

Or. en

Amendment 223

Jasenko Selimovic, Enrique Calvet Chambon

**Proposal for a directive
Recital 13 a (new)**

Text proposed by the Commission

Amendment

(13a) All measures introduced by this Directive should be justified and proportionate so as not to create administrative burdens or to limit the potential that undertakings, in particular small and medium-sized enterprises (SMEs), have to create new jobs, while protecting posted workers.

Or. en

**Amendment 224
Deirdre Clune**

**Proposal for a directive
Recital 13 a (new)**

Text proposed by the Commission

Amendment

(13a) There must be a sufficient labour inspectorate in the member states, to monitor the working conditions of posted workers and to ensure that fraudulent posting, contracting and bogus self-employment do not take place under the legislation.

Or. en

**Amendment 225
Rina Ronja Kari, Paloma López Bermejo, Thomas Händel, João Pimenta Lopes,
Kostadinka Kuneva, Patrick Le Hyaric, Tania González Peñas, Lynn Boylan**

**Proposal for a directive
Recital 13 a (new)**

Text proposed by the Commission

Amendment

(13a) In accordance with the ILO Recommendation No 198 on the

Determination of Employment Relationships, the determination of the existence of such a relationship should be guided primarily by the facts relating to the performance of work and the remuneration of the worker, notwithstanding how the relationship is characterized in any contrary arrangement, contractual or otherwise, that may have been agreed between the parties.

Or. en

Amendment 226
Heinz K. Becker

Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) This Directive should not affect the right to negotiate, conclude and enforce collective wage agreements and to take collective action in accordance with national law and practice.

Or. de

Amendment 227
Ivo Belet, Claude Rolin, Georges Bach, Elmar Brok, Jeroen Lenaers

Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) In case of non-genuine posting as defined in Article 4 of Directive 2014/67/EU, the posted worker shall be deemed to be employed in the country to which the worker is posted.

Or. en

Amendment 228

Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux

Proposal for a directive

Recital 14

Text proposed by the Commission

Amendment

(14) *Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.* **deleted**

Or. fr

Amendment 229

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

Proposal for a directive

Recital 14

Text proposed by the Commission

Amendment

(14) *Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering* **deleted**

remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

Or. en

Amendment 230

Danuta Jazłowiecka, Marek Plura, Agnieszka Kozłowska-Rajewicz, Romana Tomc, Krzysztof Hetman, Janusz Lewandowski

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) *Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.*

Amendment

(14) *Member States have the freedom to establish on their territory appropriate measures applicable to local and foreign service providers in order to ensure compliance with the applicable rules concerning posting in case of subcontracting chains. In the case of the construction sector Member States are obliged, by the Directive 2014/67/EU, to introduce appropriate liability measures in order to ensure fair competition and workers' rights. Therefore laws, regulations, administrative provisions or universally applicable collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment.*

Or. en

Justification

The notion of remuneration seems to provide lack of legal clarity for posting companies. Therefore this should be replaced by minimum rates of pay (a concept that is now well known and clarified by existing case law) as well as a number of categories of bonuses and

allowances. This solution does not affect the subsidiarity principle and provides more clarity on what kind of bonuses and allowances may apply.

Amendment 231

Martina Dlabajová, Renate Weber, Jasenko Selimovic, Mircea Diaconu

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) ***Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.***

Amendment

(14) Member States ***have the freedom to establish and enforce on their territory appropriate measures applicable to local and foreign service providers in order to ensure compliance with the applicable rules to subcontracting chains.***

Or. en

Amendment 232

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

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) ***Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on***

Amendment

(14) ***Via their national legislation, Member States have the freedom to establish on their territory appropriate measures applicable to local and foreign service providers in order to ensure compliance with the applicable rules concerning posting in case of subcontracting chains. Where such rules***

remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

on **pays, bonuses and allowances** exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

Or. en

Amendment 233
Csaba Sógor

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Laws, regulations, administrative provisions or collective agreements **applicable** in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment **covering remuneration**. **Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.**

Amendment

(14) Laws, regulations, administrative provisions or **universally applicable** collective agreements in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment.

Or. en

Justification

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

Amendment 234

Rina Ronja Kari, João Pimenta Lopes, Kostadinka Kuneva, Patrick Le Hyaric, Paloma López Bermejo

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing *certain* terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them *in a non-discriminatory manner* to undertakings posting workers to its territory *provided that they do not disproportionately restrict the cross-border provision of services*.

Amendment

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them to undertakings posting workers to its territory.

Or. en

Amendment 235

Dominique Martin, Joëlle Mélin

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory *provided that they do not disproportionately restrict the cross-border provision of services*.

Amendment

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory.

Or. fr

Amendment 236
Helga Stevens, Anders Primdahl Vistisen

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

Amendment

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, ***insofar as it concerns the activities referred to in the Annex***, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

Or. en

Amendment 237
Terry Reintke, Karima Delli

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States ***may*** ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State ***may*** apply them in a non-discriminatory manner to undertakings posting workers to its territory ***provided that they do not disproportionately restrict the cross-***

Amendment

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States ***should*** ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State ***should*** apply them in a non-discriminatory manner to undertakings posting workers to its territory

border provision of services.

Or. en

Amendment 238

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

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

Amendment

(14) Laws, regulations, **and national practices, including** administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

Or. it

Amendment 239

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

Recital 14

Text proposed by the Commission

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules

Amendment

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules

guaranteeing certain terms and conditions of employment covering **remuneration**. Where such rules on **remuneration** exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

guaranteeing certain terms and conditions of employment covering **rates of pay**. Where such rules on **rates of pay** exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

Or. en

Amendment 240
Paloma López Bermejo, Thomas Händel

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States **may** ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing **certain** terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them **in a non-discriminatory manner** to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

Amendment

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States **shall** ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them to undertakings posting workers to its territory provided that they do not disproportionately restrict the cross-border provision of services.

Or. en

Amendment 241
Georgi Pirinski

Proposal for a directive
Recital 14

Text proposed by the Commission

Amendment

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not **disproportionately** restrict the cross-border provision of services.

(14) Laws, regulations, administrative provisions or collective agreements applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not restrict the cross-border provision of services.

Or. en

Amendment 242

Agnes Jongerius, Joachim Schuster, Jutta Steinruck, 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 Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Abuse and legal uncertainty in cases of chain postings and postings involving several jurisdictions should be prevented. Therefore, in cases where a posting situation falls under more than two national jurisdictions, the applicable terms and conditions of employment should be those established by the host Member State where the service is provided, without prejudice to more favourable conditions afforded to the worker under provisions from which the parties cannot derogate by agreement under the national law which would have applied otherwise.

Or. en

Amendment 243
Paloma López Bermejo, Thomas Händel

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(1a) Joint and several liability mechanisms will apply in all sectors where a posting takes place. The main contractor shall be liable for the compliance of all subcontractors with employment terms and conditions and social security obligations.

Or. en

Amendment 244
Marita Ulvskog

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) With a view to tackling abuses in subcontracting situations and in order to protect posted workers' rights, Member States should ensure, in accordance with national law and practices that posted workers receive all entitlements.

Or. en

Amendment 245
Georges Bach

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) The posted workers of one or more sub-contractor(s) should have the same

terms and conditions of employment covering remuneration as those applicable to the workers of the contractor as imposed on all national sub-contractors.

Or. en

Amendment 246
Arne Gericke

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) With a view to tackling abuses in connection with subcontracting and in order to protect posted workers' rights, Member States should enforce existing rules and provisions more strictly.

Or. de

Amendment 247
Sven Schulze, Thomas Mann, Dieter-Lebrecht Koch, Markus Ferber, Markus Pieper

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Member States should enforce existing rules on subcontracting strictly and consistently.

Or. de

Amendment 248
Mara Bizzotto

Proposal for a directive
Recital 15

Text proposed by the Commission

Amendment

(15) Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work gives expression to the principle that the basic working and employment conditions applicable to temporary agency workers should be at least those which would apply to such workers if they were recruited by the user undertaking to occupy the same job. This principle should also apply to temporary agency workers posted to another Member State.

deleted

Or. it

**Amendment 249
João Pimenta Lopes**

**Proposal for a directive
Recital 15**

Text proposed by the Commission

Amendment

(15) Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work gives expression to the principle that the basic working and employment conditions applicable to temporary agency workers should be at least those which would apply to such workers if they were recruited by the user undertaking to occupy the same job. This principle should also apply to temporary agency workers posted to another Member State.

deleted

Or. pt

**Amendment 250
Martina Dlabajová, Renate Weber, Jasenko Selimovic, Enrique Calvet Chambon,
Mircea Diaconu**

**Proposal for a directive
Recital 15**

Text proposed by the Commission

(15) Directive 2008/104/EC of the European Parliament and of the Council on temporary agency ***work gives expression to the principle that the basic working and employment conditions applicable to temporary agency workers should be at least those which would apply to such workers if they were recruited by the user undertaking to occupy the same job. This principle should also apply to temporary agency workers posted to another Member State.***

Amendment

(15) Directive 2008/104/EC of the European Parliament and of the Council on temporary agency ***regulates*** employment conditions applicable to temporary agency workers.

Or. en

Amendment 251

Terry Reintke, Karima Delli

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work gives expression to the principle that the basic working and employment conditions applicable to temporary agency workers should be at least those which would apply to such workers if they were recruited by the user undertaking to occupy the same job. This principle should also apply to temporary agency workers posted to another Member State.

Amendment

(15) Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work gives expression to the principle that the basic working and employment conditions applicable to temporary agency workers should be at least those which would apply to such workers if they were recruited by the user undertaking to occupy the same job. This principle should also apply to temporary agency workers posted to another Member State. ***Member States should ensure at least equal treatment between posted temporary agency workers and domestically employed temporary agency workers.***

Or. en

Amendment 252

Georgi Pirinski

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work gives expression to the principle that the basic working and employment conditions applicable to temporary agency workers should be at least those which would apply to such workers if they were recruited by the user undertaking to occupy the same job. This principle should also apply to temporary agency workers posted to another Member State.

Amendment

(15) Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work gives expression to the principle that the basic working and employment conditions applicable to temporary agency workers should be at least those which would apply to such workers if they were recruited by the user undertaking to occupy the same job. This principle should also apply to temporary agency workers posted to another Member State. ***It is therefore justified to introduce certain restrictions in regard to the posting assignments of workers employed by temporary agencies.***

Or. en

Amendment 253

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

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents⁶, Member States have undertaken to accompany, ***in justified cases***, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the

Amendment

(16) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents⁶, Member States have undertaken to accompany the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such

transmission of such documents to be justified,

⁶ OJ C 369, 17.12.2011, p. 14.

documents to be justified,

⁶ OJ C 369, 17.12.2011, p. 14.

Or. en

Amendment 254
Jutta Steinruck

Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Unlike the freedom to provide services and the freedom of movement the key feature of the posting of workers is its temporary nature. It is therefore the responsibility of the host Member State, where the service is provided, to ensure that this fundamental principle regarding the posting of workers is adhered to.

Or. en

Amendment 255
Georges Bach

Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) The standard of accommodation provided or arranged by an employer for posted workers should be adequate and equivalent to the standard of accommodation for local mobile workers guaranteed by national law or practice.

Or. en