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From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector

- Outcome of the European Parliament's first reading,
(Brussels, 3 to 4 April 2019)

I. INTRODUCTION

The rapporteur, Merja KYLLÖNEN (GUE/NGL, FI), presented a report on the proposal for a Directive on behalf of the Committee on Transport and Tourism.

II. VOTE

When it voted on 4 April 2019, the plenary adopted the report on the proposal for a Directive.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Enforcement requirements and specific rules for posting drivers in the road transport sector *I**

European Parliament legislative resolution of 4 April 2019 on the proposal for a directive of the European Parliament and of the Council amending Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector (COM(2017)0278 – C8-0170/2017 – 2017/0121(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0278),
 - having regard to Article 294(2) and Article 91(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0170/2017),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 18 January 2018²,
 - having regard to the opinion of the Committee of the Regions of 1 February 2018³,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Employment and Social Affairs (A8-0206/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its president to forward its position to the Council, the Commission and the National Parliaments.

² OJ C 197, 8.6.2018, p. 45.

³ OJ C 176, 23.5.2018, p. 57.

Amendment 764

Proposal for a directive Title 1

Text proposed by the Commission

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
amending Directive 2006/22/EC as regards
enforcement requirements and laying down
specific rules with respect to Directive
96/71/EC and Directive 2014/67/EU for
posting drivers in the road transport sector

Amendment

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
amending Directive 2006/22/EC as regards
enforcement requirements and laying down
specific rules with respect to Directive
96/71/EC and Directive 2014/67/EU for
posting drivers in the road transport sector
***and amending Regulation (EU) No
1024/2012 on administrative
cooperation through the Internal Market
Information System ('IMI Regulation')***

Amendment 765

Proposal for a directive Recital -1 (new)

Text proposed by the Commission

Amendment

***(-1) Given the high mobility of
workforce in the road transport sector,
sector-specific rules are needed to ensure
the balance between the freedom to
provide cross-border services for
operators, the free movement of goods
and the social protection of drivers.***

Therefore, the aim of this Directive is to provide legal certainty and clarity, to contribute to the harmonisation and fostering of enforcement and to the fight against illegal practices and lower administrative burden.

Amendment 766

Proposal for a directive Recital 1

Text proposed by the Commission

(1) In order to create a safe, efficient and socially responsible road transport sector it is necessary to ensure adequate working conditions and social protection for drivers, ***on the one hand***, and suitable business and ***fair competition conditions*** for operators, ***on the other***.

Amendment

(1) In order to create a safe, efficient and socially responsible road transport sector it is necessary to ensure ***the free movement of goods and the freedom to provide services***, adequate working conditions and social protection for drivers and ***to provide a*** suitable business and ***competitive environment*** for operators, ***while respecting the fundamental freedoms, the free movement of goods and the freedom to provide services in particular as guaranteed by the Treaties***.

Amendment 767

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Any national rules applied to road transport must be proportionate and justified and must not hinder or make less attractive the exercise of fundamental

freedoms guaranteed by the Treaty, such as the freedom of movement of services, in order to maintain or increase the competitiveness of the Union, whilst respecting the working conditions and social protection for the drivers.

Amendment 768

Proposal for a directive Recital 2

Text proposed by the Commission

(2) The inherent high mobility of road transport services requires particular attention in assuring that drivers benefit from the rights to which they are entitled and that operators are not faced with disproportionate administrative barriers unduly restricting their freedom to provide cross-border services.

Amendment

(2) The inherent high mobility of road transport services requires particular attention in assuring that drivers benefit from the rights to which they are entitled and that operators, ***most (90%) of which are SMEs with fewer than 10 workers***, are not faced with disproportionate administrative barriers ***or abusive and discriminatory controls***, unduly restricting their freedom to provide cross-border services.

Amendment 769

Proposal for a directive Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Any national rules applied to road transport must be proportionate as well as justified and must not hinder or make less attractive the exercise of fundamental freedoms guaranteed by the Treaty, such

as the free movement of goods and the freedom to provide services in order to maintain or even increase the competitiveness of the Union, including the costs of products and services by respecting the working conditions and social protection for drivers as well as respecting the specificities of the sector since drivers are highly mobile workers, not posted workers.

Amendment 770

Proposal for a directive Recital 3

Text proposed by the Commission

(3) The balance between enhancing social and working conditions for drivers and facilitating the exercise of the freedom to provide road transport services based on fair competition between national and foreign operators is crucial for the smooth functioning of the internal market.

Amendment

(3) The balance between enhancing social and working conditions for drivers and facilitating the exercise of the freedom to provide road transport services based on ***fair, proportionate, non-discriminatory*** competition between national and foreign operators is crucial for the smooth functioning of the internal market. ***Any piece of national legislation or policy for implementation at national level in the transport sector must therefore be conducive to the development and strengthening of the single European transport area and in no way contribute to the fragmentation of the internal market.***

Amendment 771

Proposal for a directive Recital 4

Text proposed by the Commission

(4) Having evaluated the effectiveness and efficiency of the current Union social legislation in road transport, certain loopholes in the existing provisions and deficiencies in their enforcement were identified. Furthermore a number of discrepancies exist between Member States in interpretation, application and implementation of the rules. This creates legal uncertainty **and unequal treatment of drivers and operators**, which is detrimental to the working, social and competition conditions in the sector.

Amendment

(4) Having evaluated the effectiveness and efficiency of the current Union social legislation in road transport, certain loopholes in the existing provisions and deficiencies in their enforcement were identified, **as well as illegal practices, such as the use of letterbox companies. Additional emphasis should be put on fighting against undeclared work in the transport sector.** Furthermore a number of discrepancies exist between Member States in interpretation, application and implementation of the rules, **creating a heavy administrative burden for drivers and operators.** This creates legal uncertainty, which is detrimental to the working, social and competition conditions in the sector.

Amendment 772

**Proposal for a directive
Recital 4 a (new)**

Text proposed by the Commission

Amendment

(4a) In order to ensure that Directives 96/71/EC^{1a} and 2014/67/EU^{1b} of the European Parliament and of the Council are correctly applied, controls and cooperation at Union level to combat fraud relating to the posting of drivers should be strengthened, and stricter checks should be carried out to ensure that social contributions for posted drivers are actually paid.

^{1a} Directive 96/71/EC of the European Parliament and of the Council of 16

December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.97, p.1).

^{1b} Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 159, 28.5.2014, p. 11).

Amendment 773

Proposal for a directive Recital 5

Text proposed by the Commission

(5) Adequate, effective and consistent enforcement of the working time provisions is crucial for protecting the working conditions of drivers and preventing the distortions of competition resulting from non-compliance. Therefore it is desirable to extend the existing uniform enforcement requirements set out in Directive 2006/22/EC to controlling compliance with the working time provisions set out in Directive 2002/15/EU.

Amendment

(5) Adequate, effective and consistent enforcement of the working time **and rest time** provisions is crucial **for improving road safety**, protecting the working conditions of drivers and preventing the distortions of competition resulting from non-compliance. Therefore it is desirable to extend the existing uniform enforcement requirements set out in Directive 2006/22/EC to controlling compliance with the working time provisions set out in Directive 2002/15/EU. **The possibility of combining checks on driving time and working time with checks on rules on posting of drivers should be also available without additional administrative burden. Checks of compliance with working time should be limited to checks carried out at the premises of transport operators until technology is available that allows the checks on working time to be carried out effectively at the roadside.**

Amendment 774

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

Text proposed by the Commission

Amendment

(5a) Bearing in mind the specific character of transport services and the direct impact on the free movement of goods, with a special focus on road safety and security, roadside checks should be limited to the minimum. Drivers should not be liable for additional administrative obligations of their respective companies. Rules on working time should be controlled at the premises of the transport operator only.

Amendment 775

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

Text proposed by the Commission

Amendment

(5b) In order to allow more efficient, faster and more numerous roadside checks while reducing the administrative burden on drivers, compliance with Directive 2002/15/EC should be verified in the context of inspections on company premises rather than roadside checks.

Amendment 776

**Proposal for a directive
Recital 6 a (new)**

Text proposed by the Commission

Amendment

(6 a) With a view to fostering effective administrative cooperation and an effective exchange of information, Member States should interconnect their national electronic registers (NER) through the European Register of Road Transport Undertakings (ERRU) system, with a legal basis in Article 16(5) of Regulation (EC) No 1071/2009. Member States should take all necessary measures to ensure that the national electronic registers are interconnected, so that the competent authorities of the Member States, including road inspectors, can have direct real-time access to the data and information in the ERRU.

Amendment 777

**Proposal for a directive
Recital 6 b (new)**

Text proposed by the Commission

Amendment

(6 b) To facilitate better and more uniform application of the minimum conditions for the implementation of Regulation (EC) No 561/2006, Regulation (EU) No 165/2014 and Directive 2002/15/EC, and to facilitate road transport operators' compliance with administrative requirements when posting drivers, the Commission should develop one or several modules of IMI for submitting declarations in posting and an electronic application that will provide inspectors direct real-time access to the ERRU and IMI during roadside checks.

Amendment 778

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) In order to ensure fair competition and a level playing field for workers and business, there is a need to make progress towards smart enforcement and to provide all possible support for the full introduction and use of risk-rating systems. To this end, the enforcement authorities need to be given real-time access to national electronic registers (NERs), while making maximum use of the European Register of Road Transport Undertakings (ERRU).

Amendment 779

Proposal for a directive Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Rules for the posting of workers applicable to road transport activities should be balanced, simple, and with a low administrative burden for Member States and transport undertakings. They should not aim to discourage operations outside the country of establishment of an undertaking.

Amendment 780

Proposal for a directive Recital 9

Text proposed by the Commission

(9) Difficulties have also been experienced in applying the rules on posting of workers specified in Directive 96/71/EC of the European Parliament and of the Council¹⁵ and the rules on the administrative requirements laid down in Directive 2014/67/EU of the European Parliament and of the Council¹⁶ to the highly mobile road transport sector. The uncoordinated national measures on the application and enforcement of the provisions on posting of workers in the road transport sector have generated high administrative burdens for non-resident Union operators. This created undue restrictions to the freedom to provide cross-border road transport services having negative side-effects on jobs.

¹⁵ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.97, p.1)

¹⁶ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market

Amendment

(9) Difficulties have also been experienced in applying the rules on posting of workers specified in Directive 96/71/EC of the European Parliament and of the Council¹⁵ and the rules on the administrative requirements laid down in Directive 2014/67/EU of the European Parliament and of the Council¹⁶ to the highly mobile road transport sector. The uncoordinated national measures on the application and enforcement of the provisions on posting of workers in the road transport sector have generated ***legal uncertainty, distortions of competition in the transport sector and*** high administrative burdens for non-resident Union operators. This created undue restrictions to the freedom to provide cross-border road transport services having negative side-effects on jobs ***and the competitiveness of transport companies. Administrative requirements and control measures need to be harmonised to prevent carriers from suffering unnecessary or arbitrary delays.***

¹⁵ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.97, p.1)

¹⁶ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market

Amendment 781

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Member States should exchange data and information, engage in administrative cooperation and provide mutual assistance via the Internal Market Information System (IMI), the legal basis of which is provided by Regulation (EU) No 1034/2012, with a view to ensuring full compliance with the rules. Similarly, the IMI should be used to submit and update posting declarations between transport operators and the competent authorities of the receiving Member States. In order to achieve this latter objective, it would be necessary to develop a parallel public interface within the IMI system to which transport operators would have access.

Amendment 782

Proposal for a directive Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) All actors in the delivery chain for goods should bear their fair share of responsibility for infringements of the

rules provided for in this Directive. This should be the case where the actors have actually known of infringements or where, in the light of all the relevant circumstances, they ought to know of them.

Amendment 783

Proposal for a directive Recital 9 c (new)

Text proposed by the Commission

Amendment

(9c) In order to ensure that control measures for the posting of drivers in the road transport sector are correctly applied as defined by Directives 96/71/EC and 2014/67/EU, controls and cooperation at Union level to tackle fraud relating to the posting of drivers should be strengthened.

Amendment 784

Proposal for a directive Recital 9 d (new)

Text proposed by the Commission

Amendment

(9d) Contractors should be encouraged to act with social responsibility by using transport operators that comply with the rules provided for by this Directive. To make it easier for contractors to find such transport operators, the Commission should assess existing instruments and best practices promoting socially responsible behaviour of all actors in the delivery

chain for goods with a view to establishing a European platform of trusted transport companies, if appropriate.

Amendment 785

Proposal for a directive Recital 9 e (new)

Text proposed by the Commission

Amendment

(9e) Failure to comply with the rules on the establishment of international road transport companies creates differences across the internal market and contributes to unfairness in inter-company competition. The conditions governing the establishment of international road transport companies should therefore be tightened and made easier to monitor, particularly with a view to combating the creation of ‘letterbox’ companies.

Amendment 786

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Given the fact that there is a lack of drivers in Europe, working conditions should be significantly improved in order to increase the attractiveness of the profession.

Amendment 787

Proposal for a directive Recital 11

Text proposed by the Commission

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

Amendment

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

Amendment 788

Proposal for a directive Recital 12

Text proposed by the Commission

(12) Such balanced criteria should be based on a concept of a sufficient link of a driver with a territory of a host Member State. ***Therefore, a time threshold should be established, beyond which the minimum rate of pay and the minimum annual paid holidays of the host Member State shall apply in case of international transport operations. This time threshold should not apply to*** cabotage operations as defined by Regulations 1072/2009 and

Amendment

(12) Such balanced criteria should be based on a concept of a sufficient link of a driver with a territory of a host Member State. ***This sufficient link exists in case of*** cabotage operations as defined by Regulations 1072/2009 and 1073/2009 since the entire transport operation is taking place in a host Member State. As a consequence, ***Directive 96/71/EC and Directive 2014/67/EU*** should apply to

1073/2009 since the entire transport operation is taking place in a host Member State. As a consequence *the minimum rate of pay and the minimum annual paid holidays of the host Member State* should apply to cabotage *irrespective of the frequency and duration of the operations carried out by a driver.*

cabotage.

Amendment 789

Proposal for a directive Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) In case of international transport, the predominant link of a driver in the bilateral international transport would be to a Member State of establishment of the transport company, as the driver returns regularly back to the Member State of establishment of the transport company. A driver may undertake several bilateral transport operations during one journey. On the other hand, there is a sufficient link with the territory of a host Member State when a driver performs other types of operations, notably non-bilateral international transport operations, in that Member State.

Amendment 790

Proposal for a directive Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) In order to ensure efficient use of transport resources, take into account the operational realities and to reduce number of empty runs, which is an important element in achieving objectives of Paris agreement in relation to reduction of CO2 emissions, a limited number of additional transport activities should be possible without triggering the posting rules. Such activities consists of operations performed during a period in the course of or following bilateral international transport operation from the Member State of establishment and before the return journey to the Member State of establishment.

Amendment 791

**Proposal for a directive
Recital 12 c (new)**

Text proposed by the Commission

Amendment

(12c) In case that the driver is engaged in a combined transport operation, the nature of the service provided during the initial or final road leg is closely linked with the Member State of establishment provided that the road leg on its own is a bilateral transport operation. On the other hand, there is a sufficient link with the territory of a host Member State when the transport operation during the road leg is carried out within the host Member State or, as a non-bilateral international transport operation, and therefore posting rules should apply in such a case.

Amendment 792

Proposal for a directive Recital 12 d (new)

Text proposed by the Commission

Amendment

(12d) Since there is no sufficient link of a driver with a territory of a Member State of transit, transit operations should not be considered as posting situations. It should also be clarified that the fact that passengers get down of the bus during a stop for hygienic reasons does not change the qualification of the transport operation.

Amendment 793

Proposal for a directive Recital 12 e (new)

Text proposed by the Commission

Amendment

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

Amendment 794

Proposal for a directive Recital 12 f (new)

Text proposed by the Commission

Amendment

(12f) Where, in accordance with national law, traditions and practice, including respect for the autonomy of social partners, the terms and conditions of employment referred to in Article 3 of Directive 96/71/EC are laid down in collective agreements in accordance with Article 3(1) and (8) of that Directive, Member States should ensure that, in line with Directive 2014/67/EU, those terms and conditions are made available in an accessible and transparent way to transport undertakings from other Member States and to posted drivers, and should seek the involvement of the social partners in that respect. The relevant information should, in particular, cover the different remunerations and their constituent elements, including elements of remunerations provided for in the locally or regionally applicable collective agreements, the method used to calculate the remuneration due and, where relevant, the qualifying criteria for classification in the different wage categories. In accordance with Directive (EU) 2018/957/EU amending Directive 96/71/EC transport undertakings should not be penalized for non-compliance with elements of remuneration, the method used to calculate the remuneration due and, where relevant, the qualifying criteria for classification in the different wage categories which are not publically available.

Amendment 795

**Proposal for a directive
Recital 13**

Text proposed by the Commission

(13) In order to ensure effective and efficient enforcement of the sector-specific rules on posting of workers and to avoid disproportionate administrative burdens for non-resident operators sector, specific administrative and control requirements should be established in the road transport sector, taking full advantage of control tools such as the digital tachograph.

Amendment

(13) In order to ensure effective and efficient enforcement of the sector-specific rules on posting of workers and to avoid disproportionate administrative burdens for non-resident operators sector, specific administrative and control requirements should be established in the road transport sector, taking full advantage of control tools such as the digital tachograph. ***With a view to minimising the complexity of the obligations laid down in this Directive and Directive 96/71, Member States should be free to impose only the administrative requirements specified in this Directive – which have been tailored to suit the road transport sector – on road transport operators.***

Amendment 796

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

Text proposed by the Commission

Amendment

(13a) With a view to minimising the administrative burden and document management tasks incumbent on drivers, transport operators shall provide, at the request of the competent authorities in the Member State in which the operator is based, all necessary documents, as set out in the provisions of Chapter III of Directive 2014/67/EU on mutual assistance and cooperation between

Amendment 797

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

Text proposed by the Commission

Amendment

(13b) In order to facilitate the implementation, application and enforcement of this Directive, the internal Market Information System (IMI) established by Regulation (EU) No 1024/2012 should be used in Member States for the enhanced exchange of information between regional and local authorities across borders. It could also be an advantage to extend the features of IMI to include the submission and transmission of simple declarations.

Amendment 798

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

Text proposed by the Commission

Amendment

(13c) In order to reduce administrative burden of transport operators which are often small and medium-sized enterprises, it would be appropriate to simplify the process of sending declarations on posting by transport operators through standardised forms with some pre-defined elements translated in all official languages of the Union.

Amendment 799

Proposal for a directive Recital 13 d (new)

Text proposed by the Commission

Amendment

(13d) A general implementation and application of the rules for the posting of workers to road transport could impact the structure of the Union road freight transport industry. Therefore, Member States and the Commission should closely monitor the impact of this process.

Amendment 800

Proposal for a directive Recital 13 e (new)

Text proposed by the Commission

Amendment

(13e) Enforcement should concentrate on inspections at the premises of the undertakings. Roadside checks should not be excluded but should be undertaken in a non-discriminatory manner only for consignment notes or their electronic versions, confirmations of the pre-registration and attestation for return to country of operator's establishment or driver's residence. Roadside checks should control in the first place tachographs data which is important to determine the activity of a driver and vehicle over a four-week rolling period and the geographical coverage of this activity. The recording of the country code

can help.

Amendment 801

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

Text proposed by the Commission

Amendment

(13f) The impact of the application and the enforcement of the rules for the posting of workers on the road transport industry should be repeatedly evaluated by the Commission and reported to the Parliament and the Council, and proposals should be made to further simplify them and reduce the administrative burden.

Amendment 802

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

Text proposed by the Commission

Amendment

(13g) In recognition of the need for specific treatment for the transport sector, in which movement is the very essence of the work undertaken by drivers, the application of Directive 96/71/EU to the road transport sector should coincide with the date of entry into force of the amendment of Directive 2006/22/EC as regards enforcement requirements, and specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport

sector.

Amendment 803

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

Text proposed by the Commission

Amendment

(13h) In order to adapt the Annexes of this Directive to developments in best practice, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending those Annexes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making^{1*}. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Amendment 804

**Proposal for a directive
Recital 14 a (new)**

Text proposed by the Commission

Amendment

(14a) The exchange of information in the context of effective administrative cooperation and mutual assistance between Member States should comply with the rules on personal data protection laid down in Regulation (EU) 2016/679.

Amendment 805

**Proposal for a directive
Recital 14 b (new)**

Text proposed by the Commission

Amendment

(14b) Rules to safeguard good social conditions across the European road haulage market should be respected by all partners in the supply chain. In order to create an economically and socially sustainable European internal market, a chain of responsibility that covers all actors in the logistical chain should be established and implemented. Enforcing transparency and liability and increasing social and economic equality will increase the attractiveness of the driver as a profession and promote healthy competition.

Amendment 806

**Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2006/22/EC**

Article 2 – paragraph 1 – subparagraph 2

Text proposed by the Commission

These checks shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles falling within the scope of Regulations (EC) No 561/2006 and (EU) No 165/2014 and of mobile workers and drivers falling within the scope of Directive 2002/15/EC.

Amendment

These checks shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles falling within the scope of Regulations (EC) No 561/2006 and (EU) No 165/2014 and, ***in the case of checks at premises***, of mobile workers and drivers falling within the scope of Directive 2002/15/EC.

Member States shall organise roadside checks on the implementation of Directive 2002/15/EC only after the introduction of technology enabling effective checks to be carried out. Until then those checks shall be carried out exclusively at the premises of the transport undertakings.

Amendment 807

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point b

Directive 2006/22/EC

Article 2 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Each Member State shall organise checks in such a way that at least 3% of days worked by drivers of vehicles falling within the scope of Regulation (EC) No 561/2006, Regulation (EU) 165/2014 and Directive 2002/15/EC are checked.

Amendment

Each Member State shall organise checks in such a way that at least 3% of days worked by drivers of vehicles falling within the scope of Regulation (EC) No 561/2006, Regulation (EU) 165/2014 and Directive 2002/15/EC are checked.

Following roadside checks and where the driver is not in capacity to submit one or more of the required documents, the drivers shall be released to continue their transport operation and the transport operator in the Member State of establishment is obliged to submit the required documents via competent

authorities.

Amendment 808

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point c

Directive 2006/22/EC

Article 2 – paragraph 4

Text proposed by the Commission

4. The information submitted to the Commission in accordance with Article 17 of Regulation (EC) No 561/2006 shall include the number of drivers checked at the roadside, the number of checks at the premises of undertakings, the number of working days checked and the number and type of infringements reported, together with a record of whether passengers or goods were transported.

Amendment

4. The information submitted to the Commission in accordance with Article 17 of Regulation (EC) No 561/2006 shall include the number of drivers checked at the roadside, the number of checks at the premises of undertakings, the number of working days checked *at premises* and the number and type of infringements reported, together with a record of whether passengers or goods were transported.

Amendment 809

Proposal for a directive

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

Directive 2006/22/EC

Article 5

Present text

Article 5
Concerted checks
Member States shall, at least six times per

Amendment

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

“Article 5
Concerted checks
Member States shall, at least six times per

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

year, undertake concerted roadside checks **and at the premises** on drivers and vehicles falling within the scope of **Regulation (EC) No 561/2006 or (EU) 165/2014**. Such checks shall be undertaken at the same time by the enforcement authorities of two or more Member States, each operating in its own territory. ***The summary results of the concerted checks shall be made public in line with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.***”

Amendment 810

Proposal for a directive Article 1 – paragraph 1 – point 4

Directive 2006/22/EC

Article 6 – paragraph 1

Text proposed by the Commission

1. Checks at premises shall be planned in the light of past experience in relation to the various types of transport and undertakings. They shall also be carried out if serious infringements of Regulation (EC) No 561/2006 **or** (EU) No 165/2014 **or** **Directive 2002/15/EC** have been detected at the roadside.

Amendment

1. Checks at premises shall be planned in the light of past experience in relation to the various types of transport and undertakings. They shall also be carried out if serious infringements of Regulations (EC) No 561/2006 **and** (EU) No 165/2014 have been detected at the roadside.

Amendment 811

Proposal for a directive Article 1 – paragraph 1 – point 4 a (new)

Directive 2006/22/EC

Article 7 – paragraph 1– point b

Present text

(b) to forward the biennial statistical returns to the Commission under **Article 16 (2)** of Regulation (**EEC**) No 3820/85;

Amendment

(4a) in Article 7(1), point (b) is replaced by the following:

“(b) to forward the biennial statistical returns to the Commission under **Article 17** of Regulation (**EC**) No 561/2006;”

Amendment 812

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point -a (new)

Directive 2006/22/EC

Article 8 – paragraph 1 – introductory part

Present text

1. Information made available bilaterally under **Article 17(3) of Regulation (EEC) No 3820/85 or Article 19(3) of Regulation (EEC) No 3821/85** shall be exchanged between the designated bodies notified to the Commission in accordance with **Article 7(2)**:

Amendment

(-a) In Article 8(1), the introductory part is replaced by the following:

1. Information made available bilaterally under **Article 22(2) of Regulation (EC) No 561/2006 or Article 40 of Regulation (EU) No 165/2014** shall be exchanged between the designated bodies notified to the Commission in accordance with **Article 7**:

Amendment 813

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point a

Directive 2006/22/EC

Article 8 – paragraph 1–point b

Text proposed by the Commission

Amendment

(b) *upon reasoned* request *by* a Member State in individual cases.

(b) *at the specific* request *of* a Member State in individual cases, *provided that the information required is not available through direct consultation of national electronic registers referred to in Article 16 (5) of Regulation (EC) No 1071/2009.*

Amendment 814

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b

Directive 2006/22/EC

Article 8 – paragraph 1 a – subparagraph 1

Text proposed by the Commission

Amendment

1a. Member State shall submit the information requested by other Member States pursuant to paragraph 1(b) of this Article within **25 working days** from the receipt of the request in cases requiring in-depth examination or involving checks at premises of the undertakings concerned. A shorter time limit may be mutually agreed between the Member States. In urgent cases or cases requiring simple consultation of registers, such as of a risk rating system, the requested information shall be submitted within three working days.

1a. Member States shall submit the information requested by other Member States pursuant to paragraph 1(b) of this Article within **10 working days** from the receipt of the request. ***In duly justified*** cases requiring in-depth examination or involving checks at the premises of the undertakings concerned, ***the time limit shall be 20 working days***. A shorter time limit may be mutually agreed between the Member States. In urgent cases or cases requiring simple consultation of registers, such as of a risk rating system, the requested information shall be submitted within three working days.

Amendment 815

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b

Directive 2006/22/EC

Article 8 – paragraph 1 a – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 816

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b

Directive [2006/22/EC](#)

Article 8 – paragraph 1 a – subparagraph 3

Text proposed by the Commission

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

Amendment

Where it is difficult or impossible to comply with a request for information or to carry out checks, inspections or investigations, the **requested** Member State shall inform the requesting Member State accordingly within **five working days, and provide reasons to duly justify the difficulty or impossibility of providing the relevant information.** The Member States concerned shall discuss with each other with a view to finding a solution for any difficulty raised.

Amendment 817

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b

Directive 2006/22/EC

Article 8 – paragraph 1 a – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

Where the Commission becomes aware of a persisting problem in the exchange of information or a permanent refusal to supply information, it may take all necessary measures to remedy the situation, including, where necessary, it may open an investigation and eventually apply sanctions to the Member State.

Amendment 818

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b a (new)

Directive 2006/22/EC

Article 8 – paragraph 2

Present Text

Amendment

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

(ba) paragraph 2 is replaced by the following:

2. By way of derogation from Article 21 of Directive 2014/67/EU, the exchange of information between the competent authorities of the Member States provided for in paragraphs 1 and 1a of this Article shall be implemented through the Internal Market Information System (IMI), established by Regulation (EU) No 1024/2012. Competent authorities of the Member States shall have direct access in real time to data in national electronic registers via the European Register of Road Transport Undertakings (ERRU) as referred to in Article 16 of Regulation

Amendment 819

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b b (new)

Directive 2006/22/EC

Article 8 – paragraph 2 a

Text proposed by the Commission

Amendment

(bb) in Article 8, the following paragraph is added:

“2a. The Commission shall develop an electronic application common to all EU Member States that will provide inspectors direct real-time access to the ERRU and IMI during roadside checks and premises by 2020. This application shall be developed via a pilot project.”

Amendment 820

Proposal for a directive

Article 1 – paragraph 1 – point 7 – point a

Directive 2006/22/EC

Article 9 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The Commission ***shall, by means of implementing acts, establish*** a common formula for calculating a risk rating of undertakings, which shall take into account the number, severity and frequency of occurrence of infringements as well as the results of controls where no infringement

The Commission ***is empowered to adopt delegated acts in accordance with Article 15a establishing*** a common formula for calculating a risk rating of undertakings, which shall take into account the number, severity and frequency of occurrence of infringements as well as the results of

has been detected and whether a road transport undertaking has been using the smart tachograph, pursuant to Chapter II of Regulation (EU) No 165/2014, on *all* its vehicles. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2) of this Directive.***

controls where no infringement has been detected and whether a road transport undertaking has been using the smart tachograph, pursuant to Chapter II of Regulation (EU) No 165/2014, on its vehicles.

Amendment 821

Proposal for a directive

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

Directive 2006/22/EC

Article 9 – paragraph 3 – subparagraph 1

Present text

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

Amendment

(ba) in paragraph 3, the first subparagraph is replaced by the following:

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

Amendment 822

Proposal for a directive

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

Directive 2006/22/EC

Article 9 – paragraph 3 – subparagraph 2

Present text

Amendment

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

(bb) in paragraph 3, the second subparagraph is replaced by the following:

“With a view to giving guidelines on the weighting of infringements of **Regulation (EC) No 561/2006 or (EU) No 165/2014**, the Commission ***is empowered to adopt delegated acts*** in accordance with **Article 15a amending** Annex III with a view to establishing guidelines on a common range of infringements, divided into categories according to their gravity.”;

Amendment 823

Proposal for a directive

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

Directive **2006/22/EC**

Article 9 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

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

(b c) in paragraph 3, the third subparagraph is replaced by the following:

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

Amendment 824

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point c
Directive 2006/22/EC

Article 9 – paragraph 4

Text proposed by the Commission

4. In order to facilitate targeted roadside checks, the data contained in the national risk rating system shall be accessible at the time of control to all the competent control authorities of the Member State concerned.

Amendment

4. In order to facilitate targeted roadside checks, the data contained in the national risk rating system **and the national registers of transport undertakings and activities** shall be accessible at the time of the check to all the competent control authorities of the Member State concerned **through at least an electronic application common to all Member States, through which they will have direct real-time access to the ERRU.**

Amendment 825

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point c
Directive 2006/22/EC

Article 9 – paragraph 5

Text proposed by the Commission

5. Member States shall make the information contained in the national risk rating system **available upon request or** directly accessible to all competent authorities of other Member States **in accordance with the time limits set out in Article 8.**

Amendment

5. Member States shall make the information contained in the national risk rating system directly accessible **through interoperable national electronic registers as referred to in Article 16 of Regulation (EC) No. 1071/2009** to all competent authorities of other Member States. (AM 228, 229, 230, 231). **In this regard, the exchange of information and data on transport operators infringements and risk rating shall be concentrated and carried out through the interconnection**

that ERRU provides between the different national registers in the Member States.

Amendment 826

Proposal for a directive Article 1 – paragraph 1 – point 8

Directive 2006/22/EC

Article 11 – paragraph 3

Text proposed by the Commission

3. The Commission **shall establish** a common approach to recording and controlling periods of other work, as defined in point (e) of Article 4 of Regulation (EC) No 561/2006, **and** periods of at least one week during which a driver is away from the vehicle, **by implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2);**

Amendment

3. The Commission **is empowered to adopt delegated acts in accordance with Article 15a establishing** a common approach to **the** recording and controlling **of** periods of other work, as defined in point (e) of Article 4 of Regulation (EC) No 561/2006, **including the form of the recording and specific cases in which it is to take place and to the recording and controlling of** periods of at least one week during which a driver is away from the vehicle **and is unable to carry out any activities with that vehicle.**

Amendment 827

Proposal for a directive Article 1 – paragraph 1 – point 8 a (new)

Directive 2006/22/EC

Article 12

Present text

Amendment

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

Article 12

Committee procedure

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

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

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. *The Committee shall adopt its Rules of Procedure.*

“Article 12

Committee procedure

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

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

Amendment 828

Proposal for a directive

Article 1 – paragraph 1 – point 8 b (new)

Directive **2006/22/EC**

Article 13 – point b

Present text

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

Amendment

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

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

Amendment 829

Proposal for a directive

Article 1 – paragraph 1 – point 8 c (new)

Article 14

Present text

Article 14

Negotiations with third countries

Once this Directive has entered into force, the **Community** shall begin negotiations with the relevant third countries with a view to the application of rules equivalent to those laid down in this Directive.

Pending the conclusion of these negotiations, Member States shall include data on checks carried out on vehicles from third countries in their returns to the Commission as set out in **Article 16 (2) of Regulation (EEC) No 3820/85**.

Amendment

(8c) Article 14 is replaced by the following:

“Article 14

Negotiations with third countries

Once this Directive has entered into force, the **Union** shall begin negotiations with the relevant third countries with a view to the application of rules equivalent to those laid down in this Directive.

Pending the conclusion of these negotiations, Member States shall include data on checks carried out on vehicles from third countries in their returns to the Commission as set out in **Article 17 of Regulation (EC) No 561/2006**.”

Amendment 830

Proposal for a directive

Article 1 – paragraph 1 – point 8 d (new)

Directive 2006/22/EC

Article 15

Present text

Article 15

Updating of the Annexes

Amendments to the Annexes which are

Amendment

(8d) Article 15 is replaced by the following:

“Article 15

Updating of the Annexes

The Commission is empowered to adopt

necessary *to adapt them* to developments in best practice *shall be adopted in accordance with the procedure referred to in Article 12(2)*.

delegated acts in accordance with Article 15a amending Annexes I and II to introduce necessary adaptations to developments in best practice.”

Amendment 831

Proposal for a directive

Article 1 – paragraph 1 – point 8 e (new)

Directive 2006/22/EC

Article 15 a (new)

Text proposed by the Commission

Amendment

(8e) The following Article is inserted:

“Article 15a

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Article 9(3) and Article 15 shall be conferred on the Commission for a period of 5 years from [date of entry into force of this Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
- 3. The delegation of power referred to in Article 9(3) and Article 15 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision*

in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 9(3) and Article 15 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.”

Amendment 832

Proposal for a directive

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

Directive 2006/22/EC

Annex I – Part A – point 1

Present text

Amendment

(1) daily and weekly driving times, breaks and daily and weekly rest periods;

(-a) in Part A, point (1) is replaced by the following:

“(1) daily and weekly driving times, breaks and daily and weekly rest periods;

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

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

Amendment 833

Proposal for a directive

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

Directive 2006/22/EC

Annex I – part A – point 2

Present text

(2) for the period referred to in **Article 15 (7) of Regulation (EEC) No 3821/85**, any cases where the vehicle's authorised speed is exceeded, to be defined as being any periods of more than one minute during which the vehicle's speed exceeds 90 km/h for category N 3 vehicles or 105 km/h for category M 3 vehicles (categories N 3 and M 3 being defined **in Annex II, Part A to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers**^{1a};

^{1a} OJ L 42, 23.2.1970, p. 1. Directive as last amended by Commission Directive 2006/28/EC (OJ L 65, 7.3.2006, p. 27).

Amendment

(-aa) in Part A, the point (2) is replaced by the following:

“(2) for the period referred to in **Article 36 paragraphs (1) and (2) of Regulation (EU) No 165/2014**, any cases where the vehicle's authorised speed is exceeded, to be defined as being any periods of more than one minute during which the vehicle's speed exceeds 90 km/h for category N 3 vehicles or 105 km/h for category M 3 vehicles (categories N 3 and M 3 as defined in **Directive 2007/46/EC**^{1a};

^{1a} Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for

such vehicles(Framework Directive).”

Amendment 834

Proposal for a directive

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

Directive 2006/22/EC

Annex I – Part A – point 4

Present text

(4) the correct functioning of the recording equipment (determination of possible misuse of the equipment and/or the driver card and/or record sheets) or, where appropriate, presence of the documents referred to in **Article 14 (5) of Regulation (EEC) No 3820/85**;

Amendment

(-ab) in Part A, point (4) is replaced by the following:

“(4) the correct functioning of the recording equipment (determination of possible misuse of the equipment and/or the driver card and/or record sheets) or, where appropriate, presence of the documents referred to in Article 16(2) of Regulation (EC) No 561/2006;”

Amendment 835

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point a

Directive 2006/22/EC

Annex I – Part A – point 6

Text proposed by the Commission

(6) weekly working times as set out in Articles 4 and 5 of Directive 2002/15/EC.

Amendment

(6) weekly working times as set out in Articles 4 and 5 of Directive 2002/15/EC, provided that technology enables effective checks to be carried out.

Amendment 836

Proposal for a directive

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

Directive 2006/22/EC

Annex I – Part B – paragraph 2

Present text

Member States may, if appropriate, check on the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permit compliance with **Regulations (EEC) No 3820/85 and (EEC) No 3821/85**.

Amendment

(ba) in Part B, paragraph 2 is replaced by the following:

“Member States may, if appropriate, check on the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permit compliance with **Regulations (EC) No 561/2006 and (EU) No 165/2014**.”

Amendment 837

Proposal for a directive

Article 2 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Member States shall not apply points (b) and (c) of the first subparagraph of Article 3 (1) of Directive 96/71/EC to drivers in the road transport sector employed by undertakings referred

Amendment

1a. These specific rules shall apply to drivers employed by undertakings established in a Member State which take one of the transnational measures referred to in Article 1(3) (a) of Directive 96/71/EC.

2. A driver shall not be considered to be posted for the purpose of Directive 96/71/EC when performing bilateral transport operations.

to in Article 1(3)(a) of that Directive, when performing international carriage operations as defined by Regulations 1072/2009 and 1073/2009 where the period of posting to their territory to perform these operations is shorter than or equal to 3 days during a period of one calendar month.

For the purpose of this Directive, a bilateral transport operation in respect of goods is the movement of goods, based on a transport contract, from the Member State of establishment, as defined in Article 2(8) of Regulation (EC) No 1071/2009 to another Member State or a third country, or from another Member State or third country to the Member State of establishment.

2a. From the date on which drivers shall record border crossing data manually, as required in Article 34(7) of Regulation (EU) No 165/2014, Member States shall also apply the exemption set out in paragraph 2 in respect of goods transport when:

- the driver performing a bilateral transport operation in addition thereto performs one activity of loading and/or unloading in the Member States or third countries that the driver crosses, provided that the driver does not load goods and unloads them in the same Member State.

Where a bilateral transport operation starting from the Member State of establishment during which no additional activity was performed is followed by a bilateral transport operation to the Member State of establishment, the exception shall apply for up to two additional activities of loading and/or unloading, under the conditions set out above.

This exemption shall apply only until the date on which the smart tachograph complying with the recording of border crossing and additional activities referred to in Article 8(1) subparagraph 1 of Regulation (EU) 165/2014 shall be fitted

in the vehicles registered in a Member States for the first time, as specified in Article 8(1) subparagraph 2 of that Regulation. From that date the exemption referred to in the first subparagraph shall apply solely to drivers using vehicles fitted with a smart tachograph as provided in Articles 8, 9 and 10 of that Regulation.

2b. A driver engaged in international occasional or regular carriage of passengers, as defined in Regulation (EC) No 1073/2009, shall not be considered to be posted for the purpose of Directive 96/71/EC when:

- picking up passengers in the Member State of establishment and setting them down in another Member State or a third country; or*
- picking up passengers in a Member State or a third country and setting them down in the Member State of establishment; or*
- picking up and setting down passengers in the Member State of establishment for the purpose of local excursions, as defined in Regulation (EC) No 1073/2009.*

2c. A driver performing cabotage as defined by Regulations (EC) No 1072/2009 and 1073/2009 shall be considered to be posted under Directive 96/71/EC.

2d. Notwithstanding Article 2(1) of Directive 96/71/EC, a driver shall not be considered to be posted to the territory of a Member State that the driver transits through without loading or unloading freight and without picking up or setting down passengers.

2e. In case where the driver is performing the initial or final road leg of a combined transport operation as defined in Directive 92/106/EEC, the driver shall not be considered posted for the purpose of Directive 96/71/EC if the road leg on its own consists of bilateral transport operations as defined in paragraph 2.

2f. Member States shall ensure that, in line with Directive 2014/67/EU, terms and conditions of employment referred to in Article 3 of Directive 96/71/EC, which are laid down in collective agreements in accordance with Article 3(1) and (8) of that Directive are made available in an accessible and transparent way to transport undertakings from other Member States and to posted drivers. The relevant information shall, in particular, cover the different remunerations and their constituent elements, including elements of remunerations provided for in the locally or regionally applicable collective agreements, the method used to calculate the remuneration due and, where relevant, the qualifying criteria for classification in the different wage categories. In accordance with Directive (EU) 2018/957/EU amending Directive 96/71/EC transport undertakings shall not be penalized for non-compliance with elements of remuneration, the method used to calculate the remuneration due and, where relevant, the qualifying criteria for classification in the different wage categories which are not publically available.

2g. Transport undertakings established in a non-member State must not be given more favourable treatment than undertakings established in a Member State.

Member States shall implement equivalent measures to Directive 96/71/EC and this Directive [XX/XX] (*lex specialis*) in their bilateral agreements with third countries when granting access to the EU market to road transport undertakings established in such third countries. Member States shall also strive to implement such equivalent measures in the context of multilateral agreements with third countries. Member States shall notify the relevant provisions of their bilateral and multilateral agreements with third countries to the Commission.

For the purpose of ensuring adequate

control of these equivalent measures on posting by third country operators, Member States shall ensure that the revised rules in Regulation (EU) XXX/XXX as regards positioning by means of tachograph [Regulation modifying Regulation 165/2014] are implemented in the framework of the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR).

Amendment 838

Proposal for a directive

Article 2 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

When the period of posting is longer than 3 days, Member States shall apply points (b) and (c) of the first subparagraph of Article 3 (1) of Directive 96/71/EC for the entire period of posting to their territory during the period of one calendar month referred to in the first subparagraph.

deleted

Amendment 839

Proposal for a directive

Article 2 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. For the purposes of the calculation of the periods of posting referred to in paragraph 2:

deleted

Amendment 840

Proposal for a directive Article 2 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) a daily working period shorter than six hours spent in the territory of a host Member State shall be considered as half a day; *deleted*

Amendment 841

Proposal for a directive Article 2 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) a daily working period of six hours or more spent in the territory of a host Member State shall be considered as a full day; *deleted*

Amendment 842

Proposal for a directive Article 2 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) breaks and rest periods as well as periods of availability spent in the territory of a host Member State shall be considered as working period.

deleted

Amendment 843

Proposal for a directive

Article 2 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

4. Member States may only impose the following administrative requirements and control measures:

4. **By way of derogation from Article 9 of Directive 2014/67/EU**, Member States may only impose the following administrative requirements and control measures:

Amendment 844

Proposal for a directive

Article 2 – paragraph 4 – point a – introductory part

Text proposed by the Commission

Amendment

(a) an obligation for the road transport operator established in another Member State to **send a posting** declaration to the national competent authorities at the latest at the commencement of the posting, in **electronic form, in** an official language of the **host Member State or in English**, containing only the following information:

(a) an obligation for the road transport operator established in another Member State to **submit a** declaration **and any update to it in electronic form via the Internal Market Information System (IMI) established by Regulation (EU) No 1024/2012** to the national competent authorities **of the Member State to which a driver is posted** at the latest at the

commencement of the posting, in an official language of the *European Union*, containing only the following information:

Amendment 845

Proposal for a directive

Article 2 – paragraph 4 – point a – point i

Text proposed by the Commission

- (i) the identity of the road transport operator;

Amendment

- (i) the identity of the road transport operator ***by means of its intra-Community tax identification number or the number of the Community Licence;***

Amendment 846

Proposal for a directive

Article 2 – paragraph 4 – point a – point iii

Text proposed by the Commission

- (iii) ***the anticipated*** number and the ***identities of posted drivers;***

Amendment

- (iii) ***information about the posted driver including the following: the identity, the country of residence, the country of payment of social contributions, the social security number and the number of the driving licence;***

Amendment 847

Proposal for a directive

Article 2 – paragraph 4 – point a – point iv

Text proposed by the Commission

Amendment

(iv) the ***anticipated duration***, envisaged beginning and end date of the posting;

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

Amendment 848

Proposal for a directive

Article 2 – paragraph 4 – point a – point iv a (new)

Text proposed by the Commission

Amendment

(iva) for the road haulage operators: the identity and the contact details of consignees, provided that the transport operator does not use e-CMR;

Amendment 849

Proposal for a directive

Article 2 – paragraph 4 – point a – point vi a (new)

Text proposed by the Commission

Amendment

(via) for the road haulage operators: addresses of loading(s) and unloading(s), provided that the transport operator does not use e-CMR.

Amendment 850

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

Text proposed by the Commission

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

Amendment

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

Amendment 851

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

Text proposed by the Commission

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

Amendment

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

Amendment 852

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

Text proposed by the Commission

Amendment

(ca) during the roadside checks referred to in points (b) and (c) of this Article, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may provide the requested documents;

Amendment 854

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

Text proposed by the Commission

Amendment

(d) an obligation for the driver to keep and make available, where requested at the roadside control, in paper or electronic form, a copy of the employment contract or an equivalent document within the meaning of Article 3 of Council Directive 91/533/EEC²⁰, translated into one of the official languages of the host Member State or into English;

deleted

²⁰ Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ L 288, 18.10.1991, p. 32)

Amendment 855

**Proposal for a directive
Article 2 – paragraph 4 – point e**

Text proposed by the Commission

Amendment

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

deleted

Amendment 853

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

Text proposed by the Commission

Amendment

(f) an obligation for the road transport operator to deliver, after the period of posting, in paper or electronic form, copies of documents referred to in points (b), (c) and (e), at the request of the authorities of the host Member State within a reasonable period of time;

*(f) an obligation for the road transport operator to **send via the IMI public interface**, after the period of posting [...] copies of documents referred to in points (b) and (c), at the request of the authorities of the Member State **to which a driver is posted as well as documentation of the remuneration of posted drivers which relate to the period of posting and their employment contract or an equivalent document within the meaning of Article 3 of Council Directive 91/533/EEC^{1a}, time-sheets relating to the driver's work and proof of payments.***

The road transport operator shall provide the requested documentation by using the IMI public interface within 2 months from the date of the request.

Where the road transport operator fails to provide all requested documentation via the IMI public interface within the set deadline, the competent authorities of the Member State where the posting took

place may, in accordance with Articles 6 and 7 of Directive 2014/67, request the assistance of the competent authorities of the Member State of establishment of the operator. When such request is made via IMI, the competent authorities of the Member State of establishment of the operator shall have access to the posting declaration and other relevant information submitted by the operator via IMI public interface.

The competent authorities of the Member State of establishment of the operator shall ensure that the documents requested by the competent authorities of the Member State where the posting took place is provided via IMI within 25 working days from the date of the request.

^{1a} Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ L 288, 18.10.1991, p. 32).

Amendment 856

Proposal for a directive Article 2 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Amendment 857

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

Text proposed by the Commission

Amendment

5a. The information from the declarations shall be saved in the repository of IMI for the purpose of checks for a period of 18 months and shall be directly and real time accessible to all competent authorities of other Member States designated in accordance with Article 3 of Directive 2014/67/EU, Article 18 of Regulation (EC) No 1071/2009, and Article 7 of Directive 2006/22/EC.

The national competent authority may allow social partners in accordance with national law and practices access to the information provided that the information:

- relates to posting to the territory of the Member State concerned;

- is used for the purpose of enforcement of the rules on posting; and

- data processing is in line with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

Amendment 858

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

Text proposed by the Commission

Amendment

5b. *The Commission shall adopt implementing acts developing a standardised forms in all official languages of the Union to be used for submitting declarations via the IMI public interface, specify the functionalities of the declaration in the IMI and how the information referred to point (a)(i) to (via) of paragraph 4 is to be presented in the declaration and ensure that those information from declarations are automatically translated in a language of a host Member State. The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 2a(2).*

Amendment 859

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

Text proposed by the Commission

Amendment

5c. *Member States shall avoid unnecessary delays in the implementation of the control measures that may affect the duration and dates of the posting.*

Amendment 860

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

Text proposed by the Commission

Amendment

5d. The competent authorities in the Member States shall cooperate closely and shall provide each other with mutual assistance and all relevant information, within the conditions laid down in Directive 2014/67/EU and in Regulation (EC) No 1071/2009.

Amendment 861

**Proposal for a directive
Article 2 a (new)**

Text proposed by the Commission

Amendment

Article 2a

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

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

Amendment 862

**Proposal for a directive
Article 2 b (new)**

Text proposed by the Commission

Amendment

Article 2b

Member States shall provide for penalties against consignors, freight forwarders, contractors and subcontractors for non-compliance with Article 2 of this Directive, where they know, or, in the light of all relevant circumstances ought to know, that the transport services that they commission infringe of this Directive.

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Directive and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective, proportionate, dissuasive and non-discriminatory.

Amendment 863

**Proposal for a directive
Article 2 c (new)**

Text proposed by the Commission

Amendment

Article 2c

The Commission shall assess existing instruments and best practices promoting socially responsible behaviour of all actors in the delivery chain for goods and make a legislative proposal to establish a European Platform of Trust, if appropriate, by ...[two years after entry into force of this Directive].

Amendment 864

Proposal for a directive Article 2 d (new)

Text proposed by the Commission

Amendment

Article 2d

Smart enforcement

- 1. Without prejudice to Directive 2014/67/EU and in order to further enforce the obligations stipulated under Article 2 of this Directive, Member States shall ensure that a coherent national enforcement strategy is applied on their territory. That strategy shall focus on undertakings with a high-risk rating, referred to in Article 9 of Directive 2006/22/EC of the European Parliament and of the Council.*
- 2. Each Member State shall ensure that the checks provided for in Article 2 of Directive 2006/22/EC will include, where relevant, a check on posting and that these check shall be carried out without discrimination, in particularly without discrimination based on the number plates of vehicles used in posting.*
- 3. Member States shall target those undertakings which are classed as posing an increased risk of infringing the provisions of Article 2 of this Directive, applicable to them. For that purpose, Member States shall, within the risk classification system established by them under Article 9 of Directive 2006/22/EC of the European Parliament and of the Council and extended in accordance with Article 12 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council, treat the risk of such infringements as a risk in its own right.*
- 4. For the purpose of paragraph 3, Member States shall have access to relevant information and data recorded,*

processed or stored by the smart tachograph referred to in Chapter II of Regulation (EU) No 165/2014, posting declarations referred to in Article 2 (4) of this Directive and in electronic transport documents, such as electronic consignment notes under the Convention on the Contract for the International Carriage of Goods by Road (eCMR).

5. The Commission is empowered to adopt delegated acts to stipulate the characteristics of the data to which Member States shall have access to, the conditions for their use and the technical specifications for their transmission or access, specifying in particular:

(a) a detailed list of information and data to which national competent authorities shall have access to, which shall include at least the time and location of border crossings, loading and unloading operations, the registration plate of the vehicle and the driver details;

(b) the access rights of the competent authorities, differentiated where appropriate according to the type of competent authorities, the type of access and the purpose for which the data is used;

(c) the technical specifications for the transmission or access to the data referred to in point (a), including, where relevant, the maximum duration that the data is retained, differentiated where appropriate according to the type of data.

6. Any personal data referred to in this Article shall be accessed or stored for no longer than is strictly necessary for the purposes for which the data were collected or for which they are further processed. Once such data are no longer needed for those purposes, they shall be destroyed.

7. Member States shall, at least three times per year, undertake concerted roadside checks on posting, which may coincide with checks performed in accordance with Article 5 of Directive

2006/22/EC. Such checks shall be undertaken at the same time by the national authorities in charge of enforcing the rules in the field of posting of two or more Member States, each operating in its own territory. Member States shall exchange information on the number and type of infringements detected after the concerted roadside checks have taken place.

The summary results of the concerted checks shall be made public in line with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

Amendment 865

Proposal for a directive Article 2 e (new)

Text proposed by the Commission

Amendment

Article 2 e

Amendment to Regulation (EU) No 1024/2012

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

“12a. Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Regulations (EC) No 561/2006 and EU No 165/2014 and Directive 2002/15/EC of the European Parliament and of the Council as regards social legislation relating to road transport activities, and repealing Council Directive 88/599/EEC: Article 8

12b. Directive of the European

Parliament and of the Council of amending Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector: Article 2(5).

Amendment 866

Proposal for a directive Article 3

Text proposed by the Commission

1. The Commission shall evaluate the implementation of this Directive, in particular the impact of Article 2, by [3 years after the date for transposition of this Directive] and report to the European Parliament and the Council on the application of this Directive. The report by the Commission shall, if appropriate, be accompanied by a legislative proposal.

Amendment

Article 3

Reporting and review

1. Member States shall report annually to the Commission on the implementation of this Directive, in particular on the implementation of smart enforcement referred to in Article 2d and on the potential difficulties in enforcement.

In order to enable the effectiveness of enforcement information to be assessed, the report shall include information on the effectiveness of:

- the smart tachograph, referred to in Chapter II of Regulation (EU) No 165/2014;*
- the use of IMIs, referred to in Article 2 (5a) and (5b) of this Directive;*
- the use of electronic transport documents, such as electronic consignment notes under the Convention on the Contract for the International Carriage of Goods by Road (eCMR);*
- the exchange of information between*

competent authorities via ERRU and IMI, as well as the information on the effectiveness of authorities direct and real time access to both ERRU and IMI via the EU application during road side checks, as referred to in Articles 8 and 9 of Directive 2006/22/EC; and

- the implementation of the training programme aiming to help drivers and all other actors involved in the procedure, including undertakings, administrations, inspectors to adapt to the new rules and requirements affecting them.

2. Following the report referred to in paragraph 1, the Commission shall regularly evaluate this Directive and submit the evaluation results to the European Parliament and the Council.

2. The Commission may adopt implementing acts specifying the format of, and setting guidelines for, the reporting referred to in paragraph 1.

Those implementing acts may include rules requiring that Member States provide the Commission with data on traffic flows and data on the Member States of registration of vehicles collected by toll systems in Member States, where such data exists, for the purpose of assessment of the effectiveness of enforcement of this Directive.

3. Where appropriate, the reports referred to in paragraphs 1 and 2 shall be accompanied by relevant proposals.

3. No later than 31 December 2025, the Commission shall submit a report to the European Parliament and the Council on the implementation and effects of this Directive, in particular as regards the effectiveness of enforcement, including a cost benefit analysis of use of weighing sensors for the purpose of automatic recording of loading/unloading points. The Commission report shall be accompanied, if appropriate, by a legislative proposal. The report shall be made public.

Amendment 867

**Proposal for a directive
Article 3 a (new)**

Text proposed by the Commission

Amendment

Article 3a

Training

In the interests of ensuring compliance with the provisions of this Directive, both the Commission and the Member States shall establish a comprehensive and integrated programme of training and adaptation to the new rules and requirements for drivers and all other actors involved in the procedure, undertakings, administrations, inspectors

Amendment 868

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall adopt and publish, by [...] ***[The time limit for transposition will be as short as possible and, generally, will not exceed two years] at the latest***, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Member States shall adopt and publish, by ***30 July 2020*** the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment 869

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The transport sector, due to its recognised highly mobile nature, is exempt from the measures deriving from the legislative act amending Directive 96/71/EC until this Directive shall become applicable.

Amendment 870

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

The transport sector is exempt from the measures deriving from the legislative act amending Directive 96/71/EC until the entry into force of enforcement requirements laying down specific rules with respect to transport of this Directive.