



**2016/0070(COD)**

15.5.2017

## **OPINION**

of the Committee on the Internal Market and Consumer Protection

for the Committee on Employment and Social Affairs

on the proposal for a directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services  
(COM(2016)0128 – C8-0114/2016 – 2016/0070(COD))

Rapporteur: Vicky Ford

PA\_Legam

## AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Employment and Social Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a directive

##### Recital 1

###### *Text proposed by the Commission*

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

###### *Amendment*

(1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market in the Union enshrined in the Treaty on the Functioning of the European Union (TFEU). The implementation of those principles is further developed by the Union aimed at guaranteeing a level playing field for businesses and ***fighting unfair competition while ensuring the*** respect for the rights of workers. ***The difference in wages or salaries and the access to capital should not, alone, be considered to be unfair competition.***

### Amendment 2

#### Proposal for a directive

##### Recital 2

###### *Text proposed by the Commission*

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

###### *Amendment*

(2) The freedom to provide services includes the right of undertakings to provide services in another Member State, to which they may post their own workers temporarily in order to provide those services there. ***The temporary nature of providing services is to be determined on a case by case basis by the duration, the regularity, the periodicity and the continuity of the service. Article 56***

*TFEU provides that restrictions on the freedom to provide services are prohibited.*

### **Amendment 3**

#### **Proposal for a directive Recital 3**

*Text proposed by the Commission*

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

*Amendment*

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

### **Amendment 4**

#### **Proposal for a directive Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3a) Combating fraud, social dumping, abuse and circumvention of the rules in relation to the posting of workers is a priority. Strengthening Union rules on the posting of workers is therefore an absolute imperative.***

### **Amendment 5**

#### **Proposal for a directive Recital 4**

*Text proposed by the Commission*

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

*Amendment*

(4) Almost twenty years after its adoption ***and in view of the numerous instances of fraud, as well as of unsuitable national law,*** the Posting of

to promote the freedom to provide services and the need to protect the rights of posted workers.

Workers Directive *does not yet strike* the right balance between the need to promote the freedom to provide services and the need to protect the rights of posted workers.

## Amendment 6

### Proposal for a directive

#### Recital 5

*Text proposed by the Commission*

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

*Amendment*

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

*Justification*

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

## Amendment 7

### Proposal for a directive

#### Recital 5 a (new)

*Text proposed by the Commission*

*Amendment*

***(5a) Articles 3 and 8 of the Rome I Regulation specify that an individual employment contract is to be governed by the law chosen by the parties concerned. Such a choice is not to deprive the***

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

## **Amendment 8**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 9**

### **Proposal for a directive Recital 7**

*Text proposed by the Commission*

*Amendment*

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

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

## **Amendment 10**

### **Proposal for a directive Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

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

## Amendment 11

### Proposal for a directive Recital 7 b (new)

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 12

### Proposal for a directive Recital 7 c (new)

*Text proposed by the Commission*

*Amendment*

***(7c) One of the aims of Directive 2014/67/EU is also to identify genuine posting and prevent abuse and circumvention.***

## Amendment 13

### Proposal for a directive Recital 8

*Text proposed by the Commission*

*Amendment*

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

***deleted***

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

#### **Amendment 14**

##### **Proposal for a directive Recital 9**

*Text proposed by the Commission*

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

*Amendment*

(9) ***Article 56 TFEU requires the abolition of any restriction on the freedom to provide services, even if that restriction applies without distinction to national service providers and to those of other Member States, which is liable to prohibit, impede and render less attractive the activities of a service provider established in another Member State where it lawfully provides similar services. It is settled case***



law that restrictions to the freedom to provide services are only admissible if justified by overriding reasons *related to* the public interest and must be *appropriate*, proportionate and necessary.

## Amendment 15

### Proposal for a directive Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

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

## Amendment 16

### Proposal for a directive Recital 10

*Text proposed by the Commission*

*Amendment*

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

(10) Because of the highly mobile nature of work in international transport, the posting of workers raises particular legal questions and difficulties (especially where **links** with the concerned Member State **are** insufficient). **The Commission has announced that it will address this issue through sector-specific legislation and by that means exempt this sector from the provisions of Directive 96/71/EC. Therefore, transport services such as transit, international transport and linked cabotage are excluded from the scope of this Directive.**

## Amendment 17

### Proposal for a directive Recital 11

*Text proposed by the Commission*

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

*Amendment*

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

*Justification*

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

## Amendment 18

### Proposal for a directive Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

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

## Amendment 19

### Proposal for a directive Recital 12

*Text proposed by the Commission*

(12) It is within Member States' competence to set rules on remuneration in

*Amendment*

(12) It is within Member States' competence to set rules on remuneration in

accordance with their law and practice. However, national rules on remuneration applied to posted workers must be justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.

accordance with their law and practice. However, **these** national rules on remuneration applied to posted workers must be **proportionate, non-discriminatory and** justified by the need to protect posted workers and must not disproportionately restrict the cross-border provision of services.

## Amendment 20

### Proposal for a directive Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

***(12a) It is established by the case-law of the Court of Justice that social protection of workers can be acknowledged as an overriding requirement justifying the imposition of obligations capable of constituting restrictions on the freedom to provide services. However, this is not the case where the workers employed by the employer are temporarily engaged in carrying out works in the host Member State and enjoy the same or essentially similar protection, by virtue of the obligations to which the employer is already subject in the Member State in which it is established. This is in particular important in preventing additional obligations for which the undertakings are already liable for the same periods of employment in the Member State where they are established. The Court of Justice has also excluded the legality of national provisions which make it more onerous to provide service for undertakings from other Member States than those established within the national territory, therefore hindering the free movement of services.***

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

## Amendment 21

### Proposal for a directive Recital 12 b (new)

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 22

### Proposal for a directive Recital 13

*Text proposed by the Commission*

*Amendment*

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

(13) The ***information on constituent*** elements of remuneration under national law or collective agreements ***or arbitration awards which have been declared universally applicable within the meaning of Article 3(8)*** should be clear, ***up to date***, transparent ***and publicly available*** to all service providers. It is therefore justified to impose on Member States the obligation to publish ***this information*** on the single website provided for by Article 5 of the Enforcement Directive. ***Social partners are also obliged to make public all collective agreements, which are applicable according to this Directive. Similarly, foreign subcontractors should be informed in writing about terms and conditions of employment that they should apply towards posted workers.***

## Amendment 23

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 24

### Proposal for a directive Recital 14

*Text proposed by the Commission*

*Amendment*

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

***(14) Member States have the freedom to establish on their territory appropriate measures applicable to service providers including service providers from another Member State in order to ensure compliance with the applicable rules concerning posting in the case of subcontracting chains. In the case of the construction sector Member States are already obliged, by Directive 2014/67/EU, to introduce appropriate liability measures in order to ensure fair competition and workers rights. Therefore, laws, regulations, administrative provisions or collective agreements **universally** applicable in Member States may ensure that subcontracting does not confer on undertakings the possibility to avoid rules guaranteeing certain terms and conditions of employment covering remuneration. Where such rules on remuneration exist at national level, the Member State may apply them in a non-discriminatory manner to undertakings posting workers to its territory provided that they do not***

disproportionately restrict the cross-border provision of services.

## Amendment 25

### Proposal for a directive

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

Directive 96/71/EC

Article 1 – paragraph 2

#### *Present text*

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

#### *Amendment*

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

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

## Amendment 26

### Proposal for a directive

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

Directive 96/71/EC

Article 2a

#### *Text proposed by the Commission*

#### Article 2a

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

#### *Amendment*

#### Article 2a

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

***1a. An employer may, on the basis of reasonable grounds, request a derogation to the twenty-four months, to be awarded by the competent authority in the host***

*Member State.*

*The competent authority of the host Member State shall take a decision on any requests for derogations in accordance with Article 4 of Directive 2014/67/EU and in line with Regulation 883/2004/EC and in a justified, proportionate and non-discriminatory manner.*

*Prior to taking a decision on such a request for derogation, the competent authority of the host Member State shall consult the competent authorities of the home Member State of the employer, in accordance with Articles 6 and 7 of Directive 2014/67/EU.*

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

#### **Amendment 27**

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

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

Directive 96/71/EC

Article 3 – paragraph 1 – indent 2 – introductory part

*Text proposed by the Commission*

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

*Amendment*

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

#### **Amendment 28**

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

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

Directive 96/71/EC  
Article 3 – paragraph 1 – indent 2 – point b

*Text proposed by the Commission*

(b) minimum paid annual **holidays**

*Amendment*

(b) minimum paid annual **leave**

## **Amendment 29**

### **Proposal for a directive**

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

Directive 96/71/EC

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 30**

### **Proposal for a directive**

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

Directive 96/71/EC

Article 3 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

***For the purpose*** of this Directive, remuneration ***means all the elements of remuneration rendered mandatory*** by national law, regulation or administrative provision, collective agreements or arbitration awards which have been declared universally applicable ***and/or***, in the absence of a system for declaring collective agreements or arbitration awards to be of universal application, other collective agreements or arbitration awards within the meaning of paragraph 8 second subparagraph, in the Member State to whose territory the worker is posted.

***In the context*** of this Directive, remuneration ***shall be defined in accordance with the national law and/or practice of the Member State to whose territory the worker is posted***, by means of national law, regulation or administrative provision, collective agreements or arbitration awards which have been declared universally applicable or, in the absence of a system for declaring collective agreements or arbitration awards to be of universal application, other collective agreements or arbitration awards within the meaning of paragraph 8 second subparagraph, in the Member State to whose territory the worker is posted.

***For the calculation of the remuneration***



*within the meaning of this Directive minimum rates of pay, including pay for hourly work and/or piecework according to pay groups and overtime rates, allowances, bonuses as well as other mandatory elements shall be taken into account. The elements used for the calculation of the remuneration need to constitute elements that are paid to locally hired workers according to the provisions of this Article.*

*If expenses incur on account of the posting, such as travel, board and lodging and are provided by the employer, these expenses paid as a compensation shall not be considered to be part of the minimum rates of pay.*

## Amendment 31

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 – point a

Directive 96/71/EC

#### Article 3 – paragraph 1 – subparagraph 3

##### *Text proposed by the Commission*

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

##### *Amendment*

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

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

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

## Amendment 32

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 – point a a (new)

Directive 96/71/EC

Article 3 – paragraph 1 - a (new)

*Text proposed by the Commission*

*Amendment*

*(aa) the following paragraph is added:*

*‘1-a. Service providers are exempted from the obligation to settle the fine for paying less than the minimum wage as set by the law of the host Member State where there is evidence that the host Member State has not met the obligation to publish on the single official national website provided for in Article 5 of Directive 2014/67/EU the constituent elements of remuneration, in accordance with point (c), or the information is not provided in a clear, transparent and unambiguous manner.*

## Amendment 33

### Proposal for a directive

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

Directive 96/71/EC

Article 3 – paragraph 1a

*Text proposed by the Commission*

*Amendment*

1a. If undertakings established in the territory of a Member State are obliged by law, regulation, administrative provision or collective agreement, to sub-contract in the context of their contractual obligations only to undertakings that guarantee certain terms and conditions of employment covering remuneration, the Member State *may, on a non-discriminatory and proportionate basis, provide that such undertakings shall be under the same obligation regarding* subcontracts with *undertakings* referred to in Article 1 (1) posting workers to its territory.

1a. If undertakings established in the territory of a Member State are obliged by law, regulation, administrative provision or collective agreement, to sub-contract in the context of their contractual obligations only to undertakings that guarantee certain terms and conditions of employment covering remuneration, the Member State *making use of the option provided for in this paragraph shall ensure that an undertaking concluding* subcontracts with *another undertaking as* referred to in Article 1(1) *of this Directive informs that undertaking in writing about the terms and conditions of employment covering*

*remuneration which have to be guaranteed before the parties enter into relevant contractual relationships.*

#### **Amendment 34**

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

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

Directive 96/71/EC

Article 3 – paragraph 1a a (new)

*Text proposed by the Commission*

*Amendment*

*(ba) the following paragraph is added:*

*‘1aa. The contractor is required to provide the subcontractor with information on working conditions, including remuneration, which apply in a clear, transparent and unambiguous manner.*

*The subcontractor is exempted from the obligation to guarantee certain terms and conditions of employment, to cover the remuneration as per paragraph 1 established within the entrepreneur's undertaking where there is evidence that the entrepreneur was not properly informed by the contractor.’*

#### **Amendment 35**

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

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

Directive 96/71/EC

Article 3 – paragraph 1b a (new)

*Text proposed by the Commission*

*Amendment*

*(ca) the following paragraph is added:*

*‘1ba. The undertaking user shall inform in a clear, transparent and unambiguous manner the temporary work agency of the regulation applied as regards working conditions and wages.’*

## **Amendment 36**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point c b (new)**

Directive 96/71/EC

Article 3 – paragraph 1b b (new)

*Text proposed by the Commission*

*Amendment*

**(cb) The following paragraph is added:  
‘1bb. Cooperation between the national employment inspection bodies and European cooperation to combat fraud relating to the posting of workers shall be stepped up.’**

## **Amendment 37**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point c c (new)**

Directive 96/71/EC

Article 3 – paragraph 7 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

**(cc) in paragraph 7, the second subparagraph is deleted.**

## **Amendment 38**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point e a (new)**

Directive 96/71/EC

Article 3 – paragraph 10 a (new)

*Text proposed by the Commission*

*Amendment*

**(ea) the following paragraph is added:  
“10a. Member States shall, after consulting the social partners, in accordance with traditions and practices of each Member State, exempt employers and workers from the requirements contained in Article 3(1) (a), (b) and (c) above where the activities of the employer and the workers take place in the**

*following sectors:*

*(a) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products to organisations providing medical treatment to citizens of the Union;*

*(b) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products in the defence sector or in any other areas necessary for the defence of a Member State or the Union;*

*(c) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products in the aero-space sector;*

*(d) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products in the rail transport sector;*

*(e) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products of importance to the critical national infrastructure of one or more Member States, including the supply of energy and telecommunications services;*

*(f) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products of importance to the preservation of the border security of a Member State or the Union,*

*(g) the manufacture, supply, servicing or maintenance of machinery, equipment and any other products of importance to the health and safety of workers or Union citizens.*

#### *Justification*

*Many manufactures throughout the EU sell their goods (for example medical scanners) with a life time servicing and maintenance contract for the product. This Article seeks to enable Member States to exempt posted worker from certain requirements which if applied would restrict their ability to freely provide a service in another Member State.*

## Amendment 39

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 – point e b (new)

Directive 96/71/EC

Article 3 – paragraph 10 b (new)

*Text proposed by the Commission*

*Amendment*

*(eb) the following paragraph is added:*

***10b. Member States shall, after consulting the social partners, in accordance with traditions and practices of each Member State, exempt employers and workers from the requirements contained in Article 3(1) (a), (b) and (c) above where the activities of the employer and the workers are for the purpose of facilitating the education and training of the workers or others.***

*Justification*

*Many manufactures throughout the EU sell their goods (for example medical scanners) with a life time servicing and maintenance contract for the product. This Article seeks to enable Member States to exempt posted worker from certain requirements which if applied would restrict their ability to freely provide a service in another Member State.*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Posting of workers in the framework of the provision of services		
<b>References</b>	COM(2016)0128 – C8-0114/2016 – 2016/0070(COD)		
<b>Committee responsible</b> Date announced in plenary	EMPL 11.4.2016		
<b>Opinion by</b> Date announced in plenary	IMCO 11.4.2016		
<b>Rapporteur</b> Date appointed	Vicky Ford 20.4.2016		
<b>Discussed in committee</b>	28.11.2016	6.3.2017	25.4.2017
<b>Date adopted</b>	11.5.2017		
<b>Result of final vote</b>	+: –: 0:	21 14 2	
<b>Members present for the final vote</b>	Dita Charanzová, Carlos Coelho, Anna Maria Corazza Bildt, Daniel Dalton, Nicola Danti, Dennis de Jong, Pascal Durand, Ildikó Gáll-Pelcz, Evelyne Gebhardt, Sergio Gutiérrez Prieto, Robert Jarosław Iwaszkiewicz, Antonio López-Istúriz White, Eva Maydell, Jiří Pospíšil, Virginie Rozière, Christel Schaldemose, Andreas Schwab, Olga Sehnalová, Jasenko Selimovic, Ivan Štefanec, Catherine Stihler, Róza Gräfin von Thun und Hohenstein, Mylène Troszczynski, Anneleen Van Bossuyt, Marco Zullo		
<b>Substitutes present for the final vote</b>	Lucy Anderson, Pascal Arimont, Birgit Collin-Langen, Edward Czesak, Lidia Joanna Geringer de Oedenberg, Kaja Kallas, Othmar Karas, Arndt Kohn, Julia Reda, Marc Tarabella, Ulrike Trebesius		
<b>Substitutes under Rule 200(2) present for the final vote</b>	Anne-Marie Mineur		

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

21	+
ALDE	Dita Charanzová, Kaja Kallas, Jasenko Selimovic
ECR	Edward Czesak, Daniel Dalton, Ulrike Trebesius
EFDD	Robert Jarosław Iwaszkiewicz
GUE/NGL	Anne-Marie Mineur
PPE	Pascal Arimont, Carlos Coelho, Birgit Collin-Langen, Anna Maria Corazza Bildt, Ildikó Gáll-Pelcz, Othmar Karas, Antonio López-Istúriz White, Eva Maydell, Jiří Pospíšil, Andreas Schwab, Ivan Štefanec, Róza Gräfin von Thun und Hohenstein
S&D	Lidia Joanna Geringer de Oedenberg

14	-
EFDD	Marco Zullo
GUE/NGL	Dennis de Jong
S&D	Lucy Anderson, Nicola Danti, Evelyne Gebhardt, , Sergio Gutiérrez Prieto, Arndt Kohn, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Catherine Stihler, Marc Tarabella
Verts/ALE	Pascal Durand, Julia Reda

2	0
ECR	Anneleen Van Bossuyt
ENF	Mylène Troszczynski

Corrections to vote	
+	
-	Anne-Marie Mineur
0	

Key to symbols:

+ : in favour

- : against

0 : abstention



