

Posting drivers in the road transport sector

2017/0121(COD) - 10/06/2020 - Committee recommendation tabled for plenary, 2nd reading

The Committee on Transport and Tourism adopted the recommendation for second reading contained in the report by Kateina KONENÁ (GUE/NGL, CZ) with a view to the adoption of a directive of the European Parliament and of the Council laying down specific with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012.

The committee responsible recommended that the European Parliament approve the Council's position at first reading without amendment.

In the short justification accompanying the recommendation, the rapporteur considered that the compromise reached represents a balanced outcome. The general agreement reached by Parliament with the Council has further strengthened the proposal with a view to ensuring balanced conditions of fair competition and rigorous enforcement.

The main elements of the agreement are as follows:

Exemptions from the posting regime for workers engaged in international road transport

Exemptions from posting rules relates in particular to ‘bilateral transport operations’ both in goods and passenger transport, and entail a very limited flexibility for additional carriage-related stops.

Parliament obtained the limitation of exemptions to the situation where a service contract exists between the employer sending the driver and a party operating in the host Member State. In addition, it is clarified that interrupted presences of a driver in a host Member State do not add up to a long-term posting situation.

Third country operators

The Council accepted the Parliament’s view on third-country operators to ensure that reinforcing posting rules for EU drivers would not lead to a competitive advantage for operators from third countries having access to the EU's road transport market.

Administrative requirements for posting, control and enforcement

Transport operators shall be able, and obliged to use the Commission's Internal Market Information System (IMI) for sending posting declarations and information requested.

The Council accepted the Parliament's requirement to:

- lay down penalties in the event of infringements of the provisions of *lex specialis*, and to sanction actors of the logistics chain if they know or ought to know about the infringements;
- introduce a provision on ‘smart enforcement’ obliging Member States to integrate the control of posting rules into an overall control strategy.

Transparency on terms and conditions of employment

The Council accepted the Parliament's request for a special rule on the host Member State's duty to provide transparency about its terms and conditions of employment, including those determined by certain collective agreements.

The Agreement also provides for:

- the incorporation of Directive 2002/15/EC into the enforcement rules relating to social legislation as regards, or example, national checking systems, the minimum number of checks, the national risk rating systems, or information exchange;
- the introduction of two amendments to improve a company's risk rating system;
- powers for the Commission to adopt delegated acts to amend the Annexes and implementing acts as regards a common formula for risk rating, a common approach to the recording and control of periods of 'other work' and the development of the functionalities of the IMI communication tool to be used for posting declarations;
- the obligation for Member States to transpose the Directive within 18 months of its entry into force, as well as an assessment by the Commission of the implementation of the Directive by the end of 2025.