Posting of workers in the framework of the provision of services

2016/0070(COD) - 28/06/2018 - Final act

PURPOSE: facilitate the transnational provision of services whilst ensuring fair competition and respect for the rights of those workers who are employed in one member state and sent to work temporarily in another by their employer (posted workers).

LEGISLATIVE ACT : Directive (EU) 2018/957 of the European Parliament and of the Council amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services

CONTENT: the revised Directive 96/71/EC ensures the protection of posted workers during their posting in relation to the freedom to provide services, by laying down mandatory provisions regarding working conditions and the protection of workers health and safety that must be respected.

In particular, the new Directive provides the following :

Conditions of work and remuneration: local or posted workers who do the same work in the same place will be subject to the same working conditions and salary. The Directive provides for the application of the same remuneration rules as for local workers in the host Member State from the first day of posting. Equality of treatment also affects: (i) maximum work periods and minimum rest periods; (ii) minimum paid annual leave; (iii) health, safety and hygiene at work; (iv) protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people; (v) equality of treatment between men and women and other provisions on non-discrimination.

Temporary employment agencies will have to guarantee posted workers the same conditions of employment and salary as temporary workers employed in the Member State where the posting takes place.

The Directive also specifies the rules on allowances. Posted workers should receive at least the same allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons that apply to local workers in that Member State. In addition, employers will have to ensure that accommodation conditions for posted workers are in line with national rules.

Length of posting: a worker will be considered to be posted long-term after12 months (with the possibility of a 6 months extension subject to a justified notification by the service provider). After this period, the posted worker will be subject to nearly all aspects of the labour law of the host country.

Collective agreements: the number of potential collective agreements that may apply in Member States having a system for declaring collective agreements or arbitration awards of universal application is increased. Member States may base themselves on:

- collective agreements or arbitration awards which are generally applicable to all similar undertakings in the geographical area and in the profession or industry concerned, and/or
- collective agreements which have been concluded by the most representative employers and labour organisations at national level and which are applied throughout national territory,

Combating fraud: the Directive strengthens coordination between the competent authorities or bodies of Member States and cooperation at EU level in the fight against fraud in the context of posting of workers. With a view to tackling abuses in subcontracting situations and in order to protect the rights of posted workers, Member States should take appropriate measures to ensure subcontracting liability.

As regards the international road transport sector, the provisions of the Directive will apply from the date of entry into force of future sectoral legislation.

ENTRY INTO FORCE: 29.7.2018.

TRANSPOSITION AND APPLICATION: from 30.7.2020.