



2017/0121(COD)

15.5.2020

AMENDMENTS

1 - 37

Draft recommendation for second reading

Kateřina Konečná

(PE650.437v01-00)

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

Proposal for a decision

(05112/1/2020 – C9-0106/2020 – 2017/0121(COD))

Amendment 1
Clotilde Armand

Council position

–

Proposal for rejection

***The European Parliament rejects the
Council position at first reading.***

Or. en

Amendment 2

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Gheorghe Falcă, Tomasz Frankowski, Petar Vitanov, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks, Angel Dzhambazki, Roberta Metsola, Roberts Zile

Council position
Recital 11 a (new)

Council position

Amendment

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

Or. en

Justification

In order to respect the principle of non-discrimination and to ensure fair competition both within the EU and in relation to the hauliers from third countries it is necessary to allow additional activities not only during the bilateral transport operation, but also following the initial bilateral transport operation and before the return journey. The amendment restores wholly the position adopted by Parliament at its first reading.

Amendment 3

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Recital 12

Council position

(12) When a 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 if the road leg on its own is a bilateral transport operation. ***By contrast, when the transport operation during the road leg is carried out within the host Member State or as a non-bilateral international transport operation, there is a sufficient link with the territory of a host Member State and therefore the posting rules should apply.***

Amendment

(12) When a 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 if the road leg on its own is a bilateral transport operation.

Or. en

Amendment 4

Andor Deli, Angel Dzhambazki, Andris Ameriks, Tomasz Piotr Poręba, Kosma Złotowski, Marian-Jean Marinescu, Ilhan Kyuchyuk, Maria Grapini, Andrey Novakov, Rovana Plumb, Petar Vitanov, Gheorghe Falcă, Tomasz Frankowski, Petras Auštrevičius, Elżbieta Katarzyna Łukacijewska, Bogusław Liberadzki, Roberta Metsola, Roberts Zīle

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Or. en

Justification

The reference to Directive 92/106/EEC in the market part of the Mobility Package I is not appropriate and this issue should be dealt within the Combined Transport Directive itself. The inclusion of an initial or final road section in combined transport in the provisions of the new Regulation No 1072 is not beneficial as it reduces the attractiveness of combined transport for hauliers and freight forwarders. Such a measure will not contribute to the further promotion of this type of operation. In addition, this provision was not part of the Commission's initial proposals and has not been the subject of an impact assessment.

Amendment 5

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Tomasz Frankowski, Gheorghe Falcă, Angel Dzhabazki, Andris Ameriks, Tomasz Piotr Poręba, Kosma Złotowski, Marian-Jean Marinescu, Roberta Metsola, Andrey Novakov, Rovana Plumb, Petar Vitanov, Maria Grapini, Ilhan Kyuchyuk, Roberts Zile

Council position

Recital 13

Council position

(13) Where a driver performs other types of operations, notably cabotage operations or non-bilateral international transport operations, there is a sufficient link to the territory of the host Member State. The link exists in case of cabotage operations as defined by Regulations (EC) No 1072/2009⁶ and (EC) No 1073/2009⁷ of the European Parliament and of the Council since the entire transport operation takes place in a host Member State and the service is thus closely linked to the

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territory of the host Member State. A non-bilateral international transport operation is characterised by the fact that the driver is engaged in international carriage outside of the Member State of establishment of the undertaking making the posting. The services performed are therefore linked with the host Member States concerned rather than with the Member State of establishment. In those cases, sector-specific rules are only required with regard to the administrative requirements and control measures.

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⁶ Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (OJ L 300, 14.11.2009, p. 72).

⁷ Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (OJ L 300, 14.11.2009, p. 88).

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Or. en

Justification

*In order to respect the principle of non-discrimination, to avoid fragmentation of the European internal market and to ensure fair competition both within the EU and in relation to the hauliers from third countries it is necessary to exclude from the scope of posting a certain number of cross-trade transport operations. Hauliers from third countries, parties to the ECMT MULTILATERAL QUOTA system, are allowed to perform 3 additional cross-trade road carriages between incoming international bilateral carriage and return to the country of establishment. Therefore, it is of vital importance to ensure equal treatment of transport undertaking from European Union Member States and third countries. The only way to address this issue is to provide hauliers from European Union Member States with more preferential treatment under *lex specialis*.*

Amendment 6

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

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Or. en

Amendment 7

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Tomasz Frankowski, Gheorghe Falcă, Petar Vitanov, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks, Angel Dzhambazki, Roberta Metsola, Roberts Zile

Council position

Recital 15

Council position

(15) Union operators face growing competition from operators based in third countries. It is therefore of the utmost importance to ensure that Union operators are not discriminated against. According to Article 1(4) of Directive 96/71/EC, undertakings established in a non-member State must not be given more favourable treatment than undertakings established in a Member State. That principle should also apply with regard to the specific rules on posting provided for in this Directive. ***It should, in particular, apply when third country operators perform transport operations under bilateral or multilateral agreements granting access to the Union market.***

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Or. en

Justification

An obligation for the Member States to implement "equivalent measures" on the posting of

drivers in bilateral and multilateral agreements is contrary to the provisions of the TFEU on the allocation of competences between the EU and the Member States (Articles 2 and 3(2) TFEU). Transport policy and legislation belong to the area of shared competence. According to Article 2 TFEU, in the areas of shared competence, both the EU and the Member States can legislate and adopt legally binding acts. However, in this area of competence, the Member States may only exercise their competence to the extent that the EU has not exercised its competence. In its jurisprudence, the CJEU has confirmed on several occasions that, when the EU adopts provisions laying common rules in the Transport area, "the Member States no longer have the right, acting individually or even collectively, to undertake obligations with third States which affect those rules." Since the EU has already exercised its competence and adopted common rules on posting of workers in the area of transport, and with the adoption of the Mobility Package will further complement these rules with specific requirements on the posting of drivers, the Member States are no longer allowed to adopt bilateral or multilateral treaties in this area. Consequently, the provision, requiring the Member States to implement in their bilateral treaties with third countries equivalent measures to the EU legislation regarding the posting of workers in the road transport sector, is contrary to Article 2(2) and 3(2) of the TFEU on the allocation of competences between the EU and the Member States.

Amendment 8

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

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Amendment 9
Clotilde Armand

Council position
Recital 41 a (new)

Council position

Amendment

(41 a) Considering the fundamental role that the truck drivers play in emergency situations, as clearly demonstrated in the context of COVID-19, an unrestricted movement of trucks within the EU single market should be guaranteed to satisfy the needs of consumers. To facilitate the circulation of trucks carrying passengers and goods under extraordinary circumstances, like public health crisis, environmental emergency or emergency of socio-political and military character, the application of the provisions of this Directive will be suspended for the duration of emergency and recovery period.

Or. en

Justification

Administrative burden and movement restrictions for truck drivers severely compromise EU's crisis-resilience and the capacity to deliver production materials, equipment and goods to the places where they are most needed. This is even more valid for the areas that are not easily accessible, like islands and poorly connected zones. Delay in cross-border road transport services may lead to dramatic consequences, like for example a hospital not receiving the medicines. All the restrictions to the provision of such services should therefore be removed in the situation of emergency.

Amendment 10
Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position
Article 1 – paragraph 3 – subparagraph 1

Council position

For the purpose of this Directive, a bilateral transport operation in respect of goods means 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 to a third country, or from another Member State or a third country to the Member State of establishment.

Amendment

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

In a bilateral transport operation, a Member State of establishment shall be either the place of origin where the transported goods are loaded or the place of destination where the goods are unloaded. Moreover, a bilateral transport operation may involve picking up of the goods at one or several loading points until their final delivery at one or several delivery points.

Or. en

Amendment 11

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Tomasz Frankowski, Gheorghe Falcă, Petar Vitanov, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks, Angel Dzhambazki, Roberta Metsola, Roberts Zile

Council position

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Justification

The transport document (CMR) provides proof of the existence of a contract between the transport undertaking and its client for the carriage of goods by road internationally. According to the Convention on the Contract for the International Carriage of Goods by Road (CMR) consignment note determines the scope and responsibility for the road carriage performed and identifies the parties involved and the goods being transported. Therefore, the information contained in the consignment note, namely place of loading and delivery of goods, are fundamental for determining if the posting situation takes place or not.

Amendment 12

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Tomasz Frankowski, Gheorghe Falcă, Petar Vitanov, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks, Angel Dzhambazki, Roberta Metsola, Roberts Zile

Council position

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

Council position

Amendment

In a bilateral transport operation, a Member State of establishment shall be either the place of origin where the transported goods are loaded or the place of destination where the goods are unloaded. Moreover, a bilateral transport operation may involve picking up of the goods at one or several loading points until their final delivery at one or several delivery points.

Or. en

Justification

By ensuring possibility of performing multi-drop operations which will be out of scope of posting rules, proposal takes into account the specificity of transport operations with multiple loadings and unloadings, which are a growing market segment that needs specific and tailored provisions. Above proposal inter alia addresses the negative consequences related to the limitation of additional loading or unloading activities during bilateral transport operations. There is a well-founded concern that if multi-drop operations are not allowed, carriers will avoid loading additional cargo in order to make optimal use of it. This will undoubtedly run counter to the European Commission's ambitious goals of promoting safe and environmentally friendly mobility. All in all the regulations in question may give rise to

misunderstandings as they differentiate between the rights of the driver and the employer's obligations on the same route in a way that discriminates against transport operations carried out in normatively loaded vehicles. The consequence will be an increase in the number of journeys made to carry the same weight of cargo, thereby increasing CO2 and pollutant emissions, increasing congestion and reducing the overall level of road safety on European roads. It will also exacerbate the problem of the lack of drivers and increase the costs of freight exchange.

Amendment 13

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Article 1 – paragraph 3 – subparagraph 2

Council position

Amendment

From ... [18 months after the entry into force of this Directive], which is the date from which drivers are required, pursuant to Article 34(7) of Regulation (EU) No 165/2014, to record border crossing data manually, Member States shall apply the exemption for bilateral transport operations in respect of goods set out in the first and second subparagraphs of this paragraph also where, in addition to performing a bilateral transport operation, the driver 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 unload them in the same Member State.

deleted

Or. en

Amendment 14

Andor Deli, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks, Angel Dzhambazki, Roberta Metsola, Petar Vitanov, Gheorghe Falcă, Tomasz Frankowski, Petras Auštrevičius, Elżbieta Katarzyna Łukacijewska, Bogusław Liberadzki, Roberts Zīle

Council position

Article 1 – paragraph 3 – subparagraph 2

Council position

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Moreover, by way of derogation, a driver shall not be considered to be posted for the purpose of Directive 96/71/EC when performing up to 3 cross-trade transport operations, where these operations are performed during or following an incoming bilateral transport operation from the Member State of establishment or during an outgoing bilateral transport operation to the Member State of establishment.

Or. en

Justification

*In order to respect the principle of non-discrimination, to avoid fragmentation of the European internal market and to ensure fair competition both with the EU and in relation to the hauliers from third countries it is necessary to exclude from the scope of posting a certain number of cross-trade transport operations. Hauliers from third countries, parties to the ECMT MULTILATERAL QUOTA system, are allowed to perform 3 additional cross-trade road carriages between incoming international bilateral carriage and return to the country of establishment. Therefore, it is of vital importance to ensure equal treatment of transport undertaking from European Union Member States and third countries. The only way to address this issue is to provide hauliers from European Union Member States with more preferential treatment under *lex specialis*.*

Amendment 15

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Tomasz Frankowski, Gheorghe Falcă, Petar Vitanov, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks, Angel Dzhambazki, Roberts Zile, Roberta Metsola

Council position

Article 1 – paragraph 3 – subparagraph 2 a (new)

Council position

Amendment

For the purpose of this Directive, a cross-trade operation is the movement of goods, based on a consignment note, between two different Member States other than the Member State of establishment, as defined in Article 2(8) of Regulation (EC) No 1071/2009. Moreover, a cross-trade transport operation may involve picking up of the goods at one or several loading points until their final delivery at one or several delivery points.

Or. en

Justification

There is a well-founded concern that if multi-drop operations are not allowed, carriers will avoid loading additional cargo in order to make optimal use of it. This will undoubtedly run counter to the European Commission's ambitious goals of promoting safe and environmentally friendly mobility.

Amendment 16

Andor Deli, Roberta Metsola, Angel Dzhambazki, Andris Ameriks, Tomasz Piotr Poręba, Kosma Złotowski, Marian-Jean Marinescu, Ilhan Kyuchyuk, Maria Grapini, Andrey Novakov, Rovana Plumb, Roberts Zīle, Petar Vitanov, Gheorghe Falcă, Tomasz Frankowski, Petras Auštrevičius, Elżbieta Katarzyna Łukacijewska, Bogusław Liberadzki

Council position

Article 1 – paragraph 3 – subparagraph 3

Council position

Amendment

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 exemption for additional activities set out in the third subparagraph shall apply to a maximum of two additional activities of loading and/or unloading, under the conditions set out in the third subparagraph.

deleted

Or. en

Justification

The deletion is necessary to ensure coherence with other amendments.

Amendment 17

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Article 1 – paragraph 3 – subparagraph 3

Council position

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 exemption for additional activities set out in the third subparagraph shall apply to a maximum of two additional activities of* loading *and/or unloading, under the conditions set out in the third subparagraph.*

Amendment

Moreover, by way of derogation, a driver shall not be considered to be posted for the purpose of Directive 96/71/EC when performing up to 3 cross-trade transport operations, where these operations are performed during or following an incoming bilateral transport operation from the Member State of establishment *or during an outgoing* bilateral transport operation to the Member State of establishment.

For the purpose of this Directive, a cross-trade operation is the movement of goods, based on a consignment note, between two different Member States other than the Member State of establishment, as defined in Article 2(8) of Regulation (EC) No 1071/2009. Moreover, a cross-trade transport operation may involve picking up of the goods at one or several loading points until their final delivery at one or several delivery points.

Or. en

Amendment 18

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Roberta Metsola, Gheorghe Falcă, Petar Vitanov, Rovana Plumb, Tomasz Frankowski, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks, Angel Dzhambazki, Roberts Zīle

Council position

Article 1 – paragraph 3 – subparagraph 4

Council position

The exemptions for additional activities set out in the third and fourth subparagraphs of this paragraph shall apply only until *the date from which smart tachographs complying with the requirement of recording border crossings and additional activities referred to in the first subparagraph of Article 8(1) of Regulation (EU) No 165/2014 are required to be fitted in the vehicles registered in a Member State for the first time, under the fourth subparagraph of Article 8(1) of that Regulation. From that date the exemptions for additional activities set out in the third and fourth subparagraphs of this paragraph shall apply solely to drivers using vehicles fitted with smart tachographs, as provided for in Articles 8, 9 and 10 of that Regulation.*

Amendment

The exemptions for additional activities set out in the third and fourth subparagraphs of this paragraph shall apply only until *negotiations between the Union and relevant third countries as regards the application of rules equivalent to those laid down in this Directive will be concluded.*

Or. en

Amendment 19

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Article 1 – paragraph 3 – subparagraph 4

Council position

The exemptions for additional activities set out in the third and fourth subparagraphs of this paragraph shall apply only until the date from which smart tachographs complying with the requirement of recording border crossings and additional activities referred to in the first subparagraph of Article 8(1) of Regulation (EU) No 165/2014 are required to be fitted in the vehicles registered in a Member State for the first time, under the fourth subparagraph of Article 8(1) of that Regulation. From that

Amendment

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Or. en

Amendment 20

Andor Deli, Roberts Zīle, Angel Dzhambazki, Andris Ameriks, Tomasz Piotr Poręba, Kosma Zlotowski, Marian-Jean Marinescu, Ilhan Kyuchyuk, Maria Grapini, Andrey Novakov, Rovana Plumb, Petar Vitanov, Gheorghe Falcă, Tomasz Frankowski, Petras Auštrevičius, Elżbieta Katarzyna Łukacijewska, Bogusław Liberadzki, Roberta Metsola

Council position

Article 1 – paragraph 4 – subparagraph 1 – point a

Council position

(a) picks up passengers in the Member State of establishment and sets them down in another Member State *or* a third country;

Amendment

(a) picks up passengers in the Member State of establishment and sets them down in another Member State *and/or* a third country;

Or. en

Justification

The amendment aims at providing more flexibility to transport operators in international occasional or regular carriage of passengers taking into account operational realities.

Amendment 21

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Article 1 – paragraph 4 – subparagraph 1 – point a

Council position

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(a) picks up passengers in the Member State of establishment and sets them down in another Member State *and/or* a third country;

Amendment 22

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Tomasz Frankowski, Gheorghe Falcă, Petar Vitanov, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Zlotowski, Tomasz Piotr Poręba, Andris Ameriks, Angel Dzhambazki, Roberta Metsola, Roberts Zīle

Council position

Article 1 – paragraph 4 – subparagraph 1 – point b

Council position

(b) picks up passengers in a Member State *or* a third country and sets them down in the Member State of establishment; or

Amendment

(b) picks up passengers in a Member State *and/or* a third country and sets them down in the Member State of establishment; or

Or. en

Justification

The amendment aims at providing more flexibility to transport operators in international occasional or regular carriage of passengers taking into account operational realities.

Amendment 23

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Article 1 – paragraph 4 – subparagraph 1 – point b

Council position

(b) picks up passengers in a Member State *or* a third country and sets them down in the Member State of establishment; or

Amendment

(b) picks up passengers in a Member State *and/or* a third country and sets them down in the Member State of establishment; or

Or. en

Amendment 24

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Tomasz Frankowski, Gheorghe Falcă, Petar Vitanov, Rovana Plumb,

Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Zlotowski, Tomasz Piotr Poreba, Andris Ameriks, Angel Dzhambazki, Roberts Zile, Roberta Metsola

Council position

Article 1 – paragraph 4 – subparagraph 1 – point c

Council position

(c) picks up and sets down passengers in the Member State of establishment for the purpose of carrying out local excursions in another Member State *or* a third country, in accordance with Regulation (EC) No 1073/2009.

Amendment

(c) picks up and sets down passengers in the Member State of establishment for the purpose of carrying out local excursions in another Member State *and/or* a third country, in accordance with Regulation (EC) No 1073/2009.

Or. en

Justification

The amendment aims at providing more flexibility to transport operators in international occasional or regular carriage of passengers taking into account operational realities.

Amendment 25

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Article 1 – paragraph 4 – subparagraph 1 – point c

Council position

(c) picks up and sets down passengers in the Member State of establishment for the purpose of carrying out local excursions in another Member State *or* a third country, in accordance with Regulation (EC) No 1073/2009.

Amendment

(c) picks up and sets down passengers in the Member State of establishment for the purpose of carrying out local excursions in another Member State *and/or* a third country, in accordance with Regulation (EC) No 1073/2009.

Or. en

Amendment 26

Andor Deli, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Zlotowski, Tomasz Piotr Poreba, Andris Ameriks, Angel Dzhambazki, Roberts Zile, Roberta Metsola, Rovana Plumb, Petar Vitanov, Gheorghe Falcă, Tomasz Frankowski, Petras Auštrevičius, Elżbieta Katarzyna Łukacijewska,

Bogusław Liberadzki

Council position

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

Council position

Amendment

Moreover, a bilateral transport operation in international occasional or regular carriage of passengers may involves picking up of passengers and /or setting passengers down more than once as specified in journey form or authorisation.

Or. en

Justification

The amendment aims at providing more flexibility to transport operators in international occasional or regular carriage of passengers taking into account operational realities.

Amendment 27

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Tomasz Frankowski, Gheorghe Falcă, Petar Vitanov, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks, Roberts Zīle, Roberta Metsola, Angel Dzhambazki

Council position

Article 1 – paragraph 4 – subparagraph 2

Council position

Amendment

From ... [18 months after the entry into force of this Directive], which is the date from which drivers are required, pursuant to Article 34(7) of Regulation (EU) No 165/2014, to record border crossing data manually, Member States shall apply the exemption for bilateral transport operations in respect of passengers set out in the first and second subparagraphs of this paragraph also where, in addition to performing a bilateral transport operation, the driver picks up passengers once and/or sets down passengers once in Member States or third countries that the

deleted

driver crosses, provided that the driver does not offer passenger transport services between two locations within the Member State crossed. The same shall apply to the return journey.

Or. en

Justification

The deletion is necessary to ensure coherence with other amendments.

Amendment 28

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Article 1 – paragraph 4 – subparagraph 2

Council position

From ... [18 months after the entry into force of this Directive], which is the date from which drivers are required, pursuant to Article 34(7) of Regulation (EU) No 165/2014, to record border crossing data manually, Member States shall apply the exemption for bilateral transport operations in respect of passengers set out in the first and second subparagraphs of this paragraph also where, in addition to performing a bilateral transport operation, the driver picks up passengers once and/or sets down passengers once in Member States or third countries that the driver crosses, provided that the driver does not offer passenger transport services between two locations within the Member State crossed. The same shall apply to the return journey.

Amendment

Moreover, a bilateral transport operation in an international occasional or regular carriage of passengers may involve picking up of passengers and/or setting passengers down more than once as specified in journey form or authorisation.

Or. en

Amendment 29

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Article 1 – paragraph 4 – subparagraph 3

Council position

Amendment

The exemption for additional activities set out in the third subparagraph of this paragraph shall apply only until the date from which smart tachographs complying with the requirement of recording of border crossings and additional activities referred to in the first subparagraph of Article 8(1) of Regulation (EU) No 165/2014 are required to be fitted in the vehicles registered in a Member State for the first time, under the fourth subparagraph of Article 8(1) of that Regulation. From that date the exemption for additional activities set out in the third subparagraph of this paragraph shall apply solely to drivers using vehicles fitted with smart tachographs, as provided for in Articles 8, 9 and 10 of that Regulation.

deleted

Or. en

Amendment 30

Andor Deli, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks, Roberts Zīle, Roberta Metsola, Angel Dzhambazki, Rovana Plumb, Petar Vitanov, Gheorghe Falcă, Tomasz Frankowski, Petras Auštrevičius, Elżbieta Katarzyna Łukacijewska, Bogusław Liberadzki

Council position

Article 1 – paragraph 4 – subparagraph 3

Council position

Amendment

The exemption for additional activities set out in the third subparagraph of this paragraph shall apply only until the date from which smart tachographs complying with the requirement of recording of border crossings and additional activities referred to in the first subparagraph of Article 8(1) of Regulation (EU) No 165/2014 are required to be fitted in the

deleted

vehicles registered in a Member State for the first time, under the fourth subparagraph of Article 8(1) of that Regulation. From that date the exemption for additional activities set out in the third subparagraph of this paragraph shall apply solely to drivers using vehicles fitted with smart tachographs, as provided for in Articles 8, 9 and 10 of that Regulation.

Or. en

Justification

The deletion is necessary to ensure coherence with other amendments.

Amendment 31

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Article 1 – paragraph 8

Council position

8. A posting shall, for the purpose of Article 3(1a) of Directive 96/71/EC, be considered to be ending when the driver *leaves* the host Member State in the performance of the international carriage of goods or passengers. That period of posting shall not be cumulated with previous periods of posting in the context of such international operations performed by the same driver or by another driver whom he or she replaces.

Amendment

8. A posting shall, for the purpose of Article 3(1a) of Directive 96/71/EC, be considered to be ending when the driver *finally delivers goods or sets passengers down in* the host Member State in the performance of the international carriage of goods or passengers. That period of posting shall not be cumulated with previous periods of posting in the context of such international operations performed by the same driver or by another driver whom he or she replaces.

Or. en

Amendment 32

Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Petras Auštrevičius, Tomasz Frankowski, Gheorghe Falcă, Petar Vitanov, Rovana Plumb, Angel Dzhambazki, Roberta Metsola, Roberts Zīle, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks

Council position

Article 1 – paragraph 8

Council position

8. A posting shall, for the purpose of Article 3(1a) of Directive 96/71/EC, be considered **to be** ending when the driver **leaves** the host Member State in the performance of **the** international carriage of goods or passengers. **That period of** posting shall not be cumulated with previous periods **of posting** in the context of such international operations **performed by** the same driver or **by** another driver **whom he or she** replaces.

Amendment

8. A posting shall, for the purpose of Article 3(1a) of Directive 96/71/EC, be considered **as** ending when the driver **finally delivers goods or sets passengers down in** the host Member State in the performance of **an** international carriage of goods or passengers, **and that** posting **period** shall not be cumulated with previous **posting** periods in the context of such international operations **of** the same driver or another driver **he** replaces.

Or. en

Amendment 33

Andor Deli, Elżbieta Katarzyna Łukacijewska, Bogusław Liberadzki, Petras Auštrevičius, Tomasz Frankowski, Gheorghe Falcă, Petar Vitanov, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk, Marian-Jean Marinescu, Kosma Złotowski, Tomasz Piotr Poręba, Andris Ameriks, Angel Dzhambazki, Roberts Zile, Roberta Metsola

Council position

Article 1 – paragraph 10

Council position

10. Transport undertakings established in a non-Member State shall not be given more favourable treatment than undertakings established in a Member State, **including when performing transport operations under bilateral or multilateral agreements granting access to** the Union **market or parts thereof**.

Amendment

10. Transport undertakings established in a non-Member State shall not be given more favourable treatment than undertakings established in a Member State. **Hence 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**.

Or. en

Justification

An obligation for the Member States to implement "equivalent measures" on the posting of

drivers in bilateral and multilateral agreements is contrary to the provisions of the TFEU on the allocation of competences between the EU and the Member States (Articles 2 and 3(2) TFEU). Transport policy and legislation belong to the area of shared competence. According to Article 2 TFEU, in the areas of shared competence, both the EU and the Member States can legislate and adopt legally binding acts. However, in this area of competence, the Member States may only exercise their competence to the extent that the EU has not exercised its competence. In its jurisprudence, the CJEU has confirmed on several occasions that, when the EU adopts provisions laying common rules in the Transport area, "the Member States no longer have the right, acting individually or even collectively, to undertake obligations with third States which affect those rules." Since the EU has already exercised its competence and adopted common rules on posting of workers in the area of transport, and with the adoption of the Mobility Package will further complement these rules with specific requirements on the posting of drivers, the Member States are no longer allowed to adopt bilateral or multilateral treaties in this area. Consequently, the provision, requiring the Member States to implement in their bilateral treaties with third countries equivalent measures to the EU legislation regarding the posting of workers in the road transport sector, is contrary to Article 2(2) and 3(2) of the TFEU on the allocation of competences between the EU and the Member States.

Amendment 34

Josianne Cutajar, Miriam Dalli, Alfred Sant, Alex Agius Saliba, Roberta Metsola, David Casa

Council position

Article 1 – paragraph 10

Council position

10. Transport undertakings established in a non-Member State shall not be given more favourable treatment than undertakings established in a Member State, ***including when performing transport operations under bilateral or multilateral agreements granting access to the Union market or parts thereof.***

Amendment

10. Transport undertakings established in a non-Member State shall not be given more favourable treatment than undertakings established in a Member State. ***Hence 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.***

Or. en

Amendment 35

Clotilde Armand

Council position

Article 6 a (new)

Council position

Amendment

Article 6 a

Force majeure

In the situation of force majeure, Member States will cease to impose on operators the administrative requirements and control measures specified in this Directive under Article 1 paragraph 7, and by that means, a driver performing cabotage operations as defined in Regulations (EC) No 1072/2009 and (EC) No 1073/2009 shall not be considered to be posted under Directive 96/71/EC. Transport undertakings shall be informed of such suspension by national authorities without delay.

Or. en

Justification

Apart from raising serious proportionality issues, these provisions lead to inadequate working conditions for drivers and distortion of competition on the EU single market. The proposal goes against the very mobile nature of the international transportation and has a disproportionately negative effect of peripheral Member States. As demonstrated in the context of COVID-19 crisis, the application of this Directive would exacerbate the already existing shortage of drivers, and would hinder the flexible movement of vehicles. At the times of crises and serious risks to socio-economic well-being of the EU citizens, such restrictive measures should be excluded.

Amendment 36

Roberts Zīle, Kosma Złotowski, Tomasz Piotr Poręba, Marian-Jean Marinescu, Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Angel Dzhambazki, Petras Auštrevičius, Gheorghe Falcă, Petar Vitanov, Andris Ameriks, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk

Council position

Article 7 – paragraph 1 a (new)

Council position

Amendment

1 a. By ... [OJ: 4 months after its publication in the Official Journal of the European Union] the Commission shall present a proper impact assessment regarding the impact of this Directive on

actual economic situation of the EU road haulage market and drivers' health safety situation, and, where appropriate, propose amendments to this Directive taking into account the new market situation of the sector.

Or. en

Justification

Due to current COVID-19 pandemic crisis and unprecedented uncertainty of economic and health safety situation in the road haulage market, entry into force of this Directive shall be delayed, while the European Commission prepares a proper impact assessment with an analysis of new market situation after the crisis and evaluation of impact of the new regulation on the EU road haulage sector. In order to adjust the rules, the Commission should come up with respective amendments to this legal act before it enters into force.

Amendment 37

Roberts Zile, Kosma Złotowski, Tomasz Piotr Poręba, Marian-Jean Marinescu, Andor Deli, Bogusław Liberadzki, Elżbieta Katarzyna Łukacijewska, Angel Dzhambazki, Petras Auštrevičius, Gheorghe Falcă, Petar Vitanov, Andris Ameriks, Rovana Plumb, Andrey Novakov, Maria Grapini, Ilhan Kyuchyuk

Council position

Article 10 – paragraph 1

Council position

This Directive shall enter into force on ***the day following*** that of its publication in the Official Journal of the European Union.

Amendment

This Directive shall enter into force on ***[insert date 18 month after*** that of its publication in the Official Journal of the European Union].

Or. en

Justification

Due to current COVID-19 pandemic crisis and unprecedented uncertainty of economic and health safety situation in the road haulage market, entry into force of this Directive shall be delayed, while the European Commission prepares a proper impact assessment with an analysis of new market situation after the crisis and evaluation of impact of the new regulation on the EU road haulage sector. In order to adjust the rules, the Commission should come up with respective amendments to this legal act before it enters into force.