

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

Article 1

[^{F1}Subject-matter and scope]

[^{F2}-1 This Directive shall ensure 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.

-1a This Directive shall not in any way affect the exercise of fundamental rights as recognised in the Member States and at Union level, including the right or freedom to strike or to take other action covered by the specific industrial relations systems in Member States, in accordance with national law and/or practice. Nor does it affect the right to negotiate, to conclude and enforce collective agreements, or to take collective action in accordance with national law and/or practice.]

1 This Directive shall apply to undertakings established in a Member State which, in the framework of the transnational provision of services, post workers, in accordance with paragraph 3, to the territory of a Member State.

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

3 This Directive shall apply to the extent that the undertakings referred to in paragraph 1 take one of the following transnational measures:

- a post workers to the territory of a Member State on their account and under their direction, under a contract concluded between the undertaking making the posting and the party for whom the services are intended, operating in that Member State, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting; or
- b post workers to an establishment or to an undertaking owned by the group in the territory of a Member State, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting; or

[^{F1}c being a temporary employment undertaking or placement agency, hire out a worker to a user undertaking established or operating in the territory of a Member State, provided that there is an employment relationship between the temporary employment undertaking or placement agency and the worker during the period of posting.]

[^{F2}Where a worker who has been hired out by a temporary employment undertaking or placement agency to a user undertaking as referred to in point (c) is to carry out work in the framework of the transnational provision of services within the meaning of point (a), (b) or (c) by the user undertaking in the territory of a Member State other than where the worker normally works for the temporary employment undertaking or placement agency, or for the user undertaking, the worker shall be considered to be posted to the territory of that Member State by the temporary employment undertaking or placement agency with which the worker is in an employment relationship. The temporary employment undertaking or placement agency shall be considered to be an undertaking as referred to in paragraph 1 and shall fully comply with the relevant

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provisions of this Directive and Directive 2014/67/EU of the European Parliament and of the Council⁽¹⁾.

The user undertaking shall inform the temporary employment undertaking or placement agency which hired out the worker in due time before commencement of the work referred to in the second subparagraph.]

4 Undertakings established in a non-member State must not be given more favourable treatment than undertakings established in a Member State.

Textual Amendments

- F1** Substituted by Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (Text with EEA relevance).
- F2** Inserted by Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (Text with EEA relevance).

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- (1) [^{F2}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).]

Textual Amendments

- F2** Inserted by Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (Text with EEA relevance).