

Amendment 66

Stanisław Tyszką, Marcin Sypniewski, Petar Volgin, Arno Bausemer
on behalf of the ESN Group

Report**A10-0162/2025****Johan Danielsson, Andreas Schwab**

Public interface connected to the Internal Market Information System for the declaration of posting of workers
(COM(2024)0531 – C10-0188/2024 – 2024/0301(COD))

Proposal for a regulation**Article 3 – paragraph 3 a (new)***Text proposed by the Commission**Amendment*

3a. Member States making use of the public interface shall ensure that service providers are able to correct or update a posting declaration through the public interface at any time. Where a service provider corrects or updates a posting declaration before it has been notified of an inspection or of a request for information concerning that posting, the correction or update shall not in itself give rise to a penalty, and the logging of user activity referred to in Article 2(1), point (b), shall not be used for that purpose. Penalties for infringements of the obligation to declare the posting of workers shall take into account the good faith of the service provider and shall not be imposed cumulatively for each posted worker without an upper limit.

Or. en

Justification

Without a safeguard, logs could be turned against undertakings that correct an honest mistake. Some Member States impose fines for each posted worker even for formal failures. In Maksimovic, the Court of Justice held that Article 56 TFEU precludes fines with a fixed minimum amount imposed cumulatively for each worker concerned, without an upper limit, for failures to comply with formal obligations linked to posting. A Member State that uses the common portal should allow voluntary correction without penalty, so that the interface rewards compliance instead of punishing it.

Amendment 67

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Proposal for a regulation**Article 4 – paragraph 1 a (new)***Text proposed by the Commission**Amendment*

1a. The standard form shall not include information on:

(a) the remuneration of posted workers, including any indicative level of their rate of pay;

(b) the justification for the use of a temporary employment undertaking or placement agency;

(c) the registration of the service provider or of the posted workers in registers of the host Member State.

Compliance with the terms and conditions of employment relating to remuneration shall be verified on the basis of the documents referred to in Article 9(1), point (b), of Directive 2014/67/EU.

Or. en

Justification

None of these allows a factual control at the workplace: pay is checked against payslips and proof of payment under Article 9(1)(b) of Directive 2014/67/EU. An indicative rate declared before the posting starts discloses the labour costs of a foreign competitor and, under Article 5(8), may reach social partners in the host Member State. Requiring a justification for agency work or proof of registration in national registers would write into a Union form national restrictions whose compatibility with Article 56 TFEU and Article 4 of Directive 2008/104/EC is itself open to question.

Amendment 68

Zsuzsanna Borvendég, Marcin Sypniewski, Arno Bausemer
on behalf of the ESN Group

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Proposal for a regulation**Article 4 – paragraph 2***Text proposed by the Commission*

2. The Commission shall establish the standard form referred to in paragraph 1 of this Article by way of implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 8(2).

Amendment

2. The Commission shall establish the standard form referred to in paragraph 1 of this Article by way of implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 8(2). ***Such implementing acts shall not introduce information requirements beyond those strictly necessary for the identification of the service provider, the posted worker and the posting assignment, in accordance with Article 9(1), point (a), of Directive 2014/67/EU.***

Or. en

Amendment 69

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Proposal for a regulation**Article 5 – paragraph 5***Text proposed by the Commission*

5. The public interface shall ensure the automatic deletion of the information related to a posting which has been submitted through that public interface 36 months after the end date of the posting period.

Amendment

5. The public interface shall ensure the automatic deletion of the information related to a posting which has been submitted through that public interface 36 months after the end date of the posting period. ***The retention period shall not be extended at Union level. This shall be without prejudice to the right of Member States to retain information in their national systems for longer periods where necessary and justified under national law and in compliance with Regulation (EU) 2016/679.***

Or. en

Amendment 70

Stanisław Tyszką, Marcin Sypniewski, Petar Volgin, Arno Bausemer
on behalf of the ESN Group

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Proposal for a regulation**Article 5 – paragraph 8***Text proposed by the Commission*

8. A Member State may allow the competent national authority to provide national social partners by other means than IMI with relevant information available in IMI to the extent necessary and exclusively for the purpose of checking compliance with posting rules and in accordance with national law and practices, provided that the information relates to a posting to the territory of the Member State concerned.

Amendment

8. A Member State may allow the competent national authority to provide national social partners ***on which national law confers a role in monitoring compliance with posting rules*** by other means than IMI with relevant information available in IMI to the extent ***strictly*** necessary and exclusively for the purpose of checking compliance with posting rules and in accordance with national law and practices, provided that the information relates to a posting to the territory of the Member State concerned. ***That information shall be limited to the identity and contact details of the service provider and of its contact person, the number of posted workers, the address of the workplace and the anticipated duration of the posting. It shall not include any other personal data of posted workers and shall not be transmitted to third parties or processed for any other purpose. The competent national authority shall keep a record of each transmission and shall inform the service provider concerned.***

Or. en

Justification

In the host Member State, social partners represent undertakings and workers who compete directly with the foreign service provider. Passport numbers, dates of birth or rates of pay of posted workers are not needed to check if an undertaking respects a collective agreement. In

line with the principles of data minimisation and purpose limitation in Article 5(1) of Regulation (EU) 2016/679, transfers should be limited to social partners with a role conferred by national law, cover only the data needed to identify the posting, and be recorded and notified to the undertaking concerned.

Amendment 71

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Proposal for a regulation**Article 6 – paragraph 1 a (new)***Text proposed by the Commission**Amendment*

The European Labour Authority may receive only aggregated and anonymised statistical data derived from posting declarations submitted through the public interface, which shall not allow the identification of any natural person or individual undertaking. The European Labour Authority shall not have access to individual posting declarations or to documents submitted through the public interface and shall use those statistical data exclusively for the analyses referred to in Article 10 of Regulation (EU) 2019/1149.

Or. en

Justification

The European Labour Authority has no inspection powers of its own: enforcement of posting rules is a matter for the Member States, and under Article 8 of Regulation (EU) 2019/1149 concerted and joint inspections are subject to the agreement of the Member States concerned. For its analyses the Authority needs anonymised, aggregated figures, not data on identifiable workers and undertakings. The Article should say so expressly, so that a regulation on a declaration portal does not become a channel for extending the Authority's mandate.

Amendment 72

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Proposal for a regulation**Article 9 – paragraph 1***Text proposed by the Commission*

The Commission shall report on the experience gained in the application of this Regulation by [five years after entry into force of the Regulation]. In particular the report shall examine to what extent this Regulation has been successful in reducing administrative barriers to the freedom to provide services, in facilitating the effective monitoring by Member States of compliance with EU legislation aimed at ensuring the protection of posted workers and in supporting the related administrative cooperation between the national competent authorities in the Member States.

Amendment

The Commission shall report on the experience gained in the application of this Regulation by [five years after entry into force of the Regulation]. In particular the report shall examine to what extent this Regulation has been successful in reducing administrative barriers to the freedom to provide services, in facilitating the effective monitoring by Member States of compliance with EU legislation aimed at ensuring the protection of posted workers and in supporting the related administrative cooperation between the national competent authorities in the Member States. ***The use of the public interface by Member States shall remain voluntary, and the Commission's evaluation shall respect the right of Member States to maintain their national declaration systems.***

Or. en