Freedom to supply services and workers' rights: posting of workers

1991/0346(COD) - 16/12/1996 - Final act

OBJECTIVE: to coordinate existing national legislation concerning the law applicable to the temporary posting of workers to States other than their State of origin. COMMUNITY MEASURE: European Parliament and Council Directive 96/71/EC on the posting of workers carried out in the framework of the provision of services. SUBSTANCE: -scope: the Directive applies to undertakings established in a Member State which, in the framework of the transnational provision of services, post workers to the territory of another Member State. -definition: for the purposes of the Directive, the term 'posted worker' means a worker who, for a limited period, carries out his work in the territory of a Member State other than the State in which he normally works. -the Directive applies when undertakings: .post workers to the territory of a Member State 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 of origin and the worker during the period of posting; . 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 of origin and the worker during the period of posting; .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 there is an employment relationship between the temporary employment undertaking or placement agency and the worker during the period of posting. -terms and conditions of employment: Member States must guarantee workers posted to their territory the terms and conditions of employment laid down by law, regulation or administrative provision or by collective agreements concerning: .maximum work periods and minimum rest periods; .minimum paid annual holidays; .minimum rates of pay, including overtime rates; .conditions of hiring-out of workers, in particular the supply of workers by temporary employment agencies; .health, safety and hygiene at work; .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; .equality of treatment between men and women and other provisions on non-discrimination. -derogations: .in certain limited cases of initial assembly and/or first installation of goods, the provisions concerning minimum rates of pay and minimum paid annual holidays do not apply; .when the length of posting does not exceed one month, Member States may, under certain conditions, derogate from the provisions concerning minimum rates of pay or provide that exemptions may be made by means of collective agreements; .on the grounds that the amount of work to be done is not significant, Member States may derogate from the provisions concerning minimum rates of pay and minimum paid annual holidays (Member States availing themselves of this option must lay down the criteria which the work to be performed must meet in order to be considered as 'non-significant'). ENTRY INTO FORCE: Member States must adopt the necessary provisions to comply with the Directive not later than 16.12.1999.