

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') (Text with EEA relevance)

CHAPTER III

ADMINISTRATIVE COOPERATION

Article 6

Mutual assistance — general principles

1 Member States shall work in close cooperation and provide each other with mutual assistance without undue delay in order to facilitate the implementation, application and enforcement in practice of this Directive and Directive 96/71/EC.

2 The cooperation of the Member States shall in particular consist in replying to reasoned requests for information from competent authorities and in carrying out checks, inspections and investigations with respect to the situations of posting referred to in Article 1(3) of Directive 96/71/EC, including the investigation of any non-compliance or abuse of applicable rules on the posting of workers. Requests for information include information with respect to a possible recovery of an administrative penalty and/or fine, or the notification of a decision imposing such a penalty and/or fine as referred to in Chapter VI.

3 The cooperation of the Member States may also include the sending and service of documents.

4 For the purpose of responding to a request for assistance from competent authorities in another Member State, Member States shall ensure that service providers established in their territory supply their competent authorities with all the information necessary for supervising their activities in compliance with their national laws. Member States shall take appropriate measures in the event of failure to provide such information.

5 In the event of difficulty in meeting a request for information or in carrying out checks, inspections or investigations, the Member State in question shall without delay inform the requesting Member State with a view to finding a solution.

In the event of any persisting problems in the exchange of information or a permanent refusal to supply information, the Commission being informed, where relevant by means of IMI, shall take the appropriate measures.

6 Member States shall supply the information requested by other Member States or the Commission by electronic means within the following time limits:

- a in urgent cases requiring the consultation of registers, such as those on confirmation of the VAT registration, for the purpose of checking an establishment in another Member State, as soon as possible and up to a maximum of two working days from the receipt of the request.

The reason for the urgency shall be clearly indicated in the request, including some details to substantiate that urgency.

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- b in all other requests for information, up to a maximum of 25 working days from the receipt of the request, unless a shorter time limit is mutually agreed between the Member States.

7 Member States shall ensure that registers in which service providers have been entered, and which may be consulted by the competent authorities in their territory, may also be consulted, in accordance with the same conditions, by the equivalent competent authorities of the other Member States, for the purposes of implementing this Directive and Directive 96/71/EC, in so far as these registers are listed by the Member States in the IMI.

8 Member States shall ensure that the information exchanged by bodies referred to in point (a) of Article 2 or transmitted to them shall be used only in respect of the matter(s) for which it was requested.

9 Mutual administrative cooperation and assistance shall be provided free of charge.

10 A request for information shall not preclude the competent authorities from taking measures in accordance with the relevant national and Union law to investigate and prevent alleged breaches of Directive 96/71/EC or this Directive.

Article 7

Role of the Member States in the framework of administrative cooperation

1 In accordance with the principles established in Articles 4 and 5 of Directive 96/71/EC, during the period of posting of a worker to another Member State, the inspection of terms and conditions of employment to be complied with according to Directive 96/71/EC is the responsibility of the authorities of the host Member State in cooperation, where necessary, with those of the Member State of establishment.

2 The Member State of establishment of the service provider shall continue to monitor, control and take the necessary supervisory or enforcement measures, in accordance with its national law, practice and administrative procedures, with respect to workers posted to another Member State.

3 The Member State of establishment of the service provider shall assist the Member State to which the posting takes place to ensure compliance with the conditions applicable under Directive 96/71/EC and this Directive. That responsibility shall not in any way reduce the possibilities of the Member State to which the posting takes place to monitor, control or take any necessary supervisory or enforcement measures in accordance with this Directive and Directive 96/71/EC.

4 Where there are facts that indicate possible irregularities, a Member State shall, on its own initiative, communicate to the Member State concerned any relevant information without undue delay.

5 Competent authorities of the host Member State may also ask the competent authorities of the Member State of establishment, in respect of each instance where services are provided or each service provider, to provide information as to the legality of the service provider's establishment, the service provider's good conduct, and the absence of any infringement of the applicable rules. The competent authorities of the Member State of establishment shall provide this information in accordance with Article 6.

6 The obligations laid down in this Article shall not give rise to a duty on the part of the Member State of establishment to carry out factual checks and controls in the territory of the

host Member State in which the service is provided. Such checks and controls may be carried out by the authorities of the host Member State on their own initiative or at the request of the competent authorities of the Member State of establishment, in accordance with Article 10 and in conformity with the powers of supervision provided for in the host Member State's national law, practice and administrative procedures and in compliance with Union law.

Article 8

Accompanying measures

1 Member States shall, with the assistance of the Commission, take accompanying measures to develop, facilitate and promote the exchange between officials in charge of the implementation of administrative cooperation and mutual assistance as well as monitoring the compliance with, and enforcement of, the applicable rules. Member States may also take accompanying measures to support organisations that provide information to posted workers.

2 The Commission shall assess the need for financial support in order to further improve administrative cooperation and increase mutual trust through projects, including promoting exchanges of relevant officials and training, as well as developing, facilitating and promoting best practice initiatives, including those of social partners at Union level, such as the development and updating of databases or joint websites containing general or sector-specific information concerning terms and conditions of employment to be respected and the collection and evaluation of comprehensive data specific to the posting process.

Where it concludes that such a need exists, the Commission shall, without prejudice to the prerogatives of the European Parliament and the Council in the budgetary procedure, use available financing instruments aimed at strengthening administrative cooperation.

3 While respecting the autonomy of social partners, the Commission and Member States may ensure adequate support for relevant initiatives of the social partners at the Union and national level that aim to inform undertakings and workers on the applicable terms and conditions of employment laid down in this Directive and in Directive 96/71/EC.