



Targeted Revision of the Posting of Workers Directive

(date)
(*name*)

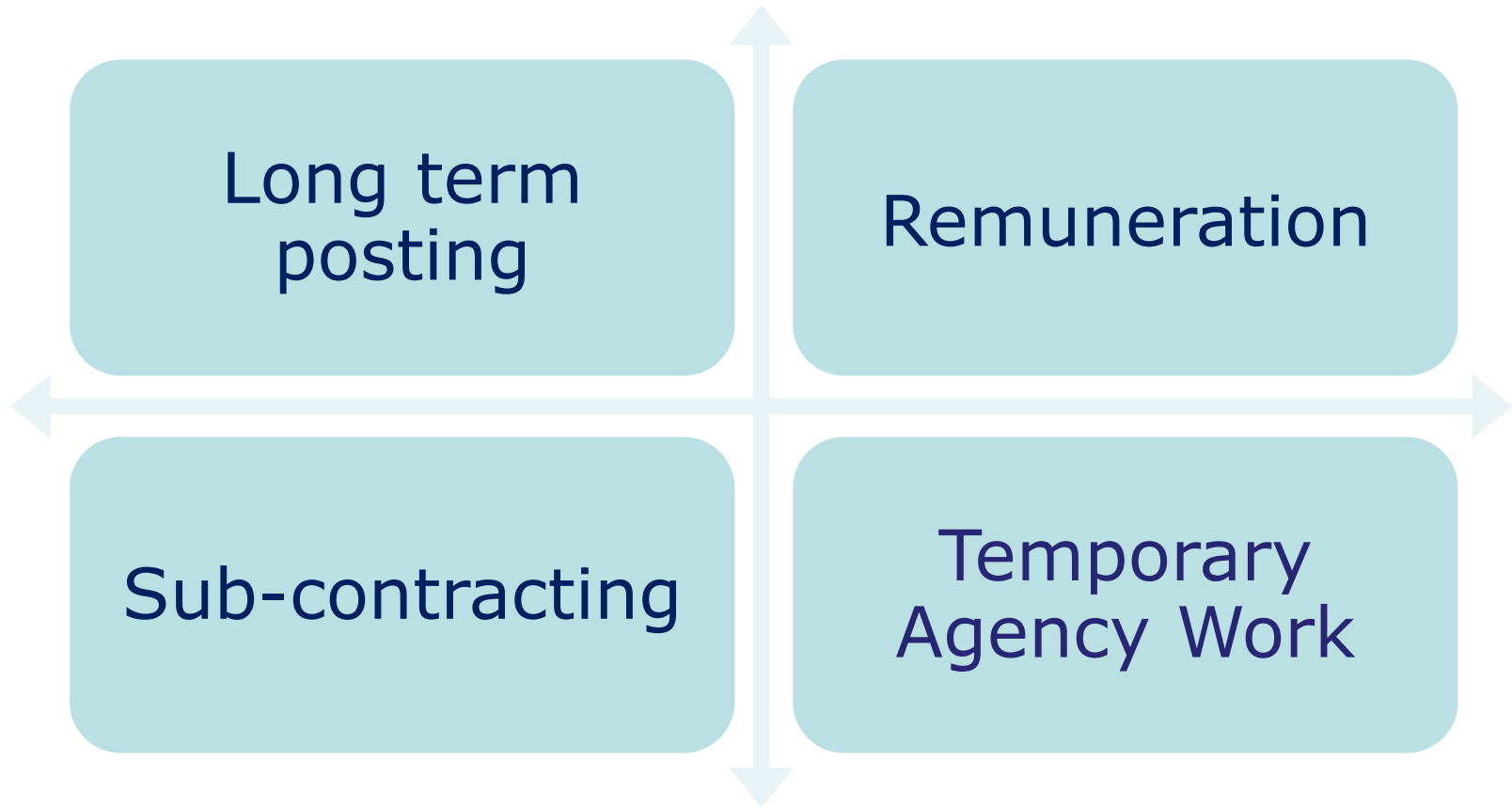
Key figures



How many posted workers?	2007 : 600.000 2015 : 2.049.000
What destinations?	Germany (418,900) – 1.1% of DE workforce France (177,600) – 0.7% of FR workforce
Where from?	Poland (463 000) – 1.6% of PL workforce Germany (240 800) – 0.6% of DE workforce France (139 000) – 0.5% of FR workforce
Share of total EU employment?	0.9% of total EU employment
In which sectors?	41.5% construction - 24.6% industry 32.7% services - 1.2% agriculture
Main flows of posted workers? (2014 data, % on total)	Medium/Low- to high wage MS: 47.6% High- to high/Medium/low -wage MS: 43.3%
Where?	50% in neighbouring countries



- **Deadline for transposition:** 18 June 2016
- The COM sent letters of formal notice (first stage of the infringement procedure) to 15 MS (NC + CP) (September 2016). MS have two months to reply (November 2016);
- **Situation as of 18/11/2016:** 19 MS have notified measures, including 3 partial transposition
- In case no complete transposition is notified, a reasoned opinion will be sent (second stage). The MS will be given two months to comply (January/February 2017)





Directive 96/71/EC

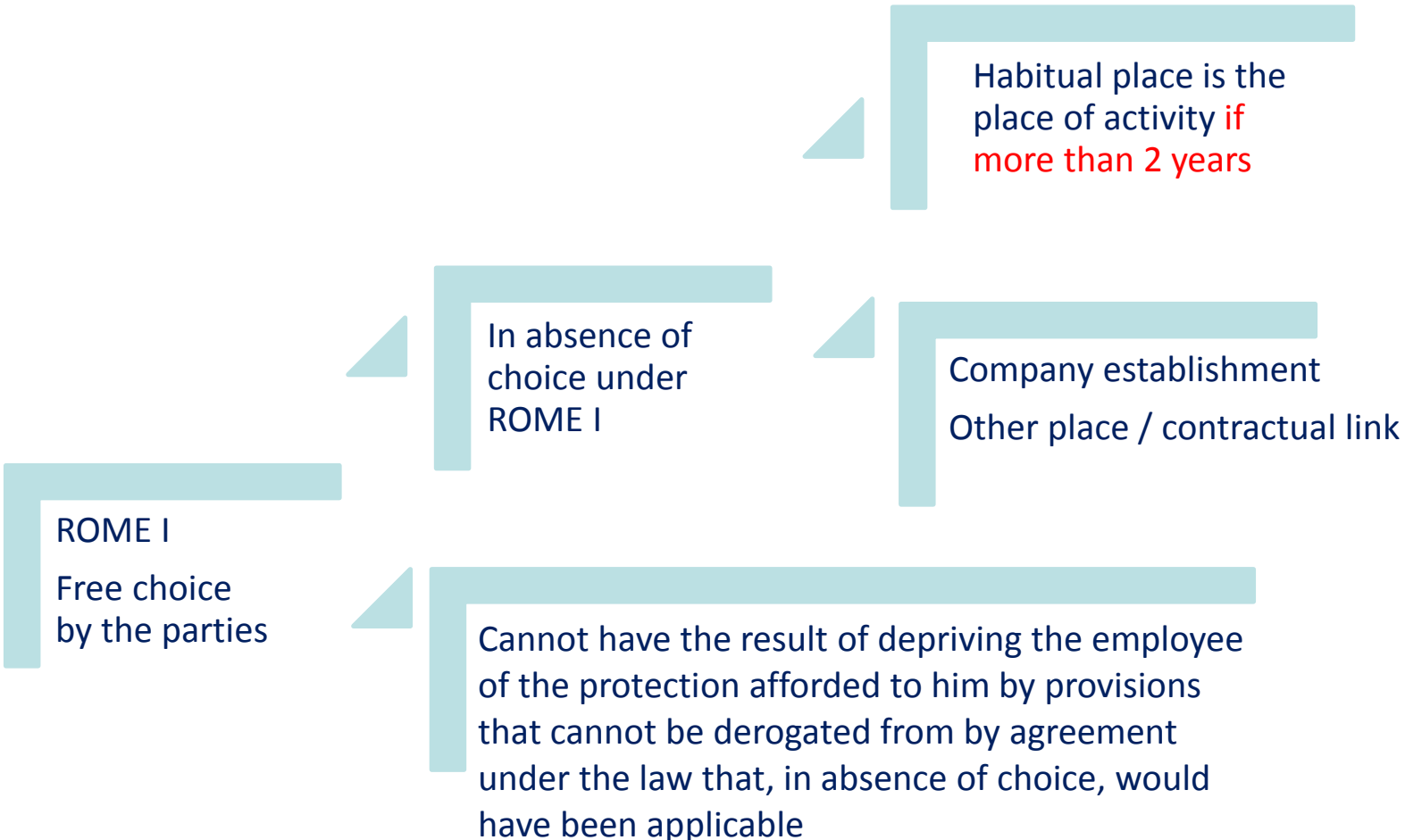
- Posting is temporary ("for a limited period")
- No minimum or maximum duration
- Derogations possible for short-term posting
- No specific rule for long-term posting

Proposal

- Posting is temporary ("for a limited period")
- No minimum or maximum duration
- Derogations possible for short-term posting
- Specific rule for long-term posting: if the posting is envisaged or effectively lasts for more than 24 months, the host MS is deemed to be the country in which the work is **habitually** carried out.

Long Term Posting - process

Applicable legislation





Contract formation

Performance of the contract

Linked to wages and remuneration

Linked to working time

Linked to work/life balance and leaves

Linked to Health & Safety at work

Linked to training

Etc ...

Termination of the contract

Long Term Posting - scope

Anticipated duration



Anticipated duration more than 24 months

16 months

5 months

7 months



Directive 96/71/EC

Posted workers should be guaranteed the terms and conditions of employment covering the following matters which are laid down by law and/or by collective agreements which have been declared universally applicable within the meaning of paragraph 8:
(c) **the minimum rates of pay**, including overtime rates;

Proposal

Posted workers should be guaranteed the terms and conditions of employment covering the following matters which are laid down by law and/or by collective agreements which have been declared universally applicable within the meaning of paragraph 8:
(c) **remuneration**, including overtime rates.
Remuneration means all the elements of remuneration rendered mandatory in the host MS.

No change on the calculation process



Home Member State

Host Member State

Wage

Highest of the two

Remuneration

(all the elements of remuneration rendered mandatory by national law, CA declared universally applicable)

+ travel, board and lodging



Remuneration

Minimum rates of pay

Categorisation into pay groups

Daily allowance

Compensation for daily travelling time

Holiday pay longer than 4 weeks

Allowances and Bonuses

Seniority allowances

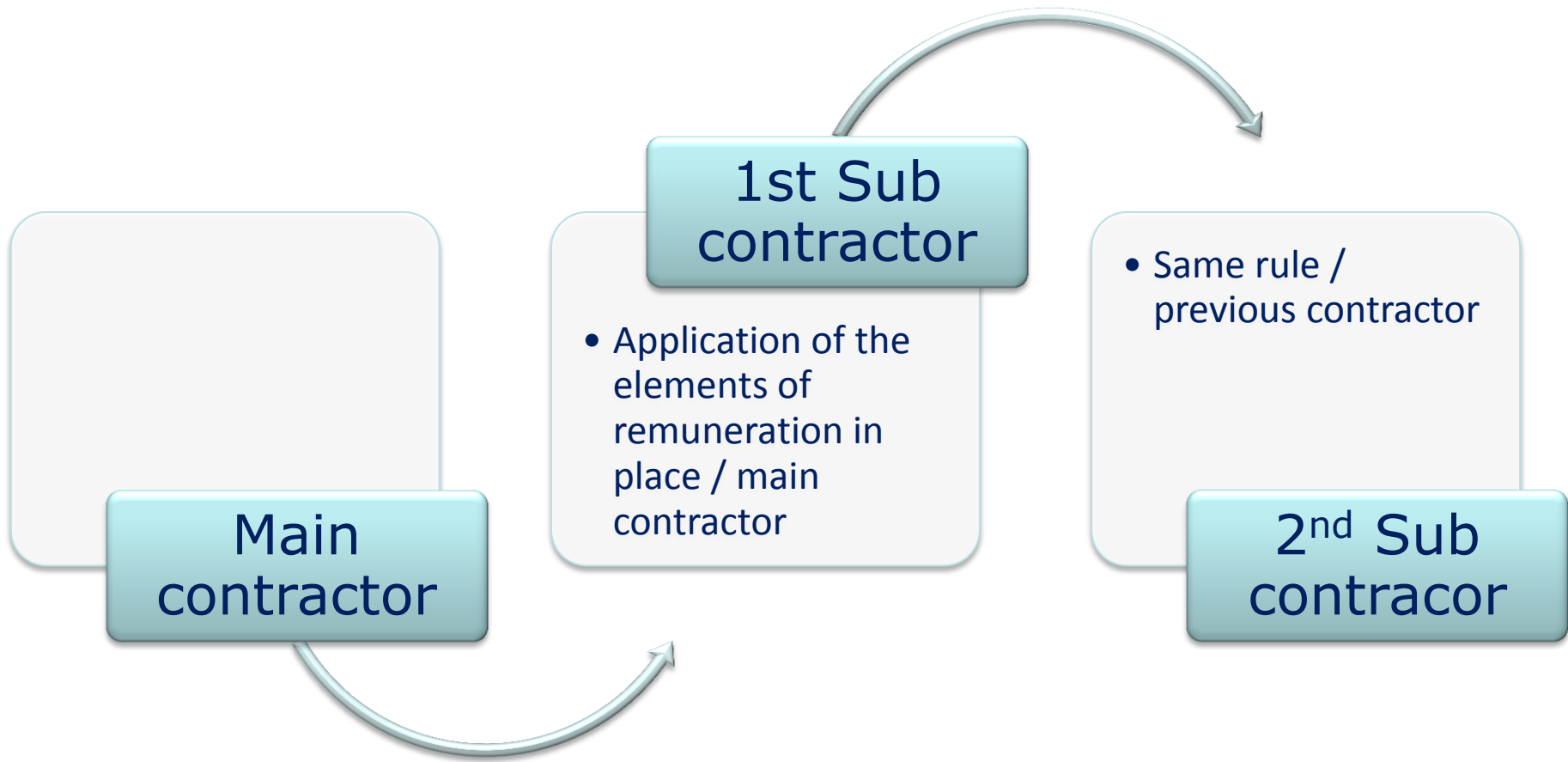
Supplements for dirty, heavy or dangerous work

Quality bonuses

13th month bonuses

...

Directive 96/71/EC	Proposal
Nothing	<p>MS have the option to impose that the conditions applied by the main contractor are also respected by all the undertakings in a subcontracting relationship with this company.</p> <p><i>Important condition: this needs to be done in a non-discriminatory way, i.e., it has to apply in the same way to both national and cross-border subcontractors.</i></p>





Directive 96/71/EC

Member States **may** provide that temporary agency workers are guaranteed the terms and conditions which apply to temporary workers at national level.

Proposal

Member States **shall** provide that temporary agency workers are guaranteed the terms and conditions which apply pursuant to Art. 5 of Directive 2008/104/EC.

Directive 2008/104/EC: Article 5

The basic working and employment conditions of temporary agency workers shall be, for the duration of their assignment at a user undertaking, **at least those that would apply** if they had been recruited directly by that undertaking to occupy the same job.



- Ensure and **promote freedom** of provision of services. Prevents risk of eroding support for the Internal Market
- Competition based on quality and fairness. **Non-discriminatory** approach for service providers
- Respect of **national rules** in term of taxes and social security in sending MS. Respect of national wage settings systems

Discussion process



8 March
Adoption
Commission
proposal

20 July
Commission
analysis on
subsidiarity
COM(2016)505

10 May
8 weeks
feedback
Parliament
scrutiny on
subsidiarity

Discussion Council &
EP



Thank you