Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 21 December 2018 — Federatie Nederlandse Vakbeweging v Van den Bosch Transporten B.V., Van den Bosch Transporte GmbH, Silo-Tank Kft

(Case C-815/18)

(2019/C 122/11)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Federatie Nederlandse Vakbeweging

Respondents: Van den Bosch Transporten B.V., Van den Bosch Transporte GmbH, Silo-Tank Kft

Questions referred

1. Must Directive 96/71/EC [1] 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 [OJ 1997 L 18, p. 1; 'the Posting of Workers Directive'] be interpreted as meaning that it also applies to a worker who works as a driver in international road transport and thus carries out his work in more than one Member State?

2. (a) If the answer to Question 1 is in the affirmative, what criterion or considerations should be used to determine whether a worker working as a driver in international road transport is posted 'to the territory of a Member State' as referred to in Article 1(1) and (3) of the Posting of Workers Directive, and whether that worker 'for a limited period, carries out his work in the territory of a Member State other than the State in which he normally works' as referred to in Article 2(1) of the Posting of Workers Directive?

   (b) When answering question 2 (a), should any significance be attached to the fact that the undertaking posting the worker referred to in question 2(a) is affiliated — for example, in a group of companies — to the undertaking to which that worker is posted and, if so, what should that significance be?

   (c) If the work undertaken by the worker referred to in question 2(a) relates partly to cabotage transport — that is to say: transport carried out exclusively in the territory of a Member State other than that in which that worker habitually works — will that worker then in any case for that part of his work, be considered to be working temporarily in the territory of the first Member State? If so, does a lower limit apply in that regard, for example, in the form of a minimum period per month in which that cabotage transport takes place?

3. (a) If the answer to Question 1 is in the affirmative, how should the term 'collective agreements. which have been declared universally applicable', as referred to in Article 3(1) and the first subparagraph of Article 3(8) of the Posting of Workers Directive, be interpreted? Is that an autonomous concept of European Union law and is it therefore sufficient that the conditions laid down in the first subparagraph of Article 3(8) of the Posting of Workers Directive have for practical purposes been met, or do those provisions also require that the collective labour agreement was declared universally applicable on the basis of national law?

   (b) If a collective labour agreement cannot be regarded as a universally applicable collective labour agreement within the meaning of Article 3(1) and the first subparagraph of Article 3(8) of the Posting of Workers Directive, does Article 56 TFEU preclude an undertaking which is established in a Member State and which posts a worker to the territory of another Member State from being obliged by contractual means to comply with the provisions of such a collective labour agreement which is in force in the latter Member State?

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[1] 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 (OJ 1997 L 18, p. 1).