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Goods vehicles hired without drivers

EU rules on the use of goods vehicles hired without drivers have been in operation for over 25 years without change and need to be reviewed to correspond to current and future needs in the transport sector.

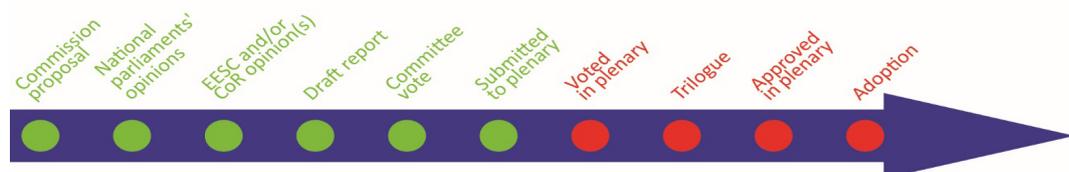
As part of the 2017 road transport mobility package, the European Commission proposed to soften the existing restrictions on using hired vehicles in international transport and establish a uniform regulatory framework, which would give transport operators across the EU equal access to the market for hired goods vehicles.

The Council, concerned with the possible erosion of tax revenues from vehicle registration and enforcement issues, could not endorse a general approach under a recent proposal made by the Bulgarian Presidency. The Parliament's Committee on Transport and Tourism voted its report, but the mandate to start trilogues is due to be voted during the June plenary.

Proposal for a directive of the European Parliament and of the Council amending Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road

COM(2017) 282, 31.5.2017, 2017/0113(COD), Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')

Committee responsible:	Transport and Tourism (TRAN)
Rapporteur:	Cláudia Monteiro de Aguiar (EPP, Portugal)
Shadow rapporteurs:	Lucy Anderson (S&D, United Kingdom) Mark Demesmaeker (ECR, Belgium) Matthijs van Miltenburg (ALDE, the Netherlands) Marie-Pierre Vieu (GUE/NGL, France) Jakop Dalunde (Greens/EFA, Sweden)
Next steps expected:	First-reading vote in plenary



11 June 2018
Second edition
The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure. Please note this document has been designed for on-line viewing.

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Introduction

Road transport is still the most frequent method of carrying goods over land. In 2015, three quarters ([75.3 %](#)) of all inland freight transport activities in the EU were by road.

Over the years, the European Union (EU) has developed a set of rules for road transport. As part of its regulatory fitness and performance ('REFIT') programme, the European Commission concluded that the EU legislative framework for road transport needed to be modernised and adapted to current and future needs. On 31 May 2017, the Commission put forward several legislative proposals, as the first part of the '[Europe on the move](#)' mobility package.¹ The proposed [directive](#) on the use of hired vehicles for the carriage of goods by road is one of them. It is linked to the [proposal](#) reviewing the conditions for becoming a road transport operator and gaining access to the international road haulage market.

Context

Over the past 15 years, EU road transport has become more international. In [2000](#), the international share of total road freight transport activity was about 28 %, while in 2014, it reached almost 36 %.

In terms of tonne-km,² about [14 %](#) of road freight transport operations in the EU are carried out by companies moving their own goods (own account). The remaining 86 % are performed by companies offering road haulage services for hire and reward. The split between own-account transport and transport for hire and reward has not changed much over recent years. According to the Commission, road freight transport services for hire and reward together employ about [3 million](#) people, while road freight transport for own accounts for an additional 500 000 to 1 million people.

Haulage [undertakings](#) use hired vehicles as a permanent replacement for owned vehicles (long-term lease), as a temporary fleet addition to meet seasonal or peak demands, and also as a temporary replacement for damaged or defective vehicles (short-term rent). The leasing industry estimated in 2014 that among the newly registered heavy goods vehicles (HGVs, with maximum mass above 3.5 tonnes), at least [40 %](#) were hired or leased, while this share was around 16 % in the total fleet. When both HGVs and light commercial vehicles (LCVs) were counted, about [10 %](#) of the EU fleet was either rented or leased (about 3.5 million out of a total of 36 million vehicles). This splits into some 1 million HGVs and 2.5 million LCVs.

In 2014, Eurostat surveys counted about 6 500 companies in the EU whose main activity was renting and leasing of trucks,³ in total employing some 26 000 people and generating annual turnover of €8 to 9 billion.

1 A second set of proposals was adopted in [November 2017](#).

2 Tonne-kilometre (tkm): a [unit of measurement](#) representing 1 tonne transported over the distance of 1 kilometre.

3 And over 35 000 companies renting and leasing cars and light motor vehicles.

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Existing situation

Legislative development

European rules on the use of vehicles hired without drivers for the carriage of goods by road date back to 1984. To give freight transport operators some flexibility and strengthen the productivity of companies, [Council Directive 84/647/EEC](#) partially allowed the use of hired vehicles for traffic between Member States.

For the use of vehicles hired in another Member State, four conditions had to be fulfilled. Firstly, the vehicle had to be registered or put into circulation in compliance with the laws of the Member State where the company hiring it was established. Secondly, the contract was to be a vehicle-only one, without a driver. Thirdly, during the hire period, the hired vehicle was to be at the sole disposal of the company using it. And lastly, the driver had to be a member of the personnel of the hiring company. The driver had to carry on board a number of documents proving compliance with the rules. However, Member States were allowed to exempt all own-account operations, and could keep their existing regulations laying down a minimum hire period for undertakings established on their territory.

In a 1989 review, the Commission found that, due to the use of the two exemption possibilities, the directive was not evenly applied across the European Community (five Member States imposed a minimum hire period and six restricted the use of hired goods vehicles for own-account operations) and proposed to bring these exemption possibilities to an end. While the Council supported the removal of the 'minimum hire period' rule, some Member States wanted to keep the possibility to exempt own-account operations. The resulting [Council Directive 90/398/EEC](#) therefore removed the 'minimum hire period' exemption, but maintained the option to exempt hired goods vehicles with a maximum mass above six tonnes.

In 1995, another proposal to remove this restriction option was discussed, but failed to win enough support in the Council. Seven⁴ of the 15 Member States did not wish to allow their operators to hire vehicles from abroad, fearing a loss of tax revenue.

In 2006, [Directive 2006/1/EC](#) codified the situation existing since 1990. It provides a minimum level of market opening in the use of hired goods vehicles for transport operations, both national and international. Member States were to ensure that their undertakings can use hired vehicles under the same conditions as the vehicles they own, provided that the hired vehicles are registered or put into circulation in line with the laws of their countries. However, Member States can still restrict the use of hired goods vehicles in two cases. First, when a vehicle used for own-account operations has a total permissible laden weight of more than six tonnes. And second, when a vehicle has been hired in a Member State other than the one in which the undertaking hiring it is established. The directive applies to [all goods vehicles](#) (LCVs up to 3.5 tonnes and HGVs), motorised or non-motorised (trailers and semi-trailers) and their combinations. It does not apply to buses and coaches. It covers all forms of hire, from (mostly short-term) renting to (mostly long-term) leasing.

4 Denmark, Germany, Greece, Italy, Portugal, Spain and Sweden.

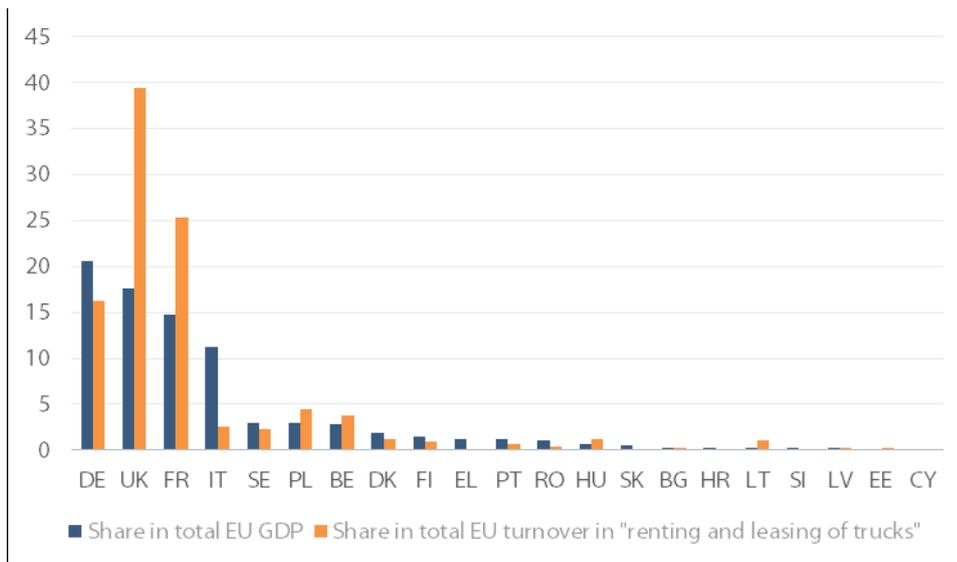
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Restrictions currently applied

The majority of Member States apply a regime less strict than that provided by the directive, and do not make use of the restrictive options.

The restriction on the use of hired goods vehicles with a total mass above six tonnes for own-account operations is applied in Greece,⁵ Italy, Portugal and Spain. When a company established in these countries wants to transport its own goods, it can either pay a professional haulage operator, rent a number of smaller trucks or buy their own large vehicle. According to the Commission, such vehicles then tend to be under-utilised ([empty runs](#)). Moreover, as companies renting vehicles with total laden weight above six tonnes cannot respond to seasonal or peak demands there, the corresponding markets for hired vehicles are under-developed (see Figure 1: the share of Greece, Italy and Portugal in this market segment is much lower than their share of overall EU gross domestic product (GDP); no data are available for Spain).

Figure 1 – Share (in %) in EU GDP and in EU turnover in 'renting and leasing of trucks' in 2015



Data source: Eurostat - structural business statistics, 2015. No data on the share in EU turnover (of sector N 77.12) was available for CZ, IE, ES, LU, MT and NL.

On its territory, a Member State can forbid the use of a vehicle that an operator from another Member State has hired in a third Member State. Most Member States ([18](#)) do not use this possibility⁶ and allow the

⁵ In [Greece](#), vehicles between 3.5 and 6 tonnes may only be hired out to other companies in a similar economic sector.

⁶ These 18 Member States are: Bulgaria, Germany, Estonia, Greece, Austria, France, Croatia, Italy, Cyprus, Lithuania, Hungary, Malta, the Netherlands, Romania, Slovenia, Finland, Sweden, the United Kingdom. Data were not available for the 10 remaining Member States.

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use of goods vehicles hired elsewhere, provided that the foreign operators comply with EU road haulage legislation (Regulations [1071/2009/EC](#) and [1072/2009/EC](#)) and hold a Community licence from the Member State of establishment.

However, for international haulage operations in the EU, only vehicles equipped with a certified true copy of the Community licence can be used.⁷ In several Member States,⁸ the certified copy is only issued to vehicles registered in that Member State, not to vehicles registered abroad, effectively limiting the use of such vehicles.

Hired vehicles tend to be newer (by [4 to 6 years](#), the leasing industry estimates), safer and less polluting. Moreover, since 2014, only vehicles complying with tighter air pollutant emissions standards ([EURO VI](#)) can be placed on the market. As many goods vehicles are subject to a [rental and leasing scheme](#) at the beginning of their lifetime and then switch into ownership after some years, restricting the use of hired vehicles could hinder the market uptake of new vehicles and technologies. The Commission, citing 2015 Eurostat data on the use of heavy goods vehicles older than 10 years (in total mileage), points out that the countries that restrict the use of hired goods vehicles tend to be among those where the share of old vehicles is the highest.⁹

Parliament's starting position

The European Parliament, considering hired vehicles as usually the newest and cleanest on the market and contributing to the efficiency of road transport, in its [resolution](#) of 18 May 2017 on road transport in the EU, called on the Commission to review the relevant rules, which allow Member States to prohibit the use of such vehicles for international transport operations. Noting the high level of empty runs, the Parliament argued that this is caused by restrictions on cabotage¹⁰ operations which limit hauliers in further increasing the cargo loads and hence their environmental effectiveness. In this context, it stressed that market opening would have a positive impact on the environmental efficiency of road transport.

7 Regulation 1072/2009/EC, Article 4(6).

8 This appears to be the [case](#) in Bulgaria, the Czech Republic, Ireland, Greece, Spain, Croatia, Italy, Cyprus, Lithuania, Hungary, Romania, Slovenia and Finland.

9 The share was [highest](#) in Greece (63 %), Cyprus (39 %), Bulgaria (38 %), Poland (34 %), the Czech Republic (30 %), Portugal (30 %) and Spain (26 %).

10 'Cabotage operations' means national carriage for hire or reward carried out on a temporary basis in a host Member State, in line with Regulation [1072/2009/EC](#).



Proposal

Preparation of the proposal

The European Commission engaged an external contractor to carry out a [study on the ex-post evaluation](#) and a [study for the impact assessment](#). From the ex-post evaluation, it [concluded](#) that the existing restrictions prevent transport operators from optimal use of vehicles, while also raising compliance costs both for transport operators and the leasing and renting industry, as well as increasing enforcement costs to public authorities (for more detail, see the EPRS [implementation appraisal](#)).

The proposal for a directive is accompanied by an [impact assessment](#), which studied a range of options, from issuing guidelines and recommendations only, through different combinations of eliminating the existing restrictions, to setting the same rules for the use of hired vehicles as for the use of vehicles owned by undertakings (for more detail, see the EPRS [initial appraisal](#) of the impact assessment).

Next to targeted stakeholder interviews, the Commission also ran a 12-week online [public consultation](#) and a seven-week small and medium-sized enterprises (SMEs) consultation. The main problem raised by transport companies was the uncertainty they have to face when dealing with the differing implementation of the existing rules. Operators called for harmonised rules, including the period for which a vehicle can be hired in all Member States.¹¹

The changes the proposal would bring

Based on [Article 91\(1\)](#) of the Treaty on the Functioning of the European Union (TFEU), the Commission proposes to remove the existing restrictions and establish a clear and uniform regulatory framework, giving transport operators across the EU equal access to the market for hired vehicles.

Concretely, Member States would no longer have the possibility to restrict the use of hired vehicles for own-account operations. In addition, while Member States may still limit the use of a vehicle hired in a Member State other than the one in which the undertaking hiring it is established, they would have to allow its use for at least four months. This period would give transport companies enough time to meet peak or seasonal demand and replace defective vehicles. This limitation is deemed necessary to prevent possible distortions due to significant differences among Member States in road vehicle taxation.

As a [result](#), the own-account operators all over the EU would be able to use hired goods vehicles above six tonnes. To transport operators, the proposal would reduce regulatory burden, give them more flexibility and allow them to perform their transport operations efficiently. The vehicle renting and leasing industry would gain access to new markets (in Greece, Italy, Portugal and Spain) and the possibility to satisfy short-term extra demand. Together, this would help boost the market for hired vehicles and [lower prices](#).¹²

11 The consultation was [inconclusive](#) as to the duration of temporary use of vehicles hired in another Member State.

12 While non-restricted use of hired vehicles for own account operation in itself is not enough to ensure a strong development of the sector 'renting and leasing of trucks', the Commission sees it as a necessary [pre-requisite](#).



Preparation of the proposal

The changes the proposal would bring

National authorities would no longer have to control the use of hired goods vehicles for own-account operations, but would have to enforce the temporary permission to use vehicles hired in another Member State instead, to prevent transport operators from moving their fleet to states with low taxes and hiring them back. Higher profits in both the road haulage and the vehicle hiring sector are expected to bring in more tax revenue. The Commission maintains that the proposal could also help reduce some negative impacts of road transport, as hired vehicles are usually newer, less polluting and safer than the remainder of the fleet.

At the latest five years after the transposition deadline, the Commission would report on the implementation and effects of the directive and assess whether further measures are needed. The monitoring should be facilitated by national electronic registers of road transport undertakings, where transport operators will, in the future, have to indicate the number plates of the vehicles at their disposal, showing clearly the share of foreign-registered vehicles.

The Commission estimates that for EU hauliers, implementation of the measures proposed could reduce operating costs by about [€158 million](#) in 2030 and create about 1 700 jobs. For an individual operator, the switch from owned to hired vehicles could lower operating costs by about 2 %. Companies renting and leasing goods vehicles could gain about €81 million and create about 2 900 jobs.

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Views

Advisory committees

The European Economic and Social Committee (EESC) in its [opinion](#) of 6 December 2017 (rapporteur Brian Curtis, Group II – Workers, United Kingdom) welcomed the removal of restrictions on the use of goods vehicles for own-account operations. To the EESC, illegal cabotage remains a problem in the haulage sector, and the implementation of the measures proposed could make its detection more difficult. Therefore, it suggests to strengthen the traceable link between the company and the vehicle. Should, after the review, further measures be needed to dissuade operators from profiting from lower vehicle registration taxes in other Member States, the EESC suggests to cap the proportion of the fleet that could be temporarily transferred from an operator to an affiliate operator in another Member State.

The European Committee of the Regions (CoR), in its [opinion](#) of 1 February 2018 (rapporteur Spyros Spyridon, EPP, Greece), welcomed both the proposed further liberalisation of the use of hired vehicles, considering that it will bring new jobs and help improve the environment, and the partial liberalisation of vehicle hire from another Member State for commercial activities, as a way out of the current situation where conditions across EU vary.

National parliaments

Within the deadline for submission of reasoned opinions on the grounds of subsidiarity ([4 September 2017](#)), only the [Italian Senate](#) contributed to the political dialogue. Affirming the need to keep restrictions on the hire of goods vehicles above six tonnes for own-account operations and on the period of time allowed to carry out operations with hired vehicles (several months), it also wanted to ensure that hired vehicles may only be driven by drivers with the necessary professional qualifications.

Stakeholders' views¹³

Well before the mobility package, the leasing industry ([Leaseurope](#)) called for a level playing field for truck rental companies. They wished to end the situation whereby rules of access to the rental profession are stricter in some Member States than in others.

In reaction to the legislative proposal, there was general support for extending the use of hired vehicles. The global industry association, the International Road Transport Union ([IRU](#)) warned, however, that this could also increase the existing competitive pressure on the EU road freight transport market. Disagreeing with the time limit proposed, they suggested to restrict the use of hired vehicles outside the Member State of establishment of the hiring company to a maximum (rather than minimum) period of four months during a calendar year. The confederation of EU businesses, [BusinessEurope](#) asked for clarification of the time

¹³ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.



Advisory committees

National parliaments

Stakeholders' views

restriction and warned against possible loopholes among several legislative acts, which could open the door to misusing the cabotage rules or make enforcement more difficult. The transport forum established by the Association of Craft, Small and Medium-sized Enterprises ([UEAPME](#)) opposed the extension of the current provisions, which may lead to a loss, in terms of jobs in the Member State of establishment and of income from vehicle taxes, while impeding the cross-border pursuit of traffic offences. They also warned against returning empty trucks in urban areas, worsening congestion and pollution levels. Instead, they proposed harmonisation of the time limits after which a vehicle has to be registered, allowing for no renewals, and including national rental companies in the scope. They saw the proposed four-month limit as too long, and would make compliance checks even more difficult.



Legislative process

In the Council, the Working Group on Land Transport studied the first part of the mobility package between June and November 2017. At the [Transport Council meeting](#) in December 2017, the Council received a [progress report](#). Several Member States had reservations related to the possible erosion of vehicle tax income, and did not like the idea that a hired vehicle could circulate in their territory for several months without paying any registration taxes. On 17 May 2018, the Bulgarian Presidency proposed a [compromise text](#), that would allow Member States (within their territory) to limit vehicle hire contracts concluded by transport undertakings to 30 consecutive days within a calendar year, to cap the proportion of hired vehicles in an overall owned-vehicle fleet (to 25 %, or minimum one vehicle). Further, Member States should include the impact of the directive on their tax revenues in the assessment report five years after the transposition.

However, the Transport Council on 7 June 2018 did [not endorse](#) a general approach.

The European Parliament tasked its Committee on Transport and Tourism (TRAN) with the file. On 20 December 2017, rapporteur Cláudia Monteiro de Aguiar (EPP, Portugal) published her [draft report](#).

In total, 81 amendments were tabled and the [report](#) was adopted in the TRAN committee on 24 May 2018. The report supports the Commission's proposal to facilitate for undertakings the hiring of goods vehicles without drivers, taking into account some safety and compliance issues (such as varying levels of road transport taxation). The TRAN committee asks that a declaration of the number plate of each vehicle hired in another Member State must be sent to the national electronic registers.

The rapporteur originally proposed to keep the restriction for the use of vehicles above six tonnes for own-account operations, but then lifted this amendment. The TRAN position is relatively close to the Presidency's proposal for the Council position.

However, the TRAN committee voted very narrowly against giving a mandate to start trilogues and the file is now scheduled for a vote in plenary in the June session.



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EP supporting analysis

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Study for the impact Assessment for a possible revision of Directive 2006/1/EC, Ricardo for European Commission, [final report](#) and [annexes](#), March 2017.

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