



Plenary sitting

A9-0116/2020

10.6.2020

*****II**

RECOMMENDATION FOR SECOND READING

on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector
(05115/1/2020 – C9-0105/2020 – 2017/0123(COD))

Committee on Transport and Tourism

Rapporteur: Ismail Ertug

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
SHORT JUSTIFICATION	7
PROCEDURE – COMMITTEE RESPONSIBLE	10
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE	11

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector (05115/1/2020 – C9 0105/2020 – 2017/0123(COD))

(Ordinary legislative procedure: second reading)

The European Parliament,

- having regard to the Council position at first reading (05115/1/2020 – C9-0105/2020),
 - having regard to the opinion of the European Economic and Social Committee of 18 January 2018¹,
 - having regard to the opinion of the Committee of the Regions of 1 February 2018²,
 - having regard to the opinion of the Commission (COM(2020)0151),
 - having regard to its position at first reading³ on the Commission proposal to Parliament and the Council (COM(2017)0281),
 - having regard to Article 294(7) of the Treaty on the Functioning of the European Union,
 - having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure,
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Transport and Tourism (A9-0116/2020),
1. Approves the Council position at first reading;
 2. Notes that the act is adopted in accordance with the Council position;
 3. Instructs its President to sign the act with the President of the Council, in accordance with Article 297(1) of the Treaty on the Functioning of the European Union;
 4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to arrange for its publication in the *Official Journal of the European Union*;
 5. Instructs its President to forward its position to the Council, the Commission and the

¹ OJ C 197, 8.6.2018, p. 38.

² OJ C 176, 23.5.2018, p. 57.

³ Texts adopted of 4.4.2019, P8_TA(2019)0341.

national parliaments.

SHORT JUSTIFICATION

1. The international road transport market

The road transport sector is very important, employing over 11 million people and making up almost 80% of all inland freight transport in the EU.

Currently, two EU Regulations are in place with the general objective of supporting the good functioning, efficiency and competitiveness of the single market in road transport:

- [Regulation \(EC\) No 1071/2009](#) lays down the provisions that undertakings must comply with, in order to access the occupation of road transport operator (passenger and freight);
- [Regulation \(EC\) No 1072/2009](#) lays down the provisions with which undertakings intending to operate on the international road haulage market and on national markets other than their own (cabotage) must comply.

However, experience with the implementation of these Regulations revealed that differences in the interpretation of the provisions, inconsistencies in enforcement practices and lack of cooperation between Member States, have diminished their effectiveness and created legal uncertainty and unequal competition conditions for transport operators.

2. The Commission proposal

On 31 May 2017, the Commission adopted “Mobility Package I” with the aim to ensure fair competition, simplify existing rules, preserve the EU internal market and ensure the rights of workers in this sector. As part of this first Mobility Package, the Commission proposed to amend the current provisions that companies need to comply with if they wish to operate on the international road haulage market or in national markets other than their own (cabotage).

The proposal specifically introduces changes in four distinctive areas: letterbox companies, light commercial vehicles, cabotage and enforcement.

In order to eliminate the use of so-called letterbox companies, "fake subsidiaries" in low wage Member States set-up in order to exploit wage differentials, the Commission proposed to strengthen the criteria on establishment in order to ensure that the haulier has real activity in the Member State of establishment.

Currently, light commercial vehicles (vehicles under 3.5 tonnes) are excluded from the scope of Regulation 1071/2009. However, Member States are allowed to apply some of the provisions of the Regulation to the LCVs established in their territory, which leads to a patchwork of requirements across the EU. Since the use of light commercial vehicles is expected to further grow in the coming years, the Commission proposed to subject them to some of the rules regarding access to profession.

The market for cabotage, the transport of goods within a Member State by a transport company established in another Member State, is subject to restrictions. Current EU rules allow for three cabotage operations within seven days of an international delivery. The Commission proposed a new rule, namely unlimited cabotage operations within five days of an international carriage.

Finally, the Commission proposed several measures in order to address the varying levels and effectiveness of controls and enforcement between Member States, including setting annual mandatory thresholds for cabotage checks and concerted cross-border checks, improving the cooperation between Member States via rules on exchange of information, enabling targeted checks by providing risk rating via the European Register for Road Undertakings, and further encouraging the use of the smart tachograph and e-documents.

3. Interinstitutional negotiations

Following the adoption of Parliament's first reading position on 4 April 2019, interinstitutional negotiations (aimed at an early second reading agreement) took place, from October to December 2019, under the Finnish Presidency of the Council. After four rounds of trilogues, some of them jointly, Parliament's negotiating team reached a provisional agreement with the Council Presidency during the last trilogue that started on 11 December 2019.

The text of the provisional agreement was presented to the Committee on Transport and Tourism (TRAN) and confirmed on 21 January 2020. On the basis of the Committee's approval, the Chair of the TRAN Committee, in her letter to the Chair of the Committee of Permanent Representatives (COREPER I), indicated that she would recommend to the Plenary to approve the Council's position without amendments, provided that it is in conformity with the provisional agreement reached between the two institutions. Following legal-linguistic verification, the Council on 7 April 2020 (by written procedure) formally adopted its position in accordance with the provisional agreement.

4. Main elements of the agreement

The overall agreement that Parliament reached with the Council further strengthened the proposal in order to ensure balanced conditions for fair competition and rigorous enforcement. In particular, the following was achieved:

- In order to better fight letterbox companies, the provisions regarding the existence of an effective and stable establishment of a real business presence have been strengthened and clarified, so that a genuine link with the Member State of establishment can be proven. This includes requirements linked to the presence of vehicles used by the transport operator in the Member State of establishment (once every 8 weeks) and to the normal place of employment of the drivers;
- Regarding the inclusion of light commercial vehicles: in order to reduce administrative burden, light commercial vehicles purely performing national transport operations, as well as very small light commercial vehicles (under 2.5 tonnes) are excluded from the scope. On the other hand, the light commercial vehicles that are included in the scope should follow similar rules as heavy good vehicles in order to ensure fair competition;
- While the current regime for cabotage has been maintained, in order to fight systematic cabotage, which leads to nomadic drivers and social dumping, a “cooling off” period of 4 days has been introduced, during which no further cabotage operations in that specific

Member State are allowed. Furthermore, the possible abuse of the Combined Transport Directive by some transport companies in order to circumvent the cabotage rules, has been addressed;

- In order to further strengthen and streamline the enforcement of the rules, specific provisions have been agreed to enhance administrative cooperation between Member States, to collect more pertinent data on transport companies in national electronic registers and to allow easier access to those during road-side checks, to check more regularly if licencing requirements still fulfilled including via on-site inspections, and to focus the scarce national enforcement capacity on high-risk companies;
- Introduction of co-liability in the supply chain in order to enhance the responsibility for actors upstream in the supply chain (consignors, freight forwarders, contractors and subcontractors) to ensure that the transport services that they commission do not break the law;
- Further clarifying the rules to improve the level playing field and fair competition in the sector, also keeping in mind the technological improvement and the digitalisation of transport.

5. Recommendation

As Council's position is in conformity with the provisional agreement reached during the interinstitutional negotiations, the Rapporteur recommends endorsing it without amendments.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 with a view to adapting them to developments in the sector
References	05115/1/2020 – C9-0105/2020 – 2017/0123(COD)
Date of Parliament’s first reading – P number	4.4.2019 T8-0341/2019
Commission proposal	COM(2017)0281 - C8-0169/2017
Receipt of Council position at first reading announced in plenary	17.4.2020
Committee responsible Date announced in plenary	TRAN 17.4.2020
Rapporteurs Date appointed	Ismail Ertug 12.7.2017
Discussed in committee	28.4.2020
Date adopted	8.6.2020
Result of final vote	+: 33 –: 16 0: 0
Members present for the final vote	Magdalena Adamowicz, Andris Ameriks, José Ramón Bauzá Díaz, Izaskun Bilbao Barandica, Marco Campomenosi, Ciarán Cuffe, Jakop G. Dalunde, Johan Danielsson, Andor Deli, Karima Delli, Anna Deparnay-Grunenberg, Ismail Ertug, Gheorghe Falcă, Giuseppe Ferrandino, Mario Furore, Søren Gade, Isabel García Muñoz, Elsi Katainen, Kateřina Konečná, Elena Kountoura, Julie Lechanteux, Bogusław Liberadzki, Peter Lundgren, Benoît Lutgen, Elżbieta Katarzyna Łukacijewska, Marian-Jean Marinescu, Tilly Metz, Giuseppe Milazzo, Cláudia Monteiro de Aguiar, Caroline Nagtegaal, Jan-Christoph Oetjen, Philippe Olivier, Rovana Plumb, Tomasz Piotr Poręba, Dominique Riquet, Dorien Rookmaker, Massimiliano Salini, Sven Schulze, Vera Tax, Barbara Thaler, István Ujhelyi, Petar Vitanov, Elissavet Vozemberg-Vrionidi, Lucia Vuolo, Roberts Zīle, Kosma Złotowski
Substitutes present for the final vote	Leila Chaibi, Roman Haider, Henna Virkkunen
Date tabled	10.6.2020

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

33	+
ECR	Peter Lundgren
GUE/NGL	Leila Chaibi, Kateřina Konečná, Elena Kountoura
ID	Marco Campomenosi, Roman Haider, Julie Lechanteux, Philippe Olivier, Lucia Vuolo
NI	Mario Furore
PPE	Benoît Lutgen, Giuseppe Milazzo, Massimiliano Salini, Sven Schulze, Henna Virkkunen, Elissavet Vozemberg-Vrionidi
Renew	José Ramón Bauzá Díaz, Izaskun Bilbao Barandica, Søren Gade, Elsi Katainen, Caroline Nagtegaal, Jan-Christoph Oetjen, Dominique Riquet
S&D	Johan Danielsson, Ismail Ertug, Giuseppe Ferrandino, Isabel García Muñoz, Vera Tax
Verts/ALE	Ciarán Cuffe, Jakop G. Dalunde, Karima Delli, Anna Deparnay-Grunenberg, Tilly Metz

16	-
ECR	Tomasz Piotr Poręba, Roberts Zīle, Kosma Złotowski
NI	Dorian Rookmaker
PPE	Magdalena Adamowicz, Andor Deli, Gheorghe Falcă, Marian-Jean Marinescu, Cláudia Monteiro de Aguiar, Barbara Thaler, Elżbieta Katarzyna Łukacijewska
S&D	Andris Ameriks, Bogusław Liberadzki, Rovana Plumb, István Ujhelyi, Petar Vitanov

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention