



**2017/0123(COD)**

30.4.2018

## **OPINION**

of the Committee on Employment and Social Affairs

for the Committee on Transport and Tourism

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 with a view to adapting them to developments in the sector (COM(2017)0281 - C8-0169/2017 – 2017/0123(COD))

Rapporteur: Verónica Lope Fontagné

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## SHORT JUSTIFICATION

### Introduction

On 31 May 2017, the Commission presented a proposal for a regulation amending Regulation (EC) No 1071/2009 concerning the conditions to be complied with to pursue the occupation of road transport operator, and Regulation (EC) No 1072/2009 on common rules for access to the international road haulage market.

With this proposal, the Commission is aiming to ensure that the single market for road transport functions properly and is efficient and competitive since, according to the ex-post evaluation carried out in 2014-15, this objective has only been partially met. The main difficulties pinpointed by the evaluation were linked to shortcomings in the rules and their enforcement.

### The rapporteur's position

The rapporteur agrees with the basic objectives of the Commission's proposal, yet believes that approving some of the measures proposed would impede its practical implementation in the road transport sector, since it may result in excessive administrative barriers for undertakings, especially for SMEs, which, ultimately, would hinder the smooth functioning of the internal market.

Additionally, it is worth pointing out that the Commission presented this proposal together with the proposal for a directive on posting drivers in the road transport sector, as well as the proposal for a directive on driving times, and hence the understanding is that these proposals must be analysed jointly.

The rapporteur is of the opinion that these proposals should be used to strike a balance between the smooth functioning of the internal market and ensuring that appropriate working conditions and rules are maintained.

In order to achieve this, the first course of action must be to combat illegal work in the transport sector, especially so-called letterbox companies and false self-employment.

It is vital that the freedom of establishment and the freedom to provide services are respected, freedoms that are fundamental principles of Union law and which are enshrined in Articles 49 and 56 respectively of the TFEU. Nevertheless, just as the Commission states, it is necessary to ensure that road haulage operators established in a Member State have a real and continuous presence in that Member State and conduct their business from there.

Controls need to be tighter, and there must be effective, proportionate and dissuasive penalties for those undertakings that deliberately infringe national and Community regulations. Such behaviour, even though it represents a minority and does not reflect the rest of the sector, results in unfair competition, hinders the smooth functioning of the internal market and does not guarantee workers fair working conditions.

The road haulage sector in the EU provides 5 million direct jobs and accounts for around 2 % of the Community's GDP. However, the EU is faced with a lack of professional drivers. In light of this, and given the fact that a transport standstill would paralyse the economy, the EU must

adopt measures which can attract young people into the sector and also keep existing professional drivers in the sector.

The rapporteur is in favour of having clear requirements for complying with Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009, as well as ensuring that they are fit for the type of activity and the size of the undertaking, and that they do not end up being an excessive administrative barrier.

As such, and, given that the partial implementation of Regulation (EC) No 1071/2009 would mean a rise in operating costs of between 4 and 10 % for LCV despite the fact that these vehicles account for barely 0.11 % of international traffic in terms of tonnes-kilometres, the proposal to completely get rid of the existing exemption provided for by Article 1(4)(a) is viewed as a disproportionate move, in the absence of data to justify the need.

Given the mobile nature of haulage as well as the real difficulties involved in anticipating the time needed to deliver international services, the rapporteur expresses doubts over the actual administrative implications of including the posting of workers as a criterion for evaluating good repute.

With regard to cabotage operations, the rapporteur agrees that flexibility is crucial, and also agrees on the need for clear and simple rules that are easy to enforce. However, the possibility of incorporating these activities within the scope of the Directive on posting drivers in the road transport sector from the outset will not only make it difficult to apply the rules, but will also increase the cost of exports. This, in turn, will reduce the profitability of international transport and have a negative impact on both the internal market and the labour market.

## AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Transport and Tourism, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

##### Recital 2

###### *Text proposed by the Commission*

(2) So far, and unless otherwise provided for in national law, the rules on access to the occupation of road transport operator do not apply to undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles not exceeding that limit. The

###### *Amendment*

(2) So far, and unless otherwise provided for in national law, the rules on access to the occupation of road transport operator do not apply to undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles not exceeding that limit. The

number of such undertakings **which are active in both national and international transport operations** has been increasing. As a result, several Member States have decided to apply the rules on access to the occupation of road transport operator, provided for in Regulation (EC) No 1071/2009, to those undertakings. To ensure a minimum level of professionalisation of the sector **using** vehicles with a permissible laden mass not exceeding 3.5 tonnes by way of common rules, and thus to approximate competitive conditions between all operators, this provision should be deleted, whereas the requirements regarding effective and stable establishment and appropriate financial standing should be rendered mandatory.

number of such undertakings has been increasing **particularly on the national transport market, because of the use of light commercial vehicles in towns and on shorter routes**. As a result, several Member States have decided to apply the rules on access to the occupation of road transport operator, provided for in Regulation (EC) No 1071/2009, to those undertakings. To ensure a minimum level of professionalisation of the sector, **prevent the use of loopholes and create fairer competition on the internal market without imposing unnecessary administrative and financial burdens on transport undertakings, particularly SMEs, the requirements for engagement in the occupation of road transport operator should apply equally for undertakings using vehicles or combinations of vehicles with a permissible laden mass not exceeding 3.5 tonnes involved in international transport and cabotage operations**.

## Amendment 2

### Proposal for a regulation Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

**(2a) In its impact assessment, the Commission estimates savings for businesses in the range of EUR 2,7 to 5,2 billion in the period 2020-2035.**

## Amendment 3

### Proposal for a regulation Recital 3

*Text proposed by the Commission*

*Amendment*

(3) **Currently**, Member States are entitled to make access to the occupation of road transport operator subject to

(3) Member States are entitled to make access to the occupation of road transport operator subject to requirements additional

requirements additional to those specified in Regulation (EC) No 1071/2009. ***This possibility has not proven to be necessary in order to respond to imperative needs and has led to divergences in respect of such access. It should therefore be abolished.***

to those specified in Regulation (EC) No 1071/2009.

#### **Amendment 4**

##### **Proposal for a regulation Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3a) Even though road transport activity in the Union provides 5 million direct jobs and contributes almost 2 % of the Community's GDP, the Union is faced with a shortage of professional drivers, particularly among young people and women. In order to make it easier and more attractive for young people and women to access the profession, and, likewise, to retain people currently working in the sector (especially in the case of SMEs), illegal work and bogus self-employment should be reduced and existing administrative procedures should be made more flexible so as not represent an excessive burden for smaller undertakings or self-employed workers. The evaluation of Regulations (EC) No 1071/2009 and (EC) No 1072/2009 has shown that unnecessary administrative and regulatory requirements are a burden for both government bodies and transport undertakings. Clarification of the rules and further administrative simplification are necessary for a competitive and efficient transport industry and their better enforcement. Further support for and exploitation of technological developments is also necessary.***

## Amendment 5

### Proposal for a regulation

#### Recital 4

*Text proposed by the Commission*

(4) It is necessary to ensure that road transport operators established in a Member State have a real and continuous presence in that Member State and conduct their business from there. Therefore, and in light of experience, it is necessary to clarify the provisions regarding the existence of an effective and stable establishment.

*Amendment*

(4) It is necessary to ensure that road transport operators established in a Member State have a real and continuous presence in that Member State and conduct their business from there. ***Freedom of establishment is a cornerstone of the internal market. However, the existence of letterbox companies and bogus self-employment within the transport sector have caused a proliferation of illicit practices, which undermine the sector's image, since they illegally reduce labour costs and fail to ensure that working standards are maintained.*** Therefore, and in light of experience, it is necessary to clarify, the provisions ***of Regulation (EC) No 1071/2009 on the conditions relating to the requirement of establishment,*** regarding the existence of an effective and stable establishment, ***and to ensure and to monitor their implementation, stepping up checks and so putting an end to the illegal practice of so-called letterbox companies and bogus self-employment. It is also necessary to foster enhanced cooperation, joint controls, the setting of more ambitious targets and the exchange of best practices between Member States.***

## Amendment 6

### Proposal for a regulation

#### Recital 6

*Text proposed by the Commission*

(6) In view of their potential to considerably affect the conditions for fair competition in the road haulage market, serious infringements of national tax rules should be added to the items relevant to the

*Amendment*

(6) In view of their potential to considerably affect the conditions for fair competition in the road haulage market, serious infringements of national tax rules should be added to the items relevant to the

assessment of good repute.

assessment of good repute ***and should also, as a deterrent, be subject to sanctions in proportion to the infringement identified.***

## **Amendment 7**

### **Proposal for a regulation**

#### **Recital 7**

*Text proposed by the Commission*

(7) In view of their potential to considerably affect the road haulage market, as well as the social protection of workers, serious infringements of Union rules on the posting of workers and the law applicable to contractual obligations should be added to the items relevant to the assessment of good repute.

*Amendment*

(7) In view of their potential to considerably affect the road haulage market, as well as the social protection of workers, serious infringements of Union rules on the posting of workers, ***cabotage*** and the law applicable to contractual obligations should be added to the items relevant to the assessment of good repute.

## **Amendment 8**

### **Proposal for a regulation**

#### **Recital 8**

*Text proposed by the Commission*

(8) Given the importance of fair competition in the market, infringements of Union rules relevant to this issue should be taken into account in the assessment of the good repute of transport managers and transport undertakings. The empowerment of the Commission to define the degree of seriousness of relevant infringements should be clarified accordingly.

*Amendment*

(8) Given the importance of fair competition in the market, infringements of Union rules relevant to this issue ***and to the workers concerned*** should be taken into account in the assessment of the good repute of transport managers and transport undertakings. The empowerment of the Commission to define the degree of seriousness of relevant infringements should be clarified accordingly.

## **Amendment 9**

### **Proposal for a regulation**

#### **Recital 10**



*Text proposed by the Commission*

(10) Undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or with combinations of vehicles not exceeding that limit should have a **minimum** level of financial standing, to ensure that they have the means to carry out operations on a stable and long-lasting basis. However, since the operations concerned are generally of a limited size, the corresponding requirements should be less demanding than those applicable to operators using vehicles or combinations of vehicles above that limit.

*Amendment*

(10) Undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or with combinations of vehicles not exceeding that limit **involved in international transport** should have a **sufficient** level of financial standing, to ensure that they have the means to carry out operations on a stable and long-lasting basis **and should have the means to fulfil their obligations related to their employees' wages and social contributions**. However, since the operations concerned are generally of a limited size, the corresponding requirements should be less demanding than those applicable to operators using vehicles or combinations of vehicles above that limit **and they should not represent an unnecessary burden for smaller undertakings or self-employed workers**.

**Amendment 10**

**Proposal for a regulation**

**Recital 11**

*Text proposed by the Commission*

(11) The information about transport operators contained in the national electronic registers should be **as complete as possible** to allow national authorities in charge of enforcing the relevant rules to have a sufficient overview of the operators being investigated. In particular, information regarding the registration number of the vehicles at the disposal of operators, the number of employees they hire, their risk rating and their basic financial information should allow a better national and cross-border enforcement of the provisions of Regulations (EC) No 1071/2009 and (EC) No 1072/2009. The

*Amendment*

(11) The information about transport operators contained in the national electronic registers should be **continually updated** to allow national authorities in charge of enforcing the relevant rules to have a sufficient overview of the operators being investigated. In particular, information regarding the registration number of the vehicles at the disposal of operators, the number of employees they hire, their risk rating and their basic financial information should allow a better national and cross-border enforcement of the provisions of Regulations (EC) No 1071/2009 and (EC) No 1072/2009.

rules on the national electronic register should therefore be amended accordingly.

*Furthermore, the national electronic registers should be interoperable and the data contained therein should be directly accessible for enforcement officials of all Member States performing roadside checks.* The rules on the national electronic register should therefore be amended accordingly.

**Amendment 11**  
**Proposal for a regulation**  
**Recital 13**

*Text proposed by the Commission*

(13) The rules on national transport performed on a temporary basis by non-resident hauliers in a host Member State ('cabotage') should be clear, simple and easy to enforce, while **broadly** maintaining the level of liberalisation achieved so far.

*Amendment*

(13) *The principal aim of cabotage operations is to avoid empty journeys while returning to the country of establishment, which contribute to reduce fuel consumption and emissions, improve the profitability of undertakings and hence the internal market and the labour market.* The rules on national transport performed on a temporary basis by non-resident hauliers in a host Member State ('cabotage') should be clear, simple **for hauliers to implement** and easy to enforce. **Those rules should comply with the applicable law** while maintaining the level of liberalisation achieved so far, **without undermining the basic principle of the freedom to provide services in the internal market and the protection of the posted workers. In order to ensure the temporary character and to avoid any misused or distortion of the market, as well as the danger of systematic cabotage caused by so-called 'letter-box' companies or nomadic drivers, the Union rules established in directive 96/71/EC of the European Parliament and of the Council<sup>1a</sup> in the road transport sector are applied to cabotage operations from day 1.**

## Amendment 12

### Proposal for a regulation

#### Recital 14

*Text proposed by the Commission*

(14) To this end, and in order to facilitate checks and to eliminate uncertainty, the limitation on the number of cabotage operations subsequent to an international carriage **should be abolished, while the number of days available for such operations should be reduced.**

*Amendment*

(14) To this end, and in order to facilitate checks and to eliminate uncertainty, the limitation on the number of cabotage operations subsequent to an international carriage **should not be restricted within a 48 hour period.**

## Amendment 13

### Proposal for a regulation

#### Recital 14 a (new)

*Text proposed by the Commission*

*Amendment*

**(14a) Following the end of the cabotage operations, road transport undertakings should not be permitted to carry out further cabotage operations with the same vehicle, or, in the case of a coupled combination, with the motor vehicle of that combination, in the host Member State for seven days.**

## Amendment 14

### Proposal for a regulation

#### Recital 14 b (new)

*Text proposed by the Commission*

*Amendment*

**(14b) The environmental efficiency of road haulage is crucial to reaching the objectives of the 2020 Strategy. In 2012, nearly a quarter of haulage vehicles in the Union involved an empty vehicle, and, in many cases, this was due to restrictions on cabotage operations.**

## Amendment 15

### Proposal for a regulation Recital 14 c (new)

*Text proposed by the Commission*

*Amendment*

***(14c) Recital 17 of Regulation (EC) No 1072/2009 explicitly stipulates that directive 96/71/EC applies to transport undertakings performing a cabotage operation. Since cabotage involves direct participation in the transport market of the host Member State, this is the only way of achieving a level playing field.***

## Amendment 16

### Proposal for a regulation Recital 15

*Text proposed by the Commission*

*Amendment*

(15) The means by which road transport operators can prove compliance with the rules for cabotage operations should be clarified. The use and transmission of electronic transport information should be recognised as such means, which should simplify the provision of relevant evidence and its treatment by the competent authorities. The format used for that purpose should ensure reliability and authenticity. Considering the increasing use of efficient electronic exchange of information in transport and logistics, it is important to ensure coherence in the regulatory frameworks and provisions addressing the simplification of administrative procedures.

***(15) Effective and efficient enforcement of the rules is a prerequisite for fair competition in the internal market and to ensure that the rights of workers are protected. Further digitalisation of enforcement is essential in order to free up enforcement capacity, reduce unnecessary administrative burden and better target high-risk transport operators. The rapid update and use of smart tachographs and electronic transport documents (eCMR) is necessary.*** The means by which road transport operators can prove compliance with the rules for cabotage operations should be clarified. The use and transmission of electronic transport information should be recognised as such means, which should simplify the provision of relevant evidence and its treatment by the competent authorities. The format used for that purpose should ensure reliability and authenticity. Considering the increasing use of efficient electronic exchange of information in transport and logistics, it is important to ensure

coherence in the regulatory frameworks and provisions addressing the simplification of administrative procedures.

## **Amendment 17**

### **Proposal for a regulation Recital 15 a (new)**

*Text proposed by the Commission*

*Amendment*

***(15a) Further digitalisation of enforcement tools is a prerequisite for the proper functioning of the internal market, reducing unnecessary administrative burden and carrying out effective and efficient enforcement of the rules in the road sector.***

## **Amendment 18**

### **Proposal for a regulation Article 1 – paragraph 1 – point 1 – point a – point i Regulation (EC) No 1071/2009 Article 1 – paragraph 4 – point a**

*Text proposed by the Commission*

*Amendment*

(i) point (a) is *deleted*;

(i) point (a) is *replaced by the following*:

***‘(a) undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles or coupled combinations of vehicles the permissible laden mass of which does not exceed 3,5 tonnes and that are engaged exclusively in national transport operations;’***

## **Amendment 19**

### **Proposal for a regulation Article 1 – paragraph 1 – point 1 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) the following paragraph 6 is added:** *deleted*

***‘6. Article 3(1)(b) and (d) and Articles 4, 6, 8, 9, 14, 19 and 21 shall not apply to undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding 3.5 tonnes.***

***Member States may, however:***

***(a) require those undertakings to apply some or all of the provisions referred to in the first subparagraph;***

***(b) lower the limit referred to in the first subparagraph for all or some categories of road transport operations.’***

## **Amendment 20**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 2**

Regulation (EC) No 1071/2009

Article 3 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**(2) in Article 3, paragraph 2 is deleted;** *deleted*

## **Amendment 21**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 3 – point a**

Regulation (EC) No 1071/2009

Article 5 – point a

*Text proposed by the Commission*

‘(a) have premises in which it keeps its core business documents, in particular its commercial contracts, accounting documents, personnel management documents, labour contracts, documents containing data relating to driving time and rest and any other document to which the competent authority must have access in order to verify compliance with the conditions laid down in this Regulation;’

*Amendment*

‘(a) have **adequate** premises, **proportionate to the activities of the undertaking**, in which it keeps its core business documents, **or secures access to them, either in paper or electronic form**, in particular its commercial contracts, accounting documents, personnel management documents, labour contracts, documents containing data relating to **cabotage, posting of drivers, where needed, and** driving time and rest and any other document to which the competent authority must have access in order to verify compliance with the conditions laid down in this Regulation;’

**Amendment 22**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 3 – point a a (new)**

Regulation (EC) No 1071/2009

Article 5 – point a a (new)

*Text proposed by the Commission*

*Amendment*

**(aa) the following point is inserted:**

**‘(aa) have parking areas that are proportionate to the activity and size of its own vehicle fleet;’**

**Amendment 23**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 3 – point d a (new)**

Regulation (EC) No 1071/2009

Article 5 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**(da) the following paragraph is added:**

**‘1a. The assessment of the effective and stable establishment of an undertaking is always an individual and general**

*assessment, taking into account all relevant factors.'*

## Amendment 24

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 4 – point a – point iii

Regulation (EC) No 1071/2009

Article 6 – paragraph 1 – subparagraph 3 - point b – point xii a (new)

*Text proposed by the Commission*

*Amendment*

*(xii a) cabotage.*

## Amendment 25

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 4 – point c

Regulation (EC) No 1071/2009

Article 6 – paragraph 2 a – point b

*Text proposed by the Commission*

*Amendment*

(b) define the degree of seriousness of infringements according to their potential to create a risk of fatalities or serious injuries **and** to distort competition in the road transport market, including by undermining the working conditions of transport workers;

(b) define the degree of seriousness of infringements according to their potential to create a risk of fatalities or serious injuries, to distort competition in the road transport market, including by undermining the working conditions of transport workers, **as well as the non-compliance with relevant Union labour law;**

## Amendment 26

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 5 – point a

Regulation (EC) No 1071/2009

Article 7 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

In order to satisfy the requirement laid down in Article 3(1)(c), an undertaking shall, **on a permanent basis**, be able to meet its financial obligations in the course

In order to satisfy the requirement laid down in Article 3(1)(c), an undertaking shall at all times be able to meet its financial obligations in the course of the



of the annual accounting year. The undertaking shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, it has at its disposal equity capital totalling at least EUR 9 000 when only one vehicle is used and EUR 5 000 for each additional vehicle used. Undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles **with a permissible laden mass not exceeding 3.5 tonnes** or combinations of vehicles **with a permissible laden mass not exceeding 3.5 tonnes** shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, **they have at their** disposal equity capital totalling at least EUR 1 800 when only one vehicle is used and EUR 900 for each additional vehicle used.

annual accounting year. The undertaking shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, it has at its disposal equity capital totalling at least EUR 9 000 when only one vehicle is used and EUR 5 000 for each additional vehicle used **that exceeds 3.5 tonnes**. Undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles **the permissible laden mass of which does not exceed 3.5 tonnes** shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, it has at its disposal equity capital totalling at least EUR 1 800 when only one vehicle is used and EUR 900 for each additional vehicle used.

## Amendment 27

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 5 – point a

Regulation (EC) No 1071/2009

Article 7 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***In addition, undertakings shall demonstrate that they have financial means proportionate to at least one month's salary per mobile worker employed.***

## Amendment 28

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 5 – point b

Regulation (EC) No 1071/2009

Article 7 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. By way of derogation from paragraph 1, in the absence of certified

2. By way of derogation from paragraph 1, in the absence of certified

annual accounts the competent authority shall agree that an undertaking demonstrate its financial standing by means of a certificate, such as a bank guarantee, a document issued by a financial institution establishing access to credit in the name of the undertaking, or another binding document proving that the undertaking has at its disposal the amounts specified in the first subparagraph of paragraph 1;

annual accounts the competent authority shall agree that an undertaking demonstrate its financial standing by means of a certificate, such as a bank guarantee, **an insurance policy**, a document issued by a financial institution establishing access to credit in the name of the undertaking, or another binding document proving that the undertaking has at its disposal the amounts specified in the first subparagraph of paragraph 1;

## Amendment 29

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 5 a (new)

Regulation (EC) No 1071/2009

Article 8 – paragraph 5

#### *Present text*

Member States may promote periodic training on the subjects listed in Annex I at **10-year** intervals to ensure that **transport managers are** aware of developments in the sector.

#### *Amendment*

**(5a) in Article 8, paragraph 5 is replaced by the following:**

"Member States may promote periodic training on the subjects listed in Annex I at **three-year** intervals to ensure that **the person or persons referred to in paragraph 1 are sufficiently** aware of developments in the sector.

(<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009R1071>)

## Amendment 30

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 8

Regulation (EC) No 1071/2009

Article 12 – paragraph 2 – subparagraph 2

#### *Text proposed by the Commission*

(8) in Article 12(2), the second subparagraph is **deleted**;

#### *Amendment*

(8) in Article 12(2), the second subparagraph is **replaced by following**;

**'Member States shall carry out checks at least every three years to verify that undertakings fulfil the requirements laid**

*down in Article 3.'*

### **Amendment 31**

#### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 11 – point -a (new)**

Regulation (EC) No 1071/2009

Article 16 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

***(-a) in paragraph 1, the second subparagraph is deleted.***

### **Amendment 32**

#### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 11 – point a – point -i (new)**

Regulation (EC) No 1071/2009

Article 16 – paragraph 2 – point a a (new)

*Text proposed by the Commission*

*Amendment*

***(-i) the following point is inserted:***  
***‘(aa) For more effective cross-border enforcement, the data contained in the national electronic registers shall be fully accessible in real time to competent authorities from other Member States;’***

### **Amendment 33**

#### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 11 – point a – point -i a (new)**

Regulation (EC) No 1071/2009

Article 16 – paragraph 2 – point c

*Present text*

*Amendment*

(c) the names of the transport managers designated to meet the ***conditions*** as to good repute and professional competence or, as appropriate, the name of a legal

***(-ia) point c is replaced by the following:***

(c) the names of the transport managers designated to meet the ***requirements laid down in Article 3 relating*** to good repute and professional competence or, as

representative;

appropriate, the name of a legal representative;

#### **Amendment 34**

##### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 11 – point a – point -i b (new)**

Regulation (EC) No 1071/2009

Article 16 – paragraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(-ib) the following point is inserted:**

**(ca) the names of the road transport undertakings previously managed by the transport managers;**

#### **Amendment 35**

##### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 11 – point a – point i**

Regulation (EC) No 1071/2009

Article 16 – paragraph 2 – point h

*Text proposed by the Commission*

*Amendment*

(h) the number of employees;

(h) the number of employees, ***their identity, their country of residence, the labour law applicable to their employment contract, the country of payment of social contributions and their social security identifier;***

#### **Amendment 36**

##### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 11 – point a – point ii**

Regulation (EC) No 1071/2009

Article 16 – paragraph 2 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***For the purpose of effective cross-border enforcement, the data contained in the National electronic registers shall be***

*accessible in real time to all Member States' competent authorities.*

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009R1071&from=EN>)*

## **Amendment 37**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 11 – point b a (new)**

Regulation (EC) No 1071/2009

Article 16 – paragraph 5

*Present text*

*Amendment*

5. *Without prejudice to paragraphs 1 and 2*, Member States shall take all necessary measures to ensure that the national electronic registers are interconnected and *accessible* throughout the *Community through the national contact points defined in Article 18. Accessibility through national contact points and interconnection shall be implemented by 31 December 2012* in such a way that *a competent authority of any Member State is able to consult the national electronic register of any Member State.*

*(ba) paragraph 5 is replaced by the following:*

“5. Member States shall take all necessary measures to ensure that the national electronic registers are interconnected and *interoperable* throughout the *Union and are connected to the portal referred to in Regulation (EU) No 165/2014* in such a way that *the data referred to in paragraph 2 are directly accessible to all the competent authorities and control bodies of all the Member States.*”

*(<http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32009R1071>)*

## **Amendment 38**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 12**

Regulation (EC) No 1071/2009

Article 18 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

*3a. In order to facilitate cooperation between administrations and the exchange of best monitoring practice, the Member States shall work together with*

## **Amendment 39**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 12**

Regulation (EC) No 1071/2009

Article 18 – paragraph 5

#### *Text proposed by the Commission*

5. Where it is difficult or impossible to comply with a request for information or to carry out checks, inspections or investigations, the Member State in question shall inform the requesting Member State accordingly within ten working days, with reasons. The Member States concerned shall *discuss* with each other with a view to finding a solution for any difficulty raised.

#### *Amendment*

5. Where it is difficult or impossible to comply with a request for information or to carry out checks, inspections or investigations, the Member State in question shall inform the requesting Member State accordingly within ten working days, with reasons. The Member States concerned shall *cooperate* with each other with a view to finding a solution for any difficulty raised.

## **Amendment 40**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 12**

Regulation (EC) No 1071/2009

Article 18 – paragraph 9 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

**9a. Member States shall conduct cross-country controls on related transport companies (parent - subsidiary companies) in order to identify disproportionate profit-shifting or under-billing infringements.**

## **Amendment 41**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 1**

Regulation (EC) No 1072/2009

Article 1 – paragraph 1 – subparagraph 1a

*Text proposed by the Commission*

*Amendment*

The carriage of empty containers or pallets shall be considered as carriage of goods for hire or reward ***whenever it is subject to a transport contract.***

The carriage of empty containers or pallets shall ***not*** be considered as ***an international*** carriage of goods for hire or reward ***for the purposes of Chapter III.***

## **Amendment 42**

### **Proposal for a regulation**

**Article 2 – paragraph 1 – point 1 a (new)**

Regulation (EC) No 1072/2009

Article 1 – paragraph 1 – subparagraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***(1a) in paragraph 1 of Article 1, the following subparagraph is added:***

***‘This Regulation shall also apply to incoming or outgoing carriage of goods by road as either the initial and/or final leg of a combined transport journey as laid down in Council Directive 92/106/EEC.’***

## **Amendment 43**

### **Proposal for a regulation**

**Article 2 – paragraph 1 – point 1 b (new)**

Regulation (EC) No 1072/2009

Article 1 – paragraph 2

*Present text*

*Amendment*

2. In the event of carriage from a Member State to a third country and vice versa, this Regulation shall apply to the part of the journey on the territory of any Member State crossed in transit. It shall not apply to that part of the journey on the territory of the Member State of loading or unloading, as long as the necessary agreement between the Community and the

***(1b) Article 1(2) is replaced by the following:***

‘2. In the event of carriage from a Member State to a third country and vice versa, this Regulation shall apply to the part of the journey on the territory of any Member State crossed in transit. ***However, this journey in transit shall be excluded from the application of the directive on posted workers.*** It shall not apply to that part of the journey on the territory of the

third country concerned has not been concluded.

Member State of loading or unloading, as long as the necessary agreement between the Community and the third country concerned has not been concluded.’

#### **Amendment 44**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 1 – point 1 c (new)**

Regulation (EC) No 1072/2009

Article 1 – paragraph 5 – point c

*Text proposed by the Commission*

*Amendment*

**(1c) In Article 1(5), point (c) is deleted.**

#### **Amendment 45**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 1 – point 2 – point a**

Regulation (EC) No 1072/2009

Article 2 – point 6

*Text proposed by the Commission*

*Amendment*

6. ‘cabotage operation’ means national carriage for hire or reward carried out on a temporary basis in a host Member State, involving the carriage from the picking up of the goods at one *or several* loading *points* until their delivery at one *or several* delivery *points, as specified in the consignment note*;

6. ‘cabotage operation’ means national carriage for hire or reward carried out on a temporary basis in a host Member State, involving the carriage from the picking up of the goods at one loading *point* until their delivery at one delivery *point*;

#### **Amendment 46**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 1 – point 2 a (new)**

Regulation (EC) No 1072/2009

Article 3 – paragraph 1



*Present text*

International carriage shall be carried out subject to possession of a Community licence and, if the driver is a national of a third country, in conjunction with a driver attestation.

*Amendment*

**(2a) in Article 3, paragraph 1 is replaced by the following:**

International carriage shall be carried out subject to **the** possession of **a smart tachograph as stipulated in Chapter II of Regulation (EU) No 165/2014 of the European Parliament and of the Council<sup>1a</sup>**, a Community licence and, if the driver is a national of a third country, in conjunction with a driver attestation.

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**<sup>1a</sup> Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1). "**

*(<http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32009R1072>)*

**Amendment 47**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 5 – point a**  
Regulation (EC) No 1072/2009  
Article 8 – paragraph 2

*Text proposed by the Commission*

2. Once the goods carried in the course of an incoming international carriage from another Member State or from a third country to a host Member State have been delivered, hauliers referred to in paragraph 1 shall be allowed to carry out, with the same vehicle or, in the case of a coupled combination, the motor vehicle of that same vehicle, cabotage operations in the host Member State **or in contiguous**

*Amendment*

2. Once the goods carried in the course of an incoming international carriage from another Member State or from a third country to a host Member State have been delivered, hauliers referred to in paragraph 1 shall be allowed to carry out, with the same vehicle or, in the case of a coupled combination, the motor vehicle of that same vehicle, cabotage operations in the host Member State. The last

**Member States.** The last unloading in the course of a cabotage operation shall take place within **5 days** from the last unloading in the host Member State in the course of the incoming international carriage.

unloading in the course of a cabotage operation shall take place within **48 hours** from the last unloading in the host Member State in the course of the incoming international carriage.

***Cabotage operations permitted under the first subparagraph shall have a temporary character and the work of the driver performing those operations shall be organised in such a way which allows the driver to rest at home or at another location chosen by himself/herself in accordance with Regulation (EC) No 561/2006.***

## **Amendment 48**

### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 5 – point a a (new)**

Regulation (EC) No 1072/2009

Article 8 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(aa) the following paragraph is inserted:***

***‘2a. Road transport undertakings shall not be permitted to carry out cabotage operations with the same vehicle, or, in the case of a coupled combination, with the motor vehicle of that combination, in the host Member State within seven days following the end of its cabotage operation.’***

## **Amendment 49**

### **Proposal for a regulation**

**Article 2 – paragraph 1 – point 5 – point a b (new)**

Regulation (EC) No 1072/2009

Article 8 – paragraph 2 b (new)

*Text proposed by the Commission*

*Amendment*

***(ab) the following paragraph is***

*inserted:*

**'2b. The purpose of these operations shall be to return to the Member State of establishment of the undertaking.'**

## **Amendment 50**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 5 – point b**

Regulation (EC) No 1072/2009

Article 8 – paragraph 3

#### *Text proposed by the Commission*

National road haulage services carried out in the host Member State by a non-resident haulier shall only be deemed to comply with this Regulation if the haulier can produce clear evidence of the preceding international carriage.;

#### *Amendment*

National road haulage services carried out in the host Member State by a non-resident haulier shall only be deemed to comply with this Regulation if the haulier can produce clear evidence of the preceding ***genuine*** international carriage ***and of each consecutive cabotage operation carried out with a consignment note. The consignment notes shall be readily available on the vehicle for roadside checks.***

## **Amendment 51**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 5 – point c**

Regulation (EC) No 1072/2009

Article 8 – paragraph 4a

#### *Text proposed by the Commission*

4a. ***Evidence referred to in paragraph 3 shall be presented or transmitted to the authorised inspecting officer of the host Member State on request and within the duration of the roadside check. It may be presented or transmitted*** electronically, using a revisable structured format which can be used directly for storage and processing by computers, such as the eCMR.\* During the roadside check, the driver shall be allowed to contact the head

#### *Amendment*

4a. ***Each consignment note shall contain the registration plates of the motor vehicle and trailer used. The consignment note may be presented electronically, using a revisable structured format which can be used directly for storage and processing by computers such as eCMR. The competent authorities of the Member State hosting the cabotage operation may require the verification of data related to the tachograph according***

office, the transport manager or any other person or entity which may provide *the evidence referred to in paragraph 3.*

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\* Electronic consignment note under the 'Convention on the Contract for the International Carriage of Goods by Road.

*to Regulation (EU) No 165/2014. Documents and records shall be kept and made available in accordance with the Directive for posting drivers.*

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\* Electronic consignment note under the 'Convention on the Contract for the International Carriage of Goods by Road.

## Amendment 52

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 5 – point c a (new)

Regulation (EC) No 1072/2009

Article 8 – paragraph 4 b (new)

*Text proposed by the Commission*

*Amendment*

*(ca) the following paragraph shall be inserted:*

*"4b. In order to effectively monitor compliance with this Regulation, road transport undertakings shall notify in writing by way of a declaration, to the relevant national competent authorities of the Member State hosting the cabotage activity, at the latest at the commencement of the cabotage operation, and in the official language of the host Member State, or if more than one, in at least one of them, or in another language accepted by the host Member State, relevant information necessary in order to allow effective control of cabotage operations, including at least the following:*

*(a) the identity of the consignor;*

*(b) the estimated duration of the cabotage operation;*

*(c) the following data about each driver: name, Member State of residence, the Member State in which the employment contract is registered, the Member State in which social security contributions are paid, the social or national insurance number.'*

## Amendment 53

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 5 a (new)

Regulation (EC) No 1072/2009

#### Article 9 – paragraph 1 – point e a (new)

*Text proposed by the Commission*

*Amendment*

**(5 a) In Article 9(1), the following point is added:**

**‘(ea) the application of the rules deriving from the Directive of the European Parliament and of the Council amending Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector<sup>1a</sup>.’**

<sup>1a</sup> COM(2017)0278.

## Amendment 54

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7

Regulation (EC) No 1072/2009

#### Article 10a – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Each Member State shall organise checks in such a way that, as from 1 January 2020, in every calendar year at least 2 % of all cabotage operations performed in their territory are checked. They shall increase the percentage to at least 3 % from 1 January 2022. The basis for the calculation of that percentage shall be the total cabotage activity in the Member State in terms of tonnes-kilometres in year t-2, as reported by Eurostat.

1. **Each Member State shall be responsible for pursuing an effective enforcement policy in its territory. As part of that policy,** each Member State shall organise checks in such a way that, as from 1 January 2020, in every calendar year at least 4% of all cabotage operations performed in their territory are checked. They shall increase the percentage to at least 6% from 1 January 2022. The basis for the calculation of that percentage shall be the total cabotage activity in the Member State in terms of tonnes-kilometres in year t-2, as reported by

## Amendment 55

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7

Regulation (EC) No 1072/2009

Article 10a – paragraph 3

#### *Text proposed by the Commission*

3. Member States shall, at least **three** times per year, undertake concerted roadside checks on cabotage operations. Such checks shall be undertaken at the same time by the national authorities in charge of enforcing the rules in the field of road transport of two or more Member States, each operating in its own territory. The national contact points designated in accordance with Article 18(1) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council\*\*\*\* shall exchange information on the number and type of infringements detected after the concerted roadside checks have taken place.

#### *Amendment*

3. Member States shall, at least **six** times per year, undertake concerted roadside checks on cabotage operations. ***The checks may coincide with checks performed in accordance with Article 5 of Directive 2006/22/EC.*** Such checks shall be undertaken at the same time by the national authorities in charge of enforcing the rules in the field of road transport of two or more Member States, each operating in its own territory. The national contact points designated in accordance with Article 18(1) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council\*\*\*\* shall exchange information on the number and type of infringements detected after the concerted roadside checks have taken place.

## Amendment 56

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7 a (new)

Regulation (EC) No 1072/2009

Article 10 b (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(7a) the following Article 10b is inserted:***

#### ***‘Article 10b***

***In order to further enforce the obligations in this Chapter, Member States shall ensure that a coherent national enforcement strategy is applied on their***

*territory. That strategy shall focus on undertakings with a high risk rating, referred to in Article 9 of Directive 2006/22/EC of the European Parliament and of the Council<sup>1a</sup>, and shall make use of the information and data recorded, processed or stored over a 56-day period by the smart tachographs. The smart tachograph shall be introduced on a mandatory basis on all vehicles engaged in international transport and cabotage by the 2nd January 2020, at the latest.*

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*\* Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC (OJ L 102, 11.4.2006, p. 35).'*

## **Amendment 57**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 8**

Regulation (EC) No 1072/2009

Article 14 a

#### *Text proposed by the Commission*

Member States shall provide for sanctions against consignors, freight forwarders, contractors and subcontractors for non-compliance with Chapters II and III, where they knowingly commission transport services which involve infringements of this Regulation.

#### *Amendment*

Member States shall provide for ***effective, proportionate and dissuasive*** sanctions against consignors, freight forwarders, contractors and subcontractors for non-compliance with Chapters II and III, where they knowingly commission transport services which involve infringements of this Regulation.

## **Amendment 58**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 10**

Regulation (EC) 1072/ 2009  
Article 17 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a.** *The Commission shall draw up a report on the state of the Union road transport market by the end of 2022. The report shall contain an analysis of the market situation, including an evaluation of the effectiveness of controls and the evolution of employment conditions in the profession.*

## **Amendment 59**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 10**  
Regulation 1072/2009/EC  
Article 17 – paragraph 3 b (new)

*Text proposed by the Commission*

*Amendment*

**3b.** *By 31 January of every year, at the latest, Member States shall inform the Commission of the number of transport companies that have subsidiaries in other Member States, the number of transport companies that have been verified for infringements of under-billing and/or disproportionate profit shifting.*



## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Amending Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 with a view to adapting them to developments in the sector
<b>References</b>	COM(2017)0281 – C8-0169/2017 – 2017/0123(COD)
<b>Committee responsible</b> Date announced in plenary	TRAN 15.6.2017
<b>Opinion by</b> Date announced in plenary	EMPL 15.6.2017
<b>Rapporteur</b> Date appointed	Verónica Lope Fontagné 3.10.2017
<b>Discussed in committee</b>	23.1.2018                      26.2.2018
<b>Date adopted</b>	25.4.2018
<b>Result of final vote</b>	+:                      31 –:                      19 0:                        3
<b>Members present for the final vote</b>	Laura Agea, Guillaume Balas, Vilija Blinkevičiūtė, Enrique Calvet Chambon, Michael Detjen, Martina Dlabajová, Lampros Fountoulis, Elena Gentile, Marian Harkin, Danuta Jazłowiecka, Agnes Jongerius, Rina Ronja Kari, Jan Keller, Adam Kósa, Agnieszka Kozłowska-Rajewicz, Jean Lambert, Jérôme Lavrilleux, Patrick Le Hyaric, Jeroen Lenaers, Verónica Lope Fontagné, Javi López, Thomas Mann, Dominique Martin, Anthea McIntyre, João Pimenta Lopes, Georgi Pirinski, Marek Plura, Dennis Radtke, Terry Reintke, Sofia Ribeiro, Robert Rochefort, Claude Rolin, Siôn Simon, Romana Tomc, Yana Toom, Ulrike Trebesius, Marita Ulvskog, Jana Žitňanská
<b>Substitutes present for the final vote</b>	Georges Bach, Heinz K. Becker, Karima Delli, Christelle Lechevalier, Paloma López Bermejo, Evelyn Regner, Anne Sander, Jasenko Selimovic, Helga Stevens, Neoklis Sylikiotis, Flavio Zanonato, Kosma Złotowski
<b>Substitutes under Rule 200(2) present for the final vote</b>	Dominique Bilde, Maria Grapini, Karoline Graswander-Hainz

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

31	+
ALDE	Robert Rochefort
EFDD	Laura Agea
GUE/NGL	Rina Ronja Kari, Patrick Le Hyaric, Paloma López Bermejo, Neoklis Sylikiotis
NI	Lampros Fountoulis
PPE	Georges Bach, Jérôme Lavrilleux, Jeroen Lenaers, Thomas Mann, Dennis Radtke, Sofia Ribeiro, Claude Rolin, Anne Sander
S&D	Guillaume Balas, Vilija Blinkevičiūtė, Michael Detjen, Elena Gentile, Karoline Graswander-Hainz, Agnes Jongerius, Jan Keller, Javi López, Georgi Pirinski, Evelyn Regner, Siôn Simon, Marita Ulvskog, Flavio Zanonato
VERTS/ALE	Karima Delli, Jean Lambert, Terry Reintke

19	-
ALDE	Enrique Calvet Chambon, Martina Dlabajová, Marian Harkin, Jasenko Selimovic, Yana Toom
ECR	Anthea McIntyre, Ulrike Trebesius, Jana Žitňanská, Kosma Złotowski
ENF	Dominique Bilde, Christelle Lechevalier, Dominique Martin
PPE	Heinz K. Becker, Danuta Jazłowiecka, Ádám Kósa, Agnieszka Kozłowska-Rajewicz, Verónica Lope Fontagné, Marek Plura, Romana Tomc

3	0
ECR	Helga Stevens
GUE/NGL	João Pimenta Lopes
S&D	Maria Grapini

Key to symbols:

+ : in favour

- : against

0 : abstention