P8_TA(2019)0341
Adapting to development in the road transport sector ***I


(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2017)0281),

– having regard to Article 294(2) and Article 91(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0169/2017),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the Economic and Social Committee of 18 January 2018¹,

– having regard to the opinion of Committee of the Regions of 1 February 2018²,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Employment and Social Affairs (A8-0204/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 197, 8.6.2018, p. 38.
² OJ C 176, 23.5.2018, p. 57.

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 197, 8.6.2018, p. 38.
² OJ C 176, 23.5.2018, p. 57.
Whereas:

(1) Experience with the implementation of Regulations (EC) No 1071/2009\(^4\) and (EC) No 1072/2009\(^5\) revealed that the rules provided for in those regulations offered scope for improvement on a number of points.

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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, **including that of trailers**, 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. **In order to avoid possible loopholes and to ensure a minimum level of professionalisation of the sector using motor vehicles with a permissible laden mass not exceeding, **including that of trailers, of 2.4 to 3.5 tonnes** for international transport 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 for engagement in the occupation of road transport operator should be rendered mandatory apply equally, while avoiding a disproportionate administrative burden. Since this Regulation only applies to undertakings transporting goods for hire or reward, undertakings performing transport operations for own account are not covered by this provision. [Am. 110]
(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. [Am. 111]

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

(4) In order to combat the phenomenon of so-called ‘letterbox companies’ and guarantee fair competition and a level playing field in the internal market, clearer establishment criteria, more intensive monitoring and enforcement, and improved cooperation between Member States is necessary. To ensure that Road transport operators established in a Member State should have a real and continuous presence in that Member State and actually conduct their transport business and perform substantial activities from there. Therefore, and in light of experience, it is necessary to clarify and strengthen the provisions regarding the existence of an effective and stable establishment, while avoiding a disproportionate administrative burden. [Am. 112]
(5) To the extent that access to the occupation depends on the good repute of the undertaking concerned, clarifications are needed as regards the persons whose conduct must be taken into account, the administrative procedures which must be followed and waiting periods in respect of rehabilitation once a transport manager has lost good repute.

(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.

(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. [Am. 113]

(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.
National competent authorities have had difficulties identifying the documents which may be submitted by transport undertakings to prove their financial standing, in particular in the absence of certified annual accounts. The rules regarding evidence required to prove financial standing should be clarified.

Undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding, including that of trailers, between 2.4 and 3.5 tonnes or with combinations of vehicles not exceeding that limit and engaged in international transport operations, 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 conducted with these vehicles 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. [Am. 114]
The information about transport operators contained in the national electronic registers should be as complete and up-to-date 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, and 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, as well as other relevant Union legislations. Furthermore, in order to provide enforcement officials, including those performing roadside checks, with a clear and complete overview of the transport operators being checked, they should have direct and real-time access to all relevant information. Therefore, the national electronic registers should be truly interoperable and the data contained therein should be directly and in real-time accessible to all designated enforcement officials of all Member States. The rules on the national electronic register should therefore be amended accordingly.

[Am. 115]
The definition of the most serious infringement concerning exceeding the daily driving time, as provided for in Annex IV of Regulation (EC) No 1071/2009, does not fit the existing relevant provision laid down in Regulation (EC) No 561/2006 of the European Parliament and of the Council\(^6\). That inconsistency leads to uncertainty and diverging practices among national authorities and ensuing difficulties in the enforcement of the rules in question. That definition should therefore be clarified to ensure consistency between the two Regulations.

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. [Am. 116]

In order to avoid empty runs, cabotage operations should be allowed, subject to specific restrictions, in the host Member State. 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. [Am. 117]

In order to prevent cabotage operations from being carried out on a systematic basis, which could create a permanent or continuous activity that distorts the national market, the period available for cabotage operations in one host Member State should be reduced. In addition, hauliers should not be allowed to carry out new cabotage operations in the same host Member State within a certain time period and until they have performed a new international carriage originating from the Member State where the undertaking is established. This provision is without prejudice to the performance of international transport operations.

[Am. 118]
Effective and efficient enforcement of the rules is a prerequisite for fair competition in the internal market. Further digitalisation of enforcement tools is essential in order to free up enforcement capacity, reduce unnecessary administrative burden on international transport operators and in particular SMEs, better target high-risk transport operators and detect fraudulent practices. In order for transport documents to become paperless, the use of electronic documents should in the future become the rule, particularly the electronic consignment note under the Convention on the Contract for the International Carriage of Goods by Road (eCMR). 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. [Am. 119]
(15a) The swift introduction of the smart tachograph is of paramount importance, as it will enable enforcement authorities carrying out roadside checks to detect infringements and abnormalities quicker and more efficiently, which would result in better enforcement of this Regulation. [Am. 120]

(16) Transport undertakings are the addressees of the rules on international carriage and are, as such, subject to the consequences of any infringements committed by them. However, in order to prevent abuses by undertakings contracting transport services from road haulage operators, Member States should also provide for sanctions on consignors, shippers, and freight forwarders in case they knowingly commission contractors and subcontractors where they know that the transport services which they commission involve infringements of the provisions of Regulation (EC) No 1072/2009. When undertakings contracting transport services commission those services from transport undertakings with a low risk rating, their liability should be reduced. [Am. 121]
The proposed European Labour Authority aims at supporting and facilitating the cooperation and exchange of information between national competent authorities, with a view to the effective enforcement of relevant Union law. In supporting and facilitating the enforcement of this Regulation, the Authority may play an important role in assisting the exchange of information between competent authorities, in supporting Member States in capacity building through staff exchange and training, and in assisting Member States in organizing concerted checks. This would strengthen the mutual trust between Member States, improve effective cooperation between competent authorities and help fighting fraud and abuse of the rules. [Am. 122]

Road transport legislation should be reinforced to ensure a good application and enforcement of the ROME I regulation in a way that labour contracts reflect the habitual place of work of employees. Complementary to, and directly linked with ROME I Regulation are the fundamental rules of Regulation (EC) No 1071/2009 intended to fight letterbox companies and to ensure proper establishment criteria of companies. These rules need to be strengthened to guarantee the rights of employees when temporarily working outside their country of habitual work, and to ensure fair competition between transport undertakings. [Am. 123]
Insofar as this Regulation introduces a degree of harmonisation in certain areas so far not harmonised by Union law, in particular in respect of transport with light commercial vehicles and enforcement practices, its objectives, namely to approximate conditions of competition and improve enforcement, cannot be sufficiently achieved by the Member States but can rather, by reason of the nature of the objectives pursued in combination with the cross-border nature of road transport, be better achieved at Union level. Therefore, the Union may adopt measures, in line with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve the objectives pursued.
In order to take into account market developments and technical progress the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend Annexes I, II and III to Regulation (EC) No 1071/2009, to supplement that Regulation by drawing up a list of categories, types and degrees of seriousness of serious infringements which, in addition to those set out in Annex IV to Regulation (EC) No 1071/2009, may lead to the loss of good repute and to amend Annexes I, II and III to Regulation (EC) No 1072/2009. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in line with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to the Commission's expert groups meetings dealing with the preparation of delegated acts.

Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

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Article 1

Regulation (EC) No 1071/2009 is amended as follows:

(1) Article 1 is amended as follows:

   (a) paragraph 4 is amended as follows:

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

      '(a) undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles the permissible laden mass of which, including that of trailers, is lower than 2.4 tonnes;

      (aa) undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles the permissible laden mass of which, including that of trailers, is lower than 3.5 tonnes that are engaged exclusively in national transport operations;';

 [Am. 124]
(ii) point (b) is replaced by the following:

'(b) undertakings engaged in road passenger transport services exclusively for non-commercial purposes or which have a main occupation other than that of road passenger transport operator. Any carriage by road for the purpose of which no remuneration is received and which does not create any income is not to generate any profit for the driver or others, such as carriage of persons for charity purposes or for strictly private use where the service is provided on a charitable or philanthropic basis, is to be considered as carriage exclusively for non-commercial purposes;'

[Am. 125]
(b) the following paragraph 6 is added:

'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. [Am. 126]

(2) in Article 3, paragraph 2 is deleted;
(3) Article 5 is amended as follows:

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

'(a) have *appropriate* premises, *in proportionate to the activities of the undertaking, at* which it keeps *is able to access the originals of* its core business documents, *whether in electronic or any other form*, in particular its commercial contracts, accounting documents, personnel management documents, labour contracts, *social security documents*, documents containing data relating to *cabotage, posting 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;'; [Am. 127]

(aa) the following point is inserted:

‘(aa) the vehicles referred to in point (b) shall perform, in the framework of a transport contract, at least one loading or one unloading of goods every four weeks in the Member State of establishment;’; [Am. 128]
(b) point (c) is replaced by the following:

'(c) conduct effectively and continuously its administrative and commercial activities with the appropriate administrative equipment and facilities at premises as referred to in point (a) situated in that Member State;';

[Am. 129]

(c) the following point (d) is added:

'(d) manage effectively and continuously the transport operations carried out with using the vehicles referred to in point (b) with the appropriate technical equipment situated in that Member State;';

[Am. 130]

(d) the following point (e) is added:

'(e) hold assets and employ staff proportionate to the activity of the establishment.';
(da) the following point (f) is added:

‘(f) have a clear link between the transport operations carried out and the Member State of establishment, an operating centre and access to sufficient parking places for regular use by the vehicles referred to in point (b);’; [Am. 131]

(db) the following point (g) is added:

‘(g) recruit and employ drivers under the law applicable to labour contracts of that Member State;’; [Am. 132]

(dc) the following point (h) is added:

‘(h) ensure that the establishment is the place in which or from which workers habitually carry out their work according to Regulation (EC) No 593/2008 of the European Parliament and of the Council* and/or the Rome Convention.

Article 6 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the second subparagraph is replaced by the following:

'In determining whether an undertaking has satisfied that requirement, Member States shall consider the conduct of the undertaking, its transport managers, executive directors, general partners in the case of partnerships, other legal representatives and any other relevant person as may be determined by the Member State. Any reference in this Article to convictions, penalties or infringements shall include convictions, penalties or infringements of the undertaking itself, its transport managers, executive directors, general partners in the case of partnerships, other legal representatives and any other relevant person as may be determined by the Member State.';
(ii) in point (a) of the third subparagraph the following point (vii) is added:

'(vii) tax law.';

(iii) in point (b) of the third subparagraph the following points (xi), (xii) and (xiii) are added:

'(xi) the posting of workers;

(xii) the law applicable to contractual obligations;

(xiii) cabotage.'; [Am. 134]
(b) paragraph 2 is replaced by the following:

'2. For the purposes of point (b) of the third subparagraph of paragraph 1, where the transport manager or the transport undertaking has been convicted of a serious criminal offence or has incurred a penalty for one of the most serious infringements of Union rules as set out in Annex IV, in one or more Member States, the competent authority of the Member State of establishment shall carry out and complete in an appropriate and timely manner an administrative procedure, which shall include, if appropriate, an on-site inspection at the premises of the undertaking concerned.

During the administrative procedure, the transport manager or other legal representatives of the transport undertaking, as the case may be, shall be given the right to present their arguments and explanations.
During the administrative procedure, the competent authority shall assess whether, due to specific circumstances, the loss of good repute would constitute a disproportionate response in the individual case. In that assessment, the competent authority shall take into account the number of serious infringements of national and Union rules as referred to in the third subparagraph of paragraph 1, as well as the number of most serious infringements of Union rules as set out in Annex IV, for which the transport manager or the transport undertaking have been convicted or had penalties imposed on them. Any such finding shall be duly reasoned and justified.

Where the competent authority finds that the loss of good repute would be disproportionate, it shall decide that the undertaking concerned continues to be of good repute. The reasons for this decision shall be recorded in the national register. The number of such decisions shall be indicated in the report referred to in Article 26(1).
Where the competent authority does not find that the loss of good repute would be disproportionate, the conviction or penalty shall lead to the loss of good repute;`

(c) the following paragraph 2a is inserted:

'2a. The Commission is empowered to adopt delegated acts in line with Article 24 establishing a list of categories, types and degrees of seriousness of serious infringements of Union rules as referred to in point (b) of the third subparagraph of paragraph 1 which, in addition to those set out in Annex IV, may lead to the loss of good repute. Member States shall take into account information on those infringements, including information received from other Member States, when setting the priorities for checks pursuant to Article 12(1).
To that end, the Commission shall:

(a) lay down the categories and types of infringement which are most frequently encountered;

(b) define the degree of seriousness of infringements according to their potential to create a risk of fatalities or serious injuries and or to distort competition in the road transport market, including by undermining the working conditions of transport workers;  
[Am. 135]

(c) provide the frequency of occurrence beyond which repeated infringements shall be regarded as more serious, taking into account the number of drivers used for the transport activities managed by the transport manager;
Article 7 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

'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 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 with a permissible laden mass, including that of trailers, exceeding 3.5 tonnes used and EUR 900 for each additional vehicle with a permissible laden mass, including that of trailers, between 2.4 and 3.5 tonnes 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, including that of trailers, between 2.4 and 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.'; [Am. 136]
(b) paragraph 2 is replaced by the following:

'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 or an insurance, including a professional liability insurance from one or more banks or other financial institution establishing access to credit in the name of the undertaking institutions including insurance companies, or another binding document proving that providing a joint and several guarantee for the undertaking has at its disposal in respect of the amounts specified in the first subparagraph of paragraph 1.'; [Am. 137]

(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.'; [Am. 138]
in Article 8, paragraph 9 is replaced by the following:

'9. The Commission is empowered to adopt delegated acts in line with Article 24 to amend Annexes I, II and III in order to adapt them to market developments and technical progress.‘;

in Article 11(4), the third subparagraph is deleted;

in Article 12(2), the second subparagraph is deleted replaced by the following:

‘Member States shall carry out checks at least every three years to verify that undertakings fulfil the requirements laid down in Article 3.’; [Am. 139]

in Article 13(1), point (c) is replaced by the following:

'(c) a time limit not exceeding six months where the requirement of financial standing is not satisfied, in order to demonstrate that that requirement is again satisfied on a permanent basis.‘;

in Article 14(1), the following second subparagraph is added:

'The competent authority shall not rehabilitate the transport manager earlier than one year from the date of the loss of good repute.’;
Article 14(2) is replaced by the following:

'2. Unless and until a rehabilitation measure is taken in accordance with the relevant provisions of national law, the certificate of professional competence, referred to in Article 8(8), of the transport manager declared to be unfit shall no longer be valid in any Member State. The Commission shall draw up a list of rehabilitation measures for regaining good repute.'; [Am. 140]

Article 16 is amended as follows:

(a) paragraph 2 is amended as follows:

(-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 appropriate, the name of a legal representative;'; [Am. 141]
(i) the following points (g), (h), (i) and (j) are added:

'(g) the registration numbers of the vehicles at the disposal of the undertaking pursuant to Article 5(b);

(h) the number of employees people employed in the undertaking during the last calendar year; [Am. 142]

(i) the total assets, liabilities, equity and turnover during the last two years;

(j) the risk rating of the undertaking pursuant to Article 9 of Directive 2006/22/EC.';

(ia) the following point (ja) is added:

'(ja) labour contracts of international drivers of the past six months.'; [Am. 143]
(ii) the second, third and fourth subparagraphs are replaced by the following:

"Member States may choose to keep the data referred to in points (e) to (j) of the first subparagraph in separate registers. In such a case, the relevant data shall be available upon request or directly accessible to all the competent authorities of the Member State in question. The requested information shall be provided within five working days of receipt of the request. The data referred to in points (a) to (d) of the first subparagraph shall be publicly accessible, in line with the relevant provisions on personal data protection. [Am. 144]

In any case, The data referred to in points (e) to (j) of the first subparagraph shall only be accessible to authorities other than the competent authorities where they are duly endowed with powers relating to supervision and the imposition of penalties in the road transport sector and their officials are sworn to, or otherwise are under a formal obligation of secrecy. [Am. 145]"
For the purpose of Article 14a of Regulation (EC) No 1072/2009, the data referred to in point (j) shall be available upon request to consignors, freight forwarders, contractors and subcontractors.

[Am. 146]

(b) paragraph 4 is replaced by the following:

'4. Member States shall take all necessary measures to ensure that all the data contained in the national electronic register is kept up to date and is accurate.';

(ba) paragraph 5 is replaced by the following:

'5. In order to increase the effectiveness of cross-border enforcement, Member States shall ensure that the national electronic registers are interconnected and interoperable throughout the Union via the European Register of Road Transport Undertakings (ERRU) referred to in Commission Implementing Regulation (EU) 2016/480, so that the data referred to in paragraph 2 is directly accessible to all competent enforcement authorities and control bodies of all Member States in real-time.'; [Am. 147]
(bb) paragraph 6 is replaced by the following:

‘6. The Commission is empowered to adopt delegated acts in accordance with Article 24a to establish and update common rules to ensure that the national electronic registers are fully interconnected and interoperable, so that a competent authority or control body in any Member State is able to directly and in real-time access the national electronic register of any Member State as stipulated in paragraph 5. Such common rules shall include rules on the format of the data exchanged, the technical procedures for electronic consultation of the national electronic registers of the other Member States and the interoperability of these registers, as well as specific rules concerning access to data, data logging and data monitoring.’; [Am. 148]

(c) paragraph 7 is deleted;
Article 18 is replaced by the following:

'Article 18
Administrative cooperation between Member States

1. The competent authorities of the Member States shall designate a national contact point responsible for the exchange of information with the other Member States on the application cooperate closely and swiftly provide one another with mutual assistance and any other relevant information in order to facilitate the implementation and enforcement of this Regulation. Member States shall inform the Commission of the names and addresses of their national contact points by 31 December 2018. The Commission shall draw up a list of all contact points and forward it to the Member States. Member States shall immediately communicate to the Commission any changes to the contact points. [Am. 149]
1a. For the purposes of paragraph 1, administrative cooperation provided for in this Article shall be implemented through the Internal Market Information System (IMI), established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council*, which allows all operators to provide data in their own languages.[Am. 150]

2. A Member State which receives notification of a serious infringement which has resulted in a conviction or a penalty in another Member State during the last two years shall record that infringement in its national electronic register.

3. Member States shall reply to requests for information from all competent authorities of other Member States and, where necessary, carry out checks, inspections and investigations concerning compliance with the requirement laid down in Article 3(1)(a) by road transport operators established in their territory. Requests for information by competent authorities of Member States shall be duly justified and reasoned. To this end, requests shall include credible indications of possible infringements of Article 3(1)(a). [Am. 151]
4. Where the requested Member State considers that the request is insufficiently reasoned, it shall inform the requesting Member State accordingly within ten working days. The requesting Member State shall further substantiate the request. Where this is not possible, the request may be rejected by the Member State. [Am. 152]

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 duly justifying that difficulty or impossibility. The Member States concerned shall discuss cooperate with each other with a view to finding a solution for any difficulty raised. In the event of any persisting problem in the exchange of information, or of a permanent refusal to supply information without proper justification, the Commission, being informed and after consulting the Member States concerned, may take all necessary measures to remedy the situation. [Am. 153]
6. In response to requests under paragraph 3, Member States shall supply the requested information and carry out the required checks, inspections and investigations within twenty-five fifteen working days from the receipt of the request, unless another time limit is mutually agreed between the Member States concerned or unless they have informed the requesting Member State that the request is insufficiently reasoned or of the impossibility or the difficulties pursuant to paragraphs 4 and 5 and no solution for those difficulties has been found. [Am. 154]

7. Member States shall ensure that the information transmitted to them in line with this Article is used only in respect of the matter(s) for which it was requested.

8. Mutual administrative cooperation and assistance shall be provided free of charge.

9. A request for information shall not preclude the competent authorities from taking measures in line with the relevant national and Union law to investigate and prevent alleged breaches of this Regulation.

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the following Article 18a is inserted:

‘Article 18a
Accompanying measures

1. Member States shall take accompanying measures to develop, facilitate and promote exchanges between officials in charge of the administrative cooperation and mutual assistance between Member States as well as those in charge of monitoring the compliance with, and enforcement of, the applicable rules of this Regulation.

2. The Commission shall provide technical and other support in order to further improve administrative cooperation and increase mutual trust between Member States, including through promoting staff exchanges and joint training programmes, as well as developing, facilitating and promoting best practice initiatives. The Commission may, without prejudice to the prerogatives of the European Parliament and the Council in the budgetary procedure, use available financing instruments to further strengthen capacity building and administrative cooperation between Member States.
3. **Member States shall establish a programme of peer-reviews in which all competent enforcement authorities are to participate, ensuring the appropriate rotation of both the reviewing and the reviewed competent enforcement authorities. Member States shall notify those programmes to the Commission every two years as part of the report on the activities of the competent authorities referred to in Article 26.** [Am. 155]

(13) Article 24 is deleted;

(14) the following Article 24a is inserted:

'Article 24a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 6(2) and Article 8(9) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this (amending) Regulation].
3. The delegation of power referred to in Article 6(2) and Article 8(9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in line with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted under Article 6(2) and Article 8(9) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*OJ L 123, 12.5.2016, p. 1.*

in Article 25, paragraph 3 is deleted;
in Article 26, the following paragraphs 3, 4 and 5 are added:

'3. Every year, Member States shall draw up a report on the use of motor vehicles with a permissible laden mass not exceeding, including that of trailers, between 2.4 and 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding 3.5 tonnes involved in international transport and established in their territory and shall forward it to the Commission no later than 30 June of the year after the end of the reporting period. This report shall include: [Am. 156]

(a) the number of authorisations granted to operators engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding, including that of trailers, between 2.4 and 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding 3.5 tonnes involved in international transport; [Am. 157]

(b) the number of motor vehicles with a permissible laden mass not exceeding, including that of trailers, between 2.4 and 3.5 tonnes involved in international transport, registered in the Member State in each calendar year; [Am. 158]
(c) the overall number of motor vehicles with a permissible laden mass not exceeding, including that of trailers, between 2.4 and 3.5 tonnes involved in international transport, registered in the Member State as of 31 December of each year. [Am. 159]

(d) the estimated share of motor vehicles with a permissible laden mass not exceeding, including that of trailers, between 2.4 and 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding 3.5, as well as those under 2.4 tonnes, in the overall road transport activity of all vehicles registered in the Member State, broken down by national, international and cabotage operations. [Am. 160]
4. On the basis of the information gathered by the Commission under paragraph 3 and of further evidence, the Commission shall, by 31 December 2024 at the latest, present a report to the European Parliament and the Council on the evolution of the total number of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding, including that of trailers, between 2.4 and 3.5 tonnes engaged in national and international road transport operations. On the basis of this report, it shall reassess whether it is necessary to propose additional measures. [Am. 161]

5. Every year Member States shall report to the Commission on the requests made by them under Article 18(3) and (4), on the replies received from other Member States and on the actions that they have taken on the basis of the information provided. [Am. 162]
(16a) the following paragraph 5a is added:

'5a. On the basis of the information gathered by the Commission under paragraph 5 and of further evidence, the Commission shall, by 31 December 2020 at the latest, present a detailed report to the European Parliament and the Council on the extent of administrative cooperation between Member States, on any possible shortcomings in this respect and on possible ways to improve the cooperation. On the basis of this report, it shall assess whether it is necessary to propose additional measures.'; [Am. 163]

(17) in Annex IV, in point 1, point (b) is replaced by the following:

'(b) exceeding, during a daily working period, the maximum daily driving time limit by a margin of 50 % or more.';
Article 2

Regulation (EC) No 1072/2009 is amended as follows:

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

'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.';

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

‘The time limits referred to in articles 8(2) and 8(2a) of this Regulation shall also apply to incoming or outgoing carriage of goods by road as either the domestic initial and/or domestic final leg of a combined transport journey as laid down in Council Directive 92/106/EEC.’; [Am. 164]
(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 Member State of loading or unloading, as long as the necessary agreement between the Community and the third country concerned has not been concluded.’; [Am. 165]

(1c) in paragraph 5, point (c) is replaced by the following:

'(c) carriage of goods in motor vehicles the permissible laden mass of which, including that of trailers, is lower than 2,4 tonnes;'; [Am. 166]
(2) Article 2 is amended as follows:

(a) point 6 is replaced by the following:

'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;';

(aa) the following point is added:

'7a. 'transit' means laden journey by a vehicle through one or more Member States or third countries where the point of departure and the point of arrival is not in those Member States or third countries.';  

[Am. 167]
(3) Article 4 is amended as follows:

(-a) in paragraph 1, the following point is added:


(a) in paragraph 2, the third subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in line with Article 14b to amend this Regulation to adapt the maximum period of validity of the Community licence to market developments.';

(b) in paragraph 4, the second subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in line with Article 14b to amend Annexes I and II in order to adapt them to technical progress.';

(4) in Article 5, paragraph 4 is replaced by the following:

'4. The Commission is empowered to adopt delegated acts in line with Article 14b to amend Annex III in order to adapt it to technical progress.';
(5) Article 8 is amended as follows:

(a) paragraph 2 is replaced by the following:

'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 Member States. The last unloading in the course of a cabotage operation shall take place within § 3 days from the last unloading in the host Member State in the course of the incoming international carriage, subject to the applicable transport contract;'; [Am. 169]
(aa) the following paragraph is inserted:

‘2a. Following the end of the 3 day period referred to in paragraph 2, hauliers shall not be permitted to carry out with the same vehicle, or, in the case of a coupled combination, with the motor vehicle of that combination, cabotage operations in the same host Member State within 60 hours after the return to the haulier's Member State of establishment and until they have performed a new international carriage originating from the Member State where the undertaking is established.’; [Am. 170]

(b) in paragraph 3, the first subparagraph is replaced by the following:

'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.';
(c) the following paragraph 4a is inserted:

'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. Member States shall accept that the evidence is presented or transmitted electronically, using a revisable structured format which can be used directly for storage and processing by computers, such as the eCMR.* an electronic consignment note under the Convention on the Contract for the International Carriage of Goods by Road (eCMR). During the roadside check, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may provide the evidence referred to in paragraph 3.'; [Am. 171]

* Electronic consignment note under the 'Convention on the Contract for the International Carriage of Goods by Road'.;
(5a) in Article 9(1), the following point is added:

‘(ea) the remuneration and paid annual leave, as stipulated in points (b) and (c) of the first subparagraph of Article 3(1) of Directive 96/71/EC of the European Parliament and of the Council*.


(6) in Article 10(3), the first subparagraph is replaced by the following:

'The Commission shall examine the situation on the basis in particular of the relevant data and, after consulting the committee established pursuant to Article 42(1) of Regulation (EU) No 165/2014 of the European Parliament and of the Council,* shall decide within one month of receipt of the Member State’s request whether or not safeguard measures are necessary and shall adopt them if they are necessary.

the following Article 10a is inserted:

'Article 10a
Checks Smart enforcement [Am. 173]

1. Each In order to further enforce the obligations stipulated under this Chapter, Member State States 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 ensure that a coherent national enforcement strategy is applied on their territory are checked. They That strategy 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 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*. [Am. 174]

1a. Each Member State shall ensure that the checks provided for in Article 2 of Directive 2006/22/EC will include, where relevant, a check on cabotage operations. [Am. 175]
2. Member States shall target those undertakings which are classed as posing an increased risk of infringing the provisions of the present Chapter, applicable to them. For that purpose, Member States shall, within the risk classification system established by them under Article 9 of Directive 2006/22/EC of the European Parliament and of the Council* and extended in accordance with Article 12 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council,** treat the risk of such infringements as a risk in its own right.

2a. For the purpose of paragraph 2, Member States shall have access to relevant information and data recorded, processed or stored by the smart tachograph referred to in Chapter II of Regulation (EU) No 165/2014 and in electronic transport documents, such as electronic consignment notes under the Convention on the Contract for the International Carriage of Goods by Road (eCMR). [Am. 176]
2b. Member States shall give access to those data solely to competent authorities authorised to check infringements of legal acts stipulated in this Regulation. Member States shall notify the Commission of contact details of all competent authorities within their territory that they have designated to have access to those data. By ... [XXX] the Commission shall draw up a list of all competent authorities and forward it to the Member States. The Member States shall notify any subsequent changes thereto without delay. [Am. 177]

2c. The Commission is empowered to adopt delegated acts in accordance with Article 14b to stipulate the characteristics of the data to which Member States shall have access to, the conditions for their use and the technical specifications for their transmission or access, specifying in particular:

(a) a detailed list of information and data to which national competent authorities shall have access to, which shall include at least the time and location of border crossings, loading and unloading operations, the registration plate of the vehicle and the driver details;
(b) the access rights of the competent authorities, differentiated where appropriate according to the type of competent authorities, the type of access and the purpose for which the data is used;

(c) the technical specifications for the transmission or access to the data referred to in point (a), including, where relevant, the maximum duration that the data is retained, differentiated where appropriate according to the type of data. [Am. 178]

2d. Any personal data referred to in this Article shall be accessed or stored for no longer than is strictly necessary for the purposes for which the data were collected or for which they are further processed. Once such data are no longer needed for those purposes, they shall be destroyed. [Am. 179]
3. Member States shall, at least three times per year, undertake concerted roadside checks on cabotage operations, which 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**** Member States shall exchange information on the number and type of infringements detected after the concerted roadside checks have taken place. [Am. 180]


the following Articles 14a and 14b are inserted:

'Article 14a

Liability

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 know or ought reasonably to know that the transport services which they commission involve infringements of this Regulation.

Where consignors, freight forwarders, contractors and subcontractors commission transport services from transport undertakings with a low risk rating, as referred to in Article 9 of Directive 2006/22/EC, they shall not be liable for sanctions for infringements, unless it is proved that they had actual knowledge of those infringements. [Am. 181]
Article 14b

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 4(2) and (4) and Article 5(4) is conferred on the Commission for an indeterminate period of time from [date of entry into force of this (amending) Regulation].

3. The delegation of power referred to in Article 4(2) and (4) and Article 5(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in line with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.*

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted under Article 4(2) and (4) and Article 5(4) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

* OJ L 123, 12.5.2016, p. 1;
(9) Article 15 is deleted;

(10) Article 17 is replaced by the following:

'Article 17

Reporting

1. By 31 January of every year, at the latest, Member States shall inform the Commission of the number of hauliers possessing Community licences as of 31 December of the previous year and of the number of certified true copies corresponding to the vehicles in circulation on that date.

2. By 31 January of every year, at the latest, Member States shall inform the Commission of the number of driver attestations issued in the previous calendar year as well as the total number of driver attestations as of 31 December of the previous calendar year.
3. *By ... [two years after the date of entry into force of this Regulation], at the latest, Member States shall forward to the Commission their national enforcement strategy adopted pursuant to Article 10a.* By 31 January of every year, at the latest, Member States shall inform the Commission on the number of cabotage checks *enforcement operations* performed in the previous calendar year pursuant to Article 10a, *including, where appropriate, the number of checks performed.* This information shall include the number of vehicles checked and the number of tonnes-kilometres checked. [Am. 182]

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.* [Am. 183]
Article 3
Review

1. The Commission shall evaluate the implementation of this Regulation, in particular the impact of Article 2 amending Article 8 of Regulation (EC) No 1072/2009, by [3 years after the date of entry into force of this Regulation] and report to the European Parliament and the Council on the application of this Regulation. The report by the Commission shall, if appropriate, be accompanied by a legislative proposal.

2. Following the report referred to in paragraph 1, the Commission shall regularly evaluate this Regulation and submit the evaluation results to the European Parliament and the Council.

3. Where appropriate, the reports referred to in paragraphs 1 and 2 shall be accompanied by relevant proposals.
Article 4
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from [xx].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ..., 

For the European Parliament For the Council
The President The President