***I

DRAFT REPORT


Committee on Transport and Tourism

Rapporteur: Jens Nilsson
Symbols for procedures

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

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

Amendments to a draft act

Amendments by Parliament set out in two columns

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

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

Amendments by Parliament in the form of a consolidated text

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

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


(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 2017¹,

– having regard to the opinion of the Committee of the Regions of 2017²,

– 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 (A8-0000/2018),

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 , , p .
² OJ C , , p .
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 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 of 2.4 to 3.5 tonnes for international transport by way of common rules, and thus to approximate competitive conditions between all operators, the requirements for engagement in the occupation of road transport operator should apply equally.

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 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 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 of 2.4 to 3.5 tonnes for international transport by way of common rules, and thus to approximate competitive conditions between all operators, the requirements for engagement in the occupation of road transport operator should apply equally.

Or. en

Justification

In order to ensure a level playing field between high duty and light commercial vehicles, without creating undue administrative burden, it is proposed to only include light commercial vehicles that operate internationally with a laden mass of 2.4-3.5 tonnes. For those, all four requirements should apply to engage in the occupation of road transport operator.
Amendment 2

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.

Or. en

Justification

In order to effectively fight illegal cabotage, also repeated convictions of illegal cabotage and other serious and repeated infringements of the cabotage rules should have consequences for the good repute of companies.

Amendment 3

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 rules on the national electronic register

Amendment

(11) The information about transport operators contained in the national electronic registers should be constantly kept complete and up-to-date 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. Furthermore, the national electronic registers should be
should therefore be amended accordingly. interoperable and the data contained therein should be directly accessible for officials of all Member States performing roadside checks. The rules on the national electronic register should therefore be amended accordingly.

Or. en

Justification

For an effective enforcement, it is of utmost importance that all national electronic registers are kept up-to-date and are interconnected and that all relevant data in the national electronic registers can be directly consulted by all relevant competent authorities of all Member States, including at road-side checks, in line with Commission Implementing Regulation 2016/480.

Amendment 4
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 rules on national transport performed on a temporary basis by non-resident hauliers in a host Member State ('cabotage') should be clear, simple, 

fair and easy to enforce, leading to fair competition on a level playing field between all hauliers, while safeguarding the advantages of the Union’s internal market.

Or. en

Justification

Simple, clear legislation is needed for an effective enforcement that leads to fair competition and a level playing field between all the different hauliers.

Amendment 5
Proposal for a regulation
Recital 14
(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.

(14) **In order to reduce the environmental burden and to avoid empty runs, cabotage operations should be allowed following an international carriage to or from a haulier’s Member State of establishment.** In order to facilitate checks and to eliminate uncertainty, the limitation on the number of cabotage operations subsequent to such international carriage should be abolished, while the number of days available for such operations should be reduced.

**Or. en**

**Justification**

While cabotage, on a temporary basis and clearly linked to a genuine international transport operation to or from a haulier’s Member State of establishment, can increase transport efficiency and reduce unnecessary empty runs, the current cabotage regime is abused by companies carrying out systematic cabotage by nomadic drivers. This kind of systematic cabotage needs to be prevented.

**Amendment 6**

**Proposal for a regulation**

**Recital 14 a (new)**

(14a) **The effective implementation and enforcement of this Regulation is undermined when other Union legislation is used by hauliers to unduly circumvent the cabotage rules, contrary to the intention of the legislator. Therefore, Council Directive 92/106/EEC** ("Combined Transport Directive") **should be amended in such a way as to ensure that the cabotage rules set out in this Regulation could not unduly be circumvented by hauliers making use of that Directive.**

**Justification**

Currently, the Combined Transport Directive is being abused by some hauliers to unduly circumvent cabotage rules. While the aim of this Directive, namely encouraging intermodality and thereby reducing greenhouse gas emissions, is of utmost importance, it should be possible to reach that aim without unduly circumventing the cabotage rules and thereby hindering fair competition. This should be taken on board in assessing the recent proposal on amending the Combined Transport Directive.

**Amendment 7**

Proposal for a regulation

Recital 15

<table>
<thead>
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<th>Text proposed by the Commission</th>
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<td>(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.</td>
<td>(15) Effective and efficient enforcement of the rules is a prerequisite for fair competition in the internal market. 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.</td>
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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 8

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
(i) point (a) is deleted;

Amendment
(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 combinations of vehicles the permissible laden mass of which is lower than 2,4 tonnes;

(aa) 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 is lower than 3,5 tonnes that are engaged exclusively in national transport operations;

Justification

In order to ensure a level playing field between high duty and light commercial vehicles, without creating undue administrative burden, it is proposed to only include light commercial vehicles that operate internationally with a laden mass of 2.4-3.5 tonnes. For those, all four requirements should apply to engage in the occupation of road transport operator.
**Amendment 9**

**Proposal for a regulation**

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

Regulation (EC) No 1071/2009

Article 1 – paragraph 4 – point b – paragraph 2

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**Text proposed by the Commission**

Any carriage by road for which no remuneration is received and which does not create any income, such as carriage of persons for charity purposes or for strictly private use, is to be considered as carriage exclusively for non-commercial purposes;

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**Amendment**

Any carriage by road for which no remuneration is received and which does not generate any income is to be considered as carriage exclusively for non-commercial purposes;

Or. en

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**Justification**

Alignment with proposal on amending the "Tachograph Regulation" (COM(2017) 277)

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**Amendment 10**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 1 – point b**

Regulation (EC) No 1071/2009

Article 1 – paragraph 6

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**Text proposed by the Commission**

(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.;

Or. en

Justification

In order to ensure a level playing field between high duty and light commercial vehicles, without creating undue administrative burden, it is proposed to only include light commercial vehicles that operate internationally with a laden mass of 2.4-3.5 tonnes. For those, all four requirements should apply to engage in the occupation of road transport operator.

Amendment 11

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 appropriate premises, proportionate to the activities of the undertaking, in which it keeps its core business documents, or secures access to them, either in written or electronic form, in particular its commercial contracts, accounting documents, personnel management documents, labour contracts, documents containing data relating to cabotage 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;

Or. en

Justification

The requirements on effective establishment need to be much more clear and precise in order to effectively fight so-called "letterbox companies".
Amendment 12

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point c

Regulation (EC) No 1071/2009

Article 5 – point d

Text proposed by the Commission

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

Amendment

(d) manage **effectively and continuously** the transport operations carried out **using** the vehicles referred to in point (b) with **parking spaces proportionate to the size of the fleet of the vehicles and** the appropriate technical equipment situated in that Member State;

Or. en

Justification

The requirements on effective establishment need to be much more clear and precise in order to effectively fight so-called "letterbox companies".

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point d

Regulation (EC) No 1071/2009

Article 5 – point e

Text proposed by the Commission

(e) hold assets and employ staff proportionate to the **activity** of the establishment;

Amendment

(e) hold assets and employ staff proportionate to the **activities** of the undertaking;

Or. en

Justification

The requirements on effective establishment need to be much more clear and precise in order to effectively fight so-called "letterbox companies".
Amendment 14
Proposal for a regulation
Article 1 – paragraph 1 – point 3 – point d a (new)
Regulation (EC) No 1071/2009
Article 5 – point f

Text proposed by the Commission

Amendment

(d a) The following point (f) is added:
(f) have a clear link between the transport operations carried out using the vehicles referred to in point (b) and the Member State of establishment.

Or. en

Justification

The requirements on effective and stable establishment need to also contain some form of a link between the transport operations and the Member State of establishment to avoid situations of continuous and systemic cabotage and nomadic drivers carried out from an undertaking to which the vehicles never return.

Amendment 15
Proposal for a regulation
Article 1 – paragraph 1 – point 4 – point a – point iii
Regulation (EC) No 1071/2009
Article 6 – point b – point xii a (new)

Text proposed by the Commission

Amendment

(xii a) cabotage

Or. en

Justification

In order to effectively fight illegal cabotage, also repeated convictions of illegal cabotage and other serious and repeated infringements of the cabotage rules should have consequences for the good repute of companies.
Amendment 16

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

**Text proposed by the Commission**

*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.

**Amendment**

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.

**Justification**

*For an effective enforcement, it is of utmost importance that all national electronic registers are interconnected and that all relevant data in the national electronic registers can be directly consulted by all relevant competent authorities of all Member States, including at road-side checks, in line with Commission Implementing Regulation 2016/480.*

Amendment 17

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**

*5. Without prejudice to paragraphs 1 and 2, Member States shall take all necessary measures to ensure that the*

**Amendment**

*(b a) paragraph 5 is replaced by the following:*

'5. Member States shall take all necessary measures to ensure that the national electronic registers are
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.

interconnected and interoperable throughout the Union in such a way that the data referred to in paragraph 2 is directly accessible to all relevant competent authorities and control bodies of all Member States.'

Or. en

Justification

For an effective enforcement, it is of utmost importance that all national electronic registers are interconnected and that all relevant data in the national electronic registers can be directly consulted by all relevant competent authorities of all Member States, including at road-side checks.

Amendment 18

Proposal for a regulation
Article 1 – paragraph 1 – point 11 – point b b (new)

Regulation (EC) No 1071/2009
Article 16 – paragraph 6

Present text

6. Common rules concerning the implementation of paragraph 5, such as the format of the data exchanged, the technical procedures for electronic consultation of the national electronic registers of the other Member States and the promotion of the interoperability of these registers with other relevant databases, shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 25(2) and for the first time before 31 December 2010. Those common rules shall determine which authority is responsible for access to data and further

Amendment

(b b) paragraph 6 is replaced by the following:

6. The Commission is empowered to adopt delegated acts in accordance with Article 24 to establish and update common rules to ensure that the national electronic registers are fully interconnected and interoperable in such a way that a competent authority or control body in any Member State is able to directly access the national electronic register of any Member State as stipulated in paragraph 5. Such common rules may 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.
use and updating of data after access and, to this effect, shall include rules on data logging and data monitoring. States and the promotion of the interoperability of these registers with other relevant databases, as well as specific rules concerning access to data, data logging and data monitoring.

Or. en


Justification

For an effective enforcement, it is of utmost importance that all national electronic registers are interconnected and that all relevant data in the national electronic registers can be directly consulted by all relevant competent authorities of all Member States, including at road-side checks. Therefore, Commission Implementing Regulation 2016/480 needs to be updated and reinforced. Furthermore, the proper legislative procedures should be followed instead of outdated comitology procedures.

Amendment 19

Proposal for a regulation
Article 1 – paragraph 1 – point 12
Regulation (EC) No 1071/2009
Article 18 – paragraph 1

Text proposed by the Commission

1. Member States shall designate a national contact point responsible for the exchange of information with the other Member States on the application 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.

Amendment

1. The competent authorities of the Member States shall cooperate closely and provide each other swiftly with mutual assistance and any other relevant information in order to facilitate the implementation, application and enforcement of this Regulation. The administrative cooperation and mutual assistance between the competent authorities of the Member States that is 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.  

__________________

Or. en

Justification

Proper enforcement is key to make this proposal work. Currently, the cooperation between Member States in the enforcement of this Regulation is ineffective and limited. The wording reinstates the general principles stipulated in Article 24, that is deleted in this proposal. Furthermore, it is proposed to use the established IMI system, as is done under the "Enforcement Directive", instead of setting up a new system of national contact points.

Amendment 20

Proposal for a regulation
Article 1 – paragraph 1 – point 12
Regulation (EC) No 1071/2009
Article 18 – paragraph 3

Text proposed by the Commission

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 reasoned. To this end, requests shall include credible indications of possible infringements of Article 3(1)(a).

Amendment

3. Member States shall reply to requests for information from all competent authorities of other Member States and 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).

Or. en
Justification

Proper enforcement is key to make this proposal work. Currently, the cooperation between Member States in the enforcement of this Regulation is ineffective and limited. Especially, cooperation between Member States in addressing so-called "letterbox companies" need to be much quicker and more streamlined and effective.

Amendment 21

Proposal for a regulation
Article 1 – paragraph 1 – point 12
Regulation (EC) No 1071/2009
Article 18 – paragraph 4

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<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>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.</td>
<td>4. Where the requested Member State considers that the request is insufficiently reasoned, it shall inform the requesting Member State accordingly within five 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.</td>
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</table>

Or. en

Justification

Proper enforcement is key to make this proposal work. Currently, the cooperation between Member States in the enforcement of this Regulation is ineffective and limited. Especially, cooperation between Member States in addressing so-called "letterbox companies" need to be much quicker and more streamlined and effective.

Amendment 22

Proposal for a regulation
Article 1 – paragraph 1 – point 12
Regulation (EC) No 1071/2009
Article 18 – paragraph 5

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<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>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</td>
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</table>
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.

question shall inform the requesting Member State accordingly within five working days, duly justifying that difficulty or impossibility. The Member States concerned shall discuss 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, the Commission, being informed, may take all necessary measures to remedy the situation, including, if appropriate, investigating the matter, issuing a recommendation or starting infringement procedures.

Or. en

Justification

Proper enforcement is key to make this proposal work. Currently, the cooperation between Member States in the enforcement of this Regulation is ineffective and limited. Especially, cooperation between Member States in addressing so-called "letterbox companies" need to be much quicker and more streamlined and effective. This wording reflects the concept of an "escalation procedure" as set out in Directive 2014/67/EU (the "Enforcement Directive").

Amendment 23

Proposal for a regulation
Article 1 – paragraph 1 – point 12
Regulation (EC) No 1071/2009
Article 18 – paragraph 6

Text proposed by the Commission

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 working days from the receipt of the request, 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.

Amendment

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 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.

Or. en

Justification

Proper enforcement is key to make this proposal work. Currently, the cooperation between Member States in the enforcement of this Regulation is ineffective and limited. Especially, cooperation between Member States in addressing so-called "letterbox companies“ need to be much quicker and more streamlined and effective.

Amendment 24

Proposal for a regulation
Article 1 – paragraph 1 – point 12 a (new)
Regulation (EC) No 1071/2009
Article 18 a (new)

Text proposed by the Commission

(12a) The following Article 18a is introduced:

Article 18a

Accompanying measures

1. Member States shall, with the assistance of the Commission, 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 monitoring the compliance with, and enforcement of, the applicable rules of this Regulation.

2. The Commission shall assess the need to provide technical and other support in order to further improve administrative cooperation and increase mutual trust between Member States through projects, including promoting exchanges of relevant officials and joint training programmes, as well as developing, facilitating and promoting best practice initiatives. Where it concludes that such a need exists, 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.

Or. en

Justification

Proper enforcement is key to make this proposal work. Currently, the cooperation between Member States in the enforcement of this Regulation is ineffective and limited. Accompanying measures, such as staff exchanges, joint training programmes and the sharing of best practices could play an important role in increasing mutual trust and effective cooperation between the different national competent authorities. This wording reflects the wording of Directive 2014/67/EU.

Amendment 25

Proposal for a regulation
Article 1 – paragraph 1 – point 16
Regulation (EC) No 1071/2009
Article 26 – paragraph 5 a (new)

Text proposed by the Commission

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.

Or. en
Justification

Proper enforcement is key to make this proposal work. Currently, the cooperation between Member States in the enforcement of this Regulation is ineffective and limited. Especially, cooperation between Member States in addressing so-called "letterbox companies" need to be much quicker and more streamlined and effective. It is important therefore important to foresee a review of the administrative cooperation under the new regime and, if necessary, to improve it.

Amendment 26

Proposal for a regulation
Article 2 – paragraph 1 – point 1
Regulation (EC) No 1072/2009
Article 1 – paragraph 1 – subparagraph 1 a

Text proposed by the Commission

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.

Amendment

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;

Or. en

Justification

While cabotage, on a temporary basis and clearly linked to a genuine international transport operation, can increase transport efficiency and reduce unnecessary empty runs, the current cabotage regime is abused by companies carrying out systematic cabotage by nomedic drivers. This kind of systematic cabotage needs to be prevented. International transport operations only carrying empty containers or pallets should therefore not be granted ensuing right of cabotage.

Amendment 27

Proposal for a regulation
Article 2 – paragraph 1 – point 1 a (new)
Regulation (EC) No 1072/2009
Article 1 – paragraph 5 – point c

Text proposed by the Commission

(1a) 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;

Or. en

Justification

Light-commercial vehicles above 2.4 tonnes used for international transport should also be included under this Regulation

Amendment 28

Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point a
Regulation (EC) no 1072/2009
Article 2 – paragraph 6

Text proposed by the Commission

6. ‘cabotage operation’ means deleted
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;

Or. en

Justification

The existing definition of a cabotage operation is sufficiently clear, if it combined with the new proposed provisions on cabotage.

Amendment 29

Proposal for a regulation
Article 2 – paragraph 1 – point 2 a (new)
Regulation (EC) No 1072/2009
Article 3
Article 3

General principle

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.

(2a) Article 3 is replaced by the following:

Article 3

General principle

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*, a Community licence and, if the driver is a national of a third country, in conjunction with a driver attestation.


Justification

The introduction of the smart tachograph in all international transport is key in order to digitalize the enforcement of the legislation. This will lead to a more effective and efficient enforcement of the rules in place and to less administrative burden and loss of time due to road side inspections.

Amendment 30

Proposal for a regulation

Article 2 – 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 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.

Amendment

2. Once the goods carried in the course of an incoming international carriage *to or from a haulier’s Member State of establishment* have been delivered, the haulier 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 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 this incoming international carriage, subject to a transport contract.

Or. en

Justification

While cabotage, on a temporary basis and clearly linked to a genuine international transport operation to or from a haulier’s Member State of establishment, can increase transport efficiency and reduce unnecessary empty runs, the current cabotage regime is abused by companies carrying out systematic cabotage by nomadic drivers. This kind of systematic cabotage needs to be prevented.

Amendment 31

Proposal for a regulation

Article 2 – 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 international carriage to or from his Member State of establishment and if the value of the transport contract for this
preceding international carriage is not obviously lower than the combined value of the transport contracts for the cabotage operations;

Or. en

Justification

While cabotage, on a temporary basis and clearly linked to a genuine international transport operation, can increase transport efficiency and reduce unnecessary empty runs, the current cabotage regime is abused by companies carrying out systematic cabotage by nomadic drivers. This kind of systematic cabotage needs to be prevented since it leads to unfair competition. An international transport operation of a negligible value should therefore not be granted ensuing right of cabotage operations.

Amendment 32

Proposal for a regulation

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

Regulation (EC) No 1072/2009

Article 8 – paragraph 3 – point g a (new)

Text proposed by the Commission

(b a) in paragraph 3, the following point is added:

(ga) the value of the goods.

Or. en

Justification

Systematic cabotage needs to be prevented since it leads to unfair competition. An international transport operation of a negligible value should therefore not be granted ensuing right of cabotage operations. In order to verify this, the evidence referred to in paragraph 3 should also comprise the value of the goods for each transport operation.

Amendment 33

Proposal for a regulation

Article 2 – paragraph 1 – point 5 – point c

Regulation (EC) No 1072/2009

Article 8 – paragraph 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 office, the transport manager or any other person or entity which may provide the evidence referred to in paragraph 3.

**Justification**

The electronic consignment note (eCMR) is a very useful tool to make roadside checks as effective and reliable as possible. It is therefore important that all Member States will allow hauliers to use the eCMR as evidence during roadside checks, regardless of whether the host Member State has ratified that Convention. The aim is for all international transport in the near future to use solely electronic transport documents.

**Amendment 34**

**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)**

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 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.

**Or. en**

In Article 9, in paragraph 1, the following point is added:

(5a) the minimum rates of pay 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*.


Or. en

Justification

To clarify that the conditions on posted of workers (minimum rates of pay and paid annual leave) apply directly and wholly to any cabotage operation.

Amendment 35

Proposal for a regulation
Article 2 – paragraph 1 – point 5 b (new)
Regulation (EC) No 1072/2009
Article 10 – paragraph 1

<table>
<thead>
<tr>
<th>Present text</th>
<th>Amendment</th>
</tr>
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<tbody>
<tr>
<td>1. In the event of serious disturbance of the national transport market in a given geographical area due to, or aggravated by, cabotage, any Member State may refer the matter to the Commission with a view to the adoption of safeguard measures and shall provide the Commission with the necessary information and notify it of the measures it intends to take as regards resident hauliers.</td>
<td>1. In the event of serious disturbance of the national transport market in a given geographical area due to, or aggravated by, cabotage and especially systematic cabotage, any Member State may refer the matter to the Commission with a view to the adoption of safeguard measures and shall provide the Commission with the necessary information and notify it of the measures it intends to take.</td>
</tr>
</tbody>
</table>

Or. en


Justification

The safeguard procedure is an important procedure to allow a Member State, in the event of a serious disturbance of the national transport market due to cabotage and especially
systematic cabotage, to ask the Commission for permission to take appropriate measures. Such a European solution will hopefully prevent Member States from taking unilaterally national measures to stop systematic cabotage, that can be harmful to the internal market.

Amendment 36

Proposal for a regulation
Article 2 – paragraph 1 – point 6
Regulation (EC) No 1072/2009
Article 10 – paragraph 3 – subparagraph 1

Text proposed by the Commission

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 (EC) 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.

Amendment

The Commission shall examine the situation on the basis in particular of the relevant data and, after consulting the competent committee of the European Parliament and the committee established pursuant to Article 42(1) of Regulation (EC) 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.

Or. en

Justification

The safeguard procedure is an important procedure to allow a Member State, in the event of a serious disturbance of the national transport market due to cabotage, to ask the Commission for permission to take appropriate measures. Such a decision should however not be taken lightly and it is therefore important for the Commission to consult both the European Parliament and the Council on this issue.

Amendment 37

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EC) No 1072/2009
Article 10a – title
Checks

Enforcement

Or. en

Justification

With the introduction of the smart tachograph in all international transport, the enforcement of the legislation can be digitalized, leading to more effective and efficient enforcement of the rules in place and to less administrative burden and loss of time due to road side inspections.

Amendment 38

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EC) No 1072/2009
Article 10a – paragraph 1

Text proposed by the Commission

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.

Amendment

1. 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*, and where possible shall make use of the information and data recorded, processed or stored by the smart tachographs referred to in Chapter II of Regulation (EU) No 165/2014 and of electronic transport documents.

Each Member State shall ensure that the checks provided for in Article 2 of Directive 2006/22/EC will include a check on cabotage operations for all non-resident operators.


Justification

With the introduction of the smart tachograph in all international transport and with making more use of eCMR, the enforcement of the legislation can be digitalized, leading to more effective and efficient enforcement of the rules in place and to less administrative burden and loss of time due to road side inspections. Furthermore, cabotage checks can be integrated with other obligatory checks already in place on driving time and posting of workers.

Amendment 39

Proposal for a regulation
Article 2 – paragraph 1 – point 8
Regulation (EC) No 1072/2009
Article 14a – paragraph 1

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

Justification

Introducing chain liability is very important in order to effectively fight illegal international transport and illegal cabotage. This has also been introduced in other sectors, as well as in the field of posting of workers. However, if liability is defined too narrowly or if sanctions are not effective and dissuasive, it will in practice not have an effect.

Amendment 40

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EC) No 1072/2009
Article 17 – paragraph 3

Text proposed by the Commission

3. By 31 January of every year, at the latest, Member States shall inform the Commission on the number of cabotage checks performed in the previous calendar year pursuant to Article 10a. This information shall include the number of vehicles checked and the number of tonnes-kilometres checked.

Amendment

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 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;

Or. en

Justification

With the introduction of the smart tachograph in all international transport, the enforcement of the legislation can be digitalized, leading to more effective and efficient enforcement of the rules in place and to less administrative burden and loss of time due to road side inspections. The reporting obligations should follow the logic in the enforcement Article.
EXPLANATORY STATEMENT

BACKGROUND

The road transport sector is a very important sector and crucial to make our society function. The sector employs over 11 million people and carries almost half of all the freight volume in the EU.

On 31 May 2017, the Commission adopted a “Mobility Package” with the aim to ensure fair competition, simplify existing rules, preserve the EU internal market and ensure the rights of workers in this sector.

The Mobility Package consists of several legislative proposals. One of them is the current proposal, amending Regulations 1071/2009 and 1072/2009, on the access to the road haulage market and to the occupation of road transport undertaking. These regulations lay down provisions that companies need to comply with if they wish to operate on the international road haulage market or in national markets other than their own (cabotage).

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

The Commission proposals introduces changes in four distinctive areas; letterbox companies, light commercial vehicles (LCVs), cabotage and enforcement.

Certain hauliers open "fake subsidiaries" in low wage Member States in order to exploit wage differentials, while operating exclusively in high wage Member States. This leads to an unfair competitive advantage over hauliers, which are properly established in the Member State where they mainly operate.

To eliminate the use of letterbox companies, the Commission proposes to further strengthen the criteria on establishment in order to ensure that the haulier has real activity in the Member State of establishment. For example to conduct business from these premises, hold assets and employ staff proportionate to the activity.

Furthermore, the Commission is streamlining the cooperation between Member States in this field. Member States would need to cooperate more closely with each other to uncover letterbox companies and perform on-site inspections if needed.

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

Currently the market for cabotage, the transport of goods within a Member State by a transport company established in another Member State is subject to restrictions. Current EU
rules allow for three cabotage operations within seven days of an international delivery. However, the current provisions are very difficult to enforce. Control authorities require paper documents on the number of cabotage operations but this does not seem to be working effectively. The rules have also been implemented in an unharmonised way across the EU, leading to administrative burden, legal uncertainty, unfair competition and mistrust between national and foreign operators.

Since cabotage is mainly concentrated in some but not all Member States, the unclear rules and implementation can seriously affect national operators operating in those Member States where cabotage is a big part of the national transport market. This mainly due to substantial differentiations in terms of wages, tax regimes, social contributions, labour provisions. The Commission concludes that the sector is not yet ready for liberalisation.

The Commission therefore proposes a new rule, namely unlimited cabotage operations within five days of an international carriage. This is combined with a strict application of the minimum wage and annual paid leave rights of the host Member States from the first cabotage operation, the possibility to proof the legality of cabotage by electronic documents (e.g. eCMR) and the obligation on Member States to perform a minimum percentage of cabotage checks.

In order to address the varying levels and effectiveness of controls between Member States, the Commission proposes to set annual mandatory thresholds for cabotage checks and concerted (cross-border) checks. Further, the Commission wants to improve the cooperation between Member States via rules on exchange of information, enable targeted checks by providing risk rating via the European Register for Road Undertakings and further encourage the use of the smart tachograph and e-documents.

RAPPORTEUR’S OPINION

The rapporteur welcomes the Mobility Package, since there is a strong need to review legislation in order to improve current rules. The package includes several important legislations and the rapporteur stresses the need to keep them interlinked in order to ensure clear rules. It is important to have coherent regulation to avoid loopholes, which creates unfair competition for companies. In regard to this, the rapporteur thus regrets that the revision of the directive on combined transport, Directive 92/106/EEC, was separated from the first part of the mobility package and released later.

The rapporteur supports the Commission’s objective to clarify the rules to improve the level playing field and fair competition in the sector, while at the same time not creating unnecessary administrative burden. Especially for small and medium enterprises (SMEs). The update of legislation is also needed keeping in mind the technological improvement and the digitalisation of transport. Something that is key to ensure effective enforcement of the rules.

However, the rapporteur believes that the proposal can be strengthened on several points in order to ensure balanced conditions for fair competition and rigorous enforcement, so that the benefits of the single market could truly be reaped.

The rapporteur supports the Commission’s proposals to fight letterbox companies. There are currently more than 400 letterbox companies in the EU. They are set-up by hauliers operating
in high-wage Member States and seeking to unduly benefit from lower labour costs or taxes in other Member States. These operators abuse the loopholes in the legislation and the lax enforcement, which leads to unfair competition.

It is important to strengthen and to clarify the requirements regarding the establishment of a real business presence and to complement the data to be inserted in national electronic registers in order to get a fuller picture of the ownership of a company.

Furthermore, the opinion of the rapporteur is that the inclusion of LCVs in this legislation is needed, as there is an increase in these vehicles in the market and therefore shall follow the same rules. However, it is also central to keep in mind that the road transport sector consists of many SMEs who only do national transport operations. Therefore, the rapporteur proposes to restrict the scope of this regulation to only LCVs operating internationally (which is only ca 10 percent of all LCVs).

Nevertheless, for those LCVs, the rapporteur believes that all four criteria should apply, also “good repute” and “professional competence”, as well as the requirement to obtain a community licence. This will ensure that international transport performed by LCVs will meet the same minimum standards of profession as the rest of the road freight sector. In order to further reduce administrative burden, the rapporteur proposes to exclude very light LCVs (under 2.4 tonnes) from the scope.

When it comes to cabotage, the rapporteur emphasises the purpose of these operations, namely to reduce emissions from empty trucks returning from an international transport and to be conducted on a temporary basis. For example, if an international transport operation is being combined with some national operations on the way back, it could increase transport efficiency and reduce empty runs.

However, currently the cabotage rules are being abused to allow foreign hauliers, by systematically using the purpose of cabotage, to perform repeatedly national transport operations. This leads to unfair competition and social dumping. Since cabotage operations is the same as national transport operations, the rapporteur reminds that the Posting of Drivers Directive, Directive 96/71/EC, should be applied. This is also indicated in the Commission proposal of that directive.

The Commission’s proposals unfortunately fail to address the issue of systematic cabotage. The rapporteur believes that tackling systematic cabotage is key. It is also important to ensure that transport companies would not be able to abuse the Combined Transport Directive in order to circumvent the cabotage rules.

The rapporteur therefore proposes improvement for what exactly encompasses an international transport operation giving right to cabotage, in order to stop systematic cabotage, by including the value of the international operation contract for example. In addition, the rapporteur proposes to limit the time for which cabotage operations is allowed to be performed, to underline its temporary character.

Finally, the rapporteur believes that strengthening enforcement is absolutely key in order to achieve any of the objectives of the proposal. Currently, enforcement is rather weak with discrepancies between Member States. Thus, the rapporteur proposes to strengthen the
provisions regarding administrative cooperation and enforcement. In order for competent authorities to conduct checks they need to have easier access to national registers. There is also a need to incentivise the use of the smart tachograph and increase the exchange of best practices and training between Member States on enforcement.