



Brussels, 6.11.2017
C(2017) 7074 final

Dear President,

The Commission would like to thank the Senat for its Reasoned Opinion on the proposal for a Directive of the European Parliament and of the Council amending Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector {COM(2017) 278 final} and for its Opinion on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 with a view to adapting them to developments in the sector {COM(2017) 281 final}.

These proposals are designed to achieve a number of objectives, notably to improve the conditions for fair competition in the market and the working conditions for drivers in the road transport sector. They tackle a variety of concrete issues and are intended to simplify and clarify existing rules, make enforcement more efficient and cut down on administrative burden.

The Commission welcomes the Senat's support for some elements of the Commission's proposals, but also takes seriously its assessment about the incompatibility of the proposal {COM(2017) 278 final} with the principle of subsidiarity, its concerns as regards the potential important negative consequences of this proposal on the Polish road haulage sector and its disagreement with some provisions concerning light commercial vehicles, good repute and cabotage.

Since the European Union shares competence with Member States in the field of transport [Article 4(2)(g) of the Treaty on the Functioning of the European Union], the principle of subsidiarity applies. However, rules established by the European Union legislator can only be amended by the European Union legislator itself. Moreover, shortcomings in the current legislation led Member States to implement and enforce European Union social rules differently, including those on the posting of workers. By definition, such differences cannot be eliminated by Member States acting unilaterally.

As regards light commercial vehicles, the Commission followed a balanced approach. On the one hand, it recognised that operators using this type of vehicles need to meet minimum standards in terms of professionalism. On the other hand, it found that the professional

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requirements should be less demanding than those applicable to operators using heavy commercial vehicles, given that their activity is generally of limited size.

Regarding the requirement of good repute, the Commission proposes a clarification as regards the persons whose situation needs to be checked for the purposes of determining whether that requirement is fulfilled. Additionally, to ensure coherence with its proposals regarding the rules on the posting of workers, infringements of the posting rules should lead to a re-examination by the national authorities to determine whether the operators having committed them should maintain their good repute.

As regards cabotage, and more specifically the requirements of Article 8 of Regulation (EC) No 1072/2009, the objective of the Commission's proposal is to ease enforcement, without opening or closing the market for cabotage as compared to the current status.

By removing the limit on the number of cabotage operations, the proposed rules give operators additional flexibility to organise their operations. At the same time, this is counter-balanced by a limited decrease in the maximum number of days for operators to perform cabotage operations. Overall, the new rules are not expected to substantially change the level of cabotage activity. In view of the frequency of illegal cabotage activity taking place in the European Union, enforcement of the cabotage rules needs to be reinforced, which is why the Commission proposes that a minimum level of checks be established in the matter.

The points made above are based on the initial proposals presented by the Commission which are currently in the legislative process involving both the European Parliament and the Council.

Discussions have started in the Council's Working Group. The Commission is working closely with the Estonian Presidency to identify the main issues where Member States' opinions are divided and to facilitate discussions, and remains hopeful that an agreement will be reached with the co-legislators in the near future.

The Commission hopes that these clarifications address the issues raised by the Senat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Violeta Bulc
Member of the Commission*