

**ASSEMBLY OF THE REPUBLIC**  
**EUROPEAN AFFAIRS COMMITTEE**

**Opinion**  
COM(2016)285

# ASSEMBLY OF THE REPUBLIC

## EUROPEAN AFFAIRS COMMITTEE

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### **PART I - INTRODUCTION**

In accordance with Article 7 of Law No 43/2006 of 25 August 2006 on the monitoring, examination and issuing of opinions by the Assembly of the Portuguese Republic in the context of the process of EU integration, as amended by Law 21/2012 of 17 May 2012, the European Affairs Committee received a Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on cross-border parcel delivery services [COM(2016)285].

Given its subject matter, the above-mentioned initiative was referred to the Committee on Culture, Communication, Youth and Sport, which analysed it and approved the report annexed to and forming an integral part of this Opinion.

The above-mentioned initiative was also sent to the Legislative Assembly of the Autonomous Region of Madeira, which scrutinised it and delivered a unanimous favourable opinion, which is also attached.

### **PART II - EXPLANATORY MEMORANDUM**

1. This initiative relates to the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on cross-border parcel delivery services.
2. The Proposal for a Regulation begins by stating that the tariffs applicable to low volume senders of cross-border parcels and other postal items, particularly small and medium-sized enterprises and individuals, are still relatively high. This has a direct negative impact on users seeking cross-border parcel delivery services, especially in the context of e-commerce.
3. According to the text of the initiative under examination, there are fundamental differences between Member States when it comes to competences conferred on national regulatory authorities with regard to market monitoring and regulatory oversight of parcel delivery providers.

This has been confirmed by a joint report<sup>1</sup> prepared by the European Regulators Group for Postal Services and the Body of European Regulators for Electronic Communications, who concluded that national regulatory authorities need the appropriate regulatory powers to intervene and that such powers do not seem to be present in all Member States.

Those differences result in additional administrative burdens and compliance costs for parcel delivery service providers who operate cross-border.

Those differences therefore constitute an obstacle to the cross-border provision of parcel delivery services and thus have a direct effect on the functioning of the internal market.

4. It is thus important to note that the market for cross-border parcel delivery services is diverse and complex, with different providers offering different services and prices depending on weight, size and format of the items sent as well as destination, added value features, such as traceability solutions, and the number of items sent.

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<sup>1</sup> BoR (15) 214/ERGP PL (15) 32.

Consequently, that diversity makes parcel delivery services hard to compare between different providers, both in terms of quality and price.

5. Against this backdrop, the Proposal for a Regulation notes that in most Member States there are several providers who provide domestic parcel delivery services, while only a few of those providers also provide cross-border parcel delivery services. It is thus essential to ensure, in order to safeguard and promote effective competition and to protect users, transparent and non-discriminatory access to the services and infrastructure necessary for the provision of cross-border parcel delivery services.

As a consequence, it is important to provide a clear definition of parcel delivery services and to specify which postal items are covered by that definition.

6. It is also noted that the current regulatory framework (Directive 97/67/EC)<sup>2</sup> has not been implemented in a way that delivers affordable cross-border parcel services across the European Union beyond the universal postal service.<sup>3</sup>

Cross-border delivery by its very nature involves delivery services in more than one Member State and therefore cannot be overseen by national regulatory authorities acting independently of each other and without information about the cost of delivery in other Member States. Measures at Union level are therefore needed to tackle the underlying causes of the problem.

Furthermore, the divergences in national rules governing the regulatory oversight of parcel operators, while as such not being incompatible with Directive 97/67/EC, create legal uncertainty and barriers to the single market in postal services.

7. Accordingly, measures at Union level are needed in order to set minimum requirements for the regulatory oversight of all postal operators across the Union and therefore to avoid regulatory fragmentation<sup>4</sup>.
8. It should also be recalled that improving online access to digital goods and services is one of the three pillars of the Digital Single Market Strategy, one of the ten priorities for the Juncker Commission. In the Digital Single Market Strategy the Commission committed to launch measures to improve the price transparency and regulatory oversight of cross-border parcel delivery in the first half of 2016.
9. The initiative also states that, in its 'Towards a Digital Single Market Act'<sup>5</sup>, the European Parliament stressed that accessible, affordable, efficient and high-quality delivery services are an essential pre-requisite for cross-border e-commerce to thrive. It also supported measures to improve price transparency and regulatory oversight directed at the smooth functioning of cross-border parcel delivery markets.
10. In this regard, the initiative under examination states: *"(...) EU consumers and e-retailers do not take full advantage of the single market. In 2014, only 15 % of consumers bought online from other EU countries, although 44 % did so in their own country; over three quarters (84 %) of online sales in 2014 came from the country in which the selling company was located.*

*A European Parliament study estimated that the potential contribution to European GDP of achieving a fully functioning Digital Single Market could be in the range of*

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<sup>2</sup> Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service (OJ L 015 of 21 January 1998, p. 14 - 25).

<sup>3</sup> Even for cross-border parcel delivery services that are part of the universal service concerns have been expressed that these services are not affordable in sense of Article 12 of the Postal Services Directive.

<sup>4</sup> For example national regulatory authorities taking different approaches that impose larger burdens on parcel delivery service providers who would need to comply with significantly different data requests in each Member State in which they operate.

<sup>5</sup> 2015/2147(INI).

*EUR 415 billion. The benefits from cross-border e-commerce are estimated at 0.27 % of GDP. Cross-border e-commerce also directly benefits citizens and businesses, allowing them to enjoy a wider variety of goods and services and lower prices due to increased price competition (...). ”*

11. It should be emphasised that the general objective of this Proposal for a Regulation is to address specific issues relating to cross-border parcel delivery services, building on and complementing the rules on cross-border parcel delivery services provided by Directive 97/67/EC.
12. Lastly, it should be noted that the Commission is proposing a Regulation as this ensures the removal of single market barriers by complementing the existing regulatory framework for postal services.

This notably includes specific, directly-applicable obligations for national regulatory authorities and for parcel delivery service providers; it also includes a mechanism at the European level to establish transparency and assess the affordability of cross-border parcel delivery tariffs.

Furthermore, a Regulation allows swift action and minimises the transposition-related administrative burden for Member States, while preventing any further regulatory fragmentation that could result from other legal instruments.

The Regulation proposed does not require additional budget for the EU.

In the light of the provisions made in the Proposal, the following must be considered:

**a) Legal basis**

The proposal is based on Article 114 of the Treaty on the Functioning of the European Union as it relates to the internal market of parcel delivery services and its functioning.

**b) Principle of subsidiarity**

Since the objectives of this Proposal for a Regulation, namely to establish the regulatory principles and rules necessary to improve regulatory oversight, to improve transparency of prices and establish certain principles as regards cross-border parcel delivery services that should support competition, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance 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 in order to achieve that objective.

The principle of subsidiarity is therefore duly enforced and respected.

**PART III - OPINION**

In the light of the information set out above and the report of the relevant committee, the European Affairs Committee's opinion is as follows:

This initiative is not in breach of the principle of subsidiarity, in so far as the objective pursued will be achieved more effectively by means of action at Union level.

This concludes the scrutiny of this initiative.

Palácio de S. Bento, 19 July 2016

**Rapporteur**  
**Inês Domingos**

**President of the Committee**  
**Regina Bastos**



ASSEMBLY OF THE REPUBLIC  
EUROPEAN AFFAIRS COMMITTEE

PART IV - ANNEX

- Report of the Committee on Culture, Communication, Youth and Sport.
- Report and Opinion of the Legislative Assembly of the Autonomous Region of Madeira.

# **ASSEMBLY OF THE REPUBLIC**

Committee on Culture, Communication, Youth and Sport

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**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on cross-border parcel delivery services.**  
COM(2016)285

Rapporteur: Jorge Campos

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# ASSEMBLY OF THE REPUBLIC

Committee on Culture, Communication, Youth and Sport

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## I. - INTRODUCTION

As part of the monitoring, examination and issuing of opinions by the Assembly of the Portuguese Republic in the context of the process of EU integration, the Committee on Culture, Communication, Youth and Sport received European initiative COM (2016) 285 - **Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on cross-border parcel delivery services.**

## II. - RECITALS

### 1. Background

On the basis of Article 114 of the Treaty on the Functioning of the European Union, and in the context of the European Commission's objective of the creation of a Digital Single Market, the EC considers that consumers and e-retailers are not taking full advantage of the market, with low levels of cross-border online purchases, and concludes that the reasons for this are as follows: 1) "relatively high barriers to market entry"; 2) "Ineffective, inconsistent or non-existent regulatory framework"; 3 "a consistent lack of information about the parcel delivery market, including available delivery services, providers and prices." The European Parliament estimates that the potential contribution to European GDP of achieving a fully functioning Digital Single Market could be in the range of EUR 415 billion.

The EC thus defines the following objectives in this area:

"1) make markets work more effectively by a) making the regulatory oversight of the parcels markets more effective and consistent and b) encouraging competition; and

2) increase the transparency of tariffs in order to a) reduce unjustifiable tariff differences and b) lower the tariffs paid by individuals and small businesses, especially in remote areas.

These specific objectives support the wider Digital Single Market objectives of increasing cross-border e-commerce and digital inclusion."

### 2. Subsidiarity

The European Commission takes the view that the current regulatory framework (Directive 97/67/EC) has not been implemented in a way that delivers affordable cross-border parcel services across the European Union beyond the universal postal service. Cross-border delivery by its very nature involves delivery services in more than one Member State and therefore cannot be overseen by national regulatory authorities acting independently of each other and without information about the cost of delivery in other Member States, such as for example terminal rates that the operator in the destination Member State charges to the operator in the originating Member State. Measures at Union level are needed to tackle the underlying causes of the problem. National Regulatory Authorities will be responsible for assessing whether cross-border services are affordable, in light of market conditions in the relevant Member State.

### 3. Proportionality

According to the European Commission, "The Union action proposed by this Regulation is limited to what is necessary to achieve the objectives identified. Self-regulation by parcel service delivery operators has not led to changes in regulatory oversight, transparency of



tariffs and tangible improvements in the affordability of cross-border parcel delivery services for small senders."

This Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL is accompanied by an Annex containing the text of the REGULATION, consisting of a Preamble and 10 Articles divided into 3 Chapters: Chapter I – Subject matter and definitions Chapter II – Regulatory oversight; Chapter III – Implementation, review and entry into force.

### III. - CONCLUSIONS

The text of the REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on cross-border parcel delivery services fulfils the obligations in respect of criminal law and judicial cooperation, having regard to the Portuguese constitutional framework.

In light of the foregoing, the Committee on Culture, Communication, Youth and Sport considers its examination of this initiative to be complete. Pursuant to Law No 43/2006 of 25 August 2006, this Opinion must be forwarded to the European Affairs Committee for the appropriate purposes.

Palácio de S. Bento, 28 June 2016

Rapporteur  
(Jorge Campos)

President of the Committee  
(Edite Estrela)

**AUTONOMOUS REGION OF MADEIRA**  
**LEGISLATIVE ASSEMBLY**  
**1st Specialised Standing Committee on General Policy and Youth**

**Report and Opinion**

**European Commission Work Programme for 2016, on the Proposal for a  
Regulation of the European Parliament and of the Council  
on cross-border parcel delivery services**

**CHAPTER I**

**Introduction**

At the request of the President of the Legislative Assembly, the Specialised Standing Committee on General Policy and Youth met on 28 June 2016 to assess and give an opinion on the above-mentioned European Commission Work Programme for 2016.

The request for an opinion was received in the Legislative Assembly of the Autonomous Region of Madeira on 2 June 2016 and was referred to the Specialised Standing Committee on General Policy and Youth, which was asked to provide its opinion by 28 June 2016.

**CHAPTER II**

**Legal framework and background**

The above-mentioned Work Programme is assessed pursuant to Article 229(2) of the Constitution of the Portuguese Republic, Article 36(1)(i) and Articles 89 and 90 of the Political and Administrative Statute of the Autonomous Region of Madeira, approved by Law No 130/99 of 21 August 1999, and also in line with Article 44(j) of the Rules of Procedure of the Legislative Assembly of the Autonomous Region of Madeira.

In view of the subject matter, pursuant to Article 43 of the Rules of Procedure, it falls to the Specialised Standing Committee on General Policy and Youth to give an opinion on behalf of the Legislative Assembly.

**CHAPTER III**

**Assessment of the initiative**

An opinion was requested on the Proposal for a Regulation of the European Parliament and of the Council on cross-border parcel delivery services.

*According to the document under examination, the general objective of the regulation is to "(...) address specific issues relating to cross-border parcel delivery services; it is thus complementary to the industry-related, regulatory and standardisation activities outlined above. It also builds on and complements the rules on cross-border parcel delivery services provided by Directive 97/67/EC as amended by Directive 2002/39/EC and Directive 2008/6/EC (hereinafter 'Directive 97/67/EC')."*

Furthermore, the specific objectives of the text in question are regulatory oversight of parcel delivery service providers, transparency of tariffs and terminal rates for certain cross-border parcel delivery services, the assessment of the affordability of tariffs for certain cross-border parcel delivery services and transparent and non-discriminatory access to certain cross-border parcel delivery services and/or infrastructure.

*The need for legislative intervention by the EU in this regard is justified by the fact that"divergences in national rules governing the regulatory oversight of parcel operators, while as such not being incompatible with Directive 97/67/EC, create legal uncertainty and barriers to the single market in postal services. Measures at Union level are needed in order to set minimum requirements for the regulatory oversight of all postal operators across the Union and therefore to avoid regulatory fragmentation.*

In this regard, as we consider it important to adopt rules that render parcel delivery services more transparent and non-discriminatory, it is our view that this issue concerns not only cross-border services but also those

involving deliveries overseas, and that it is important to ensure coordination between the principles of territorial cohesion, access to parcel deliveries and the provision of the corresponding service.

Thus, in view of the above, the Committee decided that it did not have any objections to the European Commission Work Programme for 2016.

#### **Chapter IV**

#### **Conclusions and opinion**

On the basis of its assessment, having regard to the importance of the adoption of rules rendering parcel delivery services more transparent and non-discriminatory, and having also raised the issue of deliveries overseas and the importance of coordination between the principles of territorial cohesion, access to parcel deliveries and the provision of the corresponding service, the Specialised Standing Committee on General Policy and Youth decided unanimously to give a favourable opinion on the European Commission Work Programme for 2016 referred to it.

**Funchal, 28 June 2016.**

Rapporteur  
(Carolina Silva)

President  
(Adolfo Brazão)