



Romanian Parliament
Senate

Bucharest, September, 26, 2017

OPINION

Regarding 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

The Romanian Senate examined 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** – according to the provisions of the Treaty of Lisbon (Protocol no. 2).

Taking into account the report of 474/ September, 20, 2017 of our permanent Committee on European Affairs, **the Plenum of the Senate**, during its session of September, 25, 2017, decided as follows:

1. This Regulation does not violates principles of subsidiarity.

The proposal for a Regulation raises questions about the principle of proportionality for the following reasons:

- in relation to the sector problems, namely inadequate working conditions for drivers and distortions of competition on the market, the legislative proposal contains provisions that can not provide the necessary balance between improving working conditions, reducing administrative burdens and enforcing legislation;
- the specific rules on the posting of workers in the road transport sector (e.g. setting the three-day per month for international road transport operations, the absence of any cabotage threshold, the method of calculating the posting periods) do not take into account the very mobile nature of work in the field of international road transport and disadvantages peripheral EU Member States;

- the specific rules on the posting of workers in the road transport sector proposed by the Directive are not clear in terms of modes of transport which fall within the scope of application, neither in respect of international road haulage, nor in respect of international road transport persons (including the road transport for a fee and road transport on own account);

- the administrative and control measures relating to the periods of transfer, referred to in Article 2 paragraph (4) are to a certain extent contrary to the general objectives of simplifying procedures, streamlining control, reducing the level of bureaucratization and reducing administrative costs; thus, in addition to the very detailed information required of the road transport operator, the number of documents to be carried on the vehicle increases (the driver is also required to carry a significant quantity of documents and the control inspectors check more diverse documents); in addition, the control officers responsible for verifying compliance with specific road transport legislation do not have the competence to check and assess the payer's pay sheets.

2. Within the 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, the following are noted:

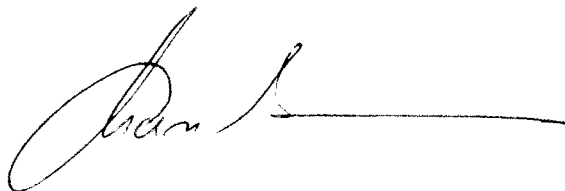
- a) Enhance the efficiency of the road transport market through a harmonized implementation of existing rules (especially with regard to driving times, breaks and rest periods for drivers), but not through the frequent introduction of new rules and principle which may have a reverse effect (non-uniform application in Member States and increased abuse by control authorities);
- b) rules governing social protection, work-life balance, driving times, breaks and rest periods for drivers but not to the detriment of road safety, fundamental rights and freedoms, the excessive increase in compliance costs for transport companies or control authorities.

3. It is strongly recommended to pursue:

- a) Explicitly excluded from the scope of Directive 96/71/EC (posting of workers in the framework of the provision of services) of international road transport, given the mobile nature of this activity;
- b) The re-evaluation of the three-day period in a calendar month from which the deployment period begins in the case of international road transport operations, because it is unrealistic and the proposed calculation method is exaggerated and restrictive, which will in fact determine the reduction including the specified term;
- c) The period of derogation must be at least 16 days. For a driver who performs international road transport operations to be considered as posted in a Member State, the total working time in the Member State's territory should be over 50% of the total number of days in a month;
- d) Reassessment of new administrative controls (pre-registration for up to six months, keeping tachograph records, presence of driver's contract and salary documents for the past two months) as the immobilization times at control will increase considerably. It would be advisable to have a single point of reference for the required declarations and the control system should be based on both the traffic and the carrier's premises, as well as a 14-day time limit for the carrier to submit some documents required for control;

- e) Clarification of the types of transport envisaged by the present proposal for a regulation, taking into account the reference of passenger transport as a type of covered transport service as well as the specific situation of transit.

p. Speaker of the Senate

A handwritten signature in black ink, consisting of a large, stylized initial 'I' followed by a cursive name and a long horizontal line extending to the right.

Iulian – Claudiu MANDA