



Romanian Parliament  
Senate

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Bucharest, September, 19, 2017

## OPINION

***Regarding 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***

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

Taking into account the report of 586/ September, 13, 2017 of our permanent Committee on European Affairs, **the Plenum of the Senate**, during its session of September, 19, 2017, decided as follows:

#### **1. This Regulation does not violates principles of subsidiarity.**

The proposal raises questions on the principle of proportionality, because the need for clarification of the current provisions should not lead to over regulation. Member States should be able to establish clear and effective measures at national level in implementing legislation for EU regulations to enable enterprises to meet the general conditions for access to employment and the market; the new legislative package should not introduce additional administrative obligations and burdens for enterprises, which in fact may represent barriers to their access. Also, some of the alleged problems are not supported by certain data and information, which underlie the adoption of new rules and more restrictive measures, which affects the functioning of the single market.

**2. Within the amending Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 with a view to adapting them to developments in the transport sector, the following are noted:**

The modification of the current European legislative framework should mainly aim at clarifying the existing rules, ensuring a uniform approach for their application in the Member States and not introducing new rules that generate significant costs for compliance, both for road transport operators and control authorities. For example, letterbox companies do not appear to be an extended phenomenon, which is why there is no justification for adopting new measures that would generate additional administrative burdens. The detection of such companies can still be carried out on the basis of current provisions regarding the fulfillment of the condition of having a real and stable place of residence through effective and efficient controls. Also, illegal cabotage has a minor weight compared to other violations of specific legislation and is not a significant issue justifying the introduction of new market access restrictions for non-resident carriers. The inefficiency of controls in some Member States must be combated by more extensive and coherent measures at their level which have in part identified as a problem the lack of an adequate number of control personnel, not by imposing restrictions on carriers operating properly.


**3. The following are considered necessary and mandatory:**

- a) Maintaining the transport operations flexibility and the conditions of access to occupation for the sector under 3.5 tons. The main requirements that should be considered for access to the profession would be good reputation and professional competence; the enforcement of the requirement of financial capacity may be a barrier to companies owning such vehicles, since they are generally used for shorter short-distance transport operations with a low volume of goods. The EC needs to better assess the impact of these proposals on EU operators through the uneven competition of non-EU non-EU vehicles of the same categories, which are practically “car” in the absence of a UN regulation applicable to their activities in EU and non- EU;
- b) Reformulation of the text (especially the one related to the phrase “certified annual accounts”) on proof of compliance with the requirement of financial capacity for clarity from the point of view of its application to start-ups and businesses set up in Member States where there is no legal obligation the certification of annual accounts and the maintenance of the current provisions stipulating the insurance policy as a document accepted from a financial institution for the fulfillment of the financial capacity requirement;
- c) Remove the introduction of a mandatory percentage of cabotage checks in traffic, as it would unduly increase the immobilizations/ traffic control times, which should primarily focus on road safety. In addition, it is very difficult to determine the total number of cabotage operations carried out in a year and their identification during traffic controls can only be carried out unforeseen;
- d) Elimination of the reduction of the current 7-day period during which cabotage operations can be carried out, the 5-day limitation of the period being not supported by solid arguments in the impact assessment and clearly at the disadvantage of peripheral Member States;
- e) Remove the introduction of cabotage, the posting of workers Directive and the law applicable to contractual obligations to infringements which may lead to the loss of good repute of the transport operator or the transport manager, as they are disproportionate in relation to the degree of danger of

the act; such violations can not be assimilated to violations that are at risk of personal injury or death. The loss of good repute of the road transport operator must be an extreme measure, so that the widening of the basis of infringements which may lead to the loss of good repute is another restrictive measure;

- f) Elimination of vehicle registration number, number of employees and any other commercial information from national electronic registers and their interconnection EU (total assets, debts, equity, turnover over the last two years) in the national electronic registers and their interconnection at EU level (ERRU), as this leads to additional administrative procedures, a new burden for authorities and road hauliers, and many of this information is not relevant because a company may have activities other than transport.

**p. Speaker of the Senate**

A handwritten signature in black ink, appearing to read 'Iulian - Claudiu MANDA', followed by a horizontal line extending to the right.

**Iulian - Claudiu MANDA**