



Council of the
European Union

061575/EU XXVI. GP
Eingelangt am 11/04/19

Brussels, 11 April 2019
(OR. en)

7732/19

Interinstitutional File:
2017/0123(COD)

CODEC 747
TRANS 217
SOC 234
EMPL 187
MI 284
COMPET 272
PE 108

INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: 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
- Outcome of the European Parliament's first reading,
(Brussels, 3 to 4 April 2019)

I. INTRODUCTION

The rapporteur, Ismail ERTUG (S&D, DE), presented a report on the proposal for a Regulation on behalf of the Committee on Transport and Tourism.

II. VOTE

When it voted on 4 April 2019, the plenary adopted the report on the proposal for a Regulation.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Adapting to development in the road transport sector *I**

European Parliament legislative resolution of 4 April 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) 1071/2009 and Regulation (EC) 1072/2009 with a view to adapting them to developments in the sector (COM(2017)0281 – C8-0169/2017 – 2017/0123(COD))

(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 18 January 2018²,
 - having regard to the opinion of Committee of the Regions of 1 February 2018³,
 - 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 (A8-0204/2018),
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.

² OJ C 197, 8.6.2018, p. 38.

³ OJ C 176, 23.5.2018, p. 57.

Amendment 110

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 **not exceeding** 3.5 tonnes by way of common rules, and thus to approximate competitive

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, **including that of trailers**, not exceeding 3.5 tonnes. 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. **In order to avoid possible loopholes and** to ensure a minimum level of professionalisation of the sector using **motor** vehicles with a permissible laden mass, **including that of trailers, of 2.4 to 3.5 tonnes for international transport** by way of common rules, and thus to

conditions between all operators, *this provision should be deleted, whereas* the requirements *regarding effective and stable establishment and appropriate financial standing should be rendered mandatory.*

approximate competitive conditions between all operators, the requirements *for engagement in the occupation of road transport operator should apply equally, while avoiding a disproportionate administrative burden. Since this Regulation only applies to undertakings transporting goods for hire or reward, undertakings performing transport operations for own account are not covered by this provision.*

Amendment 111

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) In its impact assessment, the Commission estimates savings for businesses in the range of EUR 2,7 to 5,2 billion in the period 2020-2035.

Amendment 112

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) *It* is necessary ***to ensure that*** road transport operators established in a Member State have a real and continuous presence in that Member State and conduct their business from there. Therefore, and in light of experience, it is necessary to clarify the provisions regarding the existence of an effective and stable establishment.

Amendment

(4) ***In order to combat the phenomenon of so-called ‘letterbox companies’ and guarantee fair competition and a level playing field in the internal market, clearer establishment criteria, more intensive monitoring and enforcement, and improved cooperation between Member States*** is necessary. Road transport operators established in a Member State ***should*** have a real and continuous presence in that Member State and ***actually*** conduct their ***transport*** business ***and perform substantial activities*** from there. Therefore, and in light of experience, it is necessary to clarify ***and strengthen*** the provisions regarding the existence of an effective and stable establishment, ***while avoiding a disproportionate administrative burden.***

Amendment 113

Proposal for a regulation

Recital 7

Text proposed by the Commission

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 and the law applicable to contractual obligations should be added to the items relevant to the assessment of good repute.

(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.

Amendment 114

Proposal for a regulation

Recital 10

Text proposed by the Commission

Amendment

(10) 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 with combinations of vehicles not exceeding that limit*** should have a minimum ***level of*** financial standing, to ensure that they have the means to carry out operations on a stable and long-lasting basis. However, since the operations ***concerned*** are generally of a limited size,

(10) Undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass, ***including that of trailers, between 2.4 and 3.5 tonnes and engaged in international transport operations,*** should have a minimum financial standing, to ensure that they have the means to carry out operations on a stable and long-lasting basis. However, since the operations ***conducted with these***

the corresponding requirements should be less demanding than those applicable to operators using vehicles or combinations of vehicles above that limit.

vehicles are generally of a limited size, the corresponding requirements should be less demanding than those applicable to operators using vehicles or combinations of vehicles above that limit.

Amendment 115

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 should therefore be

Amendment

(11) The information about transport operators contained in the national electronic registers should be 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 *and* their risk rating should allow a better national and cross-border enforcement of the provisions of Regulations (EC) No 1071/2009 and (EC) No 1072/2009, *as well as other relevant Union legislations. Furthermore, in order to provide enforcement officials, including those performing roadside*

amended accordingly.

checks, with a clear and complete overview of the transport operators being checked, they should have direct and real-time access to all relevant information. Therefore, the national electronic registers should be truly interoperable and the data contained therein should be directly and in real-time accessible to all designated enforcement officials of all Member States. The rules on the national electronic register should therefore be amended accordingly.

Amendment 116

Proposal for a regulation

Recital 13

Text proposed by the Commission

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 and easy to enforce, ***while broadly maintaining the level of liberalisation achieved so far.***

(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.

Amendment 117

Proposal for a regulation

Recital 14

Text proposed by the Commission

(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.

Amendment

(14) ***In order to avoid empty runs, cabotage operations should be allowed, subject to specific restrictions, in the host Member State.*** 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.

Amendment 118

Proposal for a regulation

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) In order to prevent cabotage operations from being carried out on a systematic basis, which could create a permanent or continuous activity that distorts the national market, the period available for cabotage operations in one host Member State should be reduced. In addition, hauliers should not be allowed

to carry out new cabotage operations in the same host Member State within a certain time period and until they have performed a new international carriage originating from the Member State where the undertaking is established. This provision is without prejudice to the performance of international transport operations.

Amendment 119

Proposal for a regulation

Recital 15

Text proposed by the Commission

(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

Amendment

(15) Effective and efficient enforcement of the rules is a prerequisite for fair competition in the internal market. Further digitalisation of enforcement tools is essential in order to free up enforcement capacity, reduce unnecessary administrative burden on international transport operators and in particular SMEs, better target high-risk transport operators and detect fraudulent practices. In order for transport documents to become paperless, the use of electronic documents should in the future become the rule, particularly the electronic

regulatory frameworks and provisions addressing the simplification of administrative procedures.

consignment note under the Convention on the Contract for the International Carriage of Goods by Road (eCMR). 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.

Amendment 120
Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) The swift introduction of the smart tachograph is of paramount importance, as it will enable enforcement authorities carrying out roadside checks to detect infringements and abnormalities quicker and more efficiently, which would result

in better enforcement of this Regulation.

Amendment 121
Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) Transport undertakings are the addressees of the rules on international carriage and are, as such, subject to the consequences of any infringements committed by them. However, in order to prevent abuses by undertakings contracting transport services from road haulage operators, Member States should also provide for sanctions on shippers *and* freight forwarders ***in case they knowingly commission*** transport services ***which*** involve infringements of the provisions of Regulation (EC) No 1072/2009.

Amendment

(16) Transport undertakings are the addressees of the rules on international carriage and are, as such, subject to the consequences of any infringements committed by them. However, in order to prevent abuses by undertakings contracting transport services from road haulage operators, Member States should also provide for sanctions on ***consignors, shippers, freight forwarders, contractors and subcontractors where they know that the*** transport services ***that they commission*** involve infringements of the provisions of Regulation (EC) No 1072/2009. ***When undertakings contracting transport services commission those services from transport undertakings with a low risk rating, their liability should be reduced.***

Amendment 122
Proposal for a regulation
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) The proposed European Labour Authority aims at supporting and facilitating the cooperation and exchange of information between national competent authorities, with a view to the effective enforcement of relevant Union law. In supporting and facilitating the enforcement of this Regulation, the Authority may play an important role in

assisting the exchange of information between competent authorities, in supporting Member States in capacity building through staff exchange and training, and in assisting Member States in organizing concerted checks. This would strengthen the mutual trust between Member States, improve effective cooperation between competent authorities and help fighting fraud and abuse of the rules.

Amendment 123
Proposal for a regulation
Recital 16 b (new)

Text proposed by the Commission

Amendment

(16b) Road transport legislation should be reinforced to ensure a good application and enforcement of the ROME I regulation in a way that labour contracts reflect the habitual place of work of employees. Complementary to, and directly linked with ROME I Regulation are the fundamental rules of Regulation (EC) 1071/2009 intended to fight letterbox companies and to ensure proper establishment criteria of companies. These rules need to be strengthened to guarantee the rights of employees when temporarily working outside their country of habitual work, and to ensure fair competition between transport undertakings.

Amendment 124
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

Amendment

(i) point (a) is **deleted**;

(i) point (a) is **replaced by the following**:

(a) undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles the permissible laden mass of which, including that of trailers, is lower than 2.4 tonnes;

(aa) undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles the permissible laden mass of which, including that of trailers, is lower than 3.5 tonnes that are engaged exclusively in national transport operations;

Amendment 125

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

Text proposed by the Commission

Amendment

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;;

Any carriage by road **the purpose of** which **is not to generate any profit for the driver or others**, such as **where the service is provided on a charitable or philanthropic basis**, is to be considered as carriage exclusively for non-commercial purposes;;

Amendment 126

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b

Regulation (EC) No 1071/2009

Article 1 – paragraph 6

Text proposed by the Commission

Amendment

(b) the following paragraph 6 is added:

deleted

‘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.’;

Amendment 127

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point a

Regulation (EC) No 1071/2009

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

‘(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

‘(a) have **appropriate** premises, **proportionate to the activities of the undertaking, at** which it **is able to access the originals of** its core business documents, **whether in electronic or any other form**, in particular its commercial contracts, accounting documents, personnel management documents, labour contracts, **social security documents**, documents

conditions laid down in this Regulation;’;

containing data relating to ***cabotage, posting 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;’;

Amendment 128

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point a a (new)

Regulation (EC) No 1071/2009

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

Text proposed by the Commission

Amendment

(aa) the following point is inserted:

‘(aa) the vehicles referred to in point (b) shall perform, in the framework of a transport contract, at least one loading or one unloading of goods every four weeks in the Member State of establishment;’;

Amendment 129

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b

Regulation (EC) No 1071/2009

Article 5 – paragraph 1 – point c

Text proposed by the Commission

Amendment

‘(c) conduct effectively and continuously its administrative and commercial activities with the appropriate ***administrative*** equipment and facilities at premises situated in that Member State;’;

‘(c) conduct effectively and continuously its administrative and commercial activities with the appropriate equipment and facilities at premises ***as referred to in point (a)*** situated in that Member State;’;

Amendment 130

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point c

Regulation (EC) No 1071/2009

Article 5 – paragraph 1 – 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 the appropriate technical **equipment** situated in that Member State;’;

Amendment 131

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point d a (new)

Regulation (EC) No 1071/2009

Article 5 – paragraph 1 – point f (new)

Text proposed by the Commission

Amendment

(da) the following point (f) is added:
‘(f) have a clear link between the transport operations carried out and the Member State of establishment, an operating centre and access to sufficient parking places for regular use by the vehicles referred to in point (b);’;

Amendment 132

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point d b (new)

Regulation (EC) No 1071/2009

Article 5 – paragraph 1 – point g (new)

Text proposed by the Commission

Amendment

(db) the following point (g) is added:
‘(g) recruit and employ drivers under the law applicable to labour contracts of that Member State;’;

Amendment 133
Proposal for a regulation
Article 1 – paragraph 1 – point 3 – point d c (new)
Regulation (EC) No 1071/2009

Article 5 – paragraph 1 – point h (new)

Text proposed by the Commission

Amendment

(dc) the following point (h) is added:

'(h) ensure that the establishment is the place in which or from which workers habitually carry out their work according to Regulation (EC) No 593/2008 of the European Parliament and of the Council^{1a} and/or the Rome Convention.

^{1a} *Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p. 6).'*

Amendment 134
Proposal for a regulation
Article 1 – paragraph 1 – point 4 – point a – point iii
Regulation (EC) No 1071/2009

Article 6 – subparagraph 3 – point b

Text proposed by the Commission

Amendment

(iii) in point (b) of the third subparagraph the following points (xi) *and* (xii) are added:

- '(xi) the posting of workers;
- (xii) the law applicable to contractual obligations.';

(iii) in point (b) of the third subparagraph the following points (xi), (xii) *and (xiii)* are added:

- '(xi) the posting of workers;
- (xii) the law applicable to contractual obligations;
- (xiii) cabotage.'*;

Amendment 135

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c

Regulation (EC) No 1071/2009

Article 6 – paragraph 2 a – subparagraph 2 – point b

Text proposed by the Commission

(b) define the degree of seriousness of infringements according to their potential to create a risk of fatalities or serious injuries **and** to distort competition in the road transport market, including by undermining the working conditions of transport workers;

Amendment

(b) define the degree of seriousness of infringements according to their potential to create a risk of fatalities or serious injuries **or** to distort competition in the road transport market, including by undermining the working conditions of transport workers;

Amendment 136

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a

Regulation (EC) No 1071/2009

Article 7 – paragraph 1 – subparagraph 1

Text proposed by the Commission

‘In order to satisfy the requirement laid down in Article 3(1)(c), an undertaking shall, on a permanent basis, be able to meet its financial obligations in the course of the annual accounting year. The undertaking shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, it has at its disposal equity capital totalling at least EUR 9 000 when only one vehicle is used **and** EUR 5 000 for each additional vehicle used. 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** shall demonstrate, on the basis of annual accounts certified by an auditor or a

Amendment

‘In order to satisfy the requirement laid down in Article 3(1)(c), an undertaking shall, on a permanent basis, be able to meet its financial obligations in the course of the annual accounting year. The undertaking shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, it has at its disposal equity capital totalling at least EUR 9 000 when only one vehicle is used, EUR 5 000 for each additional vehicle **with a permissible laden mass, including that of trailers, exceeding 3.5 tonnes used and EUR 900 for each additional vehicle with a permissible laden mass, including that of trailers, between 2.4 and 3.5 tonnes** used. Undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a

duly accredited person, that, every year, they have at their disposal equity capital totalling at least EUR 1 800 when only one vehicle is used and EUR 900 for each additional vehicle used.’;

permissible laden mass, **including that of trailers, between 2.4 and 3.5 tonnes** shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, they have at their disposal equity capital totalling at least EUR 1 800 when only one vehicle is used and EUR 900 for each additional vehicle used.’;

Amendment 137

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point b

Regulation (EC) No 1071/2009

Article 7 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. By way of derogation from paragraph 1, in the absence of certified annual accounts the competent authority shall agree that an undertaking demonstrate its financial standing by means of a certificate, such as a bank guarantee, **a document issued by a financial institution establishing access to credit in the name of the undertaking**, or another binding document **proving that** the undertaking **has at its disposal** the amounts specified in the first subparagraph of paragraph 1.;

Amendment

2. By way of derogation from paragraph 1, in the absence of certified annual accounts the competent authority shall agree that an undertaking demonstrate its financial standing by means of a certificate, such as a bank guarantee **or an insurance, including a professional liability insurance from one or more banks or other financial institutions including insurance companies**, or another binding document **providing a joint and several guarantee for** the undertaking **in respect of** the amounts

specified in the first subparagraph of paragraph 1;

Amendment 138

Proposal for a regulation

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

Regulation (EC) No 1071/2009

Article 8 – paragraph 5

Present text

Member States may promote periodic training on the subjects listed in Annex I at **10-year** intervals to ensure that **transport managers are** aware of developments in the sector.

Amendment

(5a) in Article 8, paragraph 5 is replaced by the following:

"Member States may promote periodic training on the subjects listed in Annex I at **three-year** intervals to ensure that **the person or persons referred to in paragraph 1 are sufficiently** aware of developments in the sector.

Amendment 139

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 1071/2009

Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

(8) in Article 12(2), the second subparagraph is *deleted*;

Amendment

(8) in Article 12(2), the second subparagraph is *replaced by the following*:

‘Member States shall carry out checks at least every three years to verify that undertakings fulfil the requirements laid down in Article 3.’;

Amendment 140

Proposal for a regulation

Article 1 – paragraph 1 – point 10 a (new)

Regulation (EC) No 1071/2009

Article 14 – paragraph 2

Present text

2. Unless and until a rehabilitation measure is taken in accordance with the relevant provisions of national law, the certificate of professional competence, referred to in Article 8(8), of the transport manager declared to be unfit, shall no longer be valid in any Member State.

Amendment

(10a) *Article 14(2) is replaced by the following:*

2. Unless and until a rehabilitation measure is taken in accordance with the relevant provisions of national law, the certificate of professional competence, referred to in Article 8(8), of the transport manager declared to be unfit shall no longer be valid in any Member State. ***The Commission shall draw up a list of***

*rehabilitation measures for regaining
good repute.*

Amendment 141

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point a – point -i a (new)

Regulation (EC) No 1071/2009

Article 16 – paragraph 2 – point c

Present text

Amendment

*(-ia) point (c) is replaced by the
following:*

(c) the names of the transport managers designated to meet the *conditions* as to good repute and professional competence or, as appropriate, the name of a legal representative;

(c) the names of the transport managers designated to meet the *requirements laid down in Article 3 relating* to good repute and professional competence or, as appropriate, the name of a legal representative;

Amendment 142

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point a – point i

Regulation (EC) No 1071/2009

Article 16 – paragraph 2 – point h

Text proposed by the Commission

Amendment

(h) the number of **employees**;

(h) the number of **people employed in the undertaking during the last calendar year**;

Amendment 143

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point a – point i a (new)

Regulation (EC) No 1071/2009

Article 16 – paragraph 2 – point j a (new)

Text proposed by the Commission

Amendment

(ia) the following point (ja) is added:

(ja) labour contracts of international drivers of the past six months;

Amendment 144

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

Amendment

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.

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 145

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point a – point ii

Regulation (EC) No 1071/2009

Article 16 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

In any case, the data referred to in points (e) to (j) of the first subparagraph shall only be accessible to authorities other than

The data referred to in points (e) to (j) of the first subparagraph shall only be accessible to authorities other than the

the competent authorities where they are duly endowed with powers relating to supervision and the imposition of penalties in the road transport sector and their officials are sworn to, or otherwise are under a formal obligation of secrecy.;

competent authorities where they are duly endowed with powers relating to supervision and the imposition of penalties in the road transport sector and their officials are sworn to, or otherwise are under a formal obligation of secrecy.

Amendment 146

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point a – point ii

Regulation (EC) No 1071/2009

Article 16 – paragraph 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.

In any case, the data referred to in points (e)

Amendment

'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.

In any case, the data referred to in points (e)

to (j) of the first subparagraph shall only be accessible to authorities other than the competent authorities where they are duly endowed with powers relating to supervision and the imposition of penalties in the road transport sector and their officials are sworn to, or otherwise are under a formal obligation of secrecy.';

to (j) of the first subparagraph shall only be accessible to authorities other than the competent authorities where they are duly endowed with powers relating to supervision and the imposition of penalties in the road transport sector and their officials are sworn to, or otherwise are under a formal obligation of secrecy.

For the purpose of Article 14a of Regulation (EC) No 1072/2009, the data referred to in point (j) shall be available upon request to consignors, freight forwarders, contractors and subcontractors.';

Amendment 147

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

Amendment

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

(ba) paragraph 5 is replaced by the following:

'5. In order to increase the effectiveness of cross-border enforcement, Member States shall ensure that the 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 via the European Register of Road Transport Undertakings (ERRU) referred to in Commission Implementing Regulation (EU) 2016/480, so that the data referred to in paragraph 2 is directly accessible to all competent enforcement authorities and control bodies of all Member States in real-time.';*

Amendment 148

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

Amendment

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

(bb) paragraph 6 is replaced by the following:

'6. The Commission is empowered to adopt delegated acts in accordance with Article 24a to establish and update common rules to ensure that the national electronic registers are fully interconnected and interoperable, so that

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 use and updating of data after access and, to this effect, shall include rules on* data logging and data monitoring.

a competent authority or control body in any Member State is able to directly and in real-time access the national electronic register of any Member State as stipulated in paragraph 5. Such common rules shall 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 and the interoperability of these registers, as well as specific rules concerning access to data, data logging and data monitoring. ’;

”

Amendment 149

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 1071/2009

Article 18 – paragraph 1

Text proposed by the Commission

Amendment

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

1. *The competent authorities of the* Member States shall *cooperate closely and swiftly provide one another with mutual*

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.

assistance and any other relevant information in order to facilitate the implementation and enforcement of this Regulation.

Amendment 150

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 1071/2009

Article 18 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For the purposes of paragraph 1, administrative cooperation 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^{1a}, which allows all operators to provide data in their own languages.

^{1a} Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation'), (OJ L 316, 14.11.2012, p. 1).

Amendment 151

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

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

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

Member States shall be *duly justified and* reasoned. To this end, requests shall include credible indications of possible infringements of Article 3(1)(a).

Amendment 152

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 1071/2009

Article 18 – paragraph 4

Text proposed by the Commission

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.

Amendment

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.

Amendment 153

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Article 18 – paragraph 5

Text proposed by the Commission

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 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.

Amendment

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 question shall inform the requesting Member State accordingly within **five** working days, **duly justifying that difficulty or impossibility**. The Member States concerned shall **cooperate** 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 without proper justification, the Commission, being informed and after consulting the Member States concerned, may take all necessary measures to remedy the situation.***

Amendment 154

Proposal for a regulation

Article 1 – paragraph 1 – point 12

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.**

Amendment 155

Proposal for a regulation

Article 1 – paragraph 1 – point 12 a (new)

(12a) the following Article 18a is inserted:

‘Article 18a

Accompanying measures

1. Member States shall 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 those in charge of monitoring the compliance with, and enforcement of, the applicable rules of this Regulation.

2. The Commission shall provide technical and other support in order to further improve administrative cooperation and increase mutual trust between Member States, including through promoting staff exchanges and joint training programmes, as well as developing, facilitating and promoting best practice initiatives. 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.

3. Member States shall establish a programme of peer-reviews in which all competent enforcement authorities are to participate, ensuring the appropriate rotation of both the reviewing and the reviewed competent enforcement authorities. Member States shall notify those programmes to the Commission every two years as part of the report on the activities of the competent authorities referred to in Article 26.’;

Amendment 156

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 1071/2009

Article 26 – paragraph 3 – introductory part

Text proposed by the Commission

3. Every year, Member States shall draw up a report on the use 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*** in their territory and

Amendment

3. Every year, Member States shall draw up a report on the use of motor vehicles with a permissible laden mass, ***including that of trailers, between 2.4 and 3.5 tonnes involved in international transport and established*** in their territory

shall forward it to the Commission no later than 30 June of the year after the end of the reporting *period*. This report shall include:

and shall forward it to the Commission no later than 30 June of the year after the end of the reporting *period*. This report shall include:

Amendment 157

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 1071/2009

Article 26 – paragraph 3 – point a

Text proposed by the Commission

(a) the number of authorisations granted to operators 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*;

Amendment

(a) the number of authorisations granted to operators engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass, *including that of trailers, between 2.4 and 3.5 tonnes involved in international transport*;

Amendment 158

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Text proposed by the Commission

(b) the number of vehicles with a permissible laden mass **not exceeding** 3.5 tonnes registered in the Member State in each calendar year;

Amendment

(b) the number of **motor** vehicles with a permissible laden mass, **including that of trailers, between 2.4 and 3.5 tonnes involved in international transport**, registered in the Member State in each calendar year;

Amendment 159

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Text proposed by the Commission

(c) the overall number of vehicles with a permissible laden mass **not exceeding** 3.5 tonnes registered in the Member State as of 31 December of each year;

Amendment

(c) the overall number of **motor** vehicles with a permissible laden mass, **including that of trailers, between 2.4 and 3.5 tonnes involved in international transport**, registered in the Member State as of 31 December of each year;

Amendment 160

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 1071/2009

Article 26 – paragraph 3 – point d

Text proposed by the Commission

(d) the estimated share 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 in the overall road transport activity of all vehicles registered in the Member State, broken down by national, international and cabotage operations.

Amendment

(d) the estimated share of motor vehicles with a permissible laden mass, *including that of trailers, between 2.4 and 3.5* tonnes, *as well as those under 2.4* tonnes, in the overall road transport activity of all vehicles registered in the Member State, broken down by national, international and cabotage operations.

Amendment 161

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 1071/2009

Article 26 – paragraph 4

Text proposed by the Commission

Amendment

4. On the basis of the information gathered by the Commission under paragraph 3 and of further evidence, the Commission shall, by 31 December 2024 at the latest, present a report to the European Parliament and the Council on the evolution of the total number 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*** engaged in ***national and international*** road transport operations. On the basis of this report, it shall reassess whether it is necessary to propose additional measures.

4. On the basis of the information gathered by the Commission under paragraph 3 and of further evidence, the Commission shall, by 31 December 2024 at the latest, present a report to the European Parliament and the Council on the evolution of the total number of motor vehicles with a permissible laden mass, ***including that of trailers, between 2.4 and 3.5 tonnes*** engaged in road transport operations. On the basis of this report, it shall reassess whether it is necessary to propose additional measures.

Amendment 162

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 1071/2009

Article 26 – paragraph 5

Text proposed by the Commission

5. Every year Member States shall report to the Commission on the requests made by them under Article **18(3) and (4)**, on the replies received from other Member States and on the actions that they have taken on the basis of the information provided.;

Amendment

5. Every year Member States shall report to the Commission on the requests made by them under Article **18**, on the replies received from other Member States and on the actions that they have taken on the basis of the information provided.

Amendment 163

Proposal for a regulation

Article 1 – paragraph 1 – point 16 a (new)

Regulation (EC) No 1071/2009

Article 26 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(16a) The following paragraph 5a is added:

“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.”.

Amendment 164

Proposal for a regulation

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

Regulation (EC) No 1072/2009

Article 1 – paragraph 1 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

(1a) in paragraph 1 of Article 1, the following subparagraph is added:

‘The time limits referred to in articles 8(2) and 8(2a) of this Regulation shall also apply to incoming or outgoing carriage of goods by road as either the domestic initial and/or domestic final leg of a combined transport journey as laid down in Council Directive 92/106/EEC.’

Amendment 165

Proposal for a regulation

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

Regulation (EC) No 1072/2009

Article 1 – paragraph 2

Present text

Amendment

2. In the event of carriage from a Member State to a third country and vice versa, this Regulation shall apply to the part of the journey on the territory of any Member State crossed in transit. It shall not apply to that part of the journey on the territory of the Member State of loading or unloading, as long as the necessary agreement between the Community and the third country concerned has not been concluded.

(1b) Article 1(2) is replaced by the following:

‘2. In the event of carriage from a Member State to a third country and vice versa, this Regulation shall apply to the part of the journey on the territory of any Member State crossed in transit. ***However, this journey in transit shall be excluded from the application of the directive on posted workers.*** It shall not apply to that part of the journey on the territory of the Member State of loading or unloading, as long as the necessary agreement between the Community and the third country concerned has not been concluded.’

Amendment 166

Proposal for a regulation

Article 2 – paragraph 1 – point 1 c (new)

Regulation (EC) No 1072/2009

Article 1 – paragraph 5 – point c

Present text

Amendment

(c) carriage of goods in motor vehicles the permissible laden mass of which, including that of trailers, **does not exceed 3,5 tonnes;**

(1c) 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;**

Amendment 167

Proposal for a regulation

Article 2 – paragraph 1 – point 2 - point aa (new)

Regulation (EC) No 1072/2009

Article 2 – point 7 a (new)

Text proposed by the Commission

Amendment

(aa) the following point is added:

7a. 'transit' means laden journey by a vehicle through one or more Member States or third countries where the point of departure and the point of arrival is not

in those Member States or third countries.

Amendment 168

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point -a (new)

Regulation (EC) No 1072/2009

Article 4 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(-a) in paragraph 1, the following point is added:

‘(ba) carries out international transport carriage with vehicles equipped with a smart tachograph as laid down in Article 3 and Chapter II of Regulation (EU) No 165/2014 of the European Parliament and of the Council^{1a}.’

^{1a} Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No

Amendment 169

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 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. The last unloading in the course of a cabotage operation shall take place within **3** days from the last unloading in the host Member State in the course of the incoming international carriage, ***subject to the applicable***

transport contract;

Amendment 170

Proposal for a regulation

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

Regulation (EC) No 1072/2009

Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(aa) the following paragraph is inserted:

‘2a. Following the end of the 3 day period referred to in paragraph 2, hauliers shall not be permitted to carry out with the same vehicle, or, in the case of a coupled combination, with the motor vehicle of that combination, cabotage operations in the same host Member State within 60 hours after the return to the haulier’s Member State of establishment and until they have performed a new international carriage originating from the Member State where the undertaking is established.’

Amendment 171

Proposal for a regulation

Article 2 – paragraph 1 – point 5 – point c

Regulation (EC) No 1072/2009

Article 8 – paragraph 4 a

Text proposed by the Commission

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.

Amendment

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. ***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.

Amendment 172

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)

Text proposed by the Commission

Amendment

(5a) in Article 9(1), the following point is added:

‘(ea) the remuneration 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^{1a}.

^{1a} Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).’

Amendment 173

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EC) No 1072/2009

Article 10 a – title

Text proposed by the Commission

Amendment

Checks

Smart enforcement

Amendment 174

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EC) No 1072/2009

Article 10 a – paragraph 1

Text proposed by the Commission

Amendment

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.*

1. *In order to further enforce the obligations stipulated under 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.^{1a}*

1^a Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities (OJ L 102, 11.4.2006, p. 35).

Amendment 175

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EC) No 1072/2009

Article 10 a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Each Member State shall ensure that the checks provided for in Article 2 of Directive 2006/22/EC will include, where relevant, a check on cabotage operations.

Amendment 176

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EC) No 1072/2009

Article 10 a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *For the purpose of paragraph 2, Member States shall have access to relevant information and data recorded, processed or stored by the smart tachograph referred to in Chapter II of Regulation (EU) No 165/2014 and in electronic transport documents, such as electronic consignment notes under the Convention on the Contract for the International Carriage of Goods by Road (eCMR).*

Amendment 177

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EC) No 1072/2009

Article 10 a – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. *Member States shall give access to*

those data solely to competent authorities authorised to check infringements of legal acts stipulated in this Regulation. Member States shall notify the Commission of contact details of all competent authorities within their territory that they have designated to have access to those data. By [XXX] the Commission shall draw up a list of all competent authorities and forward it to the Member States. The Member States shall notify any subsequent changes thereto without delay.

Amendment 178

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EC) No 1072/2009

Article 10 a – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. The Commission is empowered to adopt delegated acts in accordance with Article 14b to stipulate the characteristics of the data to which Member States shall have access to, the conditions for their use and the technical specifications for their transmission or access, specifying in

particular:

(a) a detailed list of information and data to which national competent authorities shall have access to, which shall include at least the time and location of border crossings, loading and unloading operations, the registration plate of the vehicle and the driver details;

(b) the access rights of the competent authorities, differentiated where appropriate according to the type of competent authorities, the type of access and the purpose for which the data is used;

(c) the technical specifications for the transmission or access to the data referred to in point (a), including, where relevant, the maximum duration that the data is retained, differentiated where appropriate according to the type of data.

Amendment 179

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EC) No 1072/2009

Article 10 a – paragraph 2 d (new)

2d. *Any personal data referred to in this Article shall be accessed or stored for no longer than is strictly necessary for the purposes for which the data were collected or for which they are further processed. Once such data are no longer needed for those purposes, they shall be destroyed.*

Amendment 180

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EC) No 1072/2009

Article 10 a – paragraph 3

3. Member States shall, at least three times per year, undertake concerted roadside checks on cabotage operations. Such checks shall be undertaken at the same time by the national authorities in charge of enforcing the rules in the field of road transport of two or more Member

3. Member States shall, at least three times per year, undertake concerted roadside checks on cabotage operations, ***which may coincide with checks performed in accordance with Article 5 of Directive 2006/22/EC.*** Such checks shall be undertaken at the same time by the

States, each operating in its own territory. *The national contact points designated in accordance with Article 18(1) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council***** shall exchange information on the number and type of infringements detected after the concerted roadside checks have taken place.

national authorities in charge of enforcing the rules in the field of road transport of two or more Member States, each operating in its own territory. *Member States* shall exchange information on the number and type of infringements detected after the concerted roadside checks have taken place.

Amendment 181

Proposal for a regulation

Article 2 – paragraph 1 – point 8

Regulation (EC) No 1072/2009

Article 14 a – 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, proportionate and dissuasive* sanctions against consignors, freight forwarders, contractors and subcontractors for non-compliance with Chapters II and III, where they *know or ought reasonably to know that the* transport services *that they commission* involve infringements of this Regulation.

Where consignors, freight forwarders, contractors and subcontractors commission transport services from transport undertakings with a low risk rating, as referred to in Article 9 of Directive 2006/22/EC, they shall not be liable for sanctions for infringements, unless it is proved that they had actual knowledge of those infringements.

Amendment 182

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EC) No 1072/2009

Article 17 – paragraph 3

Text proposed by the Commission

Amendment

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.;

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;

Amendment 183

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EC) No 1072/2009

Article 17 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall draw up a report on the state of the Union road transport market by the end of 2022. The report shall contain an analysis of the market situation, including an evaluation of the effectiveness of controls and the evolution of employment conditions in the profession.