













Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2017/0123(COD) Procedure completed
Pursuing the occupation of road transport operator and access to the international road haulage market Amending Regulation (EC) No 1071/2009 2007/0098(COD) Amending Regulation (EC) No 1072/2009 2007/0099(COD) Subject 3.20.05 Road transport: passengers and freight 3.20.10 Transport undertakings, transport industry employees 4.15.03 Arrangement of working time, work schedules 4.15.04 Workforce, occupational mobility, job conversion, working conditions Legislative priorities Joint Declaration 2018-19	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Transport and Tourism	 ERTUG Ismail	12/07/2017
		Shadow rapporteur  ŁUKACIJEWSKA Elżbieta Katarzyna  GADE Søren  DELLI Karima  CAMPOMENOSI Marco  ZŁOTOWSKI Kosma  KONEČNÁ Kateřina	
	Former committee responsible  Transport and Tourism	 ERTUG Ismail	12/07/2017
	Former committee for opinion  Employment and Social Affairs	 LOPE FONTAGNÉ Verónica	03/10/2017
Council of the European Union	Council configuration Transport, Telecommunications and Energy	Meeting 3658	Date 03/12/2018

European Commission

European Committee of the Regions

[Transport, Telecommunications and Energy](#)

[Transport, Telecommunications and Energy](#)

Commission DG

[Mobility and Transport](#)

[3623](#)

[3581](#)



Commissioner

BULC Violeta

07/06/2018

05/12/2017

Key events

15/06/2017	Committee referral announced in Parliament, 1st reading		
05/12/2017	Debate in Council	3581	
04/06/2018	Vote in committee, 1st reading		
04/06/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
07/06/2018	Debate in Council	3623	
07/06/2018	Committee report tabled for plenary, 1st reading	A8-0204/2018	Summary
11/06/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
14/06/2018	Committee decision to enter into interinstitutional negotiations rejected by plenary (Rule 71); file to be put on the agenda of the following part-session		
03/07/2018	Debate in Parliament		
04/07/2018	Decision by Parliament, 1st reading		
04/07/2018	Matter referred back to the committee responsible		
27/03/2019	Debate in Parliament		
04/04/2019	Decision by Parliament, 1st reading	T8-0341/2019	Summary
24/09/2019	Committee decision to open interinstitutional negotiations after 1st reading in Parliament		
09/10/2019	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
21/01/2020	Approval in committee of the text agreed at early 2nd reading interinstitutional negotiations	PE646.908 PE646.925	
17/04/2020	Committee referral announced in Parliament, 2nd reading		
08/06/2020	Vote in committee, 2nd reading		
08/07/2020	Results of vote in Parliament		
09/07/2020	Decision by Parliament, 2nd reading	T9-0186/2020	Summary
15/07/2020	Final act signed		

15/07/2020	End of procedure in Parliament		
31/07/2020	Final act published in Official Journal		

Technical information	
Procedure reference	2017/0123(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 1071/2009 2007/0098(COD) Amending Regulation (EC) No 1072/2009 2007/0099(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 091-p1
Mandatory consultation of other institutions	European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/9/01265

Documentation gateway					
Legislative proposal		COM(2017)0281	31/05/2017	EC	Summary
Document attached to the procedure		SWD(2017)0194	31/05/2017	EC	
Document attached to the procedure		SWD(2017)0195	31/05/2017	EC	
Committee draft report		PE612.273	18/12/2017	EP	
Economic and Social Committee: opinion, report		CES2846/2017	18/01/2018	ESC	
Amendments tabled in committee		PE618.056	23/02/2018	EP	
Amendments tabled in committee		PE618.216	23/02/2018	EP	
Committee opinion	EMPL	PE615.233	30/04/2018	EP	
Committee report tabled for plenary, 1st reading/single reading		A8-0204/2018	07/06/2018	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0341/2019	04/04/2019	EP	Summary
Council statement on its position		01987/2020	07/04/2020	CSL	
Council position		05115/2020	08/04/2020	CSL	
Commission communication on Council's position		COM(2020)0151	15/04/2020	EC	
Committee draft report		PE650.436	17/04/2020	EP	
Amendments tabled in committee		PE650.725	13/05/2020	EP	
Committee recommendation tabled for plenary, 2nd reading		A9-0116/2020	10/06/2020	EP	Summary
Text adopted by Parliament, 2nd reading		T9-0186/2020	09/07/2020	EP	Summary
Draft final act		00026/2020/LEX	09/07/2020	CSL	

Additional information	
Research document	Briefing
Final act	
Regulation 2020/1055 OJ L 249 31.07.2020, p. 0017	

Pursuing the occupation of road transport operator and access to the international road haulage market

PURPOSE: to improve the single market in road transport through amendments intended to eliminate causes for disparities and to ensure better enforcement of the rules.

PROPOSED ACT: Regulation of the European Parliament and of the Commission.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with Council.

BACKGROUND: currently, two Regulations are in place with the general objective of supporting the good functioning, efficiency and competitiveness of the single market in road transport:

- [Regulation \(EC\) No 1071/2009](#) lays down the provisions that undertakings must comply with, in order to access the occupation of road transport operator (passenger and freight);
- [Regulation \(EC\) No 1072/2009](#) lays down the provisions that undertakings intending to operate on the international road haulage market and on national markets other than their own (cabotage) must comply with.

Experience with the implementation of these Regulations revealed that the rules provided for in those regulations offered scope for improvement on a number of points.

The proposal is part of a broader ongoing review of the road transport legislation. It is closely linked to other existing legal acts concerning road transport, in particular the social legislation for road transport ([Regulation \(EC\) No 561/2006](#), [Directive 2002/15/EC](#), [Directive 2006/22/EC](#) and [Regulation \(EU\) 165/2014](#)).

IMPACT ASSESSMENT: the preferred option combines substantive changes in the rules on cabotage and establishment, with a partial extension of Regulation (EC) No 1071/2009 to light vehicles.

This option is estimated to generate savings for businesses in the range of EUR 2.7-5.2 billion for the EU-28 in 2020-2035. Infringements of cabotage rules should be reduced by up to 62% and the formation of letterbox companies should be reduced by around 10%.

CONTENT: the proposal aims to amend Regulation (EC) No 1071/2009 on access to the occupation of road transport operator and Regulation (EC) No 1072/2009 on access to the international road transport market. The main amendments are as follows:

Requirements for engagement in the occupation of road transport operator: the Commission proposes:

- to include in the scope of the Regulation vehicles the permissible laden mass of which does not exceed 3.5 tonnes (light commercial vehicles): requirements on the transport manager, good repute, professional competence and obligations related to those requirements are not proposed as mandatory, but Member States would keep the possibility of applying them as hitherto. By contrast, the requirements regarding effective and stable establishment and appropriate financial standing are proposed to apply to such hauliers in all Member States;
- to clarify provisions to ensure that undertakings established in a Member State have a real and continuous activity there;
- to clarify and further harmonise the assessment of good repute and to extend the list of infringements which may lead to loss of good repute. Serious infringements of national tax rules are taken into account in the assessment of the good repute of the transport manager or transport undertaking, as are serious infringements of EU rules on the posting of workers and the law applicable to contractual obligations;
- to set out the means by which undertakings may prove their financial standing in the absence of certified annual accounts, in order to enable the assessment of compliance with this criterion by enforcers, in particular for newly created undertakings which have no certified accounts yet;
- to clarify the position of competent authorities where undertakings no longer comply with the requirement of financial standing;
- to specify that, after having lost good repute, a transport manager cannot be rehabilitated by the competent authority earlier than one year from the date of loss of good repute;
- to add elements of information to be included in the national electronic registers to allow better enforcement of the rules on access to the profession.

Access to the international road transport market Regulation (EC) No 1072/2009: the Commission proposes to specify:

- that the carriage of empty containers or pallets is to be considered as a carriage for hire and reward only if it is subject to a transport contract between a consignee and a consignor;
- that a cabotage operation can involve several loading points, several delivery points or several loading and delivery points.

Until now, EU rules allowed for 3 cabotage operations within 7 days of the international delivery. The new rules will allow for unlimited cabotage operations within 5 days of the international delivery.

Member States must carry out a minimum amount of checks of compliance with the cabotage provisions (i.e. 2% of cabotage operations from 1 January 2020 and 3% from 1 January 2022).

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with the provisions of Article 290 of the Treaty on the Functioning of the EU.

Pursuing the occupation of road transport operator and access to the international road haulage market

The Committee on Transport and Tourism adopted the report by Ismail ERTUG (S&D, DE) 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.

The proposal aims to improve the single market for road transport by means of amendments designed to eliminate the causes of disparities and to ensure better enforcement of the rules. It is part of an on-going review that is more broadly focused on road transport legislation.

The committee recommended that the position of the European Parliament adopted at first reading in the framework of the ordinary legislative procedure amend the Commission proposal as follows:

Scope: the Commission proposed to include in the scope of Regulation (EC) No 1071/2009 on access to the occupation of road transport operator, vehicles whose permissible laden mass does not exceed 3.5 tonnes ('light commercial vehicles').

Members proposed to exclude from the scope of the Regulation: (i) very light vehicles with a permissible laden mass of less than 2.4 tonnes; (ii) light vehicles with a permissible laden mass lower than 3.5 tonnes that are engaged exclusively in national transport operations.

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.

Requirements for the occupation of road transport operator: as regards light commercial vehicles, Members considered that the four requirements should apply, namely the criteria for establishing a permanent and effective establishment in a Member State, of good repute, financial capacity and professional competence, as well of as the obligation to obtain a Community license. Member States must carry out checks at least every three years to ensure that undertakings meet these requirements.

Conditions relating to the requirement of establishment: in order to combat the phenomenon of letterbox companies (i.e. companies registered in one Member State, in order, for example, to reduce costs related to tax rules, where the main activity is carried out in another Member State), road transport undertakings established in a Member State must have a real and permanent presence in that Member State, effectively manage their transport activities and carry out substantial activities from that Member State.

Members proposed to strengthen and to clarify the requirements regarding the establishment of a real business presence and to complement the data to be inserted in national electronic registers in order to get a fuller picture of the ownership of a company. National electronic registers must be truly interoperable and the data contained therein be accessible directly and in real time to all designated law enforcement officials from all Member States.

Cabotage: in order to prevent cabotage operations from being carried out systematically to perform national operations, Members proposed to define more precisely what exactly encompasses an international transport operation giving right to cabotage, by including, for example, the value of the international operation contract. In addition, they proposed to limit the time for which cabotage operations is allowed to be performed, in order to underline its temporary character.

Furthermore, the amended text provided that hauliers will 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.

Improving monitoring and checks: Members considered that real and effective control of the application of the rules is a prerequisite for fair competition in the internal market. They proposed to strengthen the provisions on administrative cooperation and enforcement. They also suggested encouraging the use of the smart tachograph to detect infringements and anomalies more quickly and to increase the exchange of good practice and training between Member States regarding monitoring the enforcement of the rules.

International carriage shall be carried out subject to the possession of a smart tachograph, a Community licence and, if the driver is a national of a third country, in conjunction with a driver attestation.

Pursuing the occupation of road transport operator and access to the international road haulage market

The European Parliament adopted by 371 votes to 251 with 13 abstentions, a legislative resolution 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.

The proposal aims to improve the single market for road transport by means of amendments designed to eliminate the causes of disparities and to ensure better enforcement of the rules. It is part of an on-going review that is more broadly focused on road transport legislation.

Parliaments position adopted at first reading following the ordinary legislative procedure amends the Commission proposal as follows:

Scope

Vehicles whose permissible laden mass does not exceed 3.5 tonnes ('light commercial vehicles') will be included within the scope of Regulation (EC) No 1071/2009 on access to the occupation of road transport operator.

Members proposed to exclude from the scope of the Regulation: (i) very light vehicles with a permissible laden mass of less than 2.4 tonnes; (ii) light vehicles with a permissible laden mass lower than 3.5 tonnes that are engaged exclusively in national transport operations.

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.

Requirements for the occupation of road transport operator

Light commercial vehicles, which are increasingly used by operators to provide transport services, should comply with EU standards for transport operators.

With regard to these vehicles, four requirements should apply, namely the criteria for establishing a permanent and effective establishment in a Member State, good repute, financial capacity and professional competence, as well as the obligation to obtain a Community license. Member States must carry out checks at least every three years to ensure that undertakings meet these requirements.

Conditions relating to the requirement of establishment

In order to combat the phenomenon of letterbox companies (i.e. companies registered in one Member State, in order, for example, to reduce costs related to tax rules, where the main activity is carried out in another Member State), road transport undertakings established in a Member State must have a real and permanent presence in that Member State, effectively manage their transport activities and carry out substantial activities from that Member State.

Members proposed to strengthen the requirements regarding the establishment of a real business presence while avoiding a disproportionate administrative burden, and to complement the data to be inserted in national electronic registers in order to get a fuller picture of the ownership of a company. National electronic registers must be truly interoperable and the data they contain must be accessible directly and in real time to all designated law enforcement officials from all Member States.

Cabotage

In order to prevent cabotage operations (national transport performed on a temporary basis by non-resident hauliers in a host Member State) from being carried out systematically to perform national operations, Members proposed to limit the time for which cabotage operations is allowed to be performed.

Parliament wants companies to be allowed to make deliveries to another EU country for 3 days after a cross-border delivery in order to avoid 'empty journeys'. Following the end of the 3-day period, hauliers shall not be permitted to carry out with the same vehicle, cabotage operations in the same host Member State within 60 hours after the return to the hauliers Member State of establishment.

Improving monitoring and checks

Members considered that real and effective control of the application of the rules is a prerequisite for fair competition in the internal market. They suggested encouraging the use of the smart tachograph to detect infringements and anomalies more quickly and to increase the exchange of good practice and training between Member States regarding monitoring the enforcement of the rules.

The Community licence shall be issued by a Member State to any haulier carrying goods by road for hire or reward who carries out international transport carriage with vehicles equipped with a smart tachograph.

Member States must take accompanying measures to 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 the Regulation.

Pursuing the occupation of road transport operator and access to the international road haulage market

The Council adopted its position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending regulation (EC) No 1071/2009 and regulation (EC) No 1072/2009 in order to adapt them to developments in the road transport sector.

This proposal was presented as part of the first mobility package. Its objective is to modernise the rules on access to the occupation of road transport operator and access to the road transport market with a view to ensuring the proper functioning of the single market in the road transport sector. In particular, it aims to:

- update the rules concerning the pursuit of the occupation of road transport operator in order to combat letter-box companies and unfair competition;
- extend the rules on cabotage in Regulation (EC) No 1072/2009 in order to prevent abuse of these provisions.

The Council's position at first reading reflects the compromise reached in the negotiations between the Council and the European Parliament. It includes the following main elements:

Light commercial vehicles from 2.5 to 3.5 tonnes

The requirements for access to the profession shall become mandatory for operators using motor vehicles or combinations of vehicles intended exclusively for the carriage of goods and with a permissible laden mass exceeding 2.5 tonnes but not exceeding 3.5 tonnes involved in international transport.

The Council position introduces a phasing-in period of 21 months before the light commercial vehicles concerned fall within the scope of Regulations (EC) No 1071/2009 and (EC) No 1072/2009.

This period shall also be used by the Commission to adopt implementing acts specifying the functionalities allowing the processing of data relating to (1) the vehicle registration numbers of an undertaking, (2) the number of employees of an undertaking and (3) the risk level of an undertaking to be communicated to the competent authorities during roadside checks, once a common formula for calculating the risk level

has been adopted.

Conditions relating to the requirements to pursue the occupation of road transport operator

In order to combat the phenomenon of letter-box companies, the Council's position strengthens the link between the place of establishment of the carrier and his activities. In order to ensure that the link is real, lorries used for international transport should return to the company's operational centre at least once every eight weeks. This eight-week period is designed to allow drivers to return home with the vehicle at the end of their second four-week work cycle.

Member States may also require an undertaking, in the Member State of establishment: (i) to have suitably qualified administrative staff on its premises, or the transport manager to be contactable during normal office hours; (ii) to have an operating infrastructure, including an office open during normal working hours.

The Council's position clarifies and further harmonises the evaluation of good repute. In particular, it includes unauthorised cabotage in the list of serious criminal offences or serious infringements.

The Council position harmonises (to one year) the minimum period after which a transport manager who has lost his good repute can have it restored. It also includes in the Regulation the obligation for a transport manager who has lost his good repute to demonstrate that he has followed a minimum level of training or passed an examination demonstrating knowledge of the subjects listed in Annex I.

In order to facilitate the entry of newly created undertakings on the market, the Council proposes to clarify the modalities under which undertakings can prove their financial standing.

As regards professional competence, the Council introduced a provision to enable Member States to promote periodic training on subjects listed in Annex I at three-year intervals.

Application and controls

The Council's position provides that Member States shall consider inspections at the premises of the undertaking itself and take into account the risk level of an undertaking, based on the risk rating system. It obliges Member States to carry out a minimum number of checks on cabotage and to organise at least two concerted roadside checks per year. Each Member State shall ensure that a national enforcement strategy is applied and that such a strategy focuses on undertakings with a high level of risk.

Cabotage transport

As regards the rules on operations carried out by transport undertakings in a national market outside their own country (cabotage), the current system allowing a maximum of 3 operations in 7 days shall remain unchanged.

To prevent systematic cabotage, a transitional period of 4 days shall be introduced, before which no new cabotage operations may be carried out in the same country and with the same vehicle. A Member State may apply the same rules to combined transport road hauls on its territory.

Liability

Member States shall lay down rules on sanctions against consignors, freight forwarders, contractors and subcontractors for non-compliance, where they knew, or, in the light of all relevant circumstances ought to have known, that the transport services that they commissioned involved infringements of this Regulation.

Administrative cooperation

The Council's position includes additional elements in the national electronic registers and gives more details on administrative cooperation between Member States. It specifies that both the message exchange system of the European register of road transport undertakings (ERRU) on convictions and sanctions for serious infringements and the internal market information system (IMI) should be used to facilitate administrative cooperation and mutual assistance.

Pursuing the occupation of road transport operator and access to the international road haulage market

The Committee on Transport and Tourism adopted the recommendation for second reading contained in the report by Ismail ERTUG (S&D, DE) on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector.

The committee responsible recommended that the European Parliament approve the Council's position at first reading without amendment.

The Council's position at first reading is in line with the provisional Agreement reached in the interinstitutional negotiations. The overall Agreement reached by Parliament with the Council has further strengthened the proposal with a view to ensuring balanced conditions of fair competition and rigorous enforcement. In particular, the following was agreed:

Fight against letter-box companies

The Agreement reinforces and clarifies the provisions relating to the existence of an effective and stable establishment of a genuine business presence so that a real link with the Member State of establishment can be demonstrated. These include requirements relating to the presence of the vehicles used by the transport operator in the Member State of establishment (once every eight weeks) and to the drivers' normal place of employment.

Inclusion of light commercial vehicles

Light commercial vehicles used exclusively for national transport operations and very small light commercial vehicles (less than 2.5 tonnes) are excluded from the scope. Light commercial vehicles that are included in the scope shall be subject to rules similar to those for heavy commercial vehicles in order to ensure fair conditions of competition.

Cabotage

The current regime for cabotage has been maintained. However, a cooling off period of 4 days has been introduced in order to combat systematic cabotage during which no further cabotage operations in that specific Member State are allowed. A Member State may apply the same rules to combined transport road journeys on its territory.

Administrative cooperation

Specific provisions have been adopted to improve administrative cooperation between Member States, to collect more relevant data on transport undertakings in national electronic registers and to allow easier access to these registers during roadside checks, to check more regularly if licensing requirements are still being complied with, in particular through on-the-spot inspections, and to focus the scarce national enforcement capacity on high-risk companies;

Liability

The Agreement introduces co-liability in the supply chain in order to strengthen the accountability of the upstream actors in the supply chain. Member States shall thus establish rules subjecting consignors, freight forwarders, contractors and subcontractors to sanctions in cases where they knew that the performance of the transport services commissioned was in breach of the Regulation.

Pursuing the occupation of road transport operator and access to the international road haulage market

The European Parliament approved, in accordance with the ordinary legislative procedure, the Council's position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector.

The objective of the proposed Regulation is to modernise the rules governing admission to the occupation of road transport operator and access to the road transport market with a view to ensuring the proper functioning of the single market in the road transport sector.

The draft legislative act:

- provides that the use of light commercial vehicles over 2.5 tonnes shall also be subject to the Union rules applicable to carriers, in particular as regards the installation of a tachograph to record each border crossing;
- allows a better fight against letter-box companies: road transport undertakings should be able to demonstrate that they have a significant volume of business in the Member State where they are registered. Lorries shall also have to return to the company's operational centre every eight weeks;
- introduces a transitional period of four days in order to combat systematic cabotage during which no further cabotage operations would be allowed in the same Member State with the same vehicle;
- includes additional elements in the national electronic registers and introduces specific provisions to improve administrative cooperation between Member States;
- obliges Member States to lay down rules subjecting consignors, freight forwarders, contractors and subcontractors to sanctions in cases where they knew that the performance of the transport services commissioned was in breach of the Regulation.