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

2017/0123(COD) - 31/05/2017 - Legislative proposal

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.