

# Opinion of the European Committee of the Regions — Europe on the Move: labour aspects of road transport

(2018/C 176/13)

**Rapporteur:** Spyros Spyridon (EL/EPP), Municipal Councillor of Poros

**Reference documents:** Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 561/2006 as regards on minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) 165/2014 as regards positioning by means of tachographs

COM(2017) 277 final

Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector

COM(2017) 278 final

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 with a view to adapting them to developments in the sector

COM(2017) 281 final

Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road

COM(2017) 282 final

## I. RECOMMENDATIONS FOR AMENDMENTS

### Amendment 1

COM(2017) 277 final/1

Article 1(5)(c)

Amend text as follows

Text proposed by the Commission	CoR amendment
c) the following paragraphs 8a and 8b are inserted:  ‘8a. The regular weekly rest periods and any weekly rest of more than 45 hours taken in compensation for previous reduced weekly rest shall not be taken in a vehicle. They shall be taken in a suitable accommodation, with adequate sleeping and sanitary facilities;	c) the following paragraphs 8a, <b>8b</b> and 8c are inserted:  ‘8a. The regular weekly rest periods and any weekly rest of more than 45 hours taken in compensation for previous reduced weekly rest shall not be taken in a vehicle. They shall be taken in a suitable accommodation, with adequate sleeping and sanitary facilities;

Text proposed by the Commission	CoR amendment
<p>(a) either provided or paid for by the employer, or</p> <p>(b) at home or at another private location chosen by the driver.</p> <p>8b. A transport undertaking shall organise the work of drivers in such a way that the drivers are able to spend at least one regular weekly rest period or a weekly rest of more than 45 hours taken in compensation for reduced weekly rest at home within each period of three consecutive weeks.;</p>	<p>(a) either provided or paid for by the employer, or</p> <p>(b) at home or at another private location chosen by the driver.</p> <p><b>8b. Paragraph 8a need not apply in cases where the regular weekly rest period, and any other rest of more than 45 hours taken in compensation for previously reduced weekly rest happens in a place that is sufficiently safe and has adequate sanitary facilities, and where the driver's cabin meets the specifications laid down by the Committee referred to in Article 24 (1) of the current Regulation.</b></p> <p>8c. A transport undertaking shall organise the work of drivers in such a way that the drivers are able to spend at least one regular weekly rest period or a weekly rest of more than 45 hours taken in compensation for reduced weekly rest at home within each period of three consecutive weeks.;</p>

### Reason

Both accommodation for drivers, as well as safe stopping places, as envisaged in point 8a, are lacking along many motorways.

The original provision would be disadvantageous to drivers from peripheral EU countries, who necessarily are on the road for more days, compared with drivers from central EU countries. Implementing this provision would lead to an increase in costs for operators from peripheral parts of Europe.

### Amendment 2

COM(2017) 277 final/1

Article 2

Amend text as follows

Text proposed by the Commission	CoR amendment
Regulation (EU) No 165/2014 is amended as follows:	Regulation (EU) No 165/2014 is amended as follows:
(1) in Article 8(1), the second indent is replaced by the following:	(1) in Article 8(1), the second indent is replaced by the following:
‘— every three hours of accumulated driving time and every time the vehicle crosses the border;’	‘— every three hours of accumulated driving time and every time the vehicle crosses the border;’

Text proposed by the Commission	CoR amendment
<p>(2) in Article 34(7), the first subparagraph is replaced by the following:</p> <p>‘7. The driver shall enter in the digital tachograph the symbols of the countries in which the daily working period started and finished as well as where and when the driver has crossed a border in the vehicle on arrival at the suitable stopping place. Member States may require drivers of vehicles engaged in transport operations inside their territory to add more detailed geographic specifications to the country symbol, provided that those Member States have notified those detailed geographic specifications to the Commission before 1 April 1998.’</p>	<p>(2) in Article 34(7), the first subparagraph is replaced by the following:</p> <p>‘7. The driver shall enter in the digital tachograph the symbols of the countries in which the daily working period started and finished as well as where and when the driver has crossed a border in the vehicle on arrival at the suitable stopping place. Member States may require drivers of vehicles engaged in transport operations inside their territory to add more detailed geographic specifications to the country symbol, provided that those Member States have notified those detailed geographic specifications to the Commission before 1 April 1998.’</p> <p>(3) <i>Article 3(4) is replaced by the following:</i></p> <p><i>5 years after newly registered vehicles are required to have a tachograph as provided in Articles 8, 9 and 10, vehicles operating in a Member State other than their Member State of registration shall be fitted with such a tachograph.</i></p> <p>(4) <i>Article 9(2) is replaced by the following:</i></p> <p><i>5 years after newly registered vehicles are required to have a tachograph as provided for in this Article and in Articles 8 and 10, Member States shall equip their control authorities to an appropriate extent with remote early detection equipment necessary to permit the data communication referred to in this Article, taking into account their specific enforcement requirements and strategies. Until that time, Member States may decide whether to equip their control authorities with such remote early detection equipment.</i></p>

### Reason

Smart tachographs represent an opportunity to enable fast, interoperable digital controls and enforcement of rules. A 2034 deadline is not acceptable. It is therefore proposed to replace ‘15 years’ with ‘5’ years in order to grant a reasonable transition period for road transport operators.

**Amendment 3**

COM(2017) 278 final — Part 1

Article 2

Amend paragraph (4)

Text proposed by the Commission	CoR amendment
<p>Member States may only impose the following administrative requirements and control measures:</p> <p>(a) an obligation for the road transport operator established in another Member State to send a posting declaration to the national competent authorities at the latest at the commencement of the posting, in electronic form, in an official language of the host Member State or in English, containing only the following information:</p> <p>(i) the identity of the road transport operator;</p> <p>(ii) the contact details of a transport manager or other contact person(s) in the Member State of establishment to liaise with the competent authorities of the host Member State, in which the services are provided and to send out and receive documents or notices;</p> <p>(iii) the anticipated number and the identities of posted drivers;</p> <p>(iv) the anticipated duration, envisaged beginning and end date of the posting;</p> <p>(v) the number plates of vehicles used in posting;</p> <p>(vi) the type of transport services, that is to say carriage of goods, carriage of passengers, international carriage, cabotage operation;</p> <p>(b) an obligation for the driver to keep and make available, where requested at the roadside control, in paper or electronic form, a copy of the posting declaration and evidence of transport operation taking place in the host Member State, such as an electronic consignment note (e-CMR) or evidence referred to in Article 8 of Regulation (EC) No 1072/2009 of the European Parliament and of the Council.</p>	<p>Member States may only impose the following administrative requirements and control measures:</p> <p>(a) an obligation for the road transport operator established in another Member State to send a posting declaration to the national competent authorities at the latest at the commencement of the posting, in electronic form, in an official language of the host Member State or in English, containing only the following information:</p> <p>(i) the identity of the road transport operator;</p> <p>(ii) the contact details of a transport manager or other contact person(s) in the Member State of establishment to liaise with the competent authorities of the host Member State, in which the services are provided and to send out and receive documents or notices;</p> <p>(iii) the anticipated number and the identities of posted drivers;</p> <p>(iv) the anticipated duration, envisaged beginning and end date of the posting;</p> <p>(v) the number plates of vehicles used in posting;</p> <p>(vi) the type of transport services, that is to say carriage of goods, carriage of passengers, international carriage, cabotage operation;</p> <p>(b) an obligation for the driver to keep and make available, where requested at the roadside control, in paper or electronic form, a copy of the posting declaration and evidence of transport operation taking place in the host Member State, such as an electronic consignment note (e-CMR) or evidence referred to in Article 8 of Regulation (EC) No 1072/2009 of the European Parliament and of the Council.</p>

Text proposed by the Commission	CoR amendment
(c) an obligation for the driver to keep and make available, where requested at the roadside control, the tachograph records, and in particular the country codes of Member States where the driver has been present when carrying out international road transport operations or cabotage operations;	(c) an obligation for the driver to keep and make available, where requested at the roadside control, the tachograph records, and in particular the country codes of Member States where the driver has been present when carrying out international road transport operations or cabotage operations;
(d) an obligation for the driver to keep and make available, where requested at the roadside control, in paper or electronic form, a copy of the employment contract or an equivalent document within the meaning of Article 3 of Council Directive 91/533/EEC, translated into one of the official languages of the host Member State or into English;	(d) an obligation for the driver to keep and make available, where requested at the roadside control, in paper or electronic form, a copy of the employment contract or an equivalent document within the meaning of Article 3 of Council Directive 91/533/EEC, translated into one of the official languages of the host Member State or into English;
(e) an obligation for the driver to make available, where requested at the roadside control, in paper or electronic form, a copy of payslips for last two months; 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 this copy;	(e) an obligation for the driver to make available, where requested at the roadside control, in paper or electronic form, a copy of payslips for last two months; 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 this copy;
(f) an obligation for the road transport operator to deliver, after the period of posting, in paper or electronic form, copies of documents referred to in points (b), (c) and (e), at the request of the authorities of the host Member State within a reasonable period of time;	(f) an obligation for the road transport operator to deliver, after the period of posting, in paper or electronic form, copies of documents referred to in points (b), (c) and (e), at the request of the authorities of the host Member State within a reasonable period of time;
	(g) <i>an obligation for the road transport operator to make available to the driver a copy of the documents, in paper or electronic form, referred to in Article 4, points (b), (d) and (e) before posting the driver.</i>

### Reason

It should be the responsibility of the road transport operator to make available the necessary documentation that is linked to posting to be produced at roadside checks.

### Amendment 4

#### COM(2017) 281 final — Part 1

#### Article 1

#### Amend paragraph (1), point (b)

Text proposed by the Commission	CoR amendment
(b) the following paragraph 6 is added:	(b) the following paragraph 6 is added:
‘6. <b>Article 3(1)(b) and (d) and</b> Articles 4, 6, 8, 9, 14, <b>19 and 21</b> 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.	‘6. Articles 4, 9, <b>and</b> 14 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 <b>except where those vehicles undertake international carriage as defined by Regulation (EC) No 1072/2009.</b>

Text proposed by the Commission	CoR amendment
Member States may, however:	Member States may, however:
(a) require those undertakings to apply some or all of the provisions referred to in the first subparagraph;	(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.';	(b) lower the limit referred to in the first subparagraph for all or some categories of road transport operations.';

### **Reason**

In order to minimise the administrative burden on small enterprises that only undertake national carriage or own-account operations, it is proposed to extend the four criteria of access to the occupation only to LCVs that are active in international transport.

## **II. POLICY RECOMMENDATIONS**

### **THE EUROPEAN COMMITTEE OF THE REGIONS**

#### **General comments**

1. congratulates the European Commission on its efforts to deepen the single market in the international road transport sector, under conditions of social fairness and convergence of working arrangements, an essential factor for economic, social and territorial cohesion, while having reservations about the broad inclusion of international transport services in the scope of the posting directive;
2. notes that road transport is a leading force of the EU's economy, and must remain a frontrunner in generating further economic growth and jobs, while maintaining a level playing field and promoting competitiveness and territorial cohesion;
3. points out that the road transport sector in all the Member States is marked by wide disparities in terms of pay and, more generally, in the labour legislation that is applied. Many countries impose additional regulatory constraints. Differences in working conditions can result in distortion of competition and compromise road safety. This problem is particularly acute in cross-border regions, where there are significant differences in living standards on either side of the border;
4. consequently highlights the need, while ensuring the sustainability and competitiveness of the transport sector in the single market, to guarantee decent working conditions and a high level of road safety. Equal pay for equal work in the same place should also be applied in the European transport sector, while taking into account the needs of more peripheral regions;
5. points out that the main problems in the transport field, which the proposed legislation seeks to resolve, stem primarily from the absence of a sufficient level of social cohesion between regions. Increased cohesion will narrow the significant wage gap, making many labour and cabotage rules unnecessary, thereby reducing the risk of social dumping and avoiding distortions of competition;
6. notes that the planned provisions essentially seek a balance between the requirement by a group of countries to maintain the status quo regarding a series of procedures and decisions governing the transport sector, and the need to further deepen the single market by harmonising the framework governing the sector, the only safeguards being road safety, decent working conditions and the safety of drivers and the goods transported. Pleads in this context for social standards to be fully respected and states that social dumping at the expense of truck drivers is not acceptable;
7. in this regard, emphasises that in a competitive and deregulated sector there must be transparency as to regulations, inspection procedures and sanctions, with users being offered the best possible service. Exchange of information must be mandatory, as must the use of up-to-date technology, such as the introduction of smart tachographs, which is still subject to significant delay;
8. underlines that Member States on the periphery face greater difficulties in attempting to reach the core of the EU internal market. It may be necessary to cross one or even two non-EU countries, with all the necessary border and customs checks, which results in increased total travelling time and consequently increased cost. Ireland may also face difficulties of this kind when the United Kingdom leaves the EU. The Commission is urged to take the initiative with special measures to address this specific issue;

9. welcomes the attempt to introduce clearer rules on cabotage and posting of drivers in a sector of the economy that is key to achieving a single market with a high level of mobility. Since cabotage and the posting of drivers are closely linked, discussion and adoption of new rules on them must take place in parallel;

10. warns of the risk of unfair competition by transport operators from outside the EU, and urges that a specific framework of controls be introduced;

11. calls for systematic and automated controls with the help of mandatory smart digital tachographs as a basic prerequisite for success in ensuring that the single market functions properly, with or without changes to the institutional framework;

12. at the same time, points to the need for a thorough assessment of the impact of the proposed rules on SMEs in the EU, and considers that compliance costs will be higher;

**Proposal on minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and [amending] Regulation (EU) 165/2014 as regards positioning by means of tachographs (COM(2017) 277 final)**

13. welcomes the greater flexibility introduced by the proposed regulation concerning drivers' rest times, together with the improved rest conditions under the proposal;

14. considers that the proposed changes in the calculation of drivers' rest times and conditions, if properly implemented, and bearing in mind the benefit to the drivers, could help enhance the conditions under which drivers exercise their profession and consequently increase the overall safety of transport;

15. at the same, is concerned that if the proposed flexibility is used by employers as a means of pressure, it could prove detrimental to road safety and drivers' working conditions;

16. also notes that there is a risk of abuse, since it will still be possible to pay drivers only for the hours they actually drive and not for rest periods. Calls for the drivers to be paid according to the hours they have worked, including outside the vehicle;

17. indicates the need for clear definitions of the concepts relating to driving time and resting time, in order clarify grey areas, such as when customs controls waiting times begin;

18. points to the shortage of safe vehicle parking and drivers' rest areas on European motorways and that fact that it will be impossible to implement the proposed legislation before such areas are created. This will require significant time and investment;

19. regrets the opportunity that has been missed to speed up the introduction of smart tachographs, and warns that the submission of travel details in handwriting is helping to prolong a situation where it is impossible to carry out comprehensive checks, and is expected to generate traffic congestion at borders, where parking facilities for this purpose may not exist;

20. urges for the acceleration of the introduction of smart tachographs by transport companies and the technology to read them remotely by enforcement authorities;

**Proposal amending Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector (COM(2017) 278 final), and proposal amending Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 with a view to adapting them to developments in the sector (COM(2017) 281 final)**

21. considers that the three-day threshold before posting begins enables obstacle-free international transport. At the same time, the immediate start of posting in the case of cabotage creates a framework which may protect against the growth of unfair competition; recalls that illegal cabotage leads to distortion of competition and creates imbalances between Member States and regions with important wage cost disparities;



22. notes that the new cabotage rules strengthen the single market and will also result in fewer infringements of the law, facilitate controls and have a positive effect on the overall environmental footprint of road transport, as it will drastically reduce the number of empty runs;

23. suspects however that the proposed posting rules will increase administrative costs for both businesses and Member State administrations: since drivers could easily exceed the limit, bureaucratic procedures will be needed very frequently to implement and monitor host country labour legislation;

24. expects there to be an impact on the prices of transported goods, since although the reduction in empty runs by unloaded vehicles will reduce costs, the increase in the administrative cost of compliance will have the opposite effect, with part of the resulting cost possibly being passed onto consumers;

25. points to the wide variety of rules on the movement of heavy goods vehicles in the Member States, such as laws on use of motorways on weekends, and calls for the introduction of common guidelines on this matter, in close cooperation with local authorities;

26. indicates that the proposed rules make it particularly difficult to forecast labour costs, which will have an impact on the nature of transport, for example regarding scheduling criteria;

27. expects that in practice, on-road labour legislation compliance checks will be particularly problematic. For their part, drivers will be vulnerable to the risk of making mistakes and consequently incurring sanctions; considers it therefore important that warnings are sent before actual sanctions are imposed;

28. in order to simplify the procedure, suggests considering a weighted daily allowance as a possible solution: this would be paid to drivers in accordance with the country providing the transport work combined with the country where the headquarters of the transport company are located. In order to calculate this allowance, use could be made of the proven classification of Member States on the basis of per capita GDP, in exactly the same way as when implementing cohesion policy;

29. is pleased that the Commission is promoting electronic recording and compliance measures for the entire transport chain, such as smart tachographs and electronic consignment notes (e-CMR), together with standardisation of documents and procedures in order to improve monitoring of the legislation's application while to some extent containing administrative costs;

30. welcomes the clarification of the conditions for entering the transport profession and the measures to counter the emergence of letterbox companies; measures ensuring the proof of the location of the actual economic activity of an undertaking should be considered;

31. notes that the reform of legislation proposed, with regards to the LCVs (below 3,5 tonnes) is a step in the right direction to prevent such vehicles from circumventing social and labour rights;

32. proposes that, as far as possible, uniform rules be introduced for this category of vehicles, narrowing the Member States' scope for flexibility but also recognising the fact that light goods vehicles should be governed by a simpler framework;

33. considers that the attempt made by the Commission to identify types of infringement and their seriousness is a move in the right direction, as it will provide a reference point for the national authorities and operators in the sector and contribute to convergence on how to tackle infringements;

34. indicates that the expected focusing of controls on companies committing more infringements will help reduce the administrative burden and contribute to the successful tackling of infringements; calls for the adoption of common control procedures at EU level; further welcomes the proposal that breaches of the posting of workers directive shall be considered for a transport manager's or transport undertaking's good repute. The list of infringements leading to the loss of good repute of road transport operators (Regulation 1071/2009) should also include illegal cabotage;



35. warns of the risk of cabotage being repeated on the borders of countries with different wage costs;
36. regrets the new delay in the full operation of the European Register of Road Transport Undertakings (ERRU) and calls on the Member States to fulfil their outstanding obligations as soon as possible; at the same time urges the Commission to sound out the feasibility of merging existing databases such as TACHOnet, ERRU and that for vehicle roadworthiness tests;

**Proposal for a directive amending Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road (COM(2017) 282 final)**

37. welcomes the proposed complete liberalisation of the use of vehicles hired without drivers for the carriage of goods for own-account operations throughout the EU, regardless of where hired, as a significant liberalisation of the market and a measure it considers will lead to the creation of new jobs and help to improve the environment;
38. also welcomes the partial liberalisation of vehicle hire without drivers from another Member State for commercial activities as a potential solution for the current situation in which the conditions governing transport activities in the EU countries vary;

**Summary**

39. would argue that, in the effort to complete the single market in international road transport, factors such as environmental requirements, economic convergence, the legislation of the individual Member States and the creation of healthy competition should be combined;
40. given the prospect of future digital and technological developments in transport, calls for the active encouragement of up-skilling of the workforce by, for example, acknowledging that this is eligible for cohesion policy funding;
41. welcomes the Commission's efforts to impose uniform rules for regular reporting of control and supervisory activities carried out by the Member States, and urges it to step up its controls, particularly with regard to transnational administrative cooperation and the interpretation and correct and non-discriminatory enforcement of existing legislation;
42. calls on the Member States to implement the proposed legislation systematically and without exceptions, step up inspections, including checks on vehicles from non-EU countries, and impose appropriate penalties, promoting the effective harmonisation of the rules. This would deepen the internal market and promote jobs, growth, development and investment, boosting the competitiveness of the EU and its regions;
43. looks forward to an overall improvement in the level of transport services provided, which would contribute to territorial cohesion and enhanced quality of life for citizens.

Brussels, 1 February 2018.

*The President  
of the European Committee of the Regions*  
Karl-Heinz LAMBERTZ

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