



Brussels, 20 May 2019
(OR. en)

9447/19

**Interinstitutional File:
2017/0113(COD)**

**TRANS 349
CODEC 1113**

REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/ Council
No. prev. doc.:	9140/19
No. Cion doc.:	ST 9669/17 + ADD 1-4
Subject:	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 – Progress report

I. INTRODUCTION

1. The Commission presented its proposal to amend Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road in May 2017. The proposal is part of the first mobility package and is linked to the proposed overhaul of rules on access to the profession of road transport operator and access to the road haulage market (Regulations 1071/2009 and 1072/2009).
2. Directive 2006/1/EC codifies earlier rules and provides for a minimum level of market opening for the use of vehicles hired without drivers for the carriage of goods by road between Member States, both for undertakings established in their territories and undertakings established in another Member State.

However, the Directive:

- allows a Member State to restrict the use of hired vehicles by undertakings established on its territory to those which are registered in the Member State, and in addition allows to prohibit the use of hired vehicles with a total permissible laden mass above six tonnes for own-account operations;
 - is limited, in respect of undertakings established in another Member State, to hiring vehicles registered in that same Member State for the purpose of traffic between Member States.
3. The Commission proposes to amend Directive 2006/1/EC mainly to remove the existing restrictions and establish a clear and uniform regulatory framework, giving transport operators across the EU equal access to the market for hired vehicles.

II. WORK AT OTHER INSTITUTIONS

4. The European Parliament's Committee on Transport and Tourism (TRAN) appointed Ms Cláudia Monteiro de Aguiar (EPP, PT) as rapporteur. The TRAN Committee voted on her report on 24 May 2018, and the European Parliament adopted its first reading agreement, containing 15 amendments, on 15 January 2019.¹
5. The European Economic and Social Committee and the European Committee of the Regions adopted their opinions on 6 December 2017 and 1 February 2018, respectively.

III. WORK WITHIN THE COUNCIL

6. The Commission presented its proposal, together with the impact assessment, to the Working Party on Land Transport on 1 and 21 June 2017. The working group met on 7 July, 11 October and 6 November 2017 under the Estonian Presidency, and on 26 February, 20 March and 24 April 2018 under the Bulgarian Presidency to analyse the proposal in detail and to discuss Presidency compromises. A first attempt to reach a general approach at the TTE Council meeting on 7 June 2018 was not successful.

¹ See document 5386/19.

7. The Working Party on Land Transport returned to the proposal under the Romanian Presidency, namely on 14, 21 and 28 January, 4 April, and 2 May 2019, to discuss a Presidency compromise.² Most delegations generally acknowledged the good progress made on the proposal, and some of them underlined that a move to a general approach would allow to deal with this file in parallel with the related files of the first mobility package, once negotiations with the European Parliament will start. Two delegations maintained their unchanged negative assessment of the proposal. The Commission maintained a general reservation concerning the outcome of negotiations.
8. While many delegations continued to have concerns about the proposal's impact on vehicle tax revenues, most of them acknowledged that the Presidency compromise allows Member States to limit the risk to a large extent (Article 1(2) - replacing Article 3 of the Directive - ; recitals 3 and 4). One delegation considered that the national vehicle registration rules might be undermined by introducing more freedom in the circulation of hired vehicles, and one other delegation needed to further scrutinise the proposal in view of recently adopted national laws.
9. As regards the cross-border use of hired vehicles by undertakings established in another Member State (Article 1(1) - amending Article 2 of the Directive - ; recital 4a), most delegations could accept the enlarged flexibility. Many delegations underlined the importance of effective control measures in this case, in particular to monitor cabotage activities. In this respect, the use of the ERRU³ system (Article 1(2a) - inserting new Article 3a into the Directive - ; recitals 5b and 5c) appeared reasonable to most delegations, although some of them considered this too burdensome or not effective enough. Several delegations underlined that the ERRU system was going to receive a more complete updating once the changes to Regulation 1071/2009 within the mobility package I will be adopted, and argued for a co-ordinated timing of the respective updates.

² The latest version can be found in document 9140/19.

³ European Register of Road transport Undertakings, a system to ensure the interconnection of national electronic registers in accordance with Art 16(5) and (6) of Regulation 1071/2009.

10. The Permanent Representatives Committee discussed the compromise on 15 May 2019. On the one hand, many delegations expressed support for the compromise, in spite of certain remaining risks, for instance concerning tax revenues and control of road transport operations carried out in other Member States. On the other hand, a considerable number of delegations expressed doubts about whether a general approach is achievable already in June 2019. Some delegations entered a negative scrutiny reservation on the scope of the Commission's evaluation obligation concerning tax revenues (Article 1 (3) - new Article 5a of the Directive). The Presidency concluded after the meeting that a progress report would be most appropriate as a basis for discussion at Council.

IV. CONCLUSIONS

11. The Presidency considers that the good progress made has resulted in a further reduction of Member State concerns, while at the same time preserving the core of the Commission's objectives.
- a) To avoid unintended side effects, Member States may limit the hiring of vehicles registered in other Member States by their own undertakings to 30 days per calendar year and to 25% of the vehicle fleet. Through this short minimum period, it should be possible to safeguard national rules on vehicle registration and avoid tax erosion. A possibility to limit the hiring of light commercial vehicles for own account operations adds another safeguard. To ensure a comprehensive monitoring of the impact on tax revenues, the Commission's evaluation report could be extended to this aspect.
 - b) To ensure that the use of hired vehicles by undertakings established in another Member State is not abused for circumventing market access rules, the vehicles must be equipped with the Community licence when required under Regulation 1072/2009, and Member States will have access to information on hired vehicles in the road hauliers' fleet through the EU interface of national electronic registers, ERRU. In view of the fact that the ERRU system will be overhauled in Regulation 1071/2009 (Article 16)⁴, the compromise contains an obligation to add information on the registration number of hired vehicles in the national register.

⁴ See general approach on the proposal concerning Regulation 1071/2009, document 15084/18, p. 16.

12. The Presidency notes that many delegations have emphasized the link to the main files of the first mobility package. This link contains two facets: first, technically, in the need for improving the information exchange among Member States to improve monitoring and control; and second, in terms of the general political debate on market access and its restrictions. The European Parliament has adopted first reading positions on all the files concerned. The Council established a general approach for three proposals of the first mobility package,⁵ but not yet on the hired vehicles proposal. The Presidency also notes that while delegations generally acknowledge the importance of this link, they have expressed differing views about the appropriate timing for moving forward on this file, either in parallel with the other files or as a subsequent step.
13. In the light of the above, the Permanent Representatives Committee and the Council are invited to take note of the progress made on the file.

⁵ See document 15084/18.