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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 – Presidency compromise

Following the discussion of the above proposal in the informal meeting of the Working Party on Land Transport on 9 February, and subsequent written comments, the Presidency has made changes to the proposal as shown in the Annex (**bold underline grey shaded**), pages 5, 8, 9 and 10. The changes on pages 9 and 10 are editorial. The next discussion of the file is planned for the informal meeting of the Working Party on 24 February 2021.

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Directive 2006/1/EC of the European Parliament and of the Council³ provides for a minimum level of the market opening for the use of vehicles hired without drivers for the carriage of goods by road.

¹ OJ C , , p. .

² OJ C , , p. .

³ Directive 2006/1/EC of the European Parliament and of the Council of 18 January 2006 on the use of vehicles hired without drivers for the carriage of goods by road (codified version) (OJ L 33, 4.2.2006, p. 82).

- (2) The use of hired vehicles can reduce the costs of undertakings carrying goods on their own account or for hire and reward and at the same time increase their operational flexibility. It can therefore contribute to an increase in the productivity and competitiveness of the undertakings concerned. Moreover, as hired vehicles tend to be younger than the average fleet, they are also safer and less polluting.
- (3) Directive 2006/1/EC does not enable undertakings to fully benefit from the advantages of using hired vehicles. That Directive allows Member States to restrict the use by their undertakings **established on their respective territories** of hired vehicles with a maximum permissible laden weight of more than six tonnes for own account operations. Moreover, Member States are not required to allow the use of a hired vehicle on their respective territories if the vehicle has been registered or put into circulation in compliance with the laws in a Member State other than the one of establishment of the undertaking hiring it.
- (4) In order to enable undertakings to benefit to a greater extent from the advantages of using hired vehicles, it should be possible for them to use vehicles hired in any Member State, not only the one of their establishment. That would make it easier for them to meet in particular short-term, seasonal or temporary demand peaks or to replace defective or damaged vehicles.

(4a) Member States should not be allowed to restrict the use on their respective territories of a vehicle hired by an undertaking established on the territory of another Member State, provided that the vehicle is registered or put into circulation in compliance with the laws of any Member State and, if it is a vehicle requiring a certified true copy of the Community licence in accordance with Regulation (EC) No 1072/2009, authorised to be used by the Member State of establishment of the undertaking by means of this certified true copy.

(4b) In order to simplify the provision of relevant evidence, documents in electronic form should be recognised as means of proving compliance with this Directive.

(5) The level of road transport taxation still differs considerably within the Union. Therefore, certain restrictions, which also indirectly affect the freedom to provide vehicle hiring services, remain justified in order to avoid fiscal distortions. Consequently, Member States should have the option to limit the length of time **undertakings established on their respective territories may use a hired vehicle hired registered or put into circulation in a another** Member State ~~other than the one of establishment of the undertaking hiring it can be used within their respective territories.~~ **They should also be allowed to limit the number of such vehicles being hired by an undertaking established on their respective territories.**

(5a) In order to improve the enforcement of a restriction on the use of a hired vehicle that is registered or put into circulation in compliance with the laws of a Member State other than the one where the undertaking hiring it is established, a Member State should be allowed to require that the length of the contract of hire does not exceed the length of the time allowed for using the vehicle concerned. In addition, the validity of certified true copies of the Community licence issued in accordance with Regulation (EC) No 1072/2009 may be limited to the period corresponding to the length of the contract of hire. Moreover, the registration number of the hired vehicle may be indicated on these certified true copies.

(5b) The circulation of hired vehicles should not hamper the monitoring and control of the legality of operations carried out by operators in Member States other than their Member State of establishment. In accordance with Regulation (EC) No 1071/2009,⁴ national electronic registers have to contain registration numbers of vehicles at the disposal of a road transport undertaking. This information should cover also vehicles hired in a Member State other than the Member State of establishment of the undertaking. Regulation (EC) No 1071/2009 also provides for the accessibility of data contained in national electronic registers by authorities of other Member States; the national electronic registers should allow for targeted search in respect of vehicles with a registration number other than those issued by the Member State of establishment.

⁴ [Reference means the Regulation including latest amendments by Regulation (EU) 2020/1055, Mobility Package I.]

- (5c) In order to ensure that the obligation to provide information on a hired vehicle's registration number in the national electronic register is fulfilled in a uniform manner, implementing powers should be conferred on the Commission relating to the minimum requirements for the data to be entered in the national electronic register. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁵.**
- (6) In order to allow own account transport operations to be conducted more efficiently, Member States should no longer be allowed to restrict the possibility to use hired vehicles for such operations. **However, to avoid potential fiscal issues, this possibility Member States should be able should be maintained if the vehicle of a vehicle with a maximum permissible laden mass of no more than 3.5 tonnes if it is registered outside the Member State of establishment of the undertaking using it.**
- (7) The implementation and effects of this Directive should be monitored by the Commission and be documented by it in a report. **The report should pay special attention to whether this Directive has resulted in the usage of older or certain types of vehicles and thereby has had an effect on road safety, whether it has entailed difficulties in relation to enforcement, including the enforcement of cabotage rules and to the effects this Directive has had on tax revenues of the Member States. The compilation of this report would be facilitated by Member States providing, on a voluntary basis, relevant information on tax revenues to the Commission.** Any future action in this area should be considered in light of that report.

⁵- Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13.

- (8) Since the objectives of this Directive cannot be sufficiently achieved by the Member States alone but can rather, by reason of the cross-border nature of road transport and of the issues this Directive is intended to address, be better achieved at Union level, the Union may adopt measures, in line with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In line with the principle of proportionality, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (9) Directive 2006/1/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/1/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory sentence is replaced by the following:

"Each Member State shall allow the use within its territory of vehicles hired by undertakings established on the territory of another Member State provided that:";

(ii) point (a) is replaced by the following:

"(a) the vehicle is registered or put into circulation in compliance with the laws of a **any** Member State **and used in compliance with the provisions of Regulations (EC) No 1071/2009 and (EC) No 1072/2009 in the Member State of establishment of the undertaking using it, if applicable.**"

~~(b) the following paragraph 1a is inserted:~~

~~"1a. Where the vehicle is not registered or put into circulation in compliance with the laws of the Member State where the undertaking hiring the vehicle is established, Member States may limit the time of use of the hired vehicle within their respective territories. However, Member States shall in such a case allow its use for at least four months in any given calendar year."~~

(b) in paragraph 2, the introductory part is replaced by the following:

"Proof of compliance with the conditions referred to in paragraph 1, points (a) to (d) shall be provided by the following documents, which must be on board the vehicle and shall be presented in paper or electronic form:"

(2) Article 3 is replaced by the following:

"Article 3

- 1.** Member States shall take the necessary measures to ensure that ~~their~~ undertakings **established on their respective territories** may use hired vehicles for the carriage of goods by road under the same conditions as vehicles owned by them, provided that the conditions laid down in Article 2 are satisfied.
- 2.** **Where the hired vehicle is registered or put into circulation in compliance with the laws of another Member State, the Member State of establishment of the undertaking may:**
 - a)** **limit the time of use of such a vehicle on its respective territory provided that it allows the use of the hired vehicle by the same undertaking for a period of 30 consecutive days in any given calendar year; in this case the contract of hire may be required not to last longer than the time limit set by the Member State;**

- b) limit the number of such vehicles that can be used by an undertaking provided that it allows the use of a minimum number of vehicles. This minimum number is at least 25% of the goods vehicle fleet at the disposal of the undertaking pursuant to point (g) of Article 5(1) of the Regulation (EC) No 1071/2009 on 31 December of the year preceding the request for authorisation to use the hired vehicle. In case of an undertaking having an overall fleet of more than one and less than four vehicles, it shall be allowed to use at least one such hired vehicle;
- c) limit the use of such a vehicle with a maximum permissible laden mass of no more than 3.5 tonnes for own account transport operations."

(2a) the following Article 3a is inserted:

"Article 3a

- (1) Member States shall take the necessary measures to ensure that the registration number of a hired vehicle at the disposal of a road transport undertaking to which Regulation (EC) No 1071/2009 applies, where this vehicle is registered or put in circulation in compliance with the laws of a Member State other than the Member State of establishment, is entered in the national electronic register referred to in Article 16 of Regulation (EC) No 1071/2009.

Member States shall take the necessary measures to ensure that the processing of the data referred to in the first subparagraph of this paragraph complies with the requirements for the information referred to in point (g) of Article 16(2) of Regulation (EC) No 1071/2009 as specified in subparagraphs 3 and 5 of Article 16(2), and in Article 16(3) and (4) of that Regulation.

- (2) By 14 months after the adoption of an implementing act on a common formula for calculating the risk rating as referred to in Article 9(1) of Directive 2006/22/EC, the Commission shall, by means of implementing acts, adopt the minimum requirements for the data to be entered in the national electronic register in order to facilitate the interconnection of registers, and specify the functionalities that allow for this information to be made available to the competent authorities during roadside checks. Those requirements and functionalities shall conform with the requirements and functionalities established pursuant to Article 16(6) of Regulation (EC) 1071/2009.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 5b(2).

(3) Member States shall ensure that the data referred to in the first paragraph of this Article is available to the competent authorities during roadside checks no later than 12 months after the entry into force of the implementing act specifying the functionalities that allow for the data to be made available to the competent authorities during roadside checks, adopted pursuant to the second paragraph."

(3) the following Articles 5a **and 5b are** is inserted:

"Article 5a

By [OP: please insert the date calculated 5 years after the deadline for transposition of the Directive **referred to in the first subparagraph of Article 2(1)**], the Commission shall submit a report to the European Parliament and the Council on the implementation and effects of this Directive. The report shall include information on the use of vehicles hired in a Member State other than the Member State of establishment of the undertaking hiring the vehicle. **The report shall also look into the impacts on road safety, on tax revenues and on the enforcement of the cabotage rules in accordance with Regulation (EC) No 1072/2009.** On the basis of this report, the Commission shall assess whether it is necessary to propose additional measures.

Article 5b

The Commission shall be assisted by the Committee set up by Article 42(1) of Regulation (EU) No 165/2014 of 4 February 2014 on tachographs in road transport.

Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply."

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 21 August 2023⁶ at the latest.

However, they shall bring into force the laws, regulations and administrative provisions necessary to comply with point 2a of Article 1 by 21 February 2022⁷.

They shall communicate to the Commission the text of those provisions without delay.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

⁶ Corresponds to 36 months after the entry into force of Regulation 2020/1055.

⁷ Corresponds to 18 months after the entry into force of Regulation 2020/1055.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President


