Council of the European Union

Brussels, 16 April 2025
(OR. en)

7902/25

LIMITE

JAI 444
MIGR 132
CODEC 413
TRANS 125
RELEX 439
CFSP/PESC 546

Interinstitutional File: 2021/0387(COD)

PUBLIC

NOTE

From:	Presidency
To:	JHA Counsellors on the Migration situation
No. prev. doc.:	7104/25
No. Cion doc.:	14755/21
Subject:	Proposal for a Regulation of the European Parliament and of the Council on measures against transport operators that facilitate or engage in trafficking in persons or smuggling of migrants in relation to illegal entry into the territory of the European Union - Amended Presidency compromise text

Following the discussion in the JHA Counsellors meeting of 25 March and the comments submitted by Member States, delegations will find attached an amended draft of the Presidency compromise text for the Proposal for a Regulation of the European Parliament and of the Council on measures against transport operators that facilitate or engage in trafficking in persons or smuggling of migrants in relation to illegal entry into the territory of the European Union.

Changes in comparison to the Commission proposal (ST 14755/2021) are marked in **bold underlined** and ~~strikethrough~~. New changes since the last version of the text as set out in 7104/25 appear in **bold underlined and grey shaded** and newly deleted text is in **~~bold underlined and strikethrough.~~**

ANNEX

PUBLIC

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on measures against the use of transport operators' services to facilitate or engage in trafficking in ~~persons~~ human beings or smuggling of migrants, in relation to ~~illegal entry~~the unauthorised crossing of an external border into ~~the territory of~~ the European Union, or in a situation of instrumentalisation

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 and Article 100(2) 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 Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

1 OJ C , , p. .
2 OJ C , , p. .

(-1) **The Union's transport policy aims to ensure the smooth, efficient, safe and free movement of people and goods by means of integrated networks using all modes of transport. As a leading force for open, fair and competitive markets, offering an extensive array of routes and high connectivity with neighbouring and other third countries, the Union plays a key role in setting high transport environmental, safety and security standards. However, there is increasing evidence that criminal networks take advantage of services provided by transport operators to engage in illegal activities such as trafficking in human beings and smuggling of migrants.**

(1) Trafficking in **human beings** ~~persons~~ and smuggling of migrants endanger the lives and security of migrants, and in particular of the most vulnerable people.

(2) ~~The i~~**I**nstrumentalisation of migrants~~, whereby~~ **a third country or a hostile non-state actor encourages or facilitates the movement of third-country nationals or stateless persons to the external borders or to a Member State, with the aim of destabilising the Union or a Member State, and where such actions are liable to put at risk essential functions of a Member State, including the maintenance of law and order or the safeguard of its national security** ~~State actors facilitate irregular migration for political purposes~~ is an increasingly worrying phenomenon, which may involve the smuggling of migrants or trafficking ~~of persons~~**in human beings** in relation to **the unauthorised crossing of an external border into the European Union** ~~illegal entry into the territory of the Union~~, thereby endangering the lives and security of those people, while posing a security threat to the borders of the Union.

(3) Such illegal activities very often rely on different means and modes of transport, making it necessary to target transport operators in preventing and countering these activities. In order to combat trafficking in ~~persons~~ **human beings,** ~~and~~ smuggling of migrants, **in relation to the unauthorised crossing of an external border into the European Union,** ~~-~~ **and situations of instrumentalisation,** it is therefore necessary to provide for measures to be taken in respect of commercial transport operators ~~that facilitate or engage in such illegal operations~~**whose services are being used for such activities**. ~~Such measures should apply not only where the transport operators use the transport means for the trafficking in persons and smuggling of migrants, but also in cases where transport operators take an active part in the criminal activities of an organised criminal group active in trafficking in persons, and smuggling of migrants with knowledge either of the aim and general activity of that organised criminal group, or of its intent to commit those crimes, or where they aid or facilitate the commission of those crimes, including where those transport operators and those organised criminal groups are State sponsored.~~ The measures in question may target the activities of transport operators even where the latter do not transport persons or migrants into the Union. Those measures should not affect the activities of non-commercial operators, in particular humanitarian activities.

(4) ~~In the light of the possible security dimension at hand, it is appropriate that the overall strategy as regards the measures to be taken is defined in coordination with the High Representative of the Union for Foreign Affairs and Security Policy.~~ **This Regulation establishes a gradual approach whereby an administrative procedure is initiated to provide a framework for information gathering and dialogue with transport operators, Member States and any third country concerned, and ensure that a full assessment is carried out before adopting any measures against transport operators. If adopted, the measures should not be punitive in nature, but should seek to prevent the further use of transport operators services to facilitate or enable trafficking in human beings, smuggling of migrants or a situation of instrumentalization ~~of migrants~~.**

(4a) The measures adopted under this Regulation should be without prejudice to any Union or national law rules in relation to the prevention, detection, investigation and prosecution of criminal offences nor to any sanctions adopted under such rules or under the Foreign Affairs and Security Policy of the Union.

(5) The procedure for adopting measures against transport operators which contribute to trafficking in **human beings** ~~persons, or~~ smuggling of migrants **or a situation of instrumentalisation** ~~**of migrants**~~, should allow for decisions to be taken swiftly. **Different measures may be applied cumulatively, where appropriate**. Such measures should at all times be necessary and proportionate, and limited in time. Where necessary, it should be possible to extend the measures. The types of measures that may be taken against transport operators should be sufficiently broad to effectively target the specific conduct of the relevant transport operator.

(5a) To enforce the measures taken under this Regulation, Membert States or relevant Union bodies and agencies could be called upon to apply instruments of Union law, including Regulation (EC) 1071/2009, Regulation 1072/2009, Directive 87/540/ EEC (EC) 1008/2008, Directive 2009/16/EC, Directive 2012/34/EU and Regulation (EU) 2017/352.

(6) According to Article 6 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council[3] and to Article 8 of Council Directive 87/540/EEC[4], managers and transport operators are required to be of good repute, in order to provide certain transport services in the Union. Member States should take into account any measures taken by the Commission pursuant to this Regulation when assessing whether **transport** managers and transport operators ~~fulfil~~ **satisfy** or continue to **satisfy** ~~fulfil that requirement~~**the requirement of good repute**.

(6a) In order to ensure a consistent approach across the Union with regard to transport operators involved in smuggling of migrants, trafficking in human beings, or in a situation of instrumentalisation ~~**of migrants**~~**, it is necessary to lay down a legal framework for measures that the Commisssion could take against such transport operators.**

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3 Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51).

4 Council Directive 87/540/EEC of 9 November 1987 on access to the occupation of carrier of goods by waterway to national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for the occupation (OJ L 322, 12.11.1987, p. 20).

(6b) ~~In cases concerning an air carrier, including when the situation involves the instrumentalisation of migrants, Member States should be able to refuse, limit or impose conditions on the exercise of traffic rights of the air carriers concerned in order to prevent the further enabling of trafficking of human beings or smuggling of migrants. For the purposes of this Regulation, air traffic rights should be understood as guaranteed in the Convention on International Civil Aviation, signed in Chicago on 7 December 1944 (the 'Chicago Convention') and in the Transit Agreement of 1944, annexed to the Chicago Convention. Such measures should be based on objective and non-discriminatory criteria and should be introduced for a limited and, if necessary, renewable duration.~~

(6c) This Regulation **applies only to means of transport that are subject to applicable instruments under Union law and is without prejudice to the powers of Member States to take measures against transport managers and operators engaged in trafficking in human beings, smuggling of migrants, or in a situation of instrumentalisation ~~of migrants~~.**

(6d) **In accordance with the principle of subsidiarity enshrined in Article 5 of the Treaty on European Union, the Commission should take measures under this Regulation in cases where the objective of such action cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of such action, be better achieved at Union level.**

(6e) **During the administrative procedure and if appropriate, Member States and the Commission should exchange any relevant information ~~in their possession~~ concerning activities of transport operators relating to trafficking in human beings, smuggling of migrants or situations of instrumentalisation ~~of migrants~~, as well as on any procedures ~~or investigations~~ undertaken in relation to those activities. Any relevant reporting by the law enforcement authorities of Member States may be done through Europol. Member States should not be required to share information that is related to an ongoing criminal investigation or touches upon matters of national security. ~~Before initiating any administrative procedure against transport operators, the Commission should consult the competent authorities of Member States in an appropriate manner, with a view to coordinating their respective actions.~~**

(7) In order to ensure that the measures against transport operators may be taken swiftly, implementing powers should be conferred on the Commission to impose such measures through immediately applicable implementing acts. **Given the potential economic and political implications of such measures, the adoption of such implementing acts by the Commission should be preceeded by a Council decision confirming that the measures are needed to prevent further use of transport operators' services to facilitate activities of smuggling of migrants, trafficking in human beings or in a situation of instrumentalisation.** Implementing powers should also be conferred on the Commission to adopt detailed rules on the procedures to be followed before adopting such measures. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[5].

(8) It is fundamental to ensure the respect of the right of persons to be heard before any individual measure which affects them adversely is taken. **Before adopting any measures under this Regulation, the Commission should enter into a dialogue with the transport operators concerned with the aim to gather information and resolve the situation through cooperation.** ~~The Commission should ensure that, before adopting any measures against transport operators,~~ **T**hose operators ~~are~~ **should be** given the opportunity to be heard, while also taking into account the urgency of the procedure. **The Commission should** ~~It should also be possible to~~ invite transport operators **to take measures to prevent**, **restrict or** cease any activities relating to trafficking in **human beings,** ~~persons or~~ smuggling of migrants **or a situation of instrumentalisation** ~~**of migrants**~~ without delay, before measures are taken.

(9) Before taking measures against transport operators established in third countries, the Commission should consult the relevant authorities **of those countries** in an appropriate manner, with a view to coordinating their **respective** actions. In that context, the Commission should also be able to ask those authorities to take any relevant measures.

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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).

(9a) Measures should only be taken where the use of transport operators' services to facilitate activities of smuggling of migrants or trafficking in human beings is significant or continous in nature. Such a use should be considered significant if it is likely to impact the irregular migratory flows into and within the Union due to its nature, scale or scope. A use should be considered to be continuous when it happens over a prolonged period of time and not on a singular occasion.

(9b) When assessing whether a situation of instrumentalisation is involved, the Commission should act in accordance with Article 3 (4) of Regulation 2024/1359/EU.

(10) Measures taken against transport operators pursuant to this Regulation should be made known to the public. The implementing acts imposing such measures should therefore be published without delay in the *Official Journal of the European Union*, and relevant actors in transport operations should bring such measures to the attention of passengers, both via their websites and, where relevant, on their premises.

(11) This Regulation is without prejudice to the application of Directive 2011/36/EU[6] on preventing and combating trafficking in human beings and protecting its victims, **as amended by Directive (EU) 2024/1712**, which establishes, inter alia, appropriate mechanisms aimed at the early identification of, assistance to and support for victims, determines penalties and sets out the liability of legal persons committing trafficking in human beings.

[6] Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

(11a) **In light of the obligations of the Union and the Member States as parties to the United Nations Convention Against Transnational Organized Crime and its two supplementing Protocols – the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air – the measures which may be adopted under this Regulation are compatible with the Chicago Convention and other bilateral and multilateral international obligations undertaken by the Union and the Member States, in particular in the transport sector.**

(12) This Regulation should not affect the rights of passengers established in Regulations (EC) No 261/2004[7], (EC) No 1107/2006[8], (~~EC~~**EU**) No ~~1371/2007~~**2021/782**[9], (EU) No 181/2011[10] and (EU) No 1177/2010 of the European Parliament and of the Council[11]. In particular, the rights to reimbursement, re-routing and compensation should be safeguarded. Moreover, the cancellation of transport operations due to the application of measures taken by the Commission should not be considered as extraordinary circumstances.

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7 Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. 1).

8 Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p.1).

9 Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14).

10 Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (OJ L 55, 28.2.2011, p. 1).

11 Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ *L 334, 17.12.2010, p. 1).*

(13) Since the objective of this Regulation, namely to ensure a harmonised approach across the Union with regard to measures against transport operators, cannot be sufficiently achieved by the Member States, but can rather, by reason of its effect, complexity, and trans-border and international character, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(14) While this Regulation affects the freedom to conduct a business enshrined in Article 16 of the Charter of Fundamental Rights of the European Union, it respects the essence of that freedom and limits it only to the extent necessary to meet the objectives of preventing and countering the use of commercial means of transport for the smuggling of migrants**,** ~~and~~ trafficking in **human beings**~~persons~~ **or a situation of instrumentalisation** ~~**of migrants.**~~

~~(15) In view of the urgency entailed by the exceptional circumstances caused by the situation at the Union's external borders with Belarus, it is considered to be appropriate to invoke the exception to the eight-week period provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.~~

~~(16) In the light of the overriding need to address without delay any instrumentalisation of vulnerable people, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,~~

HAVE ADOPTED THIS REGULATION:

PUBLIC

Article 1

Subject matter and scope

1. This Regulation lays down rules to prevent and counter the use of commercial means of transport to facilitate or engage in the commission of smuggling of migrants, ~~ or~~ trafficking in **human beings**~~persons~~ **or in a situation of instrumentalisation ~~of migrants~~.**

   In particular, it lays down rules on **administrative** measures that may be taken to prevent or restrict **the use of** ~~the activities of~~ transport operators**'** ~~who~~ **services and operations, with or without their knowledge, in activities of smuggling of migrants, ~~and~~ trafficking in human beings in** relation to **the** ~~illegal entry~~**unauthorised crossing of the external borders into the Union, or in a situation of instrumentalisation. ~~of migrants~~** ~~of such migrants and persons into the territory of the Union, either:~~

   ~~(a) use transport means in the commission of smuggling of migrants or trafficking in persons; or~~

   ~~(b) with knowledge of either the aim and general criminal activity of an organised criminal group active in smuggling of migrants or trafficking in persons or of its intention to commit those crimes, take an active part in the criminal activities of such a group; or~~

   ~~(c) organise, direct, aid, abet, facilitate or counsel the commission of smuggling of migrants or trafficking in persons involving an organised criminal group.~~

2. This Regulation also lays down measures to ensure that Member States take into account the measures taken by the Commission in the light of the conduct of transport operators referred to in paragraph 1 when assessing the good repute of managers and transport operators.

PUBLIC

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

(a) 'trafficking in ~~persons'~~ **human beings' shall be understood as in Articles 2 and 3 of Directive 2011/36/EU;** ~~means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation;~~

(b) 'smuggling of migrants' **shall be understood as in [Articles 3 and 5] of Directive [XXX] [laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946 JHA]** ~~means the procurement, in order to obtain, directly or indirectly, a benefit, of the illegal entry of a person into the Union of which the person is not a national or a permanent resident;~~

(c) 'a situation of instrumentalisation' shall be understood as in Article 1(4) of Regulation (EU) 2024/1359;

~~(c) 'serious crime' means conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;~~

~~(d) 'organised criminal group' means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences of smuggling of migrants or trafficking in persons, in order to obtain, directly or indirectly, a benefit;~~

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(e) ‘transport operator’ means any natural or legal person providing a transport operation on commercial terms by any mode of transport, namely by air, sea, inland waterways, rail or road;

~~(f) ‘illegal entry’ means crossing borders without complying with the necessary requirements for legal entry into the receiving Member State.~~

~~(g) ‘commercial operation’ means an operation for remuneration and/or hire.~~

(h) ‘unauthorised crossing of the external borders’ ~~means crossing the Union’s external borders at places other than border crossing points or at times other than the fixed opening hours and without respecting the entry conditions for third-country nationals, as set out~~ shall be understood as in Articles 5 and 6 of Regulation (EU) 2016/399.

Article 2a

Administrative procedure

1. Without prejudice to **Union or national law rules in relation to the prevention, detection, investigation and prosecution of criminal offences,** ~~the application of national criminal and administrative measures,~~ **the Commission ~~acting on its own initiative or at therequest of a Member State~~ may initiate an administrative procedure in order to assess whether** ~~where~~ a transport operator**’s services are used for the purposes of** ~~facilitates or engages in~~ an activity referred to in Article 1(1) **and whether preventive measures should be taken. One or more Member States may also submit a reasoned request to the Commission, inviting it to initiate such a procedure.** ~~, the Commission may, by means of immediately applicable implementing acts, decide to take measures against that transport operator. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 8(2). They shall be published immediately in the Official Journal of the European Union.~~

2. When carrying out the assessment, the Commission shall rely on all information at its disposal, including on information provided by relevant Union bodies, offices and agencies, and Member States’ authorities.

3. The Commission and Member States shall, where appropriate, exchange any relevant information on activities referred to in Article 1(1) with a view to coordinating their actions.

4. As part of the administrative procedure, the Commission shall seek to enter into a dialogue with the transport operator concerned. If appropriate, the Commission shall invite transport operators to take appropriate measures without delay to prevent, restrict or cease any operations facilitating or enabling the activities referred to in Article 1(1) ~~including in cases of instrumentalisation~~.

~~The safeguards listed under Article 4 of this Regulation shall apply throughout the administrative procedure.~~

~~Throughout the administrative procedure, the Commission shall consult the authorities of the Member States concerned with a view to coordinate their respective actions, and shall collect all relevant information. Member States shall report to the Commission any relevant information in their possession concerning activities referred to in Article 1(1), including any measures which they intend to take in order to prevent or restrict these activities.~~

5. If the transport operator concerned is established in a third country, the Commission shall consult, if appropriate, the relevant authorities of that country with a view to coordinating their actions. The Commission may ask those authorities to take relevant measures.

6. The consultations foreseen in paragraphs 3 to 5 of this Article shall take into account the need for urgency and may be carried out in an accelerated manner, where appropriate.

7. On the basis of the information gathered, the Commission shall expeditiously assess the nature and scope of the involvement of the transport operator concerned in activities referred to in Article 1(1) and shall inform the Council of its findings. ~~including of whether the situation involves the instrumentalisation of migrants.~~

Article 3

~~Administrative procedure and~~ Measures concerning transport operators

1. ~~Without prejudice to the application of national criminal and administrative measures, where a transport operator facilitates or engages in an activity referred to in Article 1(1), the Commission may, by means of immediately applicable implementing acts, decide to take measures against that transport operator. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 8(2). They shall be published immediately in the Official Journal of the European Union.~~

1a. Where the assessment referred to in Article 2a has adequately demonstrated that:

a) a transport operator's services have been used in a significant or continuous manner to facilitate or enable smuggling of migrants and trafficking in human beings in connection with the unauthorised crossing of an external border into the Union, or in a situation of instrumentalisation;

b) there is a risk that the unrestricted operation of that transport operator's services is likely to continue facilitating or enabling smuggling of migrants and trafficking in human beings in connection with the unauthorised crossing of an external border into the Union or that the situation of instrumentalisation will persist; and

c) the dialogue referred to in Article 2a(4) has not satisfactorily adressed that risk, and it is considered that addressing the situation is within the remit of the transport operator;

~~d) the situation does not involve the instrumentalisation of migrants;~~

the Council, acting on a proposal from the Commission, may adopt a decision to confirm the existence of a risk as referred to in this paragraph and the need to take measures in accordance with paragraph 2. The Council shall act without undue delay and taking into account the need for urgency. Following the Council decision, the Commission may adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 8(2) of this Regulation, indicating the measures taken against the transport operators concerned.

PUBLIC

~~**1b. Where the assessment referred to in paragraph 1 has adequately demonstrated that an activity which fulfills the conditions listed in letters a) to c) of paragraph 1a of this Article involves the instrumentalisation of migrants, the Commission may adopt immediately applicable implementating acts in accordance with the procedure referred to in Article 8(2) of this Regulation.**~~

2. The measures referred to in paragraph **1a of this Article** ~~1 shall be necessary and proportionate, and~~ may consist of any of the following:

(a) preventing ~~any further expansion of~~ **or** limiting the ~~current~~ transport operations **of the transport operator concerned in any mode of transport** in the Union market;

(b) suspension of ~~the right~~ **any licence or authorisation** to provide transport services **in any mode of transport** from, to or within the Union **~~or a Member State~~**;

(c) ~~suspension~~ **refusing the air transport operator concerned** ~~of~~ the ~~right~~ **possibility** to fly over the territory of the Union;

(d) ~~suspensions~~ **refusing** ~~of~~ the ~~right~~ **the air transport operator concerned the possibility to land for technical purposes, with the exception of emergency situations;** ~~to refuel or carry out maintenance within the Union;~~

(e) suspension of the right to call into and enter ~~the Union~~ ports **situated in a Member State, with the exception of emergency situations**;

(f) suspension of the ~~right~~ **licence or authorisation granted to road or rail transport operators** to transit through the territory of the Union;

(g) suspension of **any** licence~~s~~ or authorisation~~s~~ granted under Union law **to transport operators in any mode of transport** ~~established in a third country~~ to operate within the Union or to carry out activities of international carriage of passengers **or of carriage of goods**.

Any measure shall be reasoned, and indicate an assessement of its necessary and proportionate character. The period of application of those measures shall not exceed one year. The~~y~~**ir implementation** shall be ~~reviewed~~ **monitored by the Commission.**

PUBLIC

The Commission shall, at the request of a Member State or, if it considers it appropriate, at its own initaitve, review any implementing decision adopted under this Article ~~where necessary~~ and ~~may be~~ renew~~ed~~ **it, if appropriate, taking into account any criminal or administrative sanctions imposed on the transport operator since the adoption of a measure**.

2a. Each Member State and any relevant Union body, office or agency shall enforce, in accordance with its competence and applicable rules, the measure taken in the Commission implementing decision in respect of the transport operators that are the subject of the measure.

3. Member States shall take into account the measures taken by the Commission pursuant to paragraph 1 when assessing the good repute of managers and transport operators for the purposes of Article 6 of Regulation (EC) No 1071/2009**, Article 4 of Regulation (EC) No 1008/2008, Article 18 of Directive 2012/34/EU,** ~~and~~ Article 8 of Directive 87/540/ **EEC and Article 4 of Regulation (EU) 2017/352.**

Article 4

Right to be heard and other procedural safeguards

1. The Commission shall inform the transport operator concerned of its intention to take any measures referred to in Article 3(2), and it shall disclose the essential facts and considerations on the basis of which it intends to take those measures. If the Commission is made aware of additional information on which it intends to rely, that information shall also be disclosed to the transport operator as soon as possible.

2. The Commission shall ensure that, ~~**throughout the administrative procedure initiated under Article 3(1) of this Regulation**~~ before it adopts any of the measures referred to in Article 3**(2)**, the transport operator concerned is given the opportunity of being heard, taking into account the need for urgency. ~~The transport operator may be invited to cease any activity referred to in Article 1(1) without delay.~~

Article 5

Procedural rules

The Commission may adopt implementing acts establishing the procedures to be followed for the adoption of the measures referred to in Article 3. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 8(3).

PUBLIC

~~*Article 6*~~

~~**Cooperation with third countries**~~

~~Before taking any measures pursuant to Article 3 against transport operators established in third countries, the Commission shall consult, in an appropriate manner, the relevant authorities of that country with a view to coordinating their actions. The Commission may ask those authorities to take any relevant measures.~~

Article 7

Information and rights of passengers

1. The implementing acts adopted by the Commission pursuant to Article 3 shall be published immediately in the Official Journal of the European Union.

2. Transport operators, national enforcing authorities, the European Aviation Safety Agency, the European Union Agency for Railways, the European Maritime Safety Agency, and the managing entities of ports, airports, stations and other relevant infrastructures in the territory of the Member States shall bring the measures taken by the Commission pursuant to Article 3 to the attention of passengers, both via their websites and, where relevant, in their premises.

3. This Regulation shall not affect passengers' rights under Regulations (EC) No 261/2004, (EC) No 1107/2006, (E**U**~~C~~) No **2021/782**~~/2007~~, (EU) No 181/2011 and (EU) No 1177/2010.

4. **F**or the purposes of those Regulations, the cancellation of transport operations due to the application of measures taken by the Commission pursuant to Article 3 shall not be considered as extraordinary circumstances.

PUBLIC

Article 8

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 8a

Evaluation and amendment

1. By [XX], and every five years thereafter, the Commission ~~shall assess the list of the measures under Article 3(2), taking into consideration:~~ carry out an evaluation of this Regulation, in particular on the list of measures under Article 3(2). The Commission shall present a report on the main findings to the European Parliament and the Council.

~~a) the practical implementation of those measures;~~

~~b) the impact of the implementation of those measures on the involvement of transport operators in activities listed under Article 1(1);~~

~~c) the application of the safeguards provided for in Article 4 of this Regulation.~~

2. Depending on the outcome of the evaluation referred to in paragraph 1 of this Article, the Commission shall, if appropriate, make a legislative proposal to amend this Regulation.

PUBLIC

Article 9

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg,

For the European Parliament *For the Council*

The President *The President*

PUBLIC