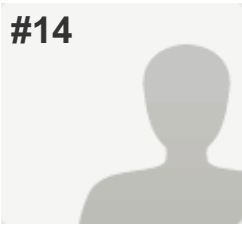


#14



COMPLETE

Collector: Web Link 1 (Web Link)

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PAGE 1: Background

Q1: Please provide your contact information

Name:	Patrizia Di Mauro
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Phone Number:	+32022850706

Q2: Which country are you from?

Please select

Please select from the drop-down menu

Italy

Q3: What kind of organisation do you represent?

Transport operators' representative body

PAGE 2: Needs of the sector

Q4: To what extent are each of the following issues a problem for road haulage in the European Union today?

Requirements to demonstrate stable and effective establishment vary between Member States	Significant issue
Non-comparable certificates of financial capability between Member States	Significant issue
Non-comparable certificates of professional competence between Member States	Significant issue
Unclear link between the holder of a certificate of professional capacity ("transport manager") and the undertaking	Significant issue
No common formats for control documents (certified true copies of community licenses, driver attestations)	Significant issue
Unclear definition and control of temporary cabotage	Significant issue
Uneven approaches to monitoring of compliance between different Member States	Significant issue
Lack of provisions on administrative cooperation between Member States	Significant issue
Other (please specify below)	Significant issue
Comments	There is not sufficient enforcement on stable and effective establishment in the Member States where letterbox companies are set up. Differences in interpretation and implementation of provisions are leading to the application of double standards (i.e. interpretation by MS of the word "penalty" in art 6 of 1071/09 leading to different application of provision by MS and consequent impact on the good repute of companies). Many MS are not yet connected to ERRU and till the end of 2015 only the most serious infringements from annex IV have to be taken into account. Another problem dealing with good repute: the different approach in the MS on liability. In some MS the employer is held responsible for mistakes/infringements of his drivers while in other MS this is not the case with the consequent difference in the convictions, penalties and fines imposed on the employer or company and the application of double standards within the EU.

Q5: Have any developments since 2009 OTHER THAN the adoption of the Regulations improved, worsened, or changed the nature of these problems?

Yes,

If yes, please explain.

A lot of MS do not have a risk rating system at their disposal, although this is important for efficient enforcement. Cabotage: National transport that is part of a combined transport may not be seen as a cabotage operation. According to interpretation of the European Commission a cabotage operation can include several loading and unloading places, as long as one transport document can be used. This interpretation is not followed by all the MS, leading to uncertainty along the road. There should be clear provisions about this.

Q6: Are there any needs and/or problems of the European road haulage sector that have not been mentioned above?

Yes,

Please explain

Good repute, cabotage, shortage of drivers. Problematic driving and rest rule interpretation.

Q7: Are there any changes to the scope or measures of the Regulations that are needed in order to ensure that they still target the needs of the sector?

Yes,

Please explain

Clear definition of penalty (point 1). List of infringements leading to loss of good repute: too long and inconsistent.

PAGE 3: Objectives of Regulation 1071/2009

Q8: To what extent has Regulation 1071/2009 contributed to the following goals?

Ensuring a level playing field between resident and non-resident hauliers

No material effect

Improving compliance with road social legislation (i.e. the EU driving/rest/break time Regulation and the road transport working time Directive)

No material effect

Improving compliance with other relevant EU legislation (i.e. posting of workers, law applicable to contractual obligations)

No material effect

Improving compliance with road safety rules

No material effect

Improving the efficiency of the road haulage sector

No material effect

Please explain your answer

The new regulation has not made difference to overall compliance levels. Tachograph manipulation has not significantly improved (poor enforcement).

Q9: How effective has Regulation 1071/2009 been with respect to the achieving the following objectives:

Ensuring common rules on requirements for establishment/ good repute / financial standing / professional competence	Slight positive effect
Ensuring the enforcement of common rules on establishment/ good repute / financial standing / professional competence	Slight positive effect
Improving cooperation between enforcement authorities in different Member States	Slight positive effect
Reducing the administrative costs for industry	Somewhat detrimental
Reducing the administrative costs for competent authorities	No material effect
Reducing the number of "letterbox" companies (those without stable and effective establishment)	No material effect
Improving standards of professional qualification	No material effect
Improving standards of service in the road haulage sector	No material effect
Please explain your answer. If Regulation 1071/2009 has not achieved any of the objectives it was intended to achieve, why is that?	The rules on stable and effective establishment are not enough enforced by the Member States in which "letterbox" companies are set up. Different implementation of the rules in the Member States leading to low harmonization.

Q10: Has Regulation 1071/2009 had any disproportionate effects on SMEs (Small and Medium Sized Enterprises)?

Yes - Slightly disproportionate,
Please explain
Any common administrative action automatically affects SMEs disproportionately because they rarely have the back office capacity to comply.

Q11: Has Regulation 1071/2009 led to any POSITIVE effects that have not been mentioned above? Please suggest up to three and explain

Respondent skipped this question

Q12: Has Regulation 1071/2009 led to any unintended or unexpected NEGATIVE effects that have not been mentioned above? Please suggest up to three issues and explain

Respondent skipped this question

Q13: What changes to Regulation 1071/2009 would you recommend in order to make it more effective, to make it more efficient, or to mitigate any unintended negative impacts it has?

To provide a clear definition of penalty.
To improve the coordination of control services: the creation of a European Road Transport Agency would be relevant.

PAGE 4: Objectives of Regulation 1072/2009

Q14: To what extent has the Regulation 1072/2009 contributed to the following goals?

Ensuring a level playing field between resident and non-resident hauliers	Somewhat detrimental
Improving compliance with road social legislation (i.e. the EU driving/rest/break time Regulation and the road transport working time Directive)	No material effect
Improving compliance with other relevant EU legislation (i.e. posting of workers, law applicable to contractual obligations)	Somewhat detrimental
Improving compliance with road safety rules	No material effect
Improving the efficiency of the road haulage sector	Somewhat detrimental
Please explain your answer	Cabotage: the National transport that is part of a combined transport may not be seen as a cabotage operation.

Q15: In your opinion, how effective has Regulation 1072/2009 been with respect to achieving the following objectives:

Clarifying definitions of the temporary nature of cabotage,	Slight positive effect
Ensuring common rules for cabotage operations in the EU	Slight positive effect
Enabling the enforcement of common rules on cabotage	Slight positive effect
Standardising control documents (certified true copies & driver attestations)	Slight positive effect
Reducing the administrative costs for industry	Slight positive effect
Reducing the administrative costs for competent authorities	Slight positive effect
Reducing the amount of empty running	No material effect

Q16: Has Regulation 1072/2009 had any disproportionate effects on SMEs (Small and Medium Sized Enterprises)?

No

Q17: Has Regulation 1072/2009 led to any POSITIVE effects that have not been mentioned above? Please suggest up to three and explain

Respondent skipped this question

Q18: Has Regulation 1072/2009 led to any unintended or unexpected NEGATIVE effects that have not been mentioned above? Please suggest up to three issues and explain

- | | |
|---|--|
| 1 | Clear interpretation on temporary and permanent cabotage operations is still missing |
| 2 | Should working conditions and social costs of the home or host country be followed? |

Q19: What changes to Regulation 1072/2009 would you recommend in order to make it more effective, to make it more efficient, or to mitigate any unintended negative impacts it has?

To include combined transport within any subsequent legislation since international journeys are no longer quota limited and cabotage limits agreed.

To clarify the question of the application or not of the Posting Workers Directive.

PAGE 5: Closing remarks

Q20: In the absence of EU-level Regulation, how likely is it that Member States would have attempted to ensure common rules in the follow areas?

- | | |
|---|---|
| For admission to the occupation of road haulage operator | Somewhat likely |
| For access to the international road haulage market | Somewhat likely |
| For the conditions under which hauliers can operate in a Member State they are not based in | Highly likely |
| Please explain | The Members States try to protect their national market (i.e. fines on taking the normal weekly rest in the vehicle, in some countries) |

Q21: Please discuss any other issues you feel are relevant.

Necessity to create a Road Transport Agency in order to coordinate the controls, especially on the enforcement of Regulation 1071 and 1072/2009. To clearly address the question of the application or not of the Posting of Workers Directive in case of cabotage or international transport.

Q22: May we contact you for further input to the study? Yes