



**OPEN LETTER OF THE “ALLIANCE FOR THE FUTURE OF THE TRANSPORT”  
ON THE MOBILITY PACKAGE**

**10 June 2017**

The Union of International Hauliers (Bulgaria), Transport and Logistics Poland (TLP), the Lithuanian National Road Carriers’ Association Linava, Romanian Association for International Road Transport ARTRI, the Association of Croatian Road Carriers and the Macedonian Association Makam-Trans - the members of the Alliance for the Future of the Transport - established on 28 April 2017 in Warsaw, intend to create a platform for regular cooperation and exchange of information between the Organizations regarding the any Road Initiatives, and any other legislative action on a European and local level that may affect the proper functioning of the Single Market.

In this respect on 30 June in Brussels, the members of the Alliance organized a conference of the Alliance “Mobility Package – Social Partner’s Perspective”. The discussion was focused on the social aspects of the Mobility Package “Europe on the move” released by the European Commission on 31 May 2017.

The discussions of members of the Alliance and the guests of the conference led to a clear conclusion that although the European Commission had an intention to clarify and simplify the existing road transport rules in the EU, the Package brings more questions than solutions. Moreover, the Mobility Package, in the view of the Alliance members, does not solve the question of the protectionist measures as well as may lead to a serious disruption of the free movement of goods and services in the entire EU.

Organizations of the Alliance have already initiated a set of concrete actions on the EU level to initiate the discussion on securing the free movement of services and goods in the European Union. Those actions will be continued since the current debates on the Mobility Package are politically affected and the voice of all transport industry stakeholders is not sufficiently taken into consideration.

We believe that creating a deeper and fairer internal market is a priority for the Commission and therefore the Commission, as a guardian of the Treaties, must also ensure that the new regulations will be feasible in all member states of the EU. The revision of Regulation 561/2006, Regulation 1071/2009, Regulation 1072/2009 and Regulation 1073/2009 should be therefore discussed in detail with the transport industry stakeholders from all of the member states.

As companies and organizations from the international transport sector we cannot remain out of the main scope of the discussion and we cannot allow the situation where the decisions on the future of the transport will be taken without in-depth discussion on the impact of the proposed changes in the Package on the proper functioning of the transport companies and Internal Market.

The proposed system of posting workers applicable to highly mobile workers in the transport sector (according the Mobility Package), even the proposed derogation from certain obligations related to posting of workers, was not sufficiently elaborated and considered.

The aforementioned *lex specialis* is not coherent with the definition of posting of workers (elaborated mainly for the purposes of the construction sector) and internally coordinated with the complexity of obligations in the posting of working directive and its revision, social security systems and rights and obligations of third country companies performing their services in the EU.

Participants of the discussion during the conference “Mobility Package – Social Partner’s Perspective” raised the following, concrete questions to the European Commission on the core elements of the Mobility Package. The answers to the questions will be essential for elaboration of a detailed position of the Alliance for the Future of Transport on the Mobility Package. Those questions are:

- clarification why posting of workers was selected as a model of work of international drivers irrespective of the highly mobile nature of their work;
- what social security rules, in particular obligations related to social security contributions and retirement, should be selected to posted workers in the transport sector, if those employees are to be posted in all 28 member states in the same time periods. Should the employees be covered by the local social security systems of all states of posting? Which host country will be responsible for retirement payment of the employee? How the European Commission intends to secure the employees from forbidden accumulation of the social security payments?
- what will be the impact of the Mobility Package on third country companies performing services in the EU?
- how the notion of “returning home” should be understood. It refers in particular to the situation where an employee intends to spend the weekly regular rest in other member state than the state of posting (eg. short holidays). “Returning home” is an obligation or right of an employee?
- why the European Commission kept the limitation of days of cabotage if posting of workers rules should be applicable to employees in transport from the first day of the trip?

- how the notions of "habitual place of works", "real place of performing the business activities" should be understood in the context of transport. Those notions may have a meaning in the construction sector but seem to be not coherent with the nature of international transport;
- when and how the European Commission will solve the question of lack of infrastructure for the international transport sector including social premises for drivers or safe parking areas.
- why is it that there were discussed exactly 4 different time thresholds regarding a number of total working days per calendar month spent in the host Member State, beyond which the host Member State's rules on minimum pay rates and annual paid holiday apply to a foreign operator. 3, 5, 7, and 9 days. It was calculated that the estimated savings to operator result mainly from the option of 9 working days per month as threshold. These savings were calculated in the range of €785 million per year in administrative costs. Why wasn't that calculation taken into account?
- what was the basis for calculation of a working day (breaks and rest periods as well as periods of availability spent in the territory of a host Member State)?
- why weren't there any discussions regarding the possibility of making *lex specialis* for posted transport workers in the way that their categorisation would be changed - transport workers are mobile workers who are temporary in the host state and they do not integrate in its labour system.

It needs to be underlined that the Alliance for the Future of the Transport strongly objects to the selected system of work of international drivers – posting of workers – as contrary to the mobile nature of their work and unpredictable nature of transport services. The exception of 3 days, which is proposed in the Mobility Package, is a seeming one since it does not exclude short time period transport activities from the posting of workers directive. The new rules on calculation of posting days and cabotage may lead to market disruption as well as sanctions related to spending weekly rests outside the cabin.

As an Alliance we insist on additional meetings prior to the final stage of the legislative procedure on the Mobility Package. The discussions should be focused on the topics mentioned above which will help to secure the basic freedoms of the EU.