

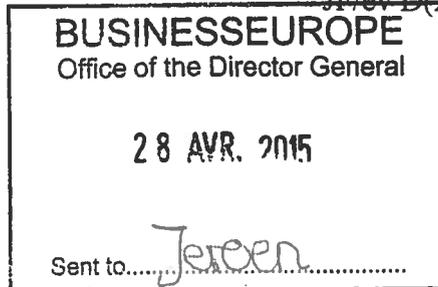
VIOLETA BULC  
*Member of the European Commission*

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Mr Markus J. BEYRER  
Director General  
BUSINESSEUROPE  
Avenue de Cortenbergh 168  
B - 1000 Brussels



Dear Mr Beyrer,

I would like to apologise for the delay in replying to your letter of 17 February 2015, in which you raise your concerns with regard to the national measures with implications on the road transport sector, adopted in various Member States.

First of all, it should be highlighted that the Commission is fully committed to promoting fair social standards and fair working and business conditions. These three elements are crucial to creating a sound framework for more and better jobs in the transport sector.

As a matter of principle the Commission welcomes the introduction of a minimum wage in Germany, which is in line with the social policy commitment of this Commission. However the application of the German measure on the transport sector must be compatible with EU law, in particular with the movement of goods and freedom to provide services. This implies inter alia that the measure be non-discriminatory and that any restriction of such freedoms to be justified, having regard to the principle of proportionality.

Let me assure you that the issue has received the full attention of the Commission services who are thoroughly assessing the German rules on minimum wages and their impacts on the transport sector and on the proper functioning of the internal market, in particular taking into account the information provided recently by the German authorities in response to the Commission enquiry.

The legal assessment is complex as it involves basic EU Treaty principles, in particular the fundamental freedoms just mentioned, but also several pieces of legislation, notably the Posting Workers Directive. A detailed assessment is being carried out for each type of transport operation, i.e.: transit, international transport operation and cabotage operation. The Commission will decide on further steps based on the results of this comprehensive assessment.

With reference to the Electronic Road Freight Monitoring System (EKAER), it should be noted that it aims at monitoring taxable transport on public roads in Hungary as well as the corresponding reporting liabilities. It is designed to prevent in particular VAT fraud. In order to verify whether the measure is fit to achieve its intended purpose, the Commission is currently in contact with the Hungarian authorities with a view of assessing whether the measure is in line with EU law and the principle of proportionality.

As regards mandatory rest periods, the relevant Regulation on driving times and rest periods does not explicitly specify where the driver is to spend his/her regular weekly rest. Therefore, the Belgian and French measures sanctioning drivers and/or operators for spending the regular weekly rest in the vehicle as well as enforcement measures and the level of sanctions are currently being examined to assess their compliance with the principle of non-discrimination, proportionality of sanctions and effectiveness of enforcement, taking into account relevant social and economic context and impacts of these measures.

Finally, I would like to inform you that the Commission services have recently initiated ex-post evaluations on rules on access to the haulage market and access to occupation as well as on the social legislation in road transport. The findings from these evaluations will feed into future initiatives under the road package in 2016. The road package will therefore provide European answers to European problems. It will balance the needs of increasing the efficiency of road transport with those of ensuring adequate enforcement of social legislation, in particular to prevent illegal practices. As a result, it will enable the legal framework to ensure better coherence and integration of the internal market while protecting social conditions of employment in the sector.

Yours sincerely,



Violeta BULC