



No. 198/27.01.2015



EUROPEAN COMMISSION
Mrs. Elżbieta BIEŃKOWSKA - Commissioner for Internal Market,
Industry, Entrepreneurship & SMEs

Ref.: new German regulation on minim wage jeopardizes the freedom of services in EU

Dear Mrs. Bieńkowska,

On behalf of the National Union of Road Hauliers from Romania (UNTRR) - an employers' professional organization which promotes nationally and internationally the interests of Romanian transport companies performing road transport of passengers and goods,

May we draw your kind attention to the **protectionist provisions of the new law concerning the minimum wage in Germany (MiLoG)**, which are abusively imposed to the foreign transport companies of other Member States and also to those from non-EU countries, for any activity carried out by their drivers on the German soil, even for only transiting your country.

Germany is hereby creating a **dangerous precedent for the EU** – imposing its national rules to all other 27 Member States, without the European Commission or the European Parliament:

As of the 1st of January 2015, Germany is imposing a minimum wage of EUR 8.5 per hour which will be applicable also to the foreign professional drivers carrying out international transport operations of goods and passengers to and from Germany, cabotage and even for only transiting Germany. Penalty for non-compliance with the minimum wage per hour in Germany can reach EUR 500000!

Thus, for each hour worked by a Romanian driver on Germany's territory, the minimum wage per hour applied is that of Germany, not the Romanian one.

For each trip operated by a Romanian driver on Germany's territory, the Romanian haulier for whom he is working is obliged to notify through a written report the Customs authorities in Germany.

We consider that the recently adopted measures are seriously affecting the freedom of services on the European market and express our concern with regard to the direction the European Union is heading to:

- This measure taken by German Government is seriously jeopardizing the **freedom of services in EU** – a fundamental principle which is central to the effective functioning of the European Union. In this dangerous approach, the EU is heading towards self-destruction.
- The precedent created by Germany could **push Europe on a path of neo-protectionism**, ultimately affecting the overall competitiveness of the EU over other global competitors! By raising barriers in front of the other EU and non-EU competitors, **Germany is not only jeopardizing EU's economy, but it is also sanctioning its own German citizens and the German economy:**



1. It will handicap resident transport companies - which will not be able to be competitive, as they need protection in any way from the German government, which it is not sustainable on long term
2. It will increase operational costs of all other companies in Germany
3. It will have as final result **INCREASING LIFE COST OF ALL GERMAN CITIZENS!**

The German Government, through this measure, basically sacrifices the current advantages of German companies and German population just to protect an extremely limited number of road transport companies - small and medium ones. Making 98% of the population to pay more to support the remaining 2% instead of finding solutions for the respective 2% of the population - this is an absolutely new and surprising approach.

- Justifying this protectionist measure by accusing the competitors from Eastern EU of social dumping – it is not the right way:

- First, because "social dumping" wording in road transport is not appropriate, as it is not the result of an unfair competition practice, but of a consequence of the different social and living standards between Western and Eastern EU. The social standards in EU can't be harmonised by imposing a minimum wage legislation, but only by achieving the economical harmonisation.
- Secondly, because the message that should be understood by the West EU - like the 2% of the German population referred above is that **"East EU Companies & Drivers ARE DOING YOUR JOBS! THEY ARE NOT TAKING YOUR JOBS!"**. A labor market research would be welcomed in order to reveal that there are not so many German/Western citizens interested in performing the profession of international road transport driver for a gross hourly wage of 8.5 Euro.

We do consider that European institutions and all the relevant authorities of the Member States should adopt rapidly a firm stance aimed at stopping such national initiatives directed against other Member States' transport companies having a direct impact on those of Eastern Europe.

In this view, we kindly ask you to urgently take all the legal steps and initiate an institutionalized dialogue in order to avoid the abusive penalization of the Romanian transport operators by German authorities for not applying the German provisions of minimum wage per hour taking into account that:

- As employees of Romanian transport companies, the drivers are paid according to the working contract and the applicable Romanian legislation
- As until this moment, the German authorities did not provide clear and complete information concerning the minimum wage per hour for the foreign hauliers although the law came into force on the first day of this year:
 - o It is unclear how can this legislation be applied to transit operations on German territory. There is no competition with the resident German hauliers as far as the transit operations are concerned either for goods or for passengers
 - o For the international transport operations having Germany as destination/origin the German regulation represents a barrier and an obstruction to the freedom of services within the EU
 - o The cabotage operations are governed by the European Regulations and as such, a national law is not entitled to bring limitations to the European common provisions

Trusting that you will urgently take all necessary measures, we are looking forward to receiving your reply and we assure you of our highest consideration,

Yours faithfully,

**Secretary General
Radu DINESCU**

