



Mr Henrik HOLOLEI
Director-General of DG MOVE
European Commission
Rue de la Loi 200
BE – 1049 Brussels
BELGIUM

1 July 2020

Dear Director-General,

**RE: Application of Mobility Package I after adoption:
clarification request on the provisions regarding the return of a driver**

With the imminent adoption of the Mobility Package I, planned at the European Parliament's Plenary session in July, businesses are preparing for its application. Uniform application and understanding of rules across the EU are crucial to both ensure full compliance by and legal certainty for businesses.

I write to you with a request to clarify the provisions of the Mobility Package I specifically regarding the return of a driver, as established in the text of the [Regulation amending Regulation 561/2006](#) that is awaiting approval by the European Parliament.

According to the provisions, "*Transport undertakings shall organise the work of drivers in such a way that the drivers are able to return to the employer's operational centre where the driver is normally based and where the driver's weekly rest period begins, in the Member State of the employer's establishment, or to return to the drivers' place of residence, within each period of four consecutive weeks*" (6(d)(8a)) and "*the drivers are free to choose where to spend their rest period*" (Recital (14)).

The wording seems to leave the balance between the driver's freedom of choice and the imperative nature of provisions open to interpretation. In particular, the following questions arise:

1. Is the driver's choice of the place of return limited to two locations, or his/her freedom of choice overrides this?
2. Alternatively, will a haulier be obliged to return drivers to one of the two locations even if the driver expresses his/her will to remain on a posting for a longer period of time or chooses to take his/her rest in any other (third) alternative location? What consequences such situations entail?
3. What kind of document or other proof the employer must foresee to demonstrate the choice of the driver (in case he would choose not to return, for example)?



Clarity and homogeneity of Single Market rules and their application are key to the European transport sector competitiveness, all the more in the recovery from the present crisis. The Single Market needs to be restored and further developed with full legal certainty, which is equally essential for businesses and national authorities enforcing rules. We would therefore appreciate if the European Commission could clarify the questions above as well as share any of its plans to provide further guidance on harmonized application of the Mobility Package I ahead of its swift entry into force.

BusinessEurope stands ready to discuss these matters further.

Yours sincerely,

Markus J. Beyrer