

ESTA Position Paper in response to the Commission consultation on the White Paper on professional cross border transportation of Euro cash by road between Member States in the Euro Area



Introduction

ESTA welcomes the indication by the Commission that the proposed initiative will not be followed by any further Commission harmonization initiative under Article 38b) of Directive 2006/123/EC on services in the internal market.

ESTA recalls that it was supportive of the Services directives which provided for a derogation to the country of origin principle for Cash-in-Transit activities. ESTA believes that the nature of the mission conducted by professional Cash-in-Transit operators and the risk associated to these activities make that EU Treaty rules on cross border provision of services cannot apply as such to the industry.

The White Paper of the Commission recognizes this point when it says that “*the industry is exposed to serious security threats and the nature and level of the risks may be very different between Member States*”.

ESTA’s position has always been that the security of CIT staffs and of the general public is of paramount importance. National rules reflect the nature and level of risks and are tailored to their specific nature in each Member State.

In responding to the White Paper, ESTA would like to recall two overarching principles which are the underlying foundations of the security requirements under which the industry operates:

- No operation should be allowed on the basis of the proposed EU common rules in any Member State in a way which would undermine the effective security of CIT missions compared to domestic rules;
- The EU common rules to be put in place should not provide the possibility of circumventing domestic rules in a way which would affect the security of staff and of the public and affect the level playing field within the industry.

ESTA acknowledges that the European Court of Justice (ECJ) has ruled that private security was a service activity in the meaning of Article 49 of the Treaty and was therefore subject to EU treaty rules. However, ECJ ruling so far concern more typical security services such as man guarding or access to the profession. In view of the nature of the goods transported, CIT is a much more exposed activity with a stronger relevance to public security. ESTA therefore considers that the ECJ rulings so far on private security are not all relevant to CIT.

With these general principles in mind, ESTA would like to express the following comments on the Commission White Paper.

Scope of the EU common rules for cross border CIT

ESTA’s position is that the Regulation should only be used for cross border CIT operations and not allow any operator to use the EU cross border CIT regime to provide services in a Member State with a modus operandi and standards lower than those required for domestic operators in that Member State. This is essential as rules put in place in Member States are designed to address specific risk situations.

The essence of *cabotage* is to put the proposed EU cross border regime in competition with domestic rules. As experience shows that criminal organizations will systematically exploit any weakness in the security, neither the Commission nor Member States should allow a two-tier system to be put in place,



where common rules would weaken the security of all operations, whether under the common rules or under the domestic license.

ESTA recognizes that no one license allows to match all specific domestic risk situations and that aligning the EU common rules on the highest level is not a workable solution. The question is therefore to consider that the proposed EU cross border regime should be limited to point-to-point cross border operations, and allow cabotage only under the rule of the country where the service is provided.

ESTA therefore calls for the application of the “principle of precaution” in the area of CIT in order to avoid the emergence of potentially risky situations under the EU cross border license which would not otherwise be possible under the domestic license/rules.

In addition, the limitation of the scope of the common rules to cross border point-to-point would prevent any circumvention of domestic legislation applying to CIT operations. ESTA considers that this is essential because of the very competitive environment of the industry, where non compliance to security rules can provide a very significant competitive advantage at the detriment of the security of staff and of the general public.

Definition of CIT operations under the common rules

ESTA supports the definition based on “intraday” and “day time” operations: however the only derogation to the characteristics of cross border CIT operations related to intraday and day time provisions in the CIT regulation should be for point-to-point operations, for which night time operation should be possible where they are allowed under the domestic rules. ESTA recalls that it considers that most of the difficulties related of cross border CIT concerns *cabotage*, not point-to-point, and the Commission may want to take this into consideration when drafting the forthcoming Regulation.

The importance of the notion of return in the definition of the country of origin.

ESTA supports the addition of the notion of “return” in the same Member State in the definition of country of origin. This is essential to reduce the risk of circumvention of Member States’ legislation for operations outside the scope of the Regulation, which may be claimed as coming under the EU cross border CIT regime.

Language skills requirements

ESTA welcomes the fact that the Commission proposes the alternative between on board language skills and language skills in the control center available through permanent radio contact. However for security reasons, ESTA would recommend that all crew members should have A1 proficiency level in the language of the country crossed or visited so that each crew can be able to communicate effectively with the authorities at any time (e.g. when the colleague is delivering the cash outside the vehicle). B1 language skill should be required from at least one staff in the control center available by permanent radio contact.

IBNS

ESTA supports that the regulation does not provide for the obligation to use them in countries where they are not compulsory. ESTA would like to draw the attention on the fact that one of the key issues which remains to be addressed is that of the legal tender of stained bank notes, stained notes should be made illegal tender as they may be recycled through vending/exchange machines or accepted by unscrupulous operators.

Type of transport proposed

ESTA recalls the principle mentioned in the introduction to this response to the Commission consultation that no type of transport of lower standards than those compulsory in the Member State where the CIT operation takes place should be allowed.



ESTA considers that Member States should have the possibility to prohibit any of the four types of transport proposed by the Commission under section 2 A, B, C and D of the annex, and not just for the first type of transport described under section 2 A.

ESTA recalls its position that no cross border transport in “soft skin” vehicle, without end-to-end IBNS, should be allowed and that all vehicles should be clearly marked as CIT operators. The specification of the armoring of vehicle under section 2 B) d) (EN 1522, Class FB4+) should be required for the entire vehicle under this type of transport, not just the cabin. As a consequence, ESTA calls for a change in Section 2 A to allow for fully armored vehicles only.

All crews should wear uniforms and display a clearly visible identification badge or document that certifies that they are employed by a CIT company.

Weapons

There is currently no EU firearm pass for CIT operators. Weapons should however be carried wherever they are authorized by Member States legislation (i.e. not only where they are mandatory) and requested by Collective Labor Agreements.

Bullet proof jackets should also be compulsory under the EU cross border license in all circumstances when fully or partially armored vehicles are used.

Eligibility to the EU cross border CIT license

ESTA maintains its position that the 12 month period referred to for countries which have no domestic licensing scheme is not enough to guarantee the professionalism and security of the operation. The period should be of a minimum of 24 or even 36 months.

Training

The content of training should be left to agreement between the social partners.

Temporary security measures

The extension of a further 4 weeks proposed in the White Paper should not be subject to approval by the Commission as it may be incompatible with the need for urgency which justifies their extension by the Member State.

Penalties

ESTA calls for the Commission to allow the authorities of the Member State(s) crossed or visited to impose sanctions to CIT operators not complying with the common rules for cross border operations, such as police information or cross pavement rules.

Social conditions and collective agreements

ESTA shares the Commission’s view that the social rules applying to cross border CIT, particularly under the Posted Workers Directive (Directive 96/71) are not straightforward and that this will require clarification. ESTA calls for this clarification to be made before the EU cross border license is put in place as the level playing field within the CIT industry, like any labor intensive activity, is very much affected by the social environment and the compliance thereof. When doing this, the Commission should keep in mind that:

- Social dialogue, in some countries, is very sensitive and the Commission initiative could prove to be very disrupting. It is important that the Commission initiative does not jeopardize what has been achieved in some MS, if the cross border regime would be seen as altering the social conditions put in place in these countries.



- ESTA considers that it is imperative that clear rules are defined to secure a level playing field across the Euro zone (and other Member States which may opt in) as well as securing legal certainty so that all operators abide by the same rules. We think that the Commission Regulation should be more specific on the rules that will apply to terms and conditions of crew operating in other Member State(s). This is an essential safety net against social dumping and circumvention of domestic rules. This also applies to rules such as working time and compulsory rest periods etc.

ESTA considers that the rules for point-to-point are fairly straightforward; however the introduction of *cabotage* in the proposal raises a number of practical and legal complications which have not yet been thoroughly assessed. ESTA considers that, in view of the highly competitive environment of CIT, it is essential that legal certainty prevails in all circumstances as a condition to secure compliance and level playing field across the industry.

No rules should be proposed which compliance can't be ensured

We strongly support the addition of random controls to assess compliance. These controls should be comprehensive; however there may be a risk that the impact of these controls may be undermined if the competent authorities of the host country have no other alternative than report infringements to the granting authorities of the home country or suspend temporarily the operations which is only possible for very specific infringements and for a period of no more than one month.

These controls may however not be enough. As mentioned above, the CIT industry is a very competitive industry where compliance with rules has a major impact on level playing field within the industry. In other words, non-compliers would gain a substantial competitive advantage over those who comply with rules. Therefore, the incentive for non compliance for less scrupulous operators would be strong.

ESTA supports the principle that the authorities of the Member State(s) crossed or visited should be able to impose sanctions to infringers (see above). However, as it will be very difficult to control compliance of all operators to the rules, ESTA considers that the principles of better legislation should make the legislator wary of adopting legislation which implementation cannot be easily controlled.

As a consequence, ESTA calls for rules which cannot be effectively controlled and which compliance is an essential factor of the industry level playing field to be taken out of the forthcoming Regulation.

About ESTA

The **European Security Transport Association** is a non profit Association established in Brussels since 1975.

We represent the common interests of secure logistics throughout Europe and 90% of the European **Cash in Transit (CIT) Industry**. Our main objective is to define and promote our members' joint positions on particular European policy aspects, with a view to increase the overall quality of the industry.

Our Effective members are:

Effective Members are CIT/Cash Logistics companies.



ANDORRA

[Securiser S.A.](#)

AUSTRIA

[Post Wertlogistik GmbH](#)
[Loomis Österreich GmbH](#)

BELGIUM

[Brink's Belgium S.A.](#)
[G4S Cash Services \(Belgium\) S.A.](#)

BULGARIA

[G4S Security Services Bulgaria](#)
[VIP Security Ltd](#)

CZECH REPUBLIC

[G4S Cash Services \(CZ\), a.s.](#)

CYPRUS

[G4S Security Services Ltd.](#)

DENMARK

[Dansk Vaerdihandtering A/S](#)
[Loomis Danmark A/S](#)

ESTONIA

[AS G4S Sularahakeskus](#)

FINLAND

[Loomis Suomi Oy](#)
[G4S Cash Services \(Finland\) Oy](#)

FRANCE

[Brink's S.A.](#)
[Loomis France S.A.](#)
[Prosegur S.A.](#)

GERMANY

[Brink's Deutschland GmbH](#)
[KÖTTER Geld- und Wertdienste GmbH & Co. KG](#)

GREECE

[Brinks-Hermes S.A.](#)
[G4S Cash Services S.A.](#)
[Pyrsos Security S.A.](#)

GUADELOUPE ISLAND

[Brink's Antilles-Guyane](#)

HUNGARY

[Brink's C.L. Hungaria, Rt.](#)
[G4S Cash Logistics Kft.](#)

IRELAND

[Brink's Ireland Limited](#)
[G4S Cash Service \(Ireland\) Ltd.](#)

ITALY

[Battistolli Group](#)
[Fidelitas S.p.A.](#)
[Fitist Security S.r.l.](#)
[Italpol Group S.p.A.](#)
[Ivri Direzione SpA](#)
[Mondialpol Milano S.p.A.](#)
[North East Services S.p.A.](#)
[Safe S.p.A.](#)
[Vigilanza Vedetta 2 S.R.L.](#)

LA REUNION ISLAND

[Brink's Réunion](#)

LATVIA

[JSC G4S Cash Services](#)

LITHUANIA

[UAB G4S Lietuva](#)

LUXEMBOURG

[Brink's Luxembourg S.A.](#)
[G4S Security Services S.A.](#)

MALTA

[G4S Security Services \(Malta\) Ltd.](#)

NETHERLANDS

[Brink's Nederland B.V.](#)
[G4S Cash Services B.V.](#)

NORWAY

[Loomis Norge AS](#)
[Vakt Service AS](#)

POLAND

[Brink's C.L. Polska Sp. Zo.o.](#)
[G4S Cash Services Sp. z o.o.](#)

PORTUGAL

[Loomis Portugal, S.A.](#)
[Prosegur Lda.](#)

ROMANIA

[ROSEGUR S.A.](#)
[S.C. G4S Cash Services Srl](#)

SERBIA

[G4S Security Services](#)

SLOVAK REPUBLIC

[G4S Security Services \(SK\), a.s.](#)
[Loomis Slovensko s.r.o.](#)

SLOVENIA

[Group 4 Securitas d.o.o.](#)
[Loomis SIS d.o.o.](#)

SPAIN

[Prosegur S.A.](#)
[Loomis Spain, S.A](#)

SWEDEN

[G4S Cash Services AB](#)
[Loomis Sverige AB](#)

SWITZERLAND

[Brink's Switzerland Ltd.](#)
[Mat Securitas Express AG](#)
[La Poste Suisse](#)
[Loomis Schweiz S.A.](#)

UNITED KINGDOM

[Brink's Limited](#)
[G4S Cash Services Ltd.](#)
[G4S Security Services \(Isle of Man\) Ltd.](#)
[G4S Security Services \(Jersey\) Ltd](#)
[G4S Security Services \(Guernsey\) Limited](#)
[Loomis UK Limited](#)
[Security Plus + Limited](#)