

The Identification Problem of Letterbox Transport Companies in the Slovak Republic

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Abstract The letterbox companies are a major concern of many interested parties because they can create unfair competition and potentially undermine legitimate businesses by avoiding costs other than social contributions and taxes. Therefore, to ensure that carriers are equal and eliminate unfair competition, the need to improve the checking of letterbox transport companies is essential. The paper deals with the issue of more effective provision of inspections of letterbox transport companies within the Slovak Republic. Based on the analysis of the current situation in the Slovak Republic and based on the research carried out in relation to the existence of letterbox transport companies, the paper deals with the proposals related to their prevention and subsequent determination of the procedure for their checking.

Keywords road transport, carrier, check, letterbox company

JEL R48, H40

1. Introduction

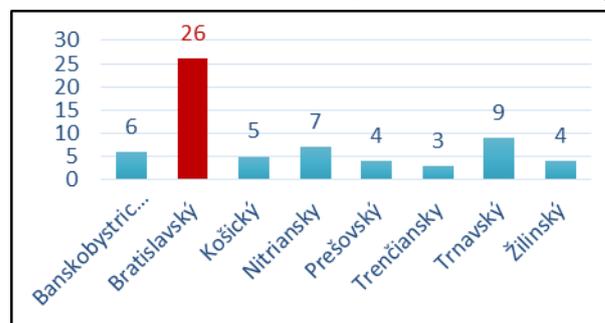
Many Member States do not have a definition of what is, by law, a "real" company. While labor inspectorates can identify and address illegal work practices, to test the wider issue of corporate authenticity, they usually do not have the means or powers. It is quite challenging to identify the distribution and scope of letterbox companies across the EU [5] [10]. A key benefit of defining a letterbox companies within EU Member States is facilitating the tracking and resolution process. The legal definition would also benefit the inspectorates, who would be able to obtain a mandate to declare an illegal letterbox companies and to withdraw it from the market [1] [11]. The need to checking letterbox companies is essential, to ensure equal status of carriers and to eliminate unfair competition, in the form of so-called letterbox transport companies. The control authorities must be able to check whether the company is established or not for real reasons or tries to create an artificial arrangement to avoid tax and social obligations [4]. In this case, the company should not receive the necessary certificate it needs to complete the activity in question [3] [6].

2. Research of Letterbox Transport Companies in the Slovak Republic

Letterbox transport companies represent a relatively significant problem in the Slovak Republic, as mentioned earlier, is among the countries that are often used by European carriers to set up this type of company [5]. Because of this issue, the detection rate of letterbox transport companies within the Slovak Republic was determined. A potential

indicator to assess the requirements of Regulation 1071/2009 in relation to a true and stable place of establishment is the number of transport companies located at the same address [2]. Based on the national electronic register of road transport operators available on the JISCD portal, a database of road haulers was prepared for all regions of the SR which subsequently served as a basis for the concentration of road transport companies same city and then at the same address.

From the point of view of comparison of individual regions (Fig. 1), the Bratislava Region has the highest number of road haulage companies at the same address. For this reason, the Bratislava Region was selected for closer examination of individual addresses, with the highest number of transport companies based on one address being in the capital at Hraničná 18 and Pluhová 2 (Fig.2). Based on the data from the Commercial Register, up to 110 companies registered at Hraničná 18 were found, out of which the transport



companies are 26.

Figure 1. The highest number of transport companies registered per address in the respective regions of the SR

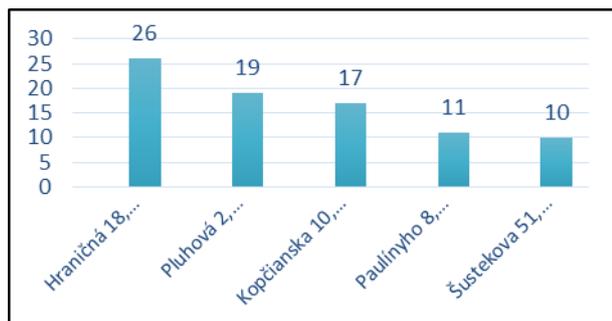


Figure 2. Number of transport companies registered at one address in the Bratislava Region

3. Checking letterbox transport companies within the Slovak Republic

Act no. 56/2012 Coll. on Road Transport regulates the so-called professional oversight that respects the law and takes responsibility for any shortcomings. In particular, professional supervision is the control of road transport operators, whether they operate road transport in accordance with this law, special regulations and international treaties governing the operation of road transport, equipment and technical competence of the vehicles operated and the technical base of carriers, drivers and other crew members and safety advisors in the transport of dangerous goods, carriers, consignors, consignees and other persons in the transport of dangerous goods. Professional surveillance is carried out by road, vehicle and technical inspections of the persons inspected [8] [9]. The professional supervision is carried out by the Ministry of Transport and Construction of the Slovak Republic, district offices in the headquarters of the region, VÚC, municipalities, police corps and customs authorities.

As far as the control of the so-called. In the Slovak Republic, the Inspectorate of Labor and the Department of State Supervision and Supervision of the Ministry of Transport of the Slovak Republic, whose role in connection with mailbox companies is:

- Perform professional supervision according to Act no. 56/2012 Coll. - international transport, transport to and from other countries, and cabotage transport on the territory of the Slovak Republic, including the transport of dangerous goods, and check that the legal requirements underlying the issuance of Community licenses, licenses, concessions, vehicle certificates taxi, driver's license and driver attestation and in the carriage of dangerous goods by carriers, consignors, consignees and other parties to the transport of dangerous goods conditions laid down by this Act and the ADR Agreement.

- To manage, supervise and direct the performance of professional supervision carried out by district offices in the Region's registered office pursuant to Act no. 56/2012 Coll.

The European Commission sends a request to the Permanent Representation of the Slovak Republic to the Euro-

pean Union to carry out appropriate checks on companies based in the Czech Republic. mailbox companies. These are checks in connection with Article 12 (3) of Regulation (EC) No 1782/2003 of the European Parliament and of the Council. 1071/2009. To comply with the above requirement, the statutory responsibilities are defined and distributed to the competent control authorities as follows:

- District Authorities to carry out professional supervision of the relevant carriers pursuant to Act no. 56/2012 Coll. in cooperation with the Ministry of Transport and Construction of the Slovak Republic.

- Labor Inspectorate to ensure control of transport undertakings to determine whether there is evidence of driving and rest data for selected carriers in the areas concerned (Article 5 (a) of Regulation (EC) No 847/96). 1071/2009).

Based on the request sent by the EU in 2014 to the Permanent Representation of the Slovak Republic to the European Union to carry out appropriate inspections of companies based in Bratislava, a list of companies in which the controls in question were carried out was drawn up. The above-mentioned professional oversight of letterbox companies check was focused on:

- verification of the requirement of a real and stable place of establishment of the carrier, pursuant to § 6 para. 2 of Act no. 56/2012 Coll. and pursuant to Article 3 (1a) and Article 5 of Regulation (EC) No 1782/2003 of the European Parliament and of the Council 1071/2009;

- verification of the security of the carrier's technical base, pursuant to Section 7 a) c) and e) of Act no. 56/2012 Coll. and § 6 of Decree no. 124/2012 Coll. implementing Act no. 56/2012 Coll.;

- verifying the integrity of the statutory body and the transport manager, pursuant to § 6 par. 3 and 4 of Act no. 56/2012 Coll. and pursuant to Article 3 (1a) (1b) Regulation (EC) No 1782/2003. 1071/2009;

- verifying the financial reliability of the road transport operator's company, stating the number of vehicles pursuant to § 6 par. 5 of Act no. 56/2012 Coll. and pursuant to Article 3 (1a) (1c) and Article 7 (2). 1 of Regulation (EC) No 1782/2003. 1071/2009;

- verifying the professional competence of the transport manager and the legal relationship between the undertaking and the transport manager pursuant to § 6 para. 11 of Act no. 56/2012 Coll. and pursuant to Article 3 (1a) (1d) and Article 8 of Regulation (EC) No 1782/2003. 1071/2009.

Labor inspectors continued to focus on:

- evaluating files downloaded from driver cards;
- consistency of data recorded in technical inspections.

The professional supervision was carried out on all companies according to a list based on a letter from the European Commission. A total of 126 companies were inspected, of which 34 were found to be deficient. Based on the deficiencies found, the authorizations to pursue the occupation of road haulage operator were withdrawn.

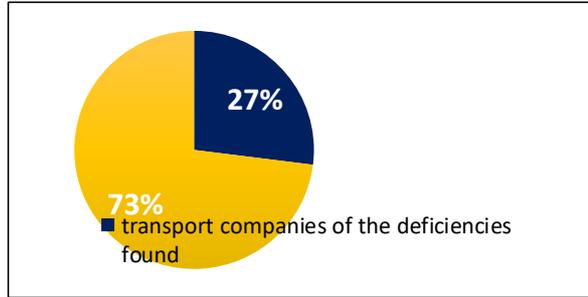


Figure 3. Checking of companies based in Bratislava for 2014 - 2017

Table 1. Results of professional supervision in transport companies based in Bratislava based on a letter from the European Commission

| Year | Number of checks | Without deficiencies | With deficiencies | Deficiencies detected | Sanctions |
|------|------------------|----------------------|-------------------|---|---|
| 2014 | 42 | 31 | 11 | Failure to meet the requirement of a real and stable place of establishment carriers. | Withdrawal of authorization to pursue the occupation of road haulage operator |
| 2015 | 34 | 23 | 11 | | |
| 2016 | 36 | 28 | 8 | Failure to meet professional qualifications | |
| 2017 | 14 | 10 | 4 | | |

3.1 Suggestion of control of letterbox transport companies in Slovakia

1. Does the company have a VAT number?

In relation to the letterbox transport company, it is necessary to verify that the legal entity has a real economic link with the country in which it was established. While tax investigations focused primarily on corporate tax reassessment in the past, the decision of the Court of Justice of the European Union pointed out that the lack of a real economic presence may also have significant VAT implications. The controllers use the Financial Report Database to determine if the company has a VAT number. If the controllers verify that the company is assigned a VAT number in Slovakia, the point is not further investigated [7]. If the company is assigned a VAT number in another Member State, the controllers further verify through the European Commission database that the number is valid and then why it is in another Member State when the transport company is located in

Slovakia.

2. Is the billing address also the address of the company?

When checking billing address, it need to focus on whether their billing address is in Slovakia or another Member State. If the controllers verify that the billing address is in Slovakia, the point is not further investigated. If it is found that the billing address is in another Member State, there is a suspicion that it may be a letterbox transport company and further requirements need to be explored related to the control of actual operations. If they find that the billing address is in another Member State, there is a suspicion that it may be a letterbox transport company and further requirements need to be explored related to the control of actual operations.

3. Do the staffs work in this company?

In the case of this requirement, it is no possible to check the firm through databases, but a physical check is required. As part of the inspection, inspectors verify that the drivers are in fact managed by the company and whether they work from the country of employment. If the inspectors find out that, the employees are really managed by company and they carry out their work from an address that is listed, as the seat of the transport company also in the register of carriers (www.jiscd.sk) the point is not further investigated. If the control reveals that it is not possible to manage employees (drivers) from that address, a letterbox transport company is suspected and they find out the actual place of management of the employees or their place of work. In this case, it is proposed to check:

- Who signed the employment contracts (does the name of the company owner agree with the name listed in the register or is it another foreign person?)
- Where employment contracts were signed (signed in Slovakia or in another state?)
- Who sends instructions to drivers (dispatcher from Slovakia or dispatcher from another country?)

4. Are trucks registered in the establishment?

In the case of letterbox transport company, it is often the case, that registered vehicles do not park at the address listed, but in a country that established this branch in Slovakia. For this reason, it is important to check the actual place of establishment. If the registered vehicles of the controlled company are located in the establishment or at the company's technical base, the point is not further investigated. However, if the company cannot prove this fact, it is necessary to examine why registered vehicles in the establishment are not located or why they are located in another Member State when the registered office is in Slovakia.

5. Is there a logical relationship between the size of the parking area and the number of trucks?

According to Act no. 56/2012 Coll. on road transport, in the context of the requirement to pursue the occupation of road transport operator in Slovakia, the transport company must have a technical base. First, the inspectors check that the company has a parking space. If the company does not have any parking space, there is a suspicion that it is a let-

terbox transport company. If they verify that the company has a parking area, in pursuance of the number of vehicles and the size of the parking area in m², they assess whether the actual area allows parking of a particular number of vehicles of the given company. If the company also meets this requirement, they check third point whether a given parking space address belongs to only one company or several transport companies. At present, the supervisory authority verifies this requirement when inspecting it when it is suspected that it is a letterbox transport company but not in a sufficient manner. The issue is listed in the following example: Company A has a parking space for 10 trucks. The controller verifies that the size of the parking area and the number of trucks is in order. Company B demonstrates that it has a parking space available for 9 trucks, while also meeting the requirement. The problem arises when the A and B company's parking space is the same area at the same address, and in reality it should provide space for 19 trucks. However, such a link is not subject to control.

6. Is there a logical relationship between the number of operating vehicles / staffs and the need for a transport manager in the area?

The controllers verify the presence of the transport manager or other executives directly at the place of the company. If it is confirmed that the transport manager is actually and continuously managing the transport activities of the undertaking, the point is not further investigated. If the transport manager is not in the transport company, then the reason for the absence must be ascertained. If such information is not provided to the controllers and it is not possible to contact the transport manager, it is necessary to examine the additional control requirements for a stable and actual place of establishment. There is a suspicion that this is a letterbox transport company.

7. Is there a relationship between the size of the company and the number of trucks?

Controllers verify the link between company size (number of employees) and number of trucks. They find out whether number of employees is real to service a given number of vehicles, as letterbox transport companies often employ more employees, while the number of trucks is considerably lower.

8. Are the company basic data such as consignment notes CMR, contracts, travel time information available on request?

As part of the inspection, controllers request consignment notes CMR, work mode data or other documents proving that the company carries out really transport activities. The regulation should also clarify that a firm that only records wage records or lifts the phone is insufficient. In addition, the company must carry out actual transport operations. In the case if the firm carries out really transport operations can it be regarded for a company with an efficient and stable establishment in the Member State.

9. Are there any facilities for staff?

Controllers check whether on the company's address is

technical equipment for the management of the transport company (hardware and software) and social facilities for employees (toilets, showers). If they are not located at the company, there is a suspicion that it is a letterbox transport company and other requirements for the actual place of establishment must be investigated.

4. Conclusion

Letterbox transport companies have a major negative impact on other companies, especially because of the cost advantage they have against competing carriers who conduct business in accordance with the law. In order to guarantee equal status for carriers and to eliminate unfair competition, it is essential to improve the control of letterbox transport company. Some authorities emphasize the complexity of these controls and the lack of administrative capacity to control all road transport companies registered in that Member State [12]. A uniform and horizontal definition of letterbox transport company and real company would help to distinguish between companies that are artificially created (letterbox transport companies) and companies with real activities. Such a definition is lacking in the regulatory framework in all Member States. The legal definition would also benefit for the inspectorates, who would be able to obtain a mandate to declare an illegal letterbox transport company and they would withdraw it from the market. In connection with the issues of letterbox transport companies, it is also necessary to provide more efficient controls of these companies within the SR, performed by the District Authorities in the Region's headquarters. A number of transport licenses issued to the same address could serve as the reason for the check.

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