

Road transport: conditions to be complied with to pursue the occupation of road transport operator

2007/0098(COD) - 12/01/2009 - Commission communication on Council's position

The Council adopted its common position by qualified majority. The Commission considers that the common position reflects the main objectives of its proposal and can therefore support it.

Two elements were central during the discussions in the Council. They concern: 1) the procedure the competent authorities have to follow in case of infringements classified as "most serious infringements" and which are included in a new Annex III and 2) the electronic register that Member States have to establish, its architecture and content as well as the time limits for the interconnection and the introducing of data.

The common position includes many of the amendments of the European Parliaments first reading which were considered acceptable by the Commission. Other amendments are included in part or with different deadlines. The following provisions are also already integrated in the common position:

- the definition of the link between the transport manager and the undertaking and the request that the manager is resident in the EU;
- concerning the external manager: the common position takes over the idea to give the possibility for Member States to allow a total fleet of 50 vehicles per external manager and to lower this figure, but not the possibility not to introduce such a limitation; the common position also reformulates the condition of the independence of the external manager;
- the procedure consecutive to the most serious infringements as set out in Annex III: the common position foresees a similar procedure, but does not include deadlines as proposed by the Parliament on the adoption of the list of infringements, nor the comitology procedure for the adaptation of Annex III;
- the possibility for Member States to exempt persons with a certain experience from the exam; however the common position requests a higher number of years of experience (15 years);
- the Annex III (amendment 104) on the most serious infringements in an adapted version;
- the approach to adapt the periodicity of checks of undertakings to technical progress; however, the common position proposes to target checks on undertakings posing an increased risk from 2015 on; until then a check has to take place every five years.

Concerning **the register**, Parliament and Council supported the establishment and the interconnection of electronic registers on road transport undertakings in a stepwise approach, but proposed different timetables.

In addition to the Commission proposal, both the first reading and the common position give the possibility to create a separate register on the infringements and the transport managers who are declared unfit to manage an undertaking. According to the common position, these managers should remain not only 2 years in the registers, but as long as the good repute is not re-established.

The Parliament proposed in its first reading to have a public and a private section of the register, the latter being only accessible to competent authorities under special conditions (endowed with specific powers in the road transport sphere and sworn officials). The Parliament proposes further that a register on transport managers should be created. These proposals were not integrated in the common position.

While the first reading of the Parliament requests in addition the inclusion in the register of the vehicle registration marks of vehicles operated outside the Member State of establishment, the common position states that the Commission may give in 2009 a recommendation on the inclusion of vehicle registration marks. This last provision was part of the final compromise in the Council negotiations.

Furthermore, the common position has not integrated the following provisions which could have been acceptable or acceptable in principle for the Commission:

- a stricter scope for the exception for the non-commercial transport of passengers from the regulation;
- the reference to secure data supports as a condition relating to the requirement as to establishment;
- the request to adapt the exchange rate for currencies yearly instead of every 5 years;
- the request that the criteria for the accreditation of the bodies for the training and the examination of transport manager applicants are mutually compatible;
- the possibility for Member States to promote regular training for transport managers;
- the request that the competent authority is responsible for updating and maintaining the electronic registers;
- the shortening of the time limits for an undertaking to demonstrate that it has an effective and stable establishment;
- the proposal that Member States inform the Commission about the certificates they recognise as proof of professional competence;
- the reformulation of the reference to the "regulatory procedure with scrutiny and curtailed time limits"; the common position removes this procedure.