

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

2007/0098(COD) - 23/04/2009 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution modifying, under the second reading of the codecision procedure, the Council common position for adopting a regulation of the European Parliament and of the Council on establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC.

The amendments were the result of a compromise negotiated with the Council.

The main amendments are as follows;

Derogations: Parliament deleted the words “free of charge” from the derogations for certain kinds of undertaking engaged in non-commercial services.

Requirement as to establishment: undertakings must have an establishment situated in that Member State with premises in which it keeps its **core business**. They must conduct effectively and continuously with the necessary administrative equipment its operations concerning vehicles and with the appropriate technical equipment and facilities at an operating centre situated in that Member State.

Requirement as to good repute: this must include no convictions or penalties for trafficking in human beings or drugs.

Requirement as to financial standing: the value of the euro in non-euro Member States must be fixed every year, rather than every 5 years. Financial standing may be demonstrated by means by means of a certificate such as a bank guarantee or insurance. Parliament deleted the derogation that stipulated that Member States may decide that the guarantee may be called in with the agreement of the competent authority which authorised the pursuit of the occupation of road transport operator.

Requirement as to professional competence: the persons concerned shall sit the examination in the Member State in which they have their normal residence or the Member State in which they work. Normal residence shall mean the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in two or more Member States shall be regarded as being in the place of his personal ties, provided that such person returns there regularly. This last condition shall not be required where the person is living in a Member State in order to carry out a task of a definite duration. Attendance at a university or school shall not imply transfer of normal residence.

Parliament adds that Member States may promote periodic training on the subjects listed in Annex I at 10-year intervals to ensure that transport managers are aware of developments in the sector.

Lastly, Member States may require that persons who possess a certificate of professional competence but who have not managed a road haulage undertaking or a road passenger transport undertaking in the last 5

years, shall undertake a retraining in order to update their knowledge regarding the current developments of the legislation referred to in Annex I.

Exemption from examination: this applies to persons who have continually managed an undertaking for 10 years (rather than 15).

Registers: Members state that by 31 December 2009, the Commission shall adopt a Decision (rather than issue guidelines) on minimum requirements for the data to be entered in the national electronic register from the date of its setting in order to facilitate the future interconnection of registers. It may recommend the inclusion of the **vehicle registration marks** in addition to the data referred to in the text. Certain data contained in the national electronic register should be made publicly accessible, insofar as the relevant provisions on data protection are complied with.

Protection of data: undertakings must comply, where applicable, with the respective provisions.