

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

2007/0098(COD) - 12/09/2007 - Document attached to the procedure

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the Proposal for a Regulation of the European Parliament and of the Council establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator.

The Commission sent the aforementioned proposal for a Regulation to the EDPS for consultation, which was received on 29 May 2007. An updated version of the proposal was received on 6 July 2007.

The aim of the proposal is to replace Council Directive 96/26/EC on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations. It takes over several provisions of the Directive and contains some new elements. In particular, it introduces electronic registers interconnected between all Member States, facilitating the exchange of information between Member States, as well as an obligation for the authorities to warn the operator where they discover that a transport operator no longer satisfies the conditions on good repute, financial standings or professional competence. The proposal thus includes elements requiring the processing of personal data.

The EDPS suggests that the Community legislator specify the situations Article 6(1)(a) - which provides that Member States shall ensure that undertakings satisfy the requirement that there are no compelling grounds for doubting their good repute - aims to cover. He also suggests modifying the proposal in order to lay down at least the main elements of the list of categories, types and degrees of seriousness of infringements and the frequency of occurrence beyond which repeated minor infringements shall lead to the loss of good repute, mentioned in Article 6(2), in a more precise way.

Moreover, the EDPS welcomes the central role of the competent authorities which also gives them responsibilities for the processing of personal data, as a necessary element of their activities. In this context, the EDPS noted some ambiguities in the proposal which can be easily solved without changing anything in the system itself.

The EDPS also welcomes that the access to and purpose of the national electronic registers are clearly limited, as well as that the storage period is limited to a fixed period of two years. However, the text should also ensure that the data concerning persons declared to be unfit for the occupation shall be removed from the register immediately after a rehabilitation measure has been taken.

In addition, the responsibility for the keeping of the electronic register and for the processing of the data within the register should be clarified in the text of the regulation. As far as the interconnection of the national electronic registers is concerned, the following sentence should be added to Article 15(5): 'These common rules should lay down which authority is responsible for the access, the further use and the keeping up to date of the data after access and should include to this effect rules on logging and monitoring of the data.'

Lastly, the EDPS suggests that Article 16 on data protection be rewritten, taking into account the needs for:

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clarification that the more specific provisions of Directive 95/46/EC fully apply to requests of the data subjects relating to information about him or her within the scope of the proposal;

- added value which means specifying the rights included in the Directive, for instance, by clarifying which authority is responsible for providing information, by prescribing a certain format for the implementation of the rights of the data subject, and by specifying further modalities of the right to object;
- striking the words ‘for the authority responsible for processing the data’, in relation to the excessive delay or cost as a result of an application for access.