

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

2007/0098(COD) - 21/10/2009 - Final act

PURPOSE: to lay down rules on the occupation of road transport operator.

LEGISLATIVE ACT: Regulation (EC) No 1071/2009 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 and repealing Council Directive 96/26/EC.

CONTENT: the Council adopted three regulations that seek to modernise, replace and merge provisions governing road transport operators and access to the road transport markets, following a second reading agreement with the European Parliament under the codecision procedure. These regulations concern:

- [access to the international road haulage market](#);
- [on access to the international market of coach and bus services](#);
- admission to the occupation of road transport operator.

Council Directive 96/26/EC laid down minimum conditions governing admission to the occupation of road transport operator and the mutual recognition of the documents required in this connection. However, experience, an impact assessment and various studies showed that that Directive was being applied inconsistently by Member States. Such disparities had several adverse consequences, in particular a distortion of competition and a lack of market transparency and of uniform monitoring, as well as the risk that undertakings employing staff with a low level of professional qualification may be negligent in respect of, or less compliant with, the rules on road safety and social welfare, which may harm the image of the sector. These consequences were all the more detrimental as they are liable to disturb the smooth functioning of the internal market in road transport, since the market in the transport of international goods and certain cabotage operations is accessible to undertakings throughout the Community.

This Regulation modernises the existing rules on admission to the occupation of road transport operator in order to ensure that those rules are applied more uniformly and effectively. It governs admission to, and the pursuit of, the occupation of road transport operator. Companies intending to carry out transport operations have to designate a "transport manager" who must provide proof of high-quality professional competence (140 hours of training and an examination). This person has to manage effectively and continuously the transport activities of an undertaking. In order to combat the phenomenon of "letter-box companies", transport undertakings must have an office and an operating centre at the Member State of establishment. Member States must cooperate in the task of monitoring undertakings operating in several Member States. For this purpose, the national competent authorities must set up and interconnect electronic registers containing infringements and penalties imposed to transport companies and transport managers.

The new rules replace directive 96/26 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.

The key points are as follows:

Requirements for engagement in the occupation of road transport operator: undertakings engaged in the occupation of road transport operator shall:

- **have an effective and stable establishment in a Member State:** an undertaking must have an establishment situated in the Member State concerned with premises in which it keeps its core business documents, in particular its accounting documents, personnel management documents, documents containing data relating to driving time and rest and any other document to which the competent authority must have access in order to verify compliance with the conditions laid down in the Regulation;
- **be of good repute:** the Regulation notes that the good repute of transport managers is conditional on their not having been convicted of a serious criminal offence or not having incurred a penalty, for a serious infringement, in particular, of Community rules relating to road transport. A conviction or penalty incurred by a transport manager or a road transport undertaking in one or more Member States for the most serious infringements of Community rules should result in the loss of good repute provided that the competent authority has ascertained that a duly completed and documented investigation procedure granting essential procedural rights took place before its final decision and that appropriate rights of appeal were respected.
- **have appropriate financial standing:** the undertaking shall demonstrate, on the basis of annual accounts certified by an auditor, that, every year, it has at its disposal capital and reserves totalling at least EUR 9 000 when only one vehicle is used and EUR 5 000 for each additional vehicle used;
- **have the requisite professional competence:** applicants for the post of transport manager must possess high-quality professional knowledge. In order to ensure greater uniformity of examinations and to promote a high quality of training, Member States may authorise examination and training centres according to criteria to be defined by them. Transport managers must possess the requisite knowledge for managing both national and international transport operations. The list of subjects of which knowledge is required in order to obtain a certificate of professional competence and the procedures for the organisation of examinations are set out in the text. Member States may decide to exempt from the examination persons who provide proof that they have continuously managed a road haulage undertaking or a road passenger transport undertaking in one or more Member States for the period of 10 years before 4 December 2009.

National electronic registers: each Member State must keep a national electronic register of road transport undertakings. The data contained in that register shall be processed under the supervision of a public authority designated for that purpose. By 31 December 2009, the Commission shall adopt a Decision on minimum requirements for the data to be entered in the national electronic register from the date of its setting-up in order to facilitate the future interconnection of registers. National electronic registers must be interconnected and accessible throughout the Community through the national contact points. Accessibility through national contact points and interconnection shall be implemented by 31 December 2012 in such a way that a competent authority of any Member State is able to consult the national electronic register of any Member State.

ENTRY INTO FORCE: 04/12/2009.

APPLICATION: from 04/12/2011.