Access to the international road haulage market. Recast

2007/0099(COD) - 21/10/2009 - Final act

PURPOSE: to set out the rules on the international carriage of goods by road.

LEGISLATIVE ACT: Regulation (EC) No 1072/2009 of the European Parliament and of the Council on common rules for access to the international road haulage market.

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.

This Regulation on common rules for access to the international road haulage market seeks to simplify and harmonise further the current rules by consolidating and merging Regulations (EC) No 881/92, (EC) No 3118/93 and Directive 2006/94/EC on access to the road transport market.

The main objective is to eliminate legal uncertainty for Community hauliers and adapt legislation to market needs.

The main points of the Regulation are as follows:

Cabotage: the Regulation provides that any haulier for hire or reward who is a holder of a Community licence and whose driver, if he is a national of a third country, holds a driver attestation, shall be entitled, under the conditions laid down in the text, to carry out cabotage operations. Once the goods carried in the course of an incoming international carriage have been delivered, hauliers will be permitted to carry out up to three cabotage operations following the international carriage from another Member State or from a third country to the host Member State. The last unloading in the course of a cabotage operation before leaving the host Member State shall take place within 7 days from the last unloading in the host Member State in the course of the incoming international carriage. Hauliers may carry out some or all of these cabotage operations in any Member State under the condition that they are limited to one cabotage operation per Member State within 3 days of the unladen entry into the territory of that Member State.

Safeguard procedure: in the event of serious disturbance of the national transport market in a given geographical area due to, or aggravated by, cabotage, any Member State may refer the matter to the Commission with a view to the adoption of safeguard measures. It must provide the Commission with the necessary information and notify it of the measures it intends to take as regards resident hauliers. 'Serious disturbance of the national transport market in a given geographical area' is defined as the existence on the market of problems specific to it, such that there is a serious and potentially enduring excess of supply over demand, implying a threat to the financial stability and survival of a significant number of hauliers.

The Commission will examine the situation on the basis in particular of the relevant data and decide within 1 month of receipt of the Member State's request whether or not safeguard measures are necessary and shall adopt them if they are necessary. Such measures may involve the temporary exclusion of the area concerned from the scope of the Regulation.

Safeguard measures will remain in force for a period not exceeding 6 months, renewable once within the same limits of validity.

If the Commission decides to adopt safeguard measures concerning one or more Member States, the competent authorities of the Member States involved shall be required to take measures of equivalent scope in respect of resident hauliers. The Council may take a different decision from the Commission under conditions set out in the text.

Sanctioning of infringements by the Member State of establishment: rules on the withdrawal of the Community licence are clarified and strengthened. The Regulation provides that in the event of a serious infringement of **Community road transport legislation** committed in any Member State, the Member State of establishment of the haulier who has committed such infringement shall take the appropriate action which may include a warning, if provided for by national law, to pursue the matter which may lead, inter alia, to the imposition of the following administrative penalties: (a) temporary or permanent withdrawal of some or all of the certified true copies of the Community licence; (b) temporary or permanent withdrawal of the Community licence.

These penalties may be determined after the final decision on the matter has been taken and shall have regard to the seriousness of the infringement committed by the holder of the Community licence and to the total number of certified true copies of that licence that he holds in respect of international traffic.

In the event of a serious infringement regarding any **misuse whatsoever of driver attestations**, the Member State of establishment of the haulier who committed such infringement shall impose appropriate penalties, such as: (a) suspending the issue of driver attestations; (b) withdrawing driver attestations; (c) making the issue of driver attestations subject to additional conditions in order to prevent misuse; (d) withdrawing, temporarily or permanently, some or all of the certified true copies of the Community licence; (e) withdrawing, temporarily or permanently, the Community licence.

Member States should enter in their national electronic register of road transport undertakings all serious infringements committed by hauliers which have led to the imposition of a penalty.

Report: the Commission shall draw up a report on the state of the Community road transport market by the end of 2013. The report shall contain an analysis of the market situation, including an evaluation of the effectiveness of controls and the evolution of employment conditions in the profession, as well as an assessment as to whether harmonisation of the rules in the fields, inter alia, of enforcement and road user charges, as well as social and safety legislation, has progressed to such an extent that the further opening of domestic road transport markets, including cabotage, could be envisaged.

ENTRY INTO FORCE: 04/12/2009. It shall apply from 04/12/2011, with the exception of Articles 8 and 9 (rules applicable to sabotage operations), which shall apply from 14 May 2010.