

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

2007/0098(COD) - 07/03/2017 - Follow-up document

This report from the Commission to the European Parliament and the Council is the 2nd implementation report (covering the period 1 January 2013 to 31 December 2014) on certain provisions of Regulation (EC) No 1071/2009 establishing common rules on the conditions to be complied with in order to pursue the occupation of road transport operator.

Purpose of the report: more specifically, the report aims to allow closer monitoring of the application of Regulation (EC) No 1071/2009. The Regulation applies to all undertakings established in the EU who pursue, or intend to pursue, the occupation of road transport operator, which includes the **occupation of road haulage operator** and the **occupation of passenger transport operator by road**.

It should be noted that certain categories of undertakings, such as those using **motor vehicles with a laden mass of less than 3.5 tonnes, are exempt from this requirement**.

In accordance with the Regulation, undertakings operating as road transport operators should be established in a stable and effective way in a Member State and should designate a transport manager holding a certificate of professional competence confirming that he possesses the qualifications and knowledge necessary to effectively and continuously manage transport activities. It is for the Member States to check that transport undertakings comply with the conditions laid down in Regulation (EC) No 1071/2009.

Moreover, well-organised administrative cooperation between Member States plays a key role in improving the effectiveness of supervision of undertakings operating in the European Union.

Main conclusions:

- **good repute, financial standing and professional competence:** the report states that practices vary widely between Member States as to how they comply with the 4 requirements for admission to the occupation of road transport operator imposed by the Regulation and the number of checks carried out. As for the difficulties encountered concerning checks of stable and effective establishment, which are considered to be more resource-intensive than other types of checks, several enforcement authorities stress the demanding nature of the checks and the lack of sufficient administrative capacity to control all road transport undertakings registered in a given Member State.

The number of checks carried out to verify compliance with the four requirements on admission to the occupation of road transport operator **varies greatly from one Member State to another**. Thus, 5,640 enterprises were subject to a stable and effective establishment control in Bulgaria in 2014, compared with 120 in Estonia over the period 2013-2014.

The data available suggest that **the level of compliance with the requirements for admission to the occupation of road transport operator** is relatively high;

- **authorisations:** Article 2 of Regulation (EC) No 1071/2009 defines the authorisation to pursue the occupation of road transport operator 'as an administrative decision which authorises an undertaking

which satisfies the conditions laid down in that Regulation to pursue the occupation of road transport operator'. The legal nature of this "administrative decision" varies from one Member State to another. This may be a prerequisite for obtaining a national transport licence and/or a Community licence to carry out international transport activities, a document equivalent to a national transport licence or a national and international transport licence granted by means of a single authorisation.

The report indicates that most of the authorisations issued in 2013 and 2014 relate to road freight carriers (89% in total) and only a small proportion to road passenger carriers (11%);

- **authorisations withdrawn or suspended:** according to the information provided, the number of authorisations withdrawn or suspended during the period 2013-2014 amounted to a total of 161,289. It will be noted that Spain has declared the largest number of withdrawals and suspensions of authorisations;

- **proof of professional competence:** an attestation of professional competence, showing that the candidate has passed the written examination and the oral examination, must be issued by the competent authorities as evidence of professional competence. Of the total number of certificates issued in the European Union during the reference period, the largest share is in Spain (410 700), followed by Romania (25 597), Poland (6 891), France (6 679) and Germany (6 226);

- **transport managers declared unfit:** in accordance with the Regulation, when a transport manager loses its good repute, the competent authority should declare it unfit to manage the transport activities of an undertaking. Declarations of unfitness were made in 7 of the reporting Member States: Italy (680), United Kingdom (493), Germany (62), Sweden (52), Estonia (7), Finland (5) and France (1);

- **exchange of information:** each Member State should maintain a **national electronic register** of road transport undertakings authorised to engage in the occupation of road transport operator. The minimum requirements for the data to be entered in these registers, as well as common rules on their interconnection via the **European register of road transport undertakings** (ERRU), are laid down in Commission Implementing Regulation (EU) 2016/480. These data concern in particular the reputation of the carriers, the serious infringements committed and the Community licences. However, at the time of writing, 3 Member States had still not connected their national electronic register of road transport companies to the ERRU. This system is generally considered to be useful, but the fact that all Member States are not yet connected greatly undermines its effectiveness and efficiency.

Generally speaking, **the report indicates the relative variability of the information transmitted by the Member States**, which has **adversely affected the overall quality of this report**. Due to the lack of data, the Commission has not been able to carry out a full analysis of the implementation of the provisions of Regulation (EC) No 1071/2009. In this respect, the Commission reminds the Member States of their obligation to provide a full report within the prescribed time-limits in order to enable it to draw up a comprehensive report and to **avoid the initiation of infringement proceedings** under Article 258 of the Treaty on the Functioning of the European Union.