

Pursuing the occupation of road transport operator and access to the international road haulage market

2017/0123(COD) - 08/04/2020 - Council position

The Council adopted its position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending regulation (EC) No 1071/2009 and regulation (EC) No 1072/2009 in order to adapt them to developments in the road transport sector.

This proposal was presented as part of the first mobility package. Its objective is to modernise the rules on access to the occupation of road transport operator and access to the road transport market with a view to ensuring the proper functioning of the single market in the road transport sector. In particular, it aims to:

- update the rules concerning the pursuit of the occupation of road transport operator in order to combat letter-box companies and unfair competition;
- extend the rules on cabotage in Regulation (EC) No 1072/2009 in order to prevent abuse of these provisions.

The Council's position at first reading reflects the compromise reached in the negotiations between the Council and the European Parliament. It includes the following main elements:

Light commercial vehicles from 2.5 to 3.5 tonnes

The requirements for access to the profession shall become mandatory for operators using motor vehicles or combinations of vehicles intended exclusively for the carriage of goods and with a permissible laden mass exceeding 2.5 tonnes but not exceeding 3.5 tonnes involved in international transport.

The Council position introduces a phasing-in period of 21 months before the light commercial vehicles concerned fall within the scope of Regulations (EC) No 1071/2009 and (EC) No 1072/2009.

This period shall also be used by the Commission to adopt implementing acts specifying the functionalities allowing the processing of data relating to (1) the vehicle registration numbers of an undertaking, (2) the number of employees of an undertaking and (3) the risk level of an undertaking to be communicated to the competent authorities during roadside checks, once a common formula for calculating the risk level has been adopted.

Conditions relating to the requirements to pursue the occupation of road transport operator

In order to combat the phenomenon of 'letter-box companies', the Council's position strengthens the link between the place of establishment of the carrier and his activities. In order to ensure that the link is real, lorries used for international transport should return to the company's operational centre at least once every eight weeks. This eight-week period is designed to allow drivers to return home with the vehicle at the end of their second four-week work cycle.

Member States may also require an undertaking, in the Member State of establishment: (i) to have suitably qualified administrative staff on its premises, or the transport manager to be contactable during normal office hours; (ii) to have an operating infrastructure, including an office open during normal working hours.

The Council's position clarifies and further harmonises the evaluation of good repute. In particular, it includes unauthorised cabotage in the list of serious criminal offences or serious infringements.

The Council position harmonises (to one year) the minimum period after which a transport manager who has lost his good repute can have it restored. It also includes in the Regulation the obligation for a transport manager who has lost his good repute to demonstrate that he has followed a minimum level of training or passed an examination demonstrating knowledge of the subjects listed in Annex I.

In order to facilitate the entry of newly created undertakings on the market, the Council proposes to clarify the modalities under which undertakings can prove their financial standing.

As regards professional competence, the Council introduced a provision to enable Member States to promote periodic training on subjects listed in Annex I at three-year intervals.

Application and controls

The Council's position provides that Member States shall consider inspections at the premises of the undertaking itself and take into account the risk level of an undertaking, based on the risk rating system. It obliges Member States to carry out a minimum number of checks on cabotage and to organise at least two concerted roadside checks per year. Each Member State shall ensure that a national enforcement strategy is applied and that such a strategy focuses on undertakings with a high level of risk.

Cabotage transport

As regards the rules on operations carried out by transport undertakings in a national market outside their own country ('cabotage'), the current system allowing a maximum of 3 operations in 7 days shall remain unchanged.

To prevent systematic cabotage, a transitional period of 4 days shall be introduced, before which no new cabotage operations may be carried out in the same country and with the same vehicle. A Member State may apply the same rules to combined transport road hauls on its territory.

Liability

Member States shall lay down rules on sanctions against consignors, freight forwarders, contractors and subcontractors for non-compliance, where they knew, or, in the light of all relevant circumstances ought to have known, that the transport services that they commissioned involved infringements of this Regulation.

Administrative cooperation

The Council's position includes additional elements in the national electronic registers and gives more details on administrative cooperation between Member States. It specifies that both the message exchange system of the European register of road transport undertakings (ERRU) on convictions and sanctions for serious infringements and the internal market information system (IMI) should be used to facilitate administrative cooperation and mutual assistance.