

# Transport operator: mutual recognition of diplomas, free establishment

1997/0029(SYN) - 17/03/1998 - Council position

The Council common position incorporates two amendments proposed by Parliament at first reading, in particular the amendment aiming to provide for a system of penalties for infringements of the Directive. The Council has also made significant changes to the Commission modified proposal. (a) the scope of the Directive is widened: the directive currently in force applies to operators using vehicles whose maximum authorized weight (MAW) exceeds 6 tons, while the common position also covers transport operators using vehicles whose MAWs exceed 3.5 tons. Member States can exempt from the application of the directive operators using vehicles whose MAWs are between 3.5 and 6 tons on condition that they are engaged exclusively in local transport and have only a minor impact on the transport market. (b) The provisions concerning the requirement of good repute provide that this condition is not or is no longer fulfilled if an operator has been convicted of serious offences against certain rules governing transport, including offences against rules concerning the protection of the environment and professional liability (the condition of repetition has been deleted). (c) The financial requirements have been simplified: the common position no longer provides for different figures depending on the weight of an undertaking's haulage vehicles or the seating capacity of its passenger vehicles; the undertaking must have available capital and reserves of at least ECU 9000 when only one vehicle is used and at least ECU 5000 for each additional vehicle. (d) With regard to professional competence, the common position provides for: - a more detailed examination procedure, updating and extending the list of examination subjects and the introduction of a minimum harmonized level of the knowledge required for each subject; - the maintenance of different examinations depending on whether the applicant intends to operate national or international transport; - permanent exemption from the examination for applicants who supply proof of at least five years' practical experience, provided that they sit a test, the arrangements for which are determined by the Member States, in accordance with the subjects listed in Annex I to the directive; - the establishment of a form of Community certificate of professional competence, this document to provide sufficient proof for mutual recognition of professional competence; - a provision that Member States, for a limited period and having first consulted the Commission, may require transport operators who are normally resident in their territory and hold a certificate obtained for the first time in another country, to pass an additional examination covering the specific knowledge relating to the national aspects of the occupation of road haulage operator. (e) With regard to monitoring application of the directive, the common position provides that the Member States shall check regularly, at least every five years, that the conditions governing access to the occupation are still fulfilled; the Member States must inform the competent authorities of the country in which the haulage operator is established of any infringements of transport rules committed on their territory. The common position provides that the Member States are to transpose the directive within a year of its entry into force. All road transport operators covered by the directive and plying the trade before the directive becomes applicable must comply with the new requirements regarding financial standing within two years of it becoming applicable.