

Basic information	
<p>2007/0098(COD)</p> <p>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation</p>	Procedure completed
<p>Road transport: conditions to be complied with to pursue the occupation of road transport operator</p> <p>Repealing Directive 96/26/EC 1990/0479(SYN) Amended by 2017/0123(COD) See also 2014/2700(RSP) See also 2014/2859(RPS)</p> <p>Subject</p> <p>3.20.05 Road transport: passengers and freight 3.20.10 Transport undertakings, transport industry employees</p>	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	TRAN Transport and Tourism		ȚICĂU Silvia-Adriana (PSE)	19/01/2009
	Former committee responsible		Former rapporteur	Appointed
	TRAN Transport and Tourism		ȚICĂU Silvia-Adriana (PSE)	03/07/2007
	Former committee for opinion		Former rapporteur for opinion	Appointed
	EMPL Employment and Social Affairs		The committee decided not to give an opinion.	
Council of the European Union	Council configuration		Meetings	Date
	Competitiveness (Internal Market, Industry, Research and Space)		2963	2009-09-24
	Transport, Telecommunications and Energy		2861	2008-04-07
	Transport, Telecommunications and Energy		2835	2007-11-29
	Transport, Telecommunications and Energy		2877	2008-06-12
European Commission	Commission DG		Commissioner	
	Energy and Transport		TAJANI Antonio	

Key events			
Date	Event	Reference	Summary
23/05/2007	Legislative proposal published	COM(2007)0263 	Summary
12/07/2007	Committee referral announced in Parliament, 1st reading		
29/11/2007	Debate in Council		
26/03/2008	Vote in committee, 1st reading		Summary
31/03/2008	Committee report tabled for plenary, 1st reading	A6-0087/2008	
07/04/2008	Debate in Council		Summary
20/05/2008	Debate in Parliament		
21/05/2008	Decision by Parliament, 1st reading	T6-0217/2008	Summary
21/05/2008	Results of vote in Parliament		
09/01/2009	Council position published	11783/1/2008	Summary
15/01/2009	Committee referral announced in Parliament, 2nd reading		
31/03/2009	Vote in committee, 2nd reading		Summary
02/04/2009	Committee recommendation tabled for plenary, 2nd reading	A6-0210/2009	
22/04/2009	Debate in Parliament		
23/04/2009	Decision by Parliament, 2nd reading	T6-0276/2009	Summary
23/04/2009	Results of vote in Parliament		
24/09/2009	Act approved by Council, 2nd reading		
21/10/2009	Final act signed		
21/10/2009	End of procedure in Parliament		
14/11/2009	Final act published in Official Journal		

Technical information	
Procedure reference	2007/0098(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Directive 96/26/EC 1990/0479(SYN) Amended by 2017/0123(COD) See also 2014/2700(RSP) See also 2014/2859(RPS)
Legal basis	EC Treaty (after Amsterdam) EC 071
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/71864

[Documentation gateway](#)

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE396.405	12/02/2008	
Amendments tabled in committee		PE402.665	13/03/2008	
Committee report tabled for plenary, 1st reading/single reading		A6-0087/2008	31/03/2008	
Text adopted by Parliament, 1st reading/single reading		T6-0217/2008	21/05/2008	Summary
Committee draft report		PE418.445	09/02/2009	
Amendments tabled in committee		PE420.161	02/03/2009	
Committee recommendation tabled for plenary, 2nd reading		A6-0210/2009	02/04/2009	
Text adopted by Parliament, 2nd reading		T6-0276/2009	23/04/2009	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	00109/2009	09/01/2009	
Council position	11783/1/2008	09/01/2009	Summary
Draft final act	03657/2009/LEX	21/10/2009	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2007)0263 	23/05/2007	Summary
Document attached to the procedure	SEC(2007)0635 	23/05/2007	
Document attached to the procedure	SEC(2007)0636 	23/05/2007	
Commission communication on Council's position	COM(2008)0914 	12/01/2009	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2009)0306 	23/06/2009	Summary
Commission response to text adopted in plenary	SP(2009)3507	25/06/2009	
Follow-up document	COM(2014)0592 	25/09/2014	Summary
Follow-up document	SWD(2016)0350	31/10/2016	
Follow-up document	SWD(2016)0351	31/10/2016	
Follow-up document	COM(2017)0116 	07/03/2017	Summary
	COM(2019)0084		

Follow-up document		18/02/2019	Summary	
Follow-up document	COM(2021)0623 	11/10/2021		
Other institutions and bodies				
Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	52008XX0119(01) OJ C 014 19.01.2008, p. 0001	12/09/2007	Summary
EESC	Economic and Social Committee: opinion, report	CES0068/2008	16/01/2008	

Additional information		
Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act
Regulation 2009/1071 OJ L 300 14.11.2009, p. 0051 Summary

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

2007/0098(COD) - 25/09/2014 - Follow-up document

In accordance with Regulation (EC) No 1071/2009, the Commission presented its first report on the implementation by Member States of certain provisions concerning the **access to the occupation of road transport operator** in the Member States from 4 December 2011 to 31 December 2012.

The main findings of the report are as follows:

Data submission: despite the obligation to report contained in this Regulation at the point in time when this report was drafted six Member States, namely Belgium, Denmark, Finland, Germany, Luxembourg and Portugal, did not submit their national reports. Some Member States had a serious delay in providing their data by the deadline of 30 September 2013. In a number of reports certain necessary information was not provided, thus making it problematic to carry out a comprehensive analysis.

Due to a large amount of missing data, the **Commission report does not provide for a full analysis of implementation of provisions of Regulation (EC) No 1071/2009**. For the purpose of consistency of national submissions and in order to assist the national competent authorities with fulfilling their reporting obligation in the future, a **standard reporting form** should be established by the Commission in cooperation with Member States.

The analysis of data on pursuit of the occupation of road transport operator enabled the following conclusions to be made.

Good repute, financial standing and professional competence: this part consists of a presentation of national requirements, organization of checks, level of compliance and difficulties encountered, on the basis of information submitted by Member States. Due to the fragmentary nature of the reports by Member States, this overview is **not comprehensive** in scope.

Data on national systems for awarding access to the occupation was presented by Austria, France, Italy, Slovakia and the Czech Republic. Two Member States, namely Austria and Slovakia imposed national requirements that need to be satisfied in parallel with conditions set out in Regulation (EC) No 1071/2009.

Six Member States, namely Cyprus, Estonia, Ireland, Lithuania, Malta and Slovenia indicated that there was a high compliance rate of road transport undertakings operating in the sector.

Authorisations: it stems from data provided that most Member States do not report on authorisation in the sense of Chapter III of Regulation 1071/2009. Due to a lack of information about national systems in regard to authorisations, quantitative data submitted by Member States **do not give a clear picture on numbers of undertakings pursuing the occupation of road transport operator.**

Several Member States submitted a global number of authorised operators on 31 December 2012, which constitutes a point of reference for data on numbers of authorisations granted, suspended or withdrawn. The Czech Republic has almost 95 600 authorised operators, Italy about 81 000, the United Kingdom more than 53 500, Sweden around 18 000, the Netherlands almost 11 700, Ireland 5 800, Lithuania 4 500 and Slovakia 2 800. Hungary notified of slightly more than 45 000 valid licences.

On the basis of this data, it appears that the **vast majority of authorised undertakings are road hauliers.**

- **Authorisations granted:** the highest quantities of authorisations were granted in Italy (81 000 for both passenger and goods transport) and Spain (almost 31 000 for both passenger and goods transport). These figures can be compared to 10 000 granted authorisations for passenger and goods transport in France. The proportion of authorisations for road haulage is in all cases at least two times higher (Ireland) and up to almost seventy times as high (Spain) as authorisations granted for passenger transport.
- **Authorisations withdrawn and suspended:** the highest number of withdrawals of authorisations was reported in Spain and amounted to almost 37 600 for withdrawals were due to failure to provide proof of meeting the conditions needed for an authorisation to be granted, on the request of an applicant or cease of operations. France had a second highest number of withdrawals of authorisations for passenger and goods transport, which equalled to 4 700, followed by Slovakia with 1 200, Sweden with 965, the Czech Republic with 956 and Slovenia with 599 withdrawals. At the other end of the scale, Greece reported 222 withdrawals for passenger and goods transport, Poland (68), Latvia (58), Hungary (33), Italy (31). The number of authorisations for passengers and goods transportation that was withdrawn was greater than the number of authorisations granted only in three Member States, namely Slovakia, Spain and the Netherlands.
- **Certificates of professional competence:** more than 52 thousand certificates of professional competence issued. The biggest share of certificates granted in the European Union during this reporting period belonged to Romania and amounted to 31.5% of the total number of certificates granted and reported by Member States, followed by France (11%), Spain (11%), Italy (8%), the Czech Republic (8%), Sweden (6%) and Poland (5%).
- **Transport managers declared unfit:** most Member States who submitted data on number of declarations of unfitness, stated that there was not a single case recorded during the reporting period for both passenger and goods transport.
- **Exchange of information:** the establishment of the European Register of Road transport Undertakings (ERRU) was envisaged as a next step to facilitate cooperation between the national authorities for the purpose of further enhancement of cross-border enforcement of the European road transport legislation. On the basis of data provided, it can be noted that **the system of administrative cooperation between Member States has not been accomplished.** The Commission supports further enhancement of the administrative cooperation that strengthens consistent and effective implementation across all EU Member States.

For the next reporting period, 2013-2014, all Member States are called upon to:

- **comply with the reporting obligation** in order to allow for a full-fledge report and to avoid infringement procedures under Article 258 of Treaty on the Functioning of the European Union;
- **prepare an outline of their national systems for authorisations** in order to allow for a more reliable and a better quality overview at the European level.

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

2007/0098(COD) - 18/02/2019 - Follow-up document

The Commission presents the third report on the implementation of certain provisions of Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator.

The report covers the period from 1 January 2015 until 31 December 2016, and is synchronised with the report on the implementation of the social legislation relating to road transport, as required by Regulation (EC) No 1071/2009.

The Commission states that the quality and timeliness of submissions from Member States was highly variable, affecting the overall quality of the report. Due to some missing data on certain aspects of the Regulation, it could not provide for a complete analysis of implementation of the provisions of Regulation (EC) No 1071/2009. However, both the number of Member States having reported and the depth of the data reported have substantially improved in relation to the previous reporting period.

Requirements for authorisation - as permitted under the Regulation under certain conditions, several Member States impose national requirements that need to be satisfied in addition to the four requirements set out in the Regulation (stable and effective establishment, good repute, appropriate financial standing and requisite professional competence) in order to have access to the occupation of road transport operator. The report looks at the different ways in which each Member States checks compliance with the four requirements as well as in the number of checks carried out. Several enforcement authorities stress the difficulties encountered concerning checks of stable and effective establishment, which are considered to be more onerous than other checks, and the lack of administrative capacity to control all road transport undertakings registered in a given Member State.

Authorisations - as a result of the existence of different types of authorisations for undertakings to pursue the occupation of road transport sector, the data submitted by Member States can only be broadly compared. However, most Member States submitted a global number of authorised operators on 31 December 2016, which constitutes a point of reference for data on numbers of authorisations granted, suspended or withdrawn. Overall in the EU, there were 608 212 freight and 77 913 passenger transport operators. The vast majority of authorised undertakings are road hauliers. The percentage of authorised road hauliers compared to the overall number of authorised operators in the Member States having reported was 89% as of 31 December 2016 (88% as of 31 December 2014), whereas only 11% were passenger transport operators.

Authorisations granted – 278 092 authorisations were granted to pursue the occupation of operator in passenger (25 788) and goods (252 304) transport during the reporting period. Most of the authorisations granted in 2015 and 2016 concern road hauliers (91% overall) and only a small share of authorisations concern passenger transport operators (9%).

Authorisations withdrawn and suspended - the total number of authorisations withdrawn or suspended during the period 2015-2016 was 130 998, the highest number being in Spain (76 534), which indicated that the main reason for withdrawal or suspension of authorisations was non-compliance with the four requirements on access to profession. However, the report states that withdrawals and suspensions of authorisations across the EU were largely due to the expiry of the authorisation / Community licence, winding up of the company or on request by the operators in most of the Member States which reported on the reasons for such withdrawals and suspensions.

Certificates of professional competence – the total number of 477 761 certificates of professional competence were issued during the reporting period. The biggest share of certificates granted in the EU during this reporting period was in Spain (388 218), followed by the Netherlands (25 597), Romania (20 960), Poland (7 100) and France (6 616).

Declarations of unfitness were issued in ten of the reporting Member States, the highest number being in the United Kingdom (253).

Exchange of information - despite significant delays by some Member States, all Member States have now interconnected their national electronic registers of road transport undertakings. Several Member States noted that participation in the European Register of Road Transport Undertakings (ERRU) resulted in better cooperation and exchange of information between Member States and improved the effectiveness of their national electronic registers. A significant amount of information exchanges regarding serious infringements and good repute has been registered notably in Belgium, the Czech Republic, Germany, Estonia, Croatia, Italy, Latvia, Slovenia and Sweden. Most of these exchanges concern requests for checks of good repute sent to and received from other Member States. The report remarks that it is noteworthy that the volume of information exchanges has increased very significantly when compared to the previous reporting period.

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.

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.

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

2007/0098(COD) - 23/06/2009 - Commission opinion on Parliament's position at 2nd reading

After several months of negotiations under the Czech Presidency, Parliament and the Council agreed on a compromise at second reading, in particular concerning the establishment of electronic registers of transport undertakings.

The Commission can accept the compromise amendments adopted by the European Parliament after the second reading to confirm this agreement.

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

2007/0098(COD) - 21/05/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 614 votes to 28 with 45 abstentions, a legislative resolution amending the proposal for a Regulation 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. The report had been tabled for consideration in plenary by Silvia-Adriana **TICĂU** (PES, RO) on behalf of the Committee on Transport and Tourism.

The main amendments - adopted in first reading of the codecision procedure - are as follows: Scope: the Regulation shall apply to all undertakings established in the Community which are engaged in the occupation of road transport operator. It shall also apply to undertakings which intend to engage in the occupation of road transport operator and references to undertakings engaged in the occupation of road transport operator shall, as appropriate, be considered to include a reference to undertakings intending to engage in such operations.

The Regulation will not apply to undertakings engaged in the occupation of road transport operator solely by means of motor vehicles with a maximum authorised speed not exceeding 40 km/h.

Transport manager: according to the Commission's proposal, the transport manager should be employed and remunerated by the undertaking. MEPs believe that the transport manager should have a genuine link to the undertaking, i.e. be an employee, partner, director, shareholder or have a similar contractual relationship with the undertaking, or manage it, or, if the undertaking is a natural person, be that same person, or, if the undertaking is a partnership, be entitled to legally represent and make binding decisions on behalf of the partnership. Furthermore, the transport manager must be a resident in a Member State. The competent authority may decide on the maximum number of vehicles to be managed by the transport manager, which will not be higher than 50 for each transport manager. Parliament deleted the clause in the Commission's proposal stating that the transport manager shall lose his or her good repute within the meaning of the Regulation if serious infringements or repeated infringements above a certain threshold among the infringements referred to in the text are committed in the context of the transport activities which he or she manages.

Establishment requirement: the undertaking have an establishment, situated in that Member State with premises in which it keeps its business documents in line with the periods of time laid down by law and in particular all its accounting documents, personnel management documents and any other document on secure data supports, to which the authority competent to authorise the pursuit of the occupation must have access in order to verify compliance with the conditions provided for in the Regulation while complying with all relevant standards for the protection of personal data. It must be able to prove on request where in the Member State of establishment the vehicles are parked when they are not in use.

Good repute: Member States shall determine the conditions which an undertaking and a transport manager must meet in order for either to satisfy the requirement regarding good repute. MEPs list these conditions, which must include at least the following requirements:

there are no compelling grounds for doubting the good repute of the transport undertaking, its transport managers or any relevant person, such as conviction or penalties for any serious infringement of national rules in force in the field of: (i) commercial law; (ii) insolvency law; (iii) the pay and employment conditions in the profession; (iv) road traffic; (v) professional liability; and (vi) human or drugs trafficking.

Serious infringement: Parliament inserted a list of serious infringements in Annex IIa. The transport manager or the transport undertaking must not have incurred convictions in one or more of the Member States for serious infringements of Community rules. A conviction or penalties incurred by the transport manager or the transport undertaking in one or more of the Member States for the most serious infringements of Community rules, set out in the new Annex IIa, shall lead to the loss of good repute after a duly completed administrative procedure and, if appropriate, after a check at the premises of the undertaking unless the competent authority, under exceptional and for duly justified reasons, establishes that this constitutes a disproportionate response. In such a case, the exceptional and duly justified reasons shall be recorded in the national register and indicated in the report referred to in the Regulation. The measures relating to the adaptation of Annex IIa to take account of the development of the Community acquis in the field of road transport shall be adopted in accordance with the regulatory procedure with scrutiny.

The Commission shall adopt, not later than 1 January 2010 a list of categories, types and degrees of seriousness of infringements which may lead to the loss of good repute. Member States shall take into account information on those infringements, including information received from other Member States, when setting the priorities for checks. The measures designed to amend this list shall be adopted in accordance with the regulatory procedure with scrutiny. To this end and not later than 1 January 2010, the Commission shall (i) lay down the categories and types of infringement which are most frequently encountered; ii) define the degree of seriousness of infringements according to their potential to create a risk of fatalities or serious injuries; and (iii) provide the frequency of occurrence beyond which repeated infringements shall be regarded as more serious, by taking into account the number of drivers used for the transport activities managed by the transport manager.

The requirement regarding financial standing: the undertaking must demonstrate, on the basis of annual accounts, that it has at its disposal each year capital and reserves totalling at least EUR 9 000 for a single vehicle used and EUR 5 000 for each additional vehicle used. Capital resources shall be demonstrated by means of a certified trading balance sheet or a balance sheet for tax purposes. Persons applying for access to the profession of road transport operator for the first time must submit a certified opening balance sheet. MEPs consider that insurance should also be allowed as proof of financial standing. However, the 'quick ratio' of assets to debts (80% or above) is not an indicator for a business's financial stability. Lastly, MEPs propose that the competent authority should determine the conditions under which the bank guarantee may be called in and released for the benefit of other creditors.

The requirement regarding professional competence: the requirement regarding professional competence shall be established, by means of a compulsory written examination which, if a Member State so decides, may be supplemented by an oral examination. Member States shall accredit, in accordance with mutually compatible criteria defined by them, the bodies capable of offering applicants high-quality training. The persons concerned shall sit the examination in their Member State of residence. Member States may exempt from the examination persons who provide proof of at least 10 years' continuous practical experience in a transport undertaking at management level before publication of this Regulation. Lastly, Member States may promote training as described in Annex I and an examination, as described, for transport managers at 10 year intervals to ensure that managers are aware of developments in the sector. Transport managers with practical experience returning to the profession after a five-year period of absence shall undertake the retraining and updating that are necessary to prove their continuous professional competence and their knowledge regarding the current developments of the legislation applicable to this profession.

Authorisation and monitoring: the competent authority shall be responsible for updating and maintaining the electronic register. From 1 January 2012 a competent authority shall verify in case of doubt, when assessing the good repute of an undertaking, that the transport manager(s) designated is not

(are not) - at the time of the application - declared, in one of the Member States, unfit to manage the transport activity of an undertaking. The Commission shall adapt the periodicity of regular checks to technical progress, notably the national electronic registers. These measures shall be adopted in accordance with the regulatory procedure with scrutiny.

National electronic registers: national electronic register should contain one public section and one confidential section. The confidential section of the electronic register shall be accessible to the authorities other than the competent authorities only if they are duly endowed with powers relating to supervision and the imposition of sanctions in the road transport sphere and whose officials are sworn. Not later than 1 January 2010, the Commission shall define, together with Member States the minimal structure of the data which have to be entered in the national electronic register.

Member States may choose to keep the information concerning serious infringements, which have resulted in a sanction in the last two years, as well as the names of any persons declared to be unfit to manage the transport activity of an undertaking, in separate registers. In such a case, the relevant data shall be available upon request or directly accessible to all the competent authorities of the Member State in question. The requested information shall be provided within 10 working days after receiving the request.

Data concerning an undertaking the authorisation of which has been suspended or withdrawn shall remain in the register for two years as from the expiry of the suspension or withdrawal of the licence and shall thereafter be immediately removed. Data concerning any person declared to be unfit for the occupation shall remain in the register as long as the good repute of this person is not re-established. After rehabilitation or equivalent measures have been taken, the data shall be immediately removed.

Prior rights: MEPs deleted from the proposal Article 22 which dealt with priority rights for those states which joined the European Union before 1 January 1995

Lastly, by 1 June 2009 the Commission shall report on the likely impact of extending the scope of this Regulation to include commercial transport with vehicles whose design and equipment are appropriate and which are intended to carry up to nine persons including the driver. The Commission shall if necessary take the relevant initiatives.

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

2007/0098(COD) - 12/09/2007 - Document attached to the procedure

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the Proposal for a Regulation 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.

The Commission sent the aforementioned proposal for a Regulation to the EDPS for consultation, which was received on 29 May 2007. An updated version of the proposal was received on 6 July 2007.

The aim of the proposal is to replace Council Directive 96/26/EC 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. It takes over several provisions of the Directive and contains some new elements. In particular, it introduces electronic registers interconnected between all Member States, facilitating the exchange of information between Member States, as well as an obligation for the authorities to warn the operator where they discover that a transport operator no longer satisfies the conditions on good repute, financial standings or professional competence. The proposal thus includes elements requiring the processing of personal data.

The EDPS suggests that the Community legislator specify the situations Article 6(1)(a) - which provides that Member States shall ensure that undertakings satisfy the requirement that there are no compelling grounds for doubting their good repute - aims to cover. He also suggests modifying the proposal in order to lay down at least the main elements of the list of categories, types and degrees of seriousness of infringements and the frequency of occurrence beyond which repeated minor infringements shall lead to the loss of good repute, mentioned in Article 6(2), in a more precise way.

Moreover, the EDPS welcomes the central role of the competent authorities which also gives them responsibilities for the processing of personal data, as a necessary element of their activities. In this context, the EDPS noted some ambiguities in the proposal which can be easily solved without changing anything in the system itself.

The EDPS also welcomes that the access to and purpose of the national electronic registers are clearly limited, as well as that the storage period is limited to a fixed period of two years. However, the text should also ensure that the data concerning persons declared to be unfit for the occupation shall be removed from the register immediately after a rehabilitation measure has been taken.

In addition, the responsibility for the keeping of the electronic register and for the processing of the data within the register should be clarified in the text of the regulation. As far as the interconnection of the national electronic registers is concerned, the following sentence should be added to Article 15(5): 'These common rules should lay down which authority is responsible for the access, the further use and the keeping up to date of the data after access and should include to this effect rules on logging and monitoring of the data.'

Lastly, the EDPS suggests that Article 16 on data protection be rewritten, taking into account the needs for:

- clarification that the more specific provisions of Directive 95/46/EC fully apply to requests of the data subjects relating to information about him or her within the scope of the proposal;

- added value which means specifying the rights included in the Directive, for instance, by clarifying which authority is responsible for providing information, by prescribing a certain format for the implementation of the rights of the data subject, and by specifying further modalities of the right to object;
- striking the words 'for the authority responsible for processing the data', in relation to the excessive delay or cost as a result of an application for access.

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

2007/0098(COD) - 23/05/2007 - Legislative proposal

PURPOSE: to replace Directive 96/26/EC with a new Regulation establishing common rules concerning conditions to be complied with to pursue the occupation of road transport operator.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

CONTENT: this proposal is being presented alongside two related proposals all of which are seeking to modernise provisions governing road transport operators and access to the road transport market. The package of proposals includes:

1. Replacing Directive 96/26/EC on **admission to the occupation of road transport operator**, with a new Regulation. (The subject of this summary).
2. Merging Regulations (EEC) No 881/92 and (EEC) No 3118/93 on **access to the road transport market**. (For a summary of the proposal refer to: [COD/2007/0099](#))
3. Merging Regulations (EEC) No 684/92 and (EC) No 12/98 **"on access to the market of coach and bus services."** (For a summary of the proposal refer to: [COD/2007/0097](#)).

Directive 96/92/EC on admission to the occupation of road transport operators and the four accompanying Regulations on access to the road transport market have shaped the internal market in road transport. The common requirements have ensured minimum quality standards for road transport, while opening-up the market. The current legislative framework has injected an element of competition and, generally speaking, it has proved successful, in so far as road transport companies are charging more favourable rates and offering diversified services.

However, experience has highlighted that some measures are not applied; are not enforced uniformly; are unclear, incomplete; and are incapable of keeping up with developments in the sectors. An impact assessment and public consultation have shown that the different ways in which the Directive is being applied is having a detrimental affect on fair competition. Checks vary from one Member State to another, with very different levels of professional qualifications and financial soundness. The results of the impact assessment also reveal that the Member States have difficulty in transposing the Directive and are applying it in a disparate manner. For example, the success rate in examinations that test professional competence varies from 10% to over 90%.

The purpose of this proposal, therefore, is to replace the existing Directive and to rectify the shortcomings identified above. To recall, Directive 96/26 /EC establishes the minimum conditions relating to good repute, financial standing and professional competence which companies have to satisfy in order to gain an authorisation before they can engage in the occupation of road transport operator. The Directive also establishes mutual recognition of some of the documents required in order to obtain an authorisation.

In summary, the proposed new Regulation introduces:

- the concept of responsibility of the transport manager, who lends his or her professional competence certificate to a company in order to obtain an authorisation;
- stricter rules governing his or her links with the company;
- stricter criteria vis-à-vis establishing whether a company is actually established in a Member State and that the company can be properly monitored by the national authority which authorised it;
- comparable financial indicators to measure a company's financial standing, compulsory minimum training of 140 hours prior to the examination to test professional competence which all applicants must sit, and the accreditation of training centres and examination centres;
- a new requirement whereby authorities must give warning to those transport operators who no longer satisfy the criteria of good repute, financial standing or professional competence. In cases where remedial action is not taken (within a specified period) administrative sanctions can be imposed that range from withdrawing authorisations to disqualification of the transport manager;
- mutual recognition between Member States of infringements of EC road transport rules, resulting in the totalling-up of serious repeated infringements wherever they are committed;
- electronic registers interconnected between all Member States in order to reduce the administrative cost of monitoring companies and facilitating the exchange of information between Member States; and
- the gradual elimination of certain exceptions. These exceptions can no longer be justified and distort competition to the detriment of the vast majority of companies which do not benefit from them.

On a final point, the proposal will not affect the Community budget though it is estimated that the administrative costs borne by both companies and authorities could be reduced by as much as EUR 190 million per annum.

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

2007/0098(COD) - 23/04/2009 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution modifying, under the second reading of the codecision procedure, the Council common position for adopting a regulation of the European Parliament and of the Council on 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.

The amendments were the result of a compromise negotiated with the Council.

The main amendments are as follows;

Derogations: Parliament deleted the words "free of charge" from the derogations for certain kinds of undertaking engaged in non-commercial services.

Requirement as to establishment: undertakings must have an establishment situated in that Member State with premises in which it keeps its **core business**. They must conduct effectively and continuously with the necessary administrative equipment its operations concerning vehicles and with the appropriate technical equipment and facilities at an operating centre situated in that Member State.

Requirement as to good repute: this must include no convictions or penalties for trafficking in human beings or drugs.

Requirement as to financial standing: the value of the euro in non-euro Member States must be fixed every year, rather than every 5 years. Financial standing may be demonstrated by means by means of a certificate such as a bank guarantee or insurance. Parliament deleted the derogation that stipulated that Member States may decide that the guarantee may be called in with the agreement of the competent authority which authorised the pursuit of the occupation of road transport operator.

Requirement as to professional competence: the persons concerned shall sit the examination in the Member State in which they have their normal residence or the Member State in which they work. Normal residence shall mean the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in two or more Member States shall be regarded as being in the place of his personal ties, provided that such person returns there regularly. This last condition shall not be required where the person is living in a Member State in order to carry out a task of a definite duration. Attendance at a university or school shall not imply transfer of normal residence.

Parliament adds that Member States may promote periodic training on the subjects listed in Annex I at 10-year intervals to ensure that transport managers are aware of developments in the sector.

Lastly, Member States may require that persons who possess a certificate of professional competence but who have not managed a road haulage undertaking or a road passenger transport undertaking in the last 5 years, shall undertake a retraining in order to update their knowledge regarding the current developments of the legislation referred to in Annex I.

Exemption from examination: this applies to persons who have continually managed an undertaking for 10 years (rather than 15).

Registers: Members state that by 31 December 2009, the Commission shall adopt a Decision (rather than issue guidelines) on minimum requirements for the data to be entered in the national electronic register from the date of its setting in order to facilitate the future interconnection of registers. It may recommend the inclusion of the **vehicle registration marks** in addition to the data referred to in the text. Certain data contained in the national electronic register should be made publicly accessible, insofar as the relevant provisions on data protection are complied with.

Protection of data: undertakings must comply, where applicable, with the respective provisions.

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

2007/0098(COD) - 09/01/2009 - Council position

The Council's common position, adopted by qualified majority, has taken full account of the proposal of the Commission and the European Parliament's opinion at first reading. With respect to the amendments proposed by the European Parliament, the Council observes that a considerable number of amendments have - in spirit, partially or fully - already been included in its common position.

The key policy issues are as follows:

Subject matter, scope and definitions: the Council followed largely the Commission proposal to clarify and streamline legal provisions. However, the Council specified that this Regulation shall not apply to road passenger transport services exclusively for non-commercial purposes or free of charge as well as to undertakings engaged in the occupation of road transport operator solely by means of motor vehicles which cannot exceed 40 km/h. The latter exemption was also proposed by the European Parliament.

Furthermore, the common position foresees that Member States may exempt from the application of this Regulation road transport operators engaged exclusively in national transport operations having only a minor impact on the transport market because of the nature of the goods carried or the short distance involved.

The European Parliament followed largely the Commission proposal.

Transport manager: the common position clarifies the differences between an "internal" and an "external" transport manager, notably in establishing different requirements to become a transport manager such as being a resident in the Community. The European Parliament also followed closely the Commission proposal. However, like the Council, it clarified the genuine link between transport undertaking and (internal) transport manager. As regards the external transport manager the European Parliament proposed that the national competent authority shall decide on the maximum number of vehicles to be managed by the transport manager.

Conditions relating to the requirement as to establishment: the Commission proposal lays down common rules to ensure that only companies that are genuinely and stably established can be authorised to engage in the occupation of a transport manager. Companies are genuinely and stably established if they have an office, registered vehicles and an operating centre. The Council followed the Commission proposal, except for the requirement to have a sufficient number of vehicle parking places for regular use by its vehicles, which was deleted.

The European Parliament followed largely the Commission's approach.

Conditions relating to the requirement as to good repute: the Council deleted the reference to repeated minor infringements and added animal transport as one of the requirements which a transport manager or an undertaking has to respect. Furthermore, the Council clarifies the procedure consecutive to the most serious infringements as set out in Annex III, for which the Council deleted the possibility to be adapted by the comitology procedure. The European Parliament followed largely the Commission proposal. However, like the Council, the European Parliament deleted the reference to repeated minor infringements.

New indicators for measuring a company's financial standing: the Council deleted the reference to the "quick ratio" (proposed by the Commission), but in return gave the operator the possibility to demonstrate its financial standing by means of a certificate such as a professional liability insurance from one or more banks or other financial institutions including insurance companies. The European Parliament also decided to delete the reference to the "quick ratio" and to allow that an insurance can be considered as proof for the company's financial standing.

Conditions relating to the requirement as to professional competence: the Council deleted the provision related to compulsory training prior to becoming a transport manager. Furthermore, the Council's common position foresees that Member States may exempt the holders of certain higher education or technical education qualifications, issued in that Member State, from certain parts of the examination as well as holders of certificates of professional competence valid for national transport operations in that Member State. Finally, the Council introduced the possibility for Member States to exempt from the examination persons who have been continuously managing a road haulage undertaking or a road passenger transport undertaking in a Member State for the last 15 years. The European Parliament also decided to delete the provision on compulsory training, but in return provided Member States with the possibility to promote regular training for transport managers.

Authorisation and monitoring: the Council decided to introduce some provisions in order to streamline and simplify the governing principles. Member States may issue different authorisations for undertakings only performing national transport services. Member States may shorten the delay within which the undertaking has to inform about changes concerning the data used for the application of the authorisation. Furthermore, Member States have the possibility to extend the time limit for the examination of the application of an authorisation. Until 31 December 2012, the competent authority shall verify, in the case of any doubt, that the transport manager is not declared, in one of the Member States, unfit to manage the transport activity of an undertaking, whereas from 1 January 2013 the competent authority shall do this by accessing the national electronic registers. The common position also integrates the approach to adapt the periodicity of checks of undertakings to technical progress. Before 2015, Member States are obliged to carry out checks at least every five years, whereas from 2015 onwards checks will be performed according to a risk classification system.

National electronic register: the Council agreed in principle with the Commission proposal in establishing national electronic registers. However, some additional provisions were introduced. Until 1 June 2009, the Commission has to issue guidelines on the structure of the register. Member States need to establish their national register 24 months after the date of entry into force of the Regulation, i.e. 20 days after its publication. The national registers have to be interconnected until 31 December 2012. Member States have to include serious infringements into the national register only from 2016 onwards. Furthermore, all stipulated time limits can be modified and (if necessary) postponed by the comitology procedure.

While the Parliament requests the inclusion of the vehicle registration mark of vehicles operating outside the Member State of establishment in the register, the Council common position foresees that the Commission may make, in 2009, a recommendation on the inclusion of the vehicle registration marks.

Further amendments not included in the common position concern the:

- reference to secure data supports as a condition relating to the requirement for the establishment;
- obligation that Member States inform the Commission about the certificates they recognise as proof of professional competence;
- reference to archiving of data and data protection as Community rules whose non-respect could put into question the good repute of a transport manager;
- reference to an interdiction to transfer the certificate on the professional competence to legal persons;
- shortening of the time limits for an undertaking to replace a transport manager;

- deletion of the possibility to postpone via the regulatory procedure with scrutiny the interconnection of the national registers;
- shortening of the time limits for an undertaking to demonstrate that it has an effective and stable establishment;
- demand for a study on the possible inclusion of taxis into the scope of the Regulation;
- proposed date of 1 June 2009 for the application of the Regulation.

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

2007/0098(COD) - 07/04/2008

The Council held a public policy debate on three legislative proposals that seek to modernise, replace and merge legislation governing road transport operators and access to the road transport markets (see [COD/2007/0097](#) and [COD/2007/0099](#)).

Ministers were invited to agree in principle to the outline of the presidency compromise package on the key elements of two of the three proposals.

The Council broadly supported the presidency compromise as a good basis for further work on these proposals and invited Coreper to pursue examination of the outstanding issues with the objective of reaching a political agreement on all these proposals at the Transport, Telecommunications and Energy Council in June 2008. The presidency compromise focuses in particular on two main issues, cabotage and national electronic registers.

Delegations shared in principle the objectives of the Commission's proposal on access to the profession of road transport operator. A majority of delegations supported the presidency compromise on this proposal, which includes the national electronic register issue in particular. The presidency proposed the following:

- Member States will have to establish a national register 18 months after entry into force of this Regulation;
- these registers will be interconnected by 31 December 2012;
- serious infringements will be included in the register from 1 January 2015.

Other elements of the compromise concern the following elements in particular: subject matter and scope, the role of the transport manager, examination and registration of applications and checks.

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

2007/0098(COD) - 12/06/2008

The Council reached by qualified majority, in a public deliberation, **political agreements** on three legislative proposals that seek to modernise, replace and merge provisions governing road transport operators and access to the road transport markets. (See also [COD/2007/0097](#) and [COD/2007/0099](#)). The Austrian delegation indicated that it would vote against. The Czech, Italian and Portuguese delegations would abstain.

Ministers were invited to agree on the presidency compromise text addressing the main outstanding political questions of this legislative package, in particular: cabotage and the establishment of national electronic registers.

The draft regulation on **access to the occupation of road transport operator** aims to rectify certain shortcomings identified in the Commission's impact assessment and public consultation and replaces the existing Directive 96/26/EC.

The Council agreed with the objectives and principles set out in this proposal, in particular the establishment of uniform and enforceable provisions for the access to the profession of transport operator.

Ministers agreed on the following compromise on the issue of the setting up of national electronic registers:

- the Commission will issue guidelines on the structure of the register until 1 June 2009;
- Member States will have to establish a national register 24 months after entry into force of this regulation;
- these registers will be interconnected by 31 December 2012 at the latest;
- serious infringements will be included in the national register from 2016 onwards while the most serious infringements will be recorded as from the establishment of the national register;
- all aforementioned dates or time-limits can be modified through the comitology procedure;
- the Commission will review in its bi-annual report, the functioning and the elements of the national electronic registers.

In addition, in order to reach an overall consensus on this legislative proposal, the Council modified the following points as compared with the Commission's original text:

- subject matter, scope and definitions;

- requirements and conditions for becoming a transport manager;
- exemption from examination to become a transport manager;
- establishment of a risk based checking system;
- mutual recognition of certificates and other documents;
- the list of the most serious infringements.

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

2007/0098(COD) - 12/01/2009 - Commission communication on Council's position

The Council adopted its common position by qualified majority. The Commission considers that the common position reflects the main objectives of its proposal and can therefore support it.

Two elements were central during the discussions in the Council. They concern: 1) the procedure the competent authorities have to follow in case of infringements classified as "most serious infringements" and which are included in a new Annex III and 2) the electronic register that Member States have to establish, its architecture and content as well as the time limits for the interconnection and the introducing of data.

The common position includes many of the amendments of the European Parliaments first reading which were considered acceptable by the Commission. Other amendments are included in part or with different deadlines. The following provisions are also already integrated in the common position:

- the definition of the link between the transport manager and the undertaking and the request that the manager is resident in the EU;
- concerning the external manager: the common position takes over the idea to give the possibility for Member States to allow a total fleet of 50 vehicles per external manager and to lower this figure, but not the possibility not to introduce such a limitation; the common position also reformulates the condition of the independence of the external manager;
- the procedure consecutive to the most serious infringements as set out in Annex III: the common position foresees a similar procedure, but does not include deadlines as proposed by the Parliament on the adoption of the list of infringements, nor the comitology procedure for the adaptation of Annex III;
- the possibility for Member States to exempt persons with a certain experience from the exam; however the common position requests a higher number of years of experience (15 years);
- the Annex III (amendment 104) on the most serious infringements in an adapted version;
- the approach to adapt the periodicity of checks of undertakings to technical progress; however, the common position proposes to target checks on undertakings posing an increased risk from 2015 on; until then a check has to take place every five years.

Concerning **the register**, Parliament and Council supported the establishment and the interconnection of electronic registers on road transport undertakings in a stepwise approach, but proposed different timetables.

In addition to the Commission proposal, both the first reading and the common position give the possibility to create a separate register on the infringements and the transport managers who are declared unfit to manage an undertaking. According to the common position, these managers should remain not only 2 years in the registers, but as long as the good repute is not re-established.

The Parliament proposed in its first reading to have a public and a private section of the register, the latter being only accessible to competent authorities under special conditions (endowed with specific powers in the road transport sphere and sworn officials). The Parliament proposes further that a register on transport managers should be created. These proposals were not integrated in the common position.

While the first reading of the Parliament requests in addition the inclusion in the register of the vehicle registration marks of vehicles operated outside the Member State of establishment, the common position states that the Commission may give in 2009 a recommendation on the inclusion of vehicle registration marks. This last provision was part of the final compromise in the Council negotiations.

Furthermore, the common position has not integrated the following provisions which could have been acceptable or acceptable in principle for the Commission:

- a stricter scope for the exception for the non-commercial transport of passengers from the regulation;
- the reference to secure data supports as a condition relating to the requirement as to establishment;
- the request to adapt the exchange rate for currencies yearly instead of every 5 years;
- the request that the criteria for the accreditation of the bodies for the training and the examination of transport manager applicants are mutually compatible;
- the possibility for Member States to promote regular training for transport managers;
- the request that the competent authority is responsible for updating and maintaining the electronic registers;
- the shortening of the time limits for an undertaking to demonstrate that it has an effective and stable establishment;
- the proposal that Member States inform the Commission about the certificates they recognise as proof of professional competence;

- the reformulation of the reference to the "regulatory procedure with scrutiny and curtailed time limits"; the common position removes this procedure.