

## **PART A/ECR**

### **ACCESS TO THE ROAD TRANSPORT MARKET**

The answers included in this document have been prepared jointly by 10 European Transport Inspection Services, working together within the framework of Euro Contrôle Route. The main objective for this cooperation is, through consultation and common initiatives, to establish the most efficient and harmonized check practices in order to improve road safety, compliance with road transport legislation and to promote fair competition.

We have filtered the “Consultation Paper” in order to concentrate only on issues that are directly connected with the abovementioned mission of ECR and that could have an impact on the checks by making them faster, more efficient and more uniform across Europe. In our opinion questions related to transport policy should be left to the competent transport ministries. Nevertheless it may occur that some of our answers that go beyond the control sector (e.g. to questions in part B) have received different answers from member states of ECR.

#### **1. THE COMMUNITY ACQUIS ON ROAD TRANSPORT.**

##### **QUESTION 1**

**Is the merging of goods transport and passenger transport a real simplification? Which option is the preferred one?**

Merging the existing legislation would be a simplification. At present, understanding the rules on goods and passenger transport requires knowledge of the many legal acts that set these rules and of the new legislation that changed or amended the previous one.

The Commission’s proposal to merge market rules on goods and passenger transport into one Regulation (Option 1) is worth considering. But in practice Option 1 may be difficult to introduce because of the potential length of this document and its revolutionary character.

Keeping the rules on the transport of goods and passenger transport separate and only merging the respective acts – one for goods and one for passenger transport would make the whole system more transparent. It should also be stressed that Option 2 could be easier for the inspectors to apply during their training and control. We also think that Option 2 would be chosen for by transport operators, as most of them transport either passengers or goods.

## **2. BETTER REGULATING CERTAIN ASPECTS OF THE CURRENT REGIME.**

### **QUESTION 2**

**Should local services be covered by Regulation 684/92 or should they be excluded, either from the regulation or from the authorization regime?**

From the perspective of the enforcement bodies this issue doesn't need to be changed. Local services should be covered by Regulation 684/92, as they are regulated currently. Moreover, taking into consideration the present practice in this field, this type of carriage should not be excluded from the regulatory regime. In the experience of control bodies, exceptions are the best opportunity to circumvent laws.

### **QUESTION 3**

**Should higher qualitative requirements be imposed on hauliers/carriers engaged in certain types of road transport? If so, which ones?**

Question 3 does not refer directly to enforcement competences as it concerns transport associations and competent transport ministries.

### **QUESTION 4**

**Should Member States be required to verify whether the haulier/operator still satisfies the conditions for maintaining the license at shorter intervals on a regular basis?**

There is no need for the moment to specify or change the frequency of mandatory controls leading to the verification of the requirements to maintain the Community license. It should also be stressed that the maximal period of 5 years period for control, allows Member States to check these conditions at shorter intervals.

In our opinion the best solution is to wait and see how the risk rating system for companies, submitted to art. 9 of the Directive 2006/22, will operate in future. This system should then be extended to all regulations concerning the road transport market.

## QUESTION 5

**Should the validity of the Community license be reduced to a shorter period of validity than 5 years? If so, to how many years should it be reduced?**

It is not a vital issue for enforcement control practice.

## QUESTION 6

**Should the regulation provide more detailed specifications for certified copies, i.e. standardize them in order to avoid confusion during an inspection? Could a gradual shift to an on-line registry of the issued Community licenses be envisaged?**

The variety of certified copies that exist nowadays in Member States is a source of confusion for the enforcers. Standardization and harmonization of such documents is therefore necessary and also expected by road transport controllers. Certified copies should have a standardized format with uniform, legible and forgery-proof security features (special paper with features to prohibit copies or scans, a defined layout and color, e.g. like the security features of CEMT).

In the long-term an on-line registry of licenses should also be introduced into the Member States systems. It will nevertheless only be possible to replace the current paper system with a digitalized one if all Member States are equipped with appropriate systems and if all inspections bodies have an online access.

## QUESTION 7

**Should the driver attestation be made more uniform across the Community? Should the format of the current paper based document be changed? Should it gradually be made electronically readable?**

Documents that have the same role and function should be harmonized across the Community to make roadside checks faster, more uniform and less confusing. Over time, with a majority of vehicles equipped with digital tachograph, an electronic format for driver attestations could be introduced. Estimations of the costs linked with such a computerization will be required.

## QUESTION 8

**Should the current maximum period of validity of 5 years be shortened?**

ECR is not fundamentally involved in this matter as enforcement follows regulations, but we have our vision as to how to increase the flexibility as well as the accuracy of the whole system.

This mid or long-term vision is based on an EU-wide central database system, where the necessary information on driving licences, driver cards, driver attestations, operator licences, vehicle registration, etc. is made available and an inspector with the proper authorisations may obtain on-online answers to his queries. Keeping such a database system up-to-date and allowing access to the necessary information within a reasonable span of time, a few minutes, will open a wide new range of enforcement possibilities. Furthermore it is to be expected, that such a system will lower the administrative burden for drivers and companies as well as officials and will lead to an automated harmonisation process all over Europe.

## QUESTION 9

**Are the stakeholders of the opinion that the obligation to hold a driver attestation should be extended to drivers who are EU nationals?**

The obligation to hold a driver attestation could be extended to drivers who are EU nationals, but it is actually a question that should be directed to national labour inspections who fight against social fraud. We expect that the introduction of the digital tachograph will give us better opportunities for controls. The additional administrative burden brought on by the extension of driver attestations should also be taken into account.

## QUESTION 10

**Should the control documents for occasional services be harmonized and the specifications be made as detailed as possible to avoid confusion during an inspection?**

This question is linked to other questions concerning the harmonization of control documents. The variety of “journey forms” generated by different agreements causes a lot of problems for inspection services. In general the enforcement bodies are in favor of a harmonisation of control documents with uniform, readable, legible and enforceable specifications.

### QUESTION 11

**What is the stakeholders' opinion on the use of a uniform, Community-wide journey form in goods transport by road replacing the variety of national documents?**

The requirement to carry a standard journey form would improve the enforceability of roadside checks especially with regard to cabotage. At present the operator/driver can be asked by the inspector to give proofs for some informations related to the transport of goods, although no document regrouping such information exists (except for ADR carriages) and there is not always an obligation to have the CMR document on board. To put it shortly, the adoption of a standardized journey form in goods transport, based on the content of the CMR document, should be taken into consideration.

### QUESTION 12

**Should the authorization regime for international regular passenger services be maintained, simplified or abolished?**

### QUESTION 13

**Provided that stakeholders are in favor of maintaining the current authorization regime, is it feasible for national administrations to apply a shorter authorization processing periods?**

### QUESTION 14

**Provided that stakeholders are in favor of maintaining the current authorization regime, are these appeals processes clear and effective?**

### QUESTION 15

**Provided that stakeholders are in favor of maintaining the current authorization regime, are there other aspects of the regulatory regime which could be changed to simplify the administrative procedures or to otherwise improve the functioning of the authorization regime by focusing it e.g. on safety and social requirements compliance?**

## QUESTION 16

**Should urban and suburban cabotage operations in the course of international services be authorized? Under which conditions?**

Questions 12 to 16 do not directly refer to competences of the inspecting bodies. The opinion of all competent Member States authorities should be taken into account.

## QUESTION 17

**Do stakeholders perceive the varying rules as a problem? Do stakeholders consider that a clearer and more precise definition of road cabotage would be useful?**

For the time being operators carrying out cabotage operations in different Member States have to comply with different requirements. Standardization, clearly defined rules supported by a uniform document that can constitute a proof of cabotage carriage are therefore essential. Nevertheless, inside their respective countries, control bodies carry out controls according to their national rules, therefore the difference in regulation will be more of a problem for operators than for control bodies.

## QUESTION 18

**What are the stakeholders' views on these approaches? What alternatives could be proposed for a clear and easily enforceable definition of road cabotage?**

Both options presented in the Consultation Paper can be recommended as each proposal has its advantages and disadvantages. On the other hand, it is difficult to choose between them as they represent completely different approaches.

From the enforcement point of view however, Option 2, supported by the Community – wide journey form (see question 11) would be easier to apply during controls.

## QUESTION 19

**Which areas should be added to the list or deleted from the list contained in Art. 6 (1) of Regulation 3118/93?**

These issues are not competencies of control bodies.

## QUESTION 20

**What is the stakeholders' experience with the application of Directive 96/71 to cabotage transport operations? What is their opinion on exempting cabotage operations from the scope of that Directive provided that cabotage is limited to a period shorter than one month?**

Questions 20 is not a competence of enforcement bodies.

## QUESTION 21

**Are there any other issues regarding the market access in road transport that stakeholders would like to rise? The Commission services are particularly interested in any proposal for augmenting the quality standards and optimization of road transport operations while avoiding any additional administrative cost.**

Reference to answer 11/Paper B.

## **PART B/ECR**

### **ACCESS TO THE ROAD TRANSPORT MARKET**

#### **QUESTION 1**

**Is there a need, and for what reasons, for higher minimum standards for admission to the occupation? If so, should they apply to all road transport profession or only to certain categories? Which ones?**

From the enforcement point of view the current standards are relatively strong when they are applied as they should be.

#### **QUESTION 2**

**Should criteria other than good repute, financial standing and professional competence be included? If so, what should they be? For example, should criteria which prevent “letter – box” companies from engaging in the occupation be included? If yes, how?**

Yes, companies have to prove that they have a “real” registered office in the country of establishment where the transport is really done by the people in charge of their effective and permanent management. The evaluation criteria should be defined more precisely.

#### **QUESTION 3**

**What exemptions and dispensations could be abolished?**

We can see no justification for maintaining outdated rights. It is worth introducing changes into the present legislation to abolish exemptions that are not justified and to make the situation in this field as equivalent as possible. Especially, the threshold should be aligned on other related requirements at 3,5 tons.



#### QUESTION 4

**Do the requirements for admission to the occupation need to be checked more frequently? If so, should all or only some of them be checked? Which option do you prefer? If you prefer option A, what frequency do you propose?**

There is no need for the moment to specify or change the frequency of mandatory control leading to the verification of conditions for maintaining the Community license. Both options presented in the "Consultation Paper" could be successfully introduced by Member States but we should bear in mind that most countries have already introduced different methods (plus financial and institutional expenses) for performing such checks. In our opinion any change in this field should be connected with the introduction of a risk rating system for operators.

#### QUESTION 5

**Is it called for that Community legislation prevents that an undertaking which has been disqualified establishes in another Member State? If yes, what should the solution be?**

An undertaking which is disqualified as a result of a check should be prevented somehow from obtaining a Community license in another Member State. To achieve this aim we need a better dissemination of information, a real exchange of information linked to a loss of good reputation for those responsible for the management of the transport undertaking. But this seems to be a long-term process.

Such actions cannot be automatic because the qualification of a company is often linked to the qualification of physical persons (good reputation). When a physical person doesn't meet the good reputation criteria anymore he/she can be replaced by another person and by so doing, the company meets the required standards again. The standards of good reputation should be harmonized.

The ECR Data Exchange working group works on this topic to provide functional solutions for the exchange of data.

#### QUESTION 6

**Are there any administrative burdens associated with measures considered useful in this questionnaire that could be alleviated or abandoned? If so, by what means could that be achieved?**

For the moment, the costs to set up a central database system for the whole Community can not be estimated quickly but one might expect them to be considerably high (see answer to question 8 in part A). Although for the single states there are no additional costs except for getting access to the European system.

The possible costs of a prolongation of the validity of driver attestations for drivers who are EU nationals could be spared by waiting for the results of the introduction of the digital tachograph as proposed in our answer to question 9 of part A. Any additional document (e.g. the Community-wide journey form) will generate costs for the operators. Therefore it is necessary to create such a document in replacement of other control documents, maybe with additional digital information.

## QUESTION 7

**Should it be required that, to be deemed to be of good repute and granted admission to the occupation, an applicant must not have committed any repeat offences?**

We are of the opinion that information gathered as a consequence of the different obligations rising from e.g. Directives 2000/30/EC and 2006/22/EC, which are the basis for the risk assessment of companies – will be a good parameter for compliance with obligations imposed by these directives. Repeated offences, weighted on the size of a company will be indicating a poor operation behaviour. One of the ECR working groups (ECR/Harmonization) is currently starting to work on this subject. Based on

- ECR - Recommendation on categorisation of infringements against driving- and resting-time rules,
- CITA - Recommendation on roadside technical checks and
- the risk categorisation for hazardous goods transport,

a system will be set up which takes into account the number of trucks or transports an operator is running to give an idea of the operation behaviour of companies.

## QUESTION 8

**Should the definitions of serious offences which constitute a barrier to admission to the profession be harmonized at European level?**

The definition of serious offence should be harmonized at European level or guidance should be given on what constitutes a serious offence. As the requirements for the admission to the transport occupation are harmonized, so the conditions for withdrawal of the license should also be harmonized at European level.

## QUESTION 9

**Should European legislation include a list of persons to whom the requirement of good repute applies? If your answer is yes, should the list include categories other than managers, directors and persons who have interests in the undertaking?**

Question is not a competence of enforcers.

## QUESTION 10

**Should the licensing authorities be given easier access to information about judgments and penalties which bar an operator from being granted admission to the occupation?**

Yes, Member States should have better access to the information about judgments and penalties regarding operators. But such improvements will appear as a consequence of the common database/network for data exchange.

## QUESTION 11

**Is the current information exchange system on infringements and sanctions sufficient? If not, what improvements do you suggest?**

The current system of information exchange on infringements and sanctions between Member States is not sufficient. There is no structural exchange of enforcement related information between the relevant enforcement bodies in the Member States. Over the last 6 years, ECR has gained some experience with this kind of information exchange.

Data exchange between enforcement bodies should cover the broad scope of passenger and goods transport by road and should not be limited to infringement/ sanction related information.

### Legal

Although the legal bases to exchange enforcement related information on a Community level are in place, there still are problems on Member State level due to the different national legal regimes (e.g. no standardised format for exchanging infringements covered in Regulations 3820/85 and 3821/85 ). The main reason for the current poor exchange system is the lack of harmonization in sanctions for infringing transport regulations.

To improve the exchange Member States should endeavour to use the legal possibilities.

Technical

A Europe-wide secured data exchange network should be introduced or existing systems should be adapted to this kind of data transmission (e.g. TESTA).

Moreover, the issue has more to do with what happens to the information exchanged. There is not much evidence that Member States take any account of information supplied to them. What is required is feedback.

**QUESTION 12**

**Should the methods for assessing financial standing be further harmonized?**

**QUESTION 13**

**Should the option of compulsory professional liability insurance be considered in greater depth?**

**QUESTION 14**

**Is further harmonization of examinations necessary? What dispensations could be abolished?**

Questions 12 to 14 do not concern competences of enforcement bodies.

**QUESTION 15**

**Should the holder of the certificate of competence be an employee of the company concerned and a permanent resident of the Member State in which the company is established?**

In our opinion it is worth considering changes to the law which would somehow "tie" the holder of the certificate of competence to the company he works for. It is currently possible to use a person only to obtain a Community license ("paper worker") and not to have them work for the company in reality. In the case of a certificate of competence the same rules should be applied as to the "dangerous goods safety advisor".

## QUESTION 16

**Do you have any other comments or suggestions which you consider should be taken into account during the revision of the European legislation on admission to the occupation of road haulage operator?**

No other proposals.

## QUESTION 17

**Would you like to propose other measures to avoid administrative burdens associated with measures considered useful in this questionnaire?**

If we have a European database for the exchange of information, it should be considered to have a European digital method to collect data immediately during the checks.

