

THE NEW CABOTAGE REGIME UNDER REGULATION (EC) NO 1072/2009

Questions & Answers

This sheet aims at providing clarifications on certain provisions of Regulation (EC) No 1072/2009. It should be noted that, in any event, interpretation of European Union law is ultimately the prerogative of the European Court of Justice.

Regulation (EC) 1072/2009¹ contains rules on road cabotage which will apply as from 14 May 2010. The new regime provided for in Article 8 of the Regulation limits the overall duration of cabotage to 7 days and sets the maximum number of allowed cabotage operations to three. Before cabotage can start the haulier must have entered the host Member State with a laden vehicle and the goods carried in the course of the incoming cross-border transport must have been delivered.

These conditions and rules raise several questions as regards their precise definition and delimitation.

When can a haulier start with cabotage?

A haulier is only allowed to start performing cabotage, if he has carried out an international, i.e. cross-border transport. This carriage may have its origin in a Member State or in a third country. All goods carried in the course of the incoming transport must have been delivered. In case the incoming carriage consists of several consignments, cabotage can only start once all consignments have been delivered.

What constitutes a "cabotage operation"? Can there be several loading and/or unloading points?

The term "operation" needs to be defined according to the common practice in the road transport industry. It means the carriage of a consignment from the picking up of the goods until their delivery at the consignee as specified in the consignment note. A cabotage operation can involve several loading points, several delivery points or even several loading and delivery points, as the case may be.

When does the 7 days' period start and how is it calculated?

"Days" as contained in the Regulation refers to calendar days and not just a period of 24 hours. Therefore the overall period of 7 days referred to in Article 8(2) starts from 0h00 of the day following the last unloading in the course of the incoming international carriage. The last unloading in the course of the final cabotage operation must consequently take place at 24h of the seventh day at the latest.

¹ Regulation (EC) 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market, OJ L 300, 14.11.2009, p. 72

What is meant by the 3 days limit in Art. 8(2) 2nd subparagraph?

Within the 7 days period hauliers can either perform cabotage in one Member State only or in one or more Member States. Up to 3 cabotage operations can be performed at the maximum. A haulier may decide to carry out one, two or all three cabotage operations not in the Member State of the incoming international transport but in other Member States. In this case there is only one cabotage operation allowed in a given Member State and the operation has to be carried out within 3 days of the unladen entry into that Member State. As regards the calculation of the 3 days' period the same explanation as given above for the 7 days' period applies.

How is the provision of Art. 8 (4) to be read saying that no additional document is required?

Hauliers are required to keep documentation of every carriage carried out in connection with their cabotage operations. This must comprise all the details listed in Art. 8(3) 2nd subparagraph. These details are contained in the consignment note or bill of lading, normally in the CMR format. No additional document is required in order to prove that the cabotage rules have been respected.

This provision, however, does not mean that control authorities cannot use other evidence required by road transport legislation, e.g. the tachograph data, to establish whether a cabotage operation is carried out according to the rules.

What about cabotage in connection with combined transport?

The carriage of goods in connection with a combined transport operation as defined in Directive 92/106/EEC is not covered by the cabotage regime of Regulation (EC) 1072/2009. These operations continue to be carried out under the terms of the said Directive.

What will happen to the current cabotage regimes in the Member States?

The new rules on road cabotage will become applicable on 14 May 2010. As from this date this new regime will prevail over any national legislation which provides for diverging rules. This also means that national authorities cannot require any additional document to the one with which the haulier gives evidence of the details of each cabotage operation.

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