

Revision of The Community Legislation on Access To The Road Transport Market And On The Admission To The Occupation Of Road Transport Operator

PART A

ACCESS TO THE ROAD TRANSPORT MARKET

Question 1 – Is the merging of goods transport and passenger transport a real simplification? Which option is the preferred one?

In principle, merging rules on market access in goods and passenger transport may bring some additional simplification and transparency. However, bearing in mind that the markets for goods and passenger transport by road are quite different, as well as the different level of liberalization for these two different markets, it is highly premature at this stage to advocate merging market access rules for the two sectors (passenger and goods). They should be kept apart as this would assure an acceptable level of transparency of market access rules (including cabotage) in passenger and goods transport by road.

Question 2 – Should local services be covered by regulation 684/92 or should they be excluded, either from the regulation or from the authorisation regime?

“Urban carriage in frontier areas” was considered as a special regular service in the original Regulation 684/92 (Article 2). They were not subject to an authorization if they were covered by a contract concluded between the organizer and the carrier. Under Regulation 11/98, these services became ordinary international regular services, subject to authorization. They can in fact be considered local public transport but are international. Subsequently, they should remain within the scope of this regulation but should also remain subject to authorization.

Question 3 – Should higher qualitative requirements be imposed on hauliers/carriers engaged in certain types of road transport? If so, which ones?

The industry supports maintaining a high level of professionalism in road transport. But it does not support the introduction of a compulsory professional liability insurance which would rather lift responsibility from the operator than anything else. Taking out a professional liability insurance policy should be the free choice of the operator. The enforcement of existing EU rules and international conventions regulating the carriage of sensitive goods like dangerous goods (ADR Convention), perishable foodstuffs (ATP Convention), and live animals (EU Directives) should be intensified. Obviously, the issue needs further investigation.

Question 4 – Should Member States be required to verify whether the haulier/operator still satisfies the conditions for maintaining the licence at shorter intervals on a regular basis?

All requirements for access to the profession in the road transport industry should be checked at five year intervals. The direct and indirect costs of an increased checking frequency should be avoided. An improved co-ordination between control and licensing authorities themselves is needed, including among Member States, in order to better identify and target frequent and serious offenders (e.g. in the case of good repute). The link between controls, access to the profession and sanctions, including withdrawal of licences, must be studied and developed further.

An undertaking which is disqualified as a result of a check should also be prevented from being able to obtain authorisation in another Member State. It is not right, for example, that an undertaking which has lost its good repute in one Member State should be able to establish itself in another. One solution could be to exchange information (e.g. electronically) in a European network of competent authorities. The competent authorities could thus notify other authorisations for access to the profession as well as withdrawals of such authorisations. Based on modern IT solutions, it would be possible in the medium term to establish an EU wide central electronic register of transport operators, which would contain the up-to-date information on every legally functioning company, in particular the information relating to the validity of licences and compliance with the three basic requirements. Such a register would be accessible in certain parts even to the public and would facilitate contact between licensing authorities and those imposing penalties.

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

The validity of the licences should remain 5 years. Maintaining a licence validity period of 5 years does not contradict the need for more frequent checks on fulfilling the criteria in justified cases.

2.5. Driver attestation

2.5.1. General considerations

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?

In the given situation, yes, the driver attestation for nationals of non-EU Member States should be made more uniform. The paper document could be replaced by an electronic attestation card or to be incorporated within the driver card of the digital tachograph system. However, the possession of a digital tachograph driver card will not be a universal requirement for all drivers for a number of years to come. Ideally, the future electronic EU driver's license is the "candidate" to integrate all driver data that need

to be checked. In a long term perspective, interoperable plastic cards incorporating all relevant data for company, driver and vehicle, with the possibility to adapt them to technical or legislative progress would probably become a universal solution.

Question 8 – Should the current maximum period of validity of 5 years be shortened?

The validity should be identical with that of the digital tachograph driver card, which is a maximum of 5 years. Where Member States have introduced a shorter period of validity for digital tachograph cards, the EU attestation period should also be shortened to correspond to this period.

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2.6.2. A journey form for goods transport?

Question 11 - What is the stakeholders' opinion on the use of a uniform, Communitywide journey form in goods transport by road replacing the variety of national documents?

No additional Community journey form for goods transport should be introduced, furthermore even national journey forms should be done away with. This logbook-type, bureaucratic and not really reliable document is unnecessary for transport for hire and reward. An original consignment note, as required by administrative law in the majority of the EU Member States, should be on-board the vehicle for checking purposes in domestic, cabotage and international transport operations. The consignment note is really the authentic document on the transport operation as compared to a logbook of no or very limited legal value. In general, the use of the consignment note would “regularise” many other semi-regular or irregular aspects of transport market operations, it would contribute to “cleaning” the profession, it would make operations more transparent and it would contribute to increasing quality in the profession.

2.7.2. Road cabotage for goods

2.7.3. Better definition of road cabotage

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?

A clearer and more precise definition would be very beneficial. Simplicity of regulation is just as important as transparency and easy control/enforcement. Indeed, this is an issue, which needs further investigation and consultation.

B

2.1. Level of standards

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 professions or only to certain categories? Which ones?

There is a need for reinforced control and enforcement/sanctioning of existing rules on access to the profession since important current problems in the road transport market could be mitigated if existing rules were simply applied and observed. It is a general experience that the present rules are applied to varying extents in the various EU Member States. Therefore, there is an absolute necessity to harmonise the different interpretations and enforcement practices of the EU access-to-the-profession rules. A proper interpretation (clearer definition) of one or another of the three qualitative criteria would be necessary, e.g. good repute criteria and proof of the form and means of justifying financial standing. Access to the profession should cover all road transport professions and exemptions should be the exception rather than the rule. Admission criteria should be drafted and legislated for industries closely linked to and impacting the road transport sector to a great extent, such as the freight forwarding profession and logistics service providers.

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?

Precisions may be useful, such as obliging the transport operator to have a permanently available CPC holder in the management or preventing managers from establishing new companies after a fraudulent bankruptcy or including “drug abuse or drug trafficking” and “human trafficking” in the list of serious infringements.

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? (See also question 10).

Yes, a disqualified undertaking should be prevented by legislation to establish in another Member State. An electronic exchange of information among competent authorities should serve as a tool. Authorities should establish and keep updated a list of companies which should also be subject to such an information exchange.

3. GOOD REPUTE

3.1. Conditions to be met

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?

Yes. However, a common EU description / list / interpretation of these offences is needed, whilst at the same time clearly defining the cases where the manager can be held responsible for offences committed by his drivers. Such offences should be of substance and/or really repetitive as well as restricted to evident and provable cases. An EU-wide classification of offences should also be developed, in co-operation with the industry.

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?

The EU legislation should define a limited list of persons who should have good repute (and a CPC) like managers and directors in charge of the undertaking's daily transport and logistics activities. The extension to "persons who have interests in the undertaking" is not advisable due to the vague term used to depict this category of persons.

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, such an easy access to judgments and penalties should be provided for licensing authorities. It should be completed with an international exchange of information among authorities, as previously mentioned.

Question 11: Is the current information exchange system on infringements and sanctions sufficient? If not, what improvements do you suggest?

The current system is insufficient. Member States do not even inform the Commission of licences being withdrawn. The international information system should cover all types of infringements (to be harmonised and classified according to their seriousness) and not only offences related to transport rules. If a reliable basis for international information exchange is really created, all infringements should be added up for offences committed anywhere on EU territory. It may be useful to introduce a Black List of non-abiding operators from whom the licence has been withdrawn.

4. FINANCIAL STANDING

4.1. Method for assessing financial standing

Question 12: Should the methods for assessing financial standing be further harmonised?

Yes there are options available. One of these may be for a minimum of 50% of the financial standing requirement, where only own assets should be permitted. This should include all fixed and moveable assets. Leased vehicles and equipment would not be considered as own asset. For the other maximum 50%, a deposit/bank or insurance guarantee (optional) may be chosen by the operator and accepted by the licensing authority.

PROFESSIONAL COMPETENCE

5.1. Harmonisation of examination level

Question 14: Is further harmonisation of examinations necessary? What dispensations could be abolished?

A further harmonisation of examinations is necessary. Test centres should be certified together with training centres which prepare applicants for the examinations. Concerning the latter, industry initiatives should be supported and recognised.

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?

Yes, the CPC holder should be permanently working for or employed by and/or the owner (in case of owner-driver) of the undertaking and s/he should be resident of the Member State in which the company is established. The category of persons that are holders of a CPC should be extended to managers and directors in charge of the undertaking's daily transport and logistics activities.

