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► B REGULATION (EC) No 1071/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 October 2009

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

(Text with EEA relevance)

(OJ L 300, 14.11.2009, p. 51)

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► <u>M3</u>	Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020	L 249	17	31.7.2020

▼B**REGULATION (EC) No 1071/2009 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL****of 21 October 2009****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****(Text with EEA relevance)****CHAPTER I****GENERAL PROVISIONS***Article 1***Subject matter and scope**

1. This Regulation governs admission to, and the pursuit of, the occupation of road transport operator.

2. This 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. 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 occupation.

3. As regards the regions referred to in Article 299(2) of the Treaty, the Member States concerned may adapt the conditions to be complied with in order to pursue the occupation of road transport operator, in so far as operations are fully carried out in those regions by undertakings established there.

4. By way of derogation from paragraph 2, this Regulation shall, unless otherwise provided for in national law, not apply to:

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(a) undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles the permissible laden mass of which does not exceed 3,5 tonnes engaged exclusively in national transport operations in their Member State of establishment;

(aa) undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles, the permissible laden mass of which does not exceed 2,5 tonnes;

(b) undertakings engaged in road passenger transport services exclusively for non-commercial purposes or which have a main occupation other than that of road passenger transport operator;

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(c) 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.

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For the purposes of point (b) of the first subparagraph, any carriage by road, other than carriage for hire or reward or on own account, for which no direct or indirect remuneration is received and which does not directly or indirectly generate any income for the driver of the vehicle or for others, and which is not linked to professional activity, is to be considered as carriage exclusively for non-commercial purposes.

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5. Member States may exempt from the application of all or some of the provisions of this Regulation only those road transport operators engaged exclusively in national transport operations having only a minor impact on the transport market because of:

- (a) the nature of the goods carried; or
- (b) the short distances involved.

*Article 2***Definitions**

For the purposes of this Regulation:

1. ‘the occupation of road haulage operator’ means the activity of any undertaking transporting goods for hire or reward by means either of motor vehicles or combinations of vehicles;
2. ‘the occupation of road passenger transport operator’ means the activity of any undertaking operating, by means of motor vehicles so constructed and equipped as to be suitable for carrying more than nine persons, including the driver, and intended for that purpose, passenger transport services for the public or for specific categories of users in return for payment by the person transported or by the transport organiser;
3. ‘the occupation of road transport operator’ means the occupation of road passenger transport operator or the occupation of road haulage operator;
4. ‘undertaking’ means any natural person, any legal person, whether profit-making or not, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such personality, engaged in the transport of passengers, or any natural or legal person engaged in the transport of freight with a commercial purpose;
5. ‘transport manager’ means a natural person employed by an undertaking or, if that undertaking is a natural person, that person or, where provided for, another natural person designated by that undertaking by means of a contract, who effectively and continuously manages the transport activities of that undertaking;
6. ‘authorisation to pursue the occupation of road transport operator’ means an administrative decision which authorises an undertaking which satisfies the conditions laid down in this Regulation to pursue the occupation of road transport operator;

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7. ‘competent authority’ means a national, regional or local authority in a Member State which, for the purpose of authorising the pursuit of the occupation of road transport operator, verifies whether an undertaking satisfies the conditions laid down in this Regulation, and which is empowered to grant, suspend or withdraw an authorisation to pursue the occupation of road transport operator;
8. ‘Member State of establishment’ means the Member State in which an undertaking is established, regardless of whether its transport manager originates from another country.

*Article 3***Requirements for engagement in the occupation of road transport operator**

1. Undertakings engaged in the occupation of road transport operator shall:
 - (a) have an effective and stable establishment in a Member State;
 - (b) be of good repute;
 - (c) have appropriate financial standing; and
 - (d) have the requisite professional competence.

▼M3**▼B***Article 4***Transport manager**

1. An undertaking which engages in the occupation of road transport operator shall designate at least one natural person, the transport manager, who satisfies the requirements set out in Article 3(1)(b) and (d) and who:
 - (a) effectively and continuously manages the transport activities of the undertaking;
 - (b) has a genuine link to the undertaking, such as being an employee, director, owner or shareholder or administering it, or, if the undertaking is a natural person, is that person; and
 - (c) is resident in the Community.
2. If an undertaking does not satisfy the requirement of professional competence laid down in Article 3(1)(d), the competent authority may authorise it to engage in the occupation of road transport operator without a transport manager designated in accordance with paragraph 1 of this Article, provided that:
 - (a) the undertaking designates a natural person residing in the Community who satisfies the requirements laid down in Article 3(1)(b) and (d), and who is entitled under contract to carry out duties as transport manager on behalf of the undertaking;

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- (b) the contract linking the undertaking with the person referred to in point (a) specifies the tasks to be performed on an effective and continuous basis by that person, and indicates his or her responsibilities as transport manager. The tasks to be specified shall comprise, in particular, those relating to vehicle maintenance management, verification of transport contracts and documents, basic accounting, the assignment of loads or services to drivers and vehicles, and the verification of safety procedures;
- (c) in his or her capacity as transport manager, the person referred to in point (a) may manage the transport activities of up to four different undertakings carried out with a combined maximum total fleet of 50 vehicles. Member States may decide to lower the number of undertakings and/or the size of the total fleet of vehicles which that person may manage; and
- (d) the person referred to in point (a) performs the specified tasks solely in the interests of the undertaking and his or her responsibilities are exercised independently of any undertakings for which the undertaking carries out transport operations.

3. Member States may decide that a transport manager designated in accordance with paragraph 1 may not in addition be designated in accordance with paragraph 2, or may only be so designated in respect of a limited number of undertakings or a fleet of vehicles that is smaller than that referred to in paragraph 2(c).

4. The undertaking shall notify the competent authority of the transport manager or managers designated.

CHAPTER II

CONDITIONS TO BE MET TO SATISFY THE REQUIREMENTS LAID DOWN IN ARTICLE 3

▼M3*Article 5***Conditions relating to the requirement of establishment**

1. In order to satisfy the requirement laid down in point (a) of Article 3(1), in the Member State of establishment an undertaking shall:

- (a) have premises at which it is able to access the originals of its core business documents, whether in electronic or any other form, in particular its transport contracts, documents relating to the vehicles at the disposal of the undertaking, accounting documents, personnel management documents, labour contracts, social security documents, documents containing data on the dispatching and posting of drivers, documents containing data relating to cabotage, driving time and rest periods, and any other document to which the competent authority must have access in order to verify the undertaking's compliance with the conditions laid down in this Regulation;

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- (b) organise its vehicle fleet's activity in such a way as to ensure that vehicles that are at the disposal of the undertaking and are used in international carriage return to one of the operational centres in that Member State at least within eight weeks after leaving it;
- (c) be registered on the register of commercial companies of that Member State or on a similar register whenever required under national law;
- (d) be subject to tax on revenues and, whenever required under national law, have a valid value added tax registration number;
- (e) once an authorisation has been granted, have at its disposal one or more vehicles which are registered or put into circulation and authorised to be used in conformity with the legislation of that Member State, regardless of whether those vehicles are wholly owned or, for example, held under a hire-purchase agreement or under a hire or leasing contract;
- (f) effectively and continuously conduct its administrative and commercial activities with the appropriate equipment and facilities at premises as referred to in point (a) situated in that Member State and manage its transport operations effectively and continuously using the vehicles referred to in point (g) with the appropriate technical equipment situated in that Member State;
- (g) on an ongoing basis, have at its regular disposal a number of vehicles that comply with the conditions laid down in point (e) and drivers who are normally based at an operational centre in that Member State, in both cases proportionate to the volume of transport operations carried out by the undertaking.

2. In addition to the requirements laid down in paragraph 1, Member States may require an undertaking to have, in the Member State of establishment:

- (a) proportionate to the size of the activity of the undertaking, duly qualified administrative personnel at the premises or the transport manager reachable during customary business hours;
- (b) proportionate to the size of the activity of the undertaking, operational infrastructure other than the technical equipment referred to in point (f) of paragraph 1 in the territory of that Member State, including an office which is open during customary business hours.

▼B*Article 6***Conditions relating to the requirement of good repute**

1. Subject to paragraph 2 of this Article, Member States shall determine the conditions to be met by undertakings and transport managers in order to satisfy the requirement of good repute laid down in Article 3(1)(b).

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In determining whether an undertaking has satisfied that requirement, Member States shall consider the conduct of that undertaking, its transport managers, executive directors and any other relevant person as may be determined by the Member State. Any reference in this Article to convictions, penalties or infringements shall include convictions, penalties incurred by or infringements of the undertaking itself, its transport managers, executive directors and any other relevant person as may be determined by the Member State.

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The conditions referred to in the first subparagraph shall include at least the following:

- (a) that there be no compelling grounds for doubting the good repute of the transport manager or the transport undertaking, such as convictions or penalties for any serious infringement of national rules in force in the fields of:

(i) commercial law;

(ii) insolvency law;

(iii) pay and employment conditions in the profession;

(iv) road traffic;

(v) professional liability;

(vi) trafficking in human beings or drugs; ►M3 ————— ◀

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(vii) tax law; and

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- (b) that the transport manager or the transport undertaking have not in one or more Member States been convicted of a serious criminal offence or incurred a penalty for a serious infringement of Community rules relating in particular to:

(i) the driving time and rest periods of drivers, working time and the installation and use of recording equipment;

(ii) the maximum weights and dimensions of commercial vehicles used in international traffic;

(iii) the initial qualification and continuous training of drivers;

(iv) the roadworthiness of commercial vehicles, including the compulsory technical inspection of motor vehicles;

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- (v) access to the market in international road haulage or, as appropriate, access to the market in road passenger transport;
- (vi) safety in the carriage of dangerous goods by road;
- (vii) the installation and use of speed-limiting devices in certain categories of vehicle;
- (viii) driving licences;
- (ix) admission to the occupation;
- (x) animal transport;

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- (xi) the posting of workers in road transport;
- (xii) the law applicable to contractual obligations;
- (xiii) cabotage.

2. For the purposes of point (b) of the third subparagraph of paragraph 1, where the transport manager or the transport undertaking has been convicted of a serious criminal offence or has incurred a penalty for one of the most serious infringements of Union rules as set out in Annex IV, in one or more Member States, the competent authority of the Member State of establishment shall carry out and complete in an appropriate and timely manner an administrative procedure, which shall include, if appropriate, an on-site inspection at the premises of the undertaking concerned.

During the administrative procedure, the transport manager or other legal representatives of the transport undertaking, as the case may be, shall be given the right to present their arguments and explanations.

During the administrative procedure, the competent authority shall assess whether, due to specific circumstances, the loss of good repute would constitute a disproportionate response in the individual case. In that assessment, the competent authority shall take into account the number of serious infringements of national and Union rules as referred to in the third subparagraph of paragraph 1, as well as the number of most serious infringements of Union rules as set out in Annex IV for which the transport manager or the transport undertaking has been convicted or has had penalties imposed. Any such finding shall be duly reasoned and justified.

Where the competent authority finds that the loss of good repute would be disproportionate, it shall decide that the undertaking concerned continues to be of good repute. The reasons for this decision shall be recorded in the national register. The number of such decisions shall be indicated in the report referred to in Article 26(1).

Where the competent authority does not find that the loss of good repute would be disproportionate, the conviction or penalty shall lead to the loss of good repute.

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2a. The Commission shall adopt implementing acts laying down a list of categories, types and degrees of seriousness of serious infringements of Union rules referred to in point (b) of the third subparagraph of paragraph 1 which, in addition to those set out in Annex IV, 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 pursuant to Article 12(1).

To that end, the Commission shall:

- (a) lay down the categories and types of infringement which are most frequently encountered;
- (b) define the degree of seriousness of infringements according to their potential to create a risk of fatalities or serious injuries and to distort competition in the road transport market, including by undermining the working conditions of transport workers;
- (c) provide the frequency of occurrence beyond which repeated infringements shall be regarded as more serious, taking into account the number of vehicles used for the transport activities managed by the transport manager.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25(3).

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3. The requirement laid down in Article 3(1)(b) shall not be satisfied until a rehabilitation measure or any other measure having an equivalent effect has been taken pursuant to the relevant provisions of national law.

*Article 7***Conditions relating to the requirement of financial standing****▼M3**

1. In order to satisfy the requirement laid down in point (c) of Article 3(1), an undertaking shall at all times be able to meet its financial obligations in the course of the annual accounting year. The undertaking shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that for each year it has at its disposal capital and reserves totalling at least:

- (a) EUR 9 000, for the first motor vehicle used;
- (b) EUR 5 000 for each additional motor vehicle or combination of vehicles used that has a permissible laden mass exceeding 3,5 tonnes; and
- (c) EUR 900 for each additional motor vehicle or combination of vehicles used that has a permissible laden mass exceeding 2,5 tonnes but not exceeding 3,5 tonnes.

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Undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles that have a permissible laden mass exceeding 2,5 tonnes but not exceeding 3,5 tonnes shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that for each year they have at their disposal capital and reserves totalling at least:

- (a) EUR 1 800 for the first vehicle used; and
- (b) EUR 900 for each additional vehicle used.

Member States may require that undertakings established in their territories demonstrate that they have at their disposal for these vehicles the same amounts of capital and reserves as for the vehicles referred to in the first subparagraph. In such cases, the competent authority of the Member State concerned shall inform the Commission accordingly, and the Commission shall make that information publicly available.

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For the purposes of this Regulation, the value of the euro in the currencies of Member States which do not participate in the third stage of the economic and monetary union shall be fixed every year. The rates to be applied shall be those obtained on the first working day of October and published in the *Official Journal of the European Union*. They shall have effect from 1 January of the following calendar year.

The accounting items referred to in the first subparagraph shall be understood as those defined in Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies ⁽¹⁾.

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1a. In addition to the requirements set out in paragraph 1, Member States may require that the undertaking, the transport manager or any other relevant person as may be determined by Member States not have outstanding non-personal debts owed to bodies governed by public law, and not be bankrupt or subject to insolvency or winding-up proceedings.

2. By way of derogation from paragraph 1, the competent authority may agree or require that an undertaking demonstrate its financial standing by means of a certificate determined by the competent authority, such as a bank guarantee or an insurance, including a professional liability insurance from one or more banks or other financial institutions including insurance companies or by another binding document providing a joint and several guarantee for the undertaking in respect of the amounts specified in paragraph 1.

2a. By way of derogation from paragraph 1, in the absence of certified annual accounts for the year of an undertaking's registration, the competent authority shall agree that an undertaking demonstrate its financial standing by means of a certificate, such as a bank guarantee, a document issued by a financial institution establishing access to credit in the name of the undertaking, or by another binding document as determined by the competent authority proving that the undertaking has at its disposal the amounts specified in paragraph 1.

⁽¹⁾ OJ L 222, 14.8.1978, p. 11.

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3. The annual accounts referred to in paragraph 1, and the guarantee referred to in paragraph 2, which are to be verified, are those of the economic entity established in the Member State in which an authorisation has been applied for and not those of any other entity established in any other Member State.

*Article 8***Conditions relating to the requirement of professional competence**

1. In order to satisfy the requirement laid down in Article 3(1)(d), the person or persons concerned shall possess knowledge corresponding to the level provided for in Part I of Annex I in the subjects listed therein. That knowledge shall be demonstrated by means of a compulsory written examination which, if a Member State so decides, may be supplemented by an oral examination. Those examinations shall be organised in accordance with Part II of Annex I. To this end, Member States may decide to impose training prior to the examination.

2. 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.

3. Only the authorities or bodies duly authorised for this purpose by a Member State, in accordance with criteria defined by it, may organise and certify the written and oral examinations referred to in paragraph 1. Member States shall regularly verify that the conditions under which those authorities or bodies organise the examinations are in accordance with Annex I.

4. Member States may duly authorise, in accordance with criteria defined by them, bodies to provide applicants with high-quality training to prepare them for the examinations and transport managers with continuous training to update their knowledge if they wish to do so. Such Member States shall regularly verify that these bodies at all times fulfil the criteria on the basis of which they were authorised.

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5. Member States may promote periodic training on the subjects listed in Annex I at three-year intervals to ensure that the person or persons referred to in paragraph 1 are sufficiently aware of developments in the sector.

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6. Member States may require 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, to undertake retraining in order to update their knowledge regarding the current developments of the legislation referred to in Part I of Annex I.

7. A Member State may exempt the holders of certain higher education qualifications or technical education qualifications issued in that Member State, specifically designated to this end and entailing knowledge of all the subjects listed in Annex I from the examination in the subjects covered by those qualifications. The exemption shall only apply to those sections of Part I of Annex I for which the qualification covers all subjects listed under the heading of each section.

A Member State may exempt from specified parts of the examinations holders of certificates of professional competence valid for national transport operations in that Member State.

8. A certificate issued by the authority or body referred to in paragraph 3 shall be produced as proof of professional competence. That certificate shall not be transferable to any other person. It shall be drawn up in accordance with the security features and the model certificate set out in Annexes II and III and shall bear the seal of the duly authorised authority or body which issued it.

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9. The Commission is empowered to adopt delegated acts in accordance with Article 24a to amend Annexes I, II and III in order to adapt them to market developments and technical progress.

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10. The Commission shall encourage and facilitate the exchange of experience and information between Member States, or through any body it may designate, concerning training, examinations and authorisations.

*Article 9***Exemption from examination**

Member States may decide to exempt from the examinations referred to in Article 8(1) 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.

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For the purpose of granting a licence to a road haulage undertaking which only operates motor vehicles or combinations of vehicles the permissible laden mass of which does not exceed 3,5 tonnes, Member States may decide to exempt from the examinations referred to in Article 8(1) persons who provide proof that they have continuously managed, for the period of 10 years before 20 August 2020, an undertaking of the same type.



CHAPTER III AUTHORISATION AND MONITORING

Article 10

Competent authorities

1. Each Member State shall designate one or more competent authorities to ensure the correct implementation of this Regulation. Those competent authorities shall be empowered to:

- (a) examine applications made by undertakings;
- (b) grant authorisations to engage in the occupation of road transport operator, and suspend or withdraw such authorisations;
- (c) declare a natural person to be unfit to manage the transport activities of an undertaking in the capacity of transport manager;
- (d) carry out the requisite checks to verify whether an undertaking satisfies the requirements laid down in Article 3.

2. The competent authorities shall publish all the conditions laid down pursuant to this Regulation, any other national provisions, the procedures to be followed by interested applicants and the corresponding explanations.

Article 11

Examination and registration of applications

1. A transport undertaking which complies with the requirements laid down in Article 3 shall, upon application, be authorised to engage in the occupation of road transport operator. The competent authority shall ascertain that an undertaking which submits an application satisfies the requirements laid down in that Article.

2. The competent authority shall record in the national electronic register referred to in Article 16 the data relating to undertakings which it authorises and which are referred to in points (a) to (d) of the first subparagraph of Article 16(2).

3. The time limit for the examination of an application for authorisation by a competent authority shall be as short as possible and shall not exceed 3 months from the date on which the competent authority receives all documents necessary to assess the application. The competent authority may extend this time limit for one additional month in duly justified cases.

4. Until 31 December 2012, the competent authority shall verify, in case of any doubt when assessing the good repute of an undertaking, whether at the time of application the designated transport manager or managers are declared, in one of the Member States, unfit to manage the transport activities of an undertaking pursuant to Article 14.

From 1 January 2013, when assessing the good repute of an undertaking, the competent authority shall verify, by accessing the data referred to in point (f) of the first subparagraph of Article 16(2), either by direct secure access to the relevant part of the national registers or by request, whether at the time of the application the designated transport manager or managers are declared, in one of the Member States, unfit to manage the transport activities of an undertaking pursuant to Article 14.

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5. Undertakings with an authorisation to engage in the occupation of road transport operator shall, within a period of 28 days or less, as determined by the Member State of establishment, notify the competent authority which granted the authorisation of any changes to the data referred to in paragraph 2.

*Article 12***Checks**▼ M3

1. Competent authorities shall regularly monitor whether undertakings which they have authorised to engage in the occupation of road transport operator continue to fulfil the requirements laid down in Article 3 of this Regulation. To that end, Member States shall carry out checks, including, where appropriate, on-site inspections at the premises of the undertaking concerned, targeting those undertakings which are classed as posing an increased risk. For that purpose, Member States shall extend the risk rating system established by them pursuant to Article 9 of Directive 2006/22/EC of the European Parliament and of the Council ⁽¹⁾ to cover all infringements specified in Article 6 of this Regulation.

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2. Until 31 December 2014, Member States shall carry out checks at least every 5 years to verify that undertakings fulfil the requirements laid down in Article 3.

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3. Member States shall carry out individual checks to verify whether an undertaking meets the conditions governing admission to the occupation of road transport operator whenever the Commission so requests in duly motivated cases. It shall inform the Commission of the results of such checks and of the measures taken if it is established that the undertaking no longer fulfils the requirements laid down in this Regulation.

*Article 13***Procedure for the suspension and withdrawal of authorisations**

1. Where a competent authority establishes that an undertaking runs the risk of no longer fulfilling the requirements laid down in Article 3, it shall notify the undertaking thereof. Where a competent authority establishes that one or more of those requirements is no longer satisfied, it may set one of the following time limits for the undertaking to rectify the situation:

- (a) a time limit not exceeding 6 months, which may be extended by 3 months in the event of the death or physical incapacity of the transport manager, for the recruitment of a replacement transport manager where the transport manager no longer satisfies the requirement as to good repute or professional competence;

⁽¹⁾ Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Regulations (EC) No 561/2006 and (EU) No 165/2014 and Directive 2002/15/EC as regards social legislation relating to road transport activities, and repealing Council Directive 88/599/EEC (OJ L 102, 11.4.2006, p. 35).

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- (b) a time limit not exceeding 6 months where the undertaking has to rectify the situation by demonstrating that it has an effective and stable establishment;

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- (c) a time limit not exceeding six months, where the requirement of financial standing had not been satisfied, in order to demonstrate that that requirement is again satisfied on a permanent basis.

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2. The competent authority may require an undertaking whose authorisation has been suspended or withdrawn to ensure that its transport managers have passed the examinations referred to in Article 8(1) prior to any rehabilitation measure being taken.

3. If the competent authority establishes that the undertaking no longer satisfies one or more of the requirements laid down in Article 3, it shall suspend or withdraw the authorisation to engage in the occupation of road transport operator within the time limits referred to in paragraph 1 of this Article.

*Article 14***Declaration of unfitness of the transport manager**

1. Where a transport manager loses good repute in accordance with Article 6, the competent authority shall declare that transport manager unfit to manage the transport activities of an undertaking.

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The competent authority shall not rehabilitate the transport manager earlier than one year from the date of the loss of good repute and, in any event, not before the transport manager has demonstrated that he or she has followed appropriate training for a period of at least three months or passed an exam on the subjects listed in part I of Annex I to this Regulation.

2. Unless and until a rehabilitation measure is taken in accordance with the relevant provisions of national law and paragraph 1 of this Article, the certificate of professional competence referred to in Article 8(8) of the transport manager who has been declared to be unfit shall no longer be valid in any Member State.

▼B*Article 15***Decisions of the competent authorities and appeals**

1. Negative decisions taken by the competent authorities of the Member States pursuant to this Regulation, including the rejection of an application, the suspension or withdrawal of an existing authorisation and a declaration of unfitness of a transport manager, shall state the reasons on which they are based.

Such decisions shall take account of available information concerning infringements committed by the undertaking or the transport manager which are such as to detract from the good repute of the undertaking and of any other information at the disposal of the competent authority. They shall specify the rehabilitation measures applicable in the event of the suspension of an authorisation or a declaration of unfitness.

2. Member States shall take steps to ensure that the undertakings and persons concerned have the possibility of appealing the decisions referred to in paragraph 1 to at least one independent and impartial body or a court of law.

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CHAPTER IV

SIMPLIFICATION AND ADMINISTRATIVE COOPERATION

*Article 16***National electronic registers**

1. For the purposes of the implementation of this Regulation, and in particular Articles 11 to 14 and Article 26 thereof, each Member State shall keep a national electronic register of road transport undertakings which have been authorised by a competent authority designated by it to engage in the occupation of road transport operator. The data contained in that register shall be processed under the supervision of a public authority designated for that purpose. The relevant data contained in the national electronic register shall be accessible to all the competent authorities of the Member State in question.

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. It may recommend the inclusion of the vehicle registration marks in addition to the data referred to in paragraph 2.

2. National electronic registers shall contain at least the following data:

- (a) the name and legal form of the undertaking;
- (b) the address of its establishment;

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- (c) the names of the transport managers designated as meeting the requirements laid down in Article 3 relating to good repute and professional competence or, as appropriate, the name of a legal representative;

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- (d) the type of authorisation, the number of vehicles it covers and, where appropriate, the serial number of the Community licence and of the certified copies;
- (e) the number, category and type of serious infringements, as referred to in Article 6(1)(b), which have resulted in a conviction or penalty during the last 2 years;
- (f) the name of any person declared to be unfit to manage the transport activities of an undertaking, as long as the good repute of that person has not been re-established pursuant to Article 6(3), and the rehabilitation measures applicable;

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- (g) the registration numbers of the vehicles at the disposal of the undertaking pursuant to point (g) of Article 5(1);
- (h) the number of people employed in the undertaking on 31 December of the previous year, which shall be recorded in the national register by 31 March of each year;
- (i) the risk rating of the undertaking pursuant to Article 9(1) of Directive 2006/22/EC.

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The data referred to in points (a) to (d) of the first subparagraph shall be publicly accessible, in accordance with the relevant provisions on personal data protection.

Member States may choose to keep the data referred to in points (e) to (i) of the first subparagraph in separate registers. In such cases, the data referred to in points (e) and (f) shall be made available upon request or shall be directly accessible to all the competent authorities of the Member State in question. The requested information shall be provided within five working days of receipt of the request.

The data referred to in points (g), (h) and (i) of the first subparagraph shall be available to the competent authorities during roadside checks no later than 12 months from the entry into force of the implementing act, adopted pursuant to paragraph 6, specifying the functionalities that allow for the data to be made available to the competent authorities during roadside checks.

The data referred to in points (e) to (i) of the first subparagraph shall only be accessible to authorities other than the competent authorities where those authorities are duly endowed with powers relating to supervision and the imposition of penalties in the road transport sector and their officials are sworn to secrecy or are otherwise under a formal obligation of secrecy.

▼B

3. Data concerning an undertaking whose authorisation has been suspended or withdrawn shall remain in the national electronic register for 2 years from the expiry of the suspension or the withdrawal of the licence, and shall thereafter be immediately removed.

Data concerning any person declared to be unfit for the occupation of road transport operator shall remain in the national electronic register as long as the good repute of that person has not been re-established pursuant to Article 6(3). Where such a rehabilitation measure or any other measure having an equivalent effect is taken, the data shall be immediately removed.

The data referred to in the first and second subparagraphs shall specify the reasons for the suspension or withdrawal of the authorisation or the declaration of unfitness, as appropriate, and the corresponding duration.

▼M3

4. Member States shall take all necessary measures to ensure that all data contained in the national electronic register are kept up to date and are accurate.

▼B

5. Without prejudice to paragraphs 1 and 2, Member States shall take all necessary measures to ensure that the national electronic registers are interconnected and accessible throughout the Community through the national contact points defined in Article 18. 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.

▼B

6. Common rules concerning the implementation of paragraph 5, such as the format of the data exchanged, the technical procedures for electronic consultation of the national electronic registers of the other Member States and the promotion of the interoperability of these registers with other relevant databases, shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 25(2) and for the first time before 31 December 2010. Those common rules shall determine which authority is responsible for access to data and further use and updating of data after access and, to this effect, shall include rules on data logging and data monitoring.

▼M3

By 14 months after the adoption of an implementing act on a common formula for calculating the risk rating as referred to in Article 9(1) of Directive 2006/22/EC, the Commission shall adopt implementing acts, specifying the functionalities that allow for the data referred to in points (g), (h) and (i) of the first subparagraph of paragraph 2 to be made available to the competent authorities during roadside checks.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 25(2).

▼B*Article 17***Protection of personal data**

With regard to the application of Directive 95/46/EC, Member States shall ensure in particular that:

- (a) all persons are informed when data relating to them is recorded or is planned to be forwarded to third parties. The information provided shall specify the identity of the authority responsible for processing the data, the type of data processed and the reasons for such action;
- (b) all persons have a right of access to data relating to them held by the authority responsible for processing those data. That right shall be exercisable without constraint, at reasonable intervals and without excessive delay or cost for the applicant;
- (c) all persons whose data are incomplete or inaccurate have the right to have those data rectified, erased or blocked;
- (d) all persons have the right to oppose, on compelling legitimate grounds, the processing of data relating to them. Where there is justified opposition, the processing may no longer involve those data;
- (e) undertakings comply, where applicable, with the relevant provisions on the protection of personal data.

▼ **M3***Article 18***Administrative cooperation between Member States**

1. Member States shall designate a national contact point responsible for the exchange of information with the other Member States with regard to the application of this Regulation. Member States shall forward to the Commission the names and addresses of their national contact points by 4 December 2011. The Commission shall draw up a list of all contact points and forward it to the Member States.
2. The competent authorities of the Member States shall cooperate closely and shall swiftly provide one another with mutual assistance and with any other relevant information in order to facilitate the implementation and enforcement of this Regulation.
3. The competent authorities of the Member States shall exchange information on convictions and penalties for any serious infringements referred to in Article 6(2). A Member State which receives notification of a serious infringement referred to in Article 6(2) which has resulted in a conviction or a penalty in another Member State during the previous two years shall record that infringement in its national electronic register.
4. Member States shall reply to requests for information from all competent authorities of other Member States and shall carry out checks, inspections and investigations concerning compliance with the requirement laid down in point (a) of Article 3(1) by road transport operators established in their territory. Such requests for information may include access to documents required to prove that the conditions laid down in Article 5 are met. Requests for information by competent authorities of Member States shall be duly justified and reasoned. To this end, requests shall include credible indications of possible infringements of point (a) of Article 3(1), indicate the purpose of the request and specify in sufficient detail the information and documents which are being requested.
5. Member States shall submit the information requested by other Member States pursuant to paragraph 4 within 30 working days from the receipt of the request. A shorter time limit may be mutually agreed between the Member States.
6. Where the requested Member State considers that the request is insufficiently reasoned, it shall inform the requesting Member State accordingly within 10 working days from the receipt of the request. The requesting Member State shall further substantiate the request. Where the requesting Member State is unable to further substantiate the request, the requested Member State may reject the request.
7. Where it is difficult to comply with a request for information or to carry out checks, inspections or investigations, the requested Member State shall inform the requesting Member State accordingly within 10 working days from the receipt of the request, giving the reasons for the difficulty. The Member States concerned shall discuss with each other with a view to finding a solution to any difficulty raised. In the event of persistent delays in the provision of information to the requesting Member State, the Commission shall be informed and shall take appropriate measures.

▼ **M3**

8. The exchange of information referred to in paragraph 3 shall take place through the message exchange system, namely the European Registers of Road Transport Undertakings (ERRU) established by Commission Regulation (EU) No 1213/2010 ⁽¹⁾. The administrative co-operation and mutual assistance between the competent authorities of the Member States provided for in paragraphs 4 to 7 shall be implemented through the Internal Market Information System (IMI), established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council ⁽²⁾. For this purpose, each Member State may designate the contact point referred to in paragraph 1 as the competent authority and shall inform the Commission thereof through IMI.

9. Member States shall ensure that the information transmitted to them pursuant to this Article is used only in respect of the matter(s) for which it was requested. Any processing of personal data shall be carried out solely for the purposes of complying with this Regulation and shall be in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽³⁾.

10. Mutual administrative cooperation and assistance shall be provided free of charge.

11. A request for information shall not preclude the competent authorities from taking measures in line with the relevant national and Union law to investigate and prevent alleged breaches of this Regulation.

▼ **B**

CHAPTER V

MUTUAL RECOGNITION OF CERTIFICATES AND OTHER DOCUMENTS*Article 19***Certificates of good repute and equivalent documents**

1. Without prejudice to Article 11(4), the Member State of establishment shall accept as sufficient proof of good repute for admission to the occupation of road transport operator the production of an extract from a judicial record or, failing that, an equivalent document issued by a competent judicial or administrative authority in the Member State where the transport manager or any other relevant person used to reside.

⁽¹⁾ Commission Regulation (EU) No 1213/2010 of 16 December 2010 establishing common rules concerning the interconnection of national electronic registers on road transport undertakings (OJ L 335, 18.12.2010, p. 21).

⁽²⁾ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') (OJ L 316, 14.11.2012, p. 1).

⁽³⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

▼B

2. Where a Member State imposes on its own nationals certain conditions relating to good repute, and proof that these conditions are met cannot be provided by means of the document referred to in paragraph 1, that Member State shall accept as sufficient proof for nationals of other Member States a certificate issued by a competent judicial or administrative authority in the Member State(s) where the transport manager or any other relevant person used to reside stating that these conditions have been met. Such certificate shall relate to the specific information taken into consideration in the Member State of establishment.

3. If the document referred to in paragraph 1 or the certificate referred to in paragraph 2 has not been issued by the Member State(s) where the transport manager or any other relevant person used to reside, that document or certificate may be replaced by a declaration on oath or by a solemn declaration made by the transport manager or any other relevant person before a competent judicial or administrative authority or, where appropriate, before a notary in the Member State where the transport manager or any other relevant person used to reside. Such authority or notary shall issue a certificate authenticating the declaration on oath or the solemn declaration.

4. A document referred to in paragraph 1 and a certificate referred to in paragraph 2 shall not be accepted if produced more than 3 months after their date of issue. This condition shall also apply to a declaration made in accordance with paragraph 3.

*Article 20***Certificates relating to financial standing**

Where a Member State imposes on its nationals certain conditions relating to financial standing in addition to those set out in Article 7, that Member State shall accept as sufficient proof for nationals of other Member States a certificate issued by a competent authority in the Member State(s) where the transport manager or any other relevant person used to reside stating that these conditions have been met. Such certificate shall relate to the specific information taken into consideration in the new Member State of establishment.

*Article 21***Certificates of professional competence**

1. Member States shall recognise as sufficient proof of professional competence a certificate which complies with the model certificate set out in Annex III and which is issued by the authority or body duly authorised for that purpose.

2. A certificate issued before 4 December 2011 as proof of professional competence pursuant to the provisions in force until that date shall be deemed to be equivalent to a certificate which complies with the model certificate set out in Annex III and shall be recognised as proof of professional competence in all Member States. Member States may require that holders of certificates of professional competence valid only for national transport pass the examinations, or parts of the examinations, referred to in Article 8(1).

▼B

CHAPTER VI
FINAL PROVISIONS

Article 22

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation, and shall take all the measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 4 December 2011 at the latest and shall notify it without delay of any subsequent amendment affecting them. Member States shall ensure that all such measures are applied without discrimination as to the nationality or place of establishment of the undertaking.

2. The penalties referred to in paragraph 1 shall include, in particular, suspension of the authorisation to engage in the occupation of road transport operator, withdrawal of such authorisation and a declaration of unfitness of the transport manager.

Article 23

Transitional provisions

Undertakings which before 4 December 2009 have an authorisation to engage in the occupation of road transport operator shall comply with the provisions of this Regulation by 4 December 2011.

▼M3

By way of derogation from Article 1(2), 21 May 2022 road haulage undertakings engaged in international transport operations solely by means of motor vehicles or combinations of vehicles, the permissible laden mass of which does not exceed 3,5 tonnes, shall be exempt from the provisions of this Regulation unless the law of the Member State of establishment provides otherwise.

By way of derogation from Article 16(2), the requirement to include the risk rating of the undertakings in the national electronic registers shall apply from 14 months after the entry into force of the implementing act on a common formula for calculating the risk rating referred to in Article 9(1) of Directive 2006/22/EC.

Article 24a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 8(9) shall be conferred on the Commission for an indeterminate period of time from 20 August 2020.

▼M3

3. The delegation of power referred to in Article 8(9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in line with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹⁾.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted under Article 8(9) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

▼B*Article 25***Committee procedure**

1. The Commission shall be assisted by the Committee set up by Article 18(1) of Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport ⁽²⁾.

▼M3

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽³⁾ shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

▼B*Article 26***▼M3****Reporting and review****▼B**

1. Every 2 years, Member States shall draw up a report on the activities of the competent authorities and shall forward it to the Commission. This report shall comprise:

- (a) an overview of the sector with regard to good repute, financial standing and professional competence;

⁽¹⁾ OJ L 123, 12.5.2016, p. 1.

⁽²⁾ OJ L 370, 31.12.1985, p. 8.

⁽³⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

▼M3

(b) the number of authorisations granted under this Regulation by year and by type, the number of suspended authorisations, the number of withdrawn authorisations, the number of declarations of unfitness and the reasons on which those decisions were based. Reports relating to the period after 21 May 2022 shall also include a breakdown of these items by:

- (i) road passenger transport operators;
- (ii) road haulage operators using exclusively motor vehicles or combinations of vehicles, the permissible laden mass of which does not exceed 3,5 tonnes; and
- (iii) all other road haulage operators;

▼B

- (c) the number of certificates of professional competence issued each year;
- (d) core statistics relating to the national electronic registers and their use by the competent authorities; and
- (e) an overview of exchanges of information with other Member States pursuant to Article 18(2), including in particular the annual number of established infringements notified to other Member States and the replies received, as well as the annual number of requests and replies received pursuant to Article 18(3).

2. On the basis of the reports referred to in paragraph 1, the Commission shall, every 2 years, submit a report to the European Parliament and to the Council on the pursuit of the occupation of road transport operator. That report shall contain, in particular, an assessment of the operation of the exchange of information between Member States and a review of the functioning and data contained in the national electronic registers. It shall be published at the same time as the report referred to in Article 17 of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport ⁽¹⁾.

▼M3

3. Every two years Member States shall report to the Commission on the requests made by them under Article 18(4) to (9), on the replies received from other Member States and on the actions that they have taken on the basis of the information provided.

4. By 21 August 2023, on the basis of the information gathered by the Commission under paragraph 3 and on the basis of further evidence, the Commission shall present a detailed report to the European Parliament and the Council on the extent of administrative cooperation between Member States, on any possible shortcomings in this respect and on possible ways to improve the cooperation. On the basis of this report, it shall assess whether it is necessary to propose additional measures.

5. The Commission shall evaluate the implementation of this Regulation by 21 August 2023 and report to the European Parliament and the Council on the application of this Regulation.

⁽¹⁾ OJ L 102, 11.4.2006, p. 1.

▼M3

6. Following the report referred to in paragraph 5, the Commission shall regularly evaluate this Regulation and shall submit the evaluation results to the European Parliament and the Council.

7. Where appropriate, the reports referred to in paragraphs 5 and 6 shall be accompanied by relevant legislative proposals.

▼B*Article 27***List of competent authorities**

Each Member State shall forward to the Commission by 4 December 2011 a list of competent authorities which it has designated to authorise the pursuit of the occupation of road transport operator and a list of the authorised authorities or bodies responsible for organising the examinations referred to in Article 8(1) and issuing the certificates. A consolidated list of those authorities and bodies throughout the Community shall be published by the Commission in the *Official Journal of the European Union*.

*Article 28***Communication of national measures**

Member States shall communicate to the Commission the text of the laws, regulations and administrative provisions which they adopt in the field governed by this Regulation no later than 30 days after their date of adoption and for the first time by 4 December 2011.

*Article 29***Repeal**

Directive 96/26/EC is hereby repealed.

*Article 30***Entry into force**

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply with effect from 4 December 2011.

This Regulation shall be binding in its entirety and directly applicable in all Member States.



ANNEX I

I. LIST OF SUBJECTS REFERRED TO IN ARTICLE 8

The knowledge to be taken into consideration for the official recognition of professional competence by Member States must cover at least the subjects listed below for road haulage and road passenger transport respectively. In relation to these subjects, applicant road haulage and road passenger transport operators must have the levels of knowledge and practical aptitude necessary for the management of a transport undertaking.

The minimum level of knowledge, as indicated below, may not be below level 3 of the training-level structure laid down in the Annex to Council Decision 85/368/EEC ⁽¹⁾, namely the level of knowledge acquired during the course of compulsory education, which is supplemented either by vocational training and supplementary technical training or by secondary school or other technical training.

A. Civil law

The applicant must, in particular, in relation to road haulage and passenger transport:

1. be familiar with the main types of contract used in road transport and with the rights and obligations arising therefrom;
2. be capable of negotiating a legally valid transport contract, notably with regard to conditions of carriage;

in relation to road haulage:

3. be able to consider a claim by his principal regarding compensation for loss of or damage to goods during transportation or for their late delivery, and to understand how such a claim affects his contractual liability;
4. be familiar with the rules and obligations arising from the CMR Convention on the Contract for the International Carriage of Goods by Road;

in relation to road passenger transport:

5. be able to consider a claim by his principal regarding compensation for injury to passengers or damage to their baggage caused by an accident during transportation, or regarding compensation for delays, and to understand how such a claim affects his contractual liability.

B. Commercial law

The applicant must, in particular, in relation to road haulage and passenger transport:

1. be familiar with the conditions and formalities laid down for plying the trade, the general obligations incumbent upon transport operators (registration, record keeping, etc.) and the consequences of bankruptcy;
2. have appropriate knowledge of the various forms of commercial companies and the rules governing their constitution and operation.

⁽¹⁾ Council Decision 85/368/EEC of 16 July 1985 on the comparability of vocational training qualifications between the Member States of the European Community (OJ L 199, 31.7.1985, p. 56).

▼B**C. Social law**

The applicant must, in particular, in relation to road haulage and passenger transport, be familiar with the following:

1. the role and function of the various social institutions which are concerned with road transport (trade unions, works councils, shop stewards, labour inspectors, etc.);
2. the employers' social security obligations;
3. the rules governing work contracts for the various categories of worker employed by road transport undertakings (form of the contracts, obligations of the parties, working conditions and working hours, paid leave, remuneration, breach of contract, etc.);
4. the rules applicable to driving time, rest periods and working time, and in particular the provisions of Regulation (EEC) No 3821/85, Regulation (EC) No 561/2006, Directive 2002/15/EC of the European Parliament and of the Council ⁽¹⁾ and Directive 2006/22/EC, and the practical measures for applying those provisions; and
5. the rules applicable to the initial qualification and continuous training of drivers, and in particular those deriving from Directive 2003/59/EC of the European Parliament and of the Council ⁽²⁾.

D. Fiscal law

The applicant must, in particular, in relation to road haulage and passenger transport, be familiar with the rules governing:

1. value added tax (VAT) on transport services;
2. motor-vehicle tax;
3. the taxes on certain road haulage vehicles and tolls and infrastructure user charges;
4. income tax.

E. Business and financial management of the undertaking

The applicant must, in particular, in relation to road haulage and passenger transport:

1. be familiar with the laws and practices regarding the use of cheques, bills of exchange, promissory notes, credit cards and other means or methods of payment;
2. be familiar with the various forms of credit (bank credit, documentary credit, guarantee deposits, mortgages, leasing, renting, factoring, etc.) and the charges and obligations arising therefrom;
3. know what a balance sheet is, how it is set out and how to interpret it;
4. be able to read and interpret a profit and loss account;
5. be able to assess the undertaking's profitability and financial position, in particular on the basis of financial ratios;

⁽¹⁾ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).

⁽²⁾ Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers (OJ L 226, 10.9.2003, p. 4).

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6. be able to prepare a budget;
7. be familiar with the cost elements of the undertaking (fixed costs, variable costs, working capital, depreciation, etc.), and be able to calculate costs per vehicle, per kilometre, per journey or per tonne;
8. be able to draw up an organisation chart relating to the undertaking's personnel as a whole and to organise work plans, etc.;
9. be familiar with the principles of marketing, publicity and public relations, including transport services, sales promotion and the preparation of customer files, etc.;
10. be familiar with the different types of insurance relating to road transport (liability, accidental injury/life insurance, non-life and luggage insurance) and the guarantees and obligations arising therefrom;
11. be familiar with the applications of electronic data transmission in road transport;

in relation to road haulage:

12. be able to apply the rules governing the invoicing of road haulage services and know the meaning and implications of Incoterms;
 13. be familiar with the different categories of transport auxiliaries, their role, their functions and, where appropriate, their status;
- in relation to road passenger transport:
14. be able to apply the rules governing fares and pricing in public and private passenger transport;
 15. be able to apply the rules governing the invoicing of road passenger transport services.

F. Access to the market

The applicant must, in particular, in relation to road haulage and passenger transport, be familiar with the following:

1. the occupational regulations governing road transport for hire or reward, industrial vehicle rental and subcontracting, and in particular the rules governing the official organisation of the occupation, admission to the occupation, authorisations for intra-Community and extra-Community road transport operations, inspections and penalties;
2. the rules for setting up a road transport undertaking;
3. the various documents required for operating road transport services and the introduction of checking procedures to ensure that the approved documents relating to each transport operation, and in particular those relating to the vehicle, the driver, the goods and luggage are kept both in the vehicle and on the premises of the undertaking;

in relation to road haulage:

4. the rules on the organisation of the market in road haulage services, as well as the rules on freight handling and logistics;
5. border formalities, the role and scope of T documents and TIR carnets, and the obligations and responsibilities arising from their use;

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in relation to road passenger transport:

6. the rules on the organisation of the market in road passenger transport;
7. the rules for introducing road passenger transport services and the drawing up of transport plans.

G. Technical standards and technical aspects of operation

The applicant must, in particular, in relation to road haulage and passenger transport:

1. be familiar with the rules concerning the weights and dimensions of vehicles in the Member States and the procedures to be followed in the case of abnormal loads which constitute an exception to these rules;
2. be able to choose vehicles and their components (chassis, engine, transmission system, braking system, etc.) in accordance with the needs of the undertaking;
3. be familiar with the formalities relating to the type approval, registration and technical inspection of these vehicles;
4. understand what measures must be taken to reduce noise and to combat air pollution by motor vehicle exhaust emissions;
5. be able to draw up periodic maintenance plans for the vehicles and their equipment;

in relation to road haulage:

6. be familiar with the different types of cargo-handling and loading devices (tailboards, containers, pallets, etc.) and be able to introduce procedures and issue instructions for loading and unloading goods (load distribution, stacking, stowing, blocking and chocking, etc.);
7. be familiar with the various techniques of 'piggy-back' and roll-on roll-off combined transport;
8. be able to implement procedures to comply with the rules on the carriage of dangerous goods and waste, notably those arising from Directive 2008/68/EC ⁽¹⁾ and Regulation (EC) No 1013/2006 ⁽²⁾;
9. be able to implement procedures to comply with the rules on the carriage of perishable foodstuffs, notably those arising from the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such Carriage (ATP);
10. be able to implement procedures to comply with the rules on the transport of live animals.

H. Road safety

The applicant must, in particular, in relation to road haulage and passenger transport:

1. know what qualifications are required for drivers (driving licence, medical certificates, certificates of fitness, etc.);

⁽¹⁾ Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13).

⁽²⁾ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

▼B

2. be able to take the necessary steps to ensure that drivers comply with the traffic rules, prohibitions and restrictions in force in different Member States (speed limits, priorities, waiting and parking restrictions, use of lights, road signs, etc.);
3. be able to draw up instructions for drivers to check their compliance with the safety requirements concerning the condition of the vehicles, their equipment and cargo, and concerning preventive measures to be taken;
4. be able to lay down procedures to be followed in the event of an accident and to implement appropriate procedures to prevent the recurrence of accidents or serious traffic offences;
5. be able to implement procedures to properly secure goods and be familiar with the corresponding techniques;

in relation to road passenger transport:
6. have elementary knowledge of the layout of the road network in the Member States.

II. ORGANISATION OF THE EXAMINATION

1. Member States will organise a compulsory written examination which they may supplement by an optional oral examination to establish whether applicant road transport operators have achieved the required level of knowledge in the subjects listed in Part I and in particular their capacity to use the instruments and techniques relating to those subjects and to fulfil the corresponding executive and coordination duties.

(a) The compulsory written examination will involve two tests, namely:

- (i) written questions consisting of either multiple choice questions (each with four possible answers), questions requiring direct answers or a combination of both systems;
- (ii) written exercises/case studies.

The minimum duration of each test will be two hours.

- (b) Where an oral examination is organised, Member States may stipulate that participation is subject to the successful completion of the written examination.
2. Where Member States also organise an oral examination, they must provide, in respect of each of the three tests, for a weighting of marks of a minimum of 25 % and a maximum of 40 % of the total number of marks to be given.

Where Member States organise only a written examination, they must provide, in respect of each test, for a weighting of marks of a minimum of 40 % and a maximum of 60 % of the total number of marks to be given.
3. With regard to all the tests, applicants must obtain an average of at least 60 % of the total number of marks to be given, achieving in any given test not less than 50 % of the total number of marks possible. In one test only, a Member State may reduce that mark from 50 % to 40 %.

*ANNEX II***Security features of the certificate of professional competence**

The certificate must have at least two of the following security features:

- a hologram,
- special fibres in the paper which become visible under UV light,
- at least one microprint line (printing visible only with a magnifying glass and not reproduced by photocopying machines),
- tactile characters, symbols or patterns,
- double numbering: serial number and issue number,
- a security design background with fine guilloche patterns and rainbow printing.

▼B*ANNEX III***Model of the certificate of professional competence****EUROPEAN COMMUNITY****▼M1**

(Colour Pantone stout fawn 467, or as close as possible to this colour, format DIN A4 cellulose paper 100 g/m² or more.)

▼B

(Text in the official language(s) or one of the official languages of the Member State issuing the certificate)

Distinguishing sign of the Member State concerned ⁽¹⁾ Name of the authorised authority or body ⁽²⁾

**CERTIFICATE OF PROFESSIONAL COMPETENCE IN ROAD
HAULAGE/PASSENGER TRANSPORT ⁽³⁾**

No

We

hereby certify that ⁽⁴⁾

born on in

has successfully passed the tests for the examination (year:; session:) ⁽⁵⁾ necessary for the award of the certificate of professional competence in road haulage/passenger transport ⁽³⁾ in accordance with Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator ⁽⁶⁾.

This certificate constitutes the sufficient proof of professional competence referred to in Article 21 of Regulation (EC) No 1071/2009.

Issued at, on ⁽⁷⁾

⁽¹⁾ The distinguishing signs of the Member States are: (B) Belgium, (BG) Bulgaria, (CZ) Czech Republic, (DK) Denmark, (D) Germany, (EST) Estonia, (IRL) Ireland, (GR) Greece, (E) Spain, (F) France, (HR) Croatia, (I) Italy, (CY) Cyprus, (LV) Latvia, (LT) Lithuania, (L) Luxembourg, (H) Hungary, (M) Malta, (NL) Netherlands, (A) Austria, (PL) Poland, (P) Portugal, (RO) Romania, (SLO) Slovenia, (SK) Slovakia, (FIN) Finland, (S) Sweden, (UK) United Kingdom.

⁽²⁾ Authority or body designated in advance for this purpose by each Member State of the European Community to issue this certificate.

⁽³⁾ Delete as appropriate.

⁽⁴⁾ Surname and forename; place and date of birth.

⁽⁵⁾ Identification of the examination.

⁽⁶⁾ OJ L 300, 14.11.2009, p. 51

⁽⁷⁾ Seal and signature of the authorised authority or body issuing the certificate.

▼ B*ANNEX IV***▼ M3****Most serious infringements for the purpose of article 6(2)****▼ B**

1. (a) Exceeding the maximum 6-day or fortnightly driving time limits by margins of 25 % or more.

▼ M3

- (b) exceeding, during a daily working period, the maximum daily driving time limit by a margin of 50 % or more.
2. Not having a tachograph and/or speed limiter, or having in the vehicle and/or using a fraudulent device able to modify the records of the recording equipment and/or the speed limiter or falsifying record sheets or data downloaded from the tachograph and/or the driver card.

▼ B

3. Driving without a valid roadworthiness certificate if such a document is required under Community law and/or driving with a very serious deficiency of, inter alia, the braking system, the steering linkages, the wheels/tyres, the suspension or chassis that would create such an immediate risk to road safety that it leads to a decision to immobilise the vehicle.
4. Transporting dangerous goods that are prohibited for transport or transporting such goods in a prohibited or non-approved means of containment or without identifying them on the vehicle as dangerous goods, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle.
5. Carrying passengers or goods without holding a valid driving licence or carrying by an undertaking not holding a valid Community licence.
6. Driving with a driver card that has been falsified, or with a card of which the driver is not the holder, or which has been obtained on the basis of false declarations and/or forged documents.
7. Carrying goods exceeding the maximum permissible laden mass by 20 % or more for vehicles the permissible laden weight of which exceeds 12 tonnes, and by 25 % or more for vehicles the permissible laden weight of which does not exceed 12 tonnes.