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*Committee on Transport and Tourism*

**2007/0098(COD)**

6.3.2008

## **AMENDMENTS 94 - 194**

**Draft report**  
**Silvia-Adriana Țicău**  
(PE396.405v01-00)

Proposal for a regulation of the European Parliament and of the Council  
establishing common rules concerning the conditions to be complied with to  
pursue the occupation of road transport operator

Proposal for a regulation  
(COM(2007)0263 – C6-0145/2007 – 2007/0098(COD))

AM\_Com\_LegReport

**Amendment 94**  
**Silvia-Adriana Țicău**

**Proposal for a regulation**  
**Recital 7**

*Text proposed by the Commission*

(7) The natural persons with the requisite good repute and professional competence should be clearly identified and designated to the competent authorities. Such persons, referred to as "transport managers", should be those who continuously and effectively run the transport activities of road transport undertakings. It is appropriate to specify the conditions under which a person is considered to manage, continuously and effectively, a transport activity in an undertaking.

*Amendment*

(7) The natural persons with the requisite good repute and professional competence should be clearly identified and designated to the competent authorities. Such persons, referred to as "transport managers", should be those who ***are resident in a Member State and*** continuously and effectively run the transport activities of road transport undertakings. It is appropriate to specify the conditions under which a person is considered to manage, continuously and effectively, a transport activity in an undertaking.

Or. en

*Justification*

*It should be a mandatory condition for a transport manager to be a resident of a Member State.*

**Amendment 95**  
**Luis de Grandes Pascual**

**Proposal for a regulation**  
**Recital 7**

*Text proposed by the Commission*

(7) The natural persons ***with the requisite good repute*** and professional competence should be clearly identified and designated to the competent authorities. Such persons, referred to as "transport managers", should be those who continuously and effectively run the transport activities of road transport undertakings. It is appropriate to specify the conditions under which a person is

*Amendment*

(7) The natural persons ***who meet the required ethical standards and have the requisite*** professional competence should be clearly identified and designated to the competent authorities. Such persons, referred to as "transport managers", should be those who continuously and effectively run the transport activities of road transport undertakings. It is appropriate to specify

considered to manage, continuously and effectively, a transport activity in an undertaking.

the conditions under which a person is considered to manage, continuously and effectively, a transport activity in an undertaking.

Or. es

*Justification*

*See justification for amendments to Articles 3 and 6.*

**Amendment 96**  
**Luis de Grandes Pascual**

**Proposal for a regulation**  
**Recital 8**

*Text proposed by the Commission*

**(8) *The good reputation of transport managers is conditional on their not having*** incurred serious criminal convictions or serious sanctions, in particular for infringing Community rules relating to road transport. It is necessary to define jointly, in the areas covered by Community rules, the types of infringements and the corresponding degrees of seriousness liable to detract from the good reputation of an undertaking.

*Amendment*

**(8) *Compliance with ethical standards implies that a “transport manager” has not*** incurred serious criminal convictions or serious sanctions, in particular for infringing Community rules relating to road transport. It is necessary to define jointly, in the areas covered by Community rules, the types of infringements and the corresponding degrees of seriousness liable to detract from the good reputation of an undertaking.

Or. es

*Justification*

*See justification for amendments to Articles 3 and 6.*

**Amendment 97**  
**Mathieu Grosch**

**Proposal for a regulation**  
**Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***(8a) The Commission should be pursuing the aim of ensuring that serious offences are punished with the same rigour in the different Member States, and taking appropriate measures to that end.***

Or. de

*Justification*

*After classifying the offences an approximation of the relevant penalties should also be carried out.*

**Amendment 98**  
**Silvia-Adriana Țicău**

**Proposal for a regulation**  
**Recital 9**

*Text proposed by the Commission*

*Amendment*

(9) A road transport undertaking must have a minimum financial standing to ensure proper launching and proper administration of the undertaking. ***The current method based on a minimum threshold for capital and reserves leaves a great deal of uncertainty about the financial resources to be taken into account, and does not guarantee that an undertaking has the ability to meet its short-term commitments.*** It is appropriate to use other, better defined and more relevant financial indicators which can be established on the basis of the annual accounts. Undertakings which so wish should be afforded the possibility of demonstrating their financial standing with

(9) A road transport undertaking must have a minimum financial standing to ensure proper launching and proper administration of the undertaking. It is appropriate to use other, better defined and more relevant financial indicators which can be established on the basis of the annual accounts. Undertakings which so wish should be afforded the possibility of demonstrating their financial standing with a bank guarantee ***or other financial instrument such as insurance***, which may constitute a simpler and less expensive method for them.

a bank guarantee, which may constitute a simpler and less expensive method for them.

Or. en

### *Justification*

*For the concordance with AM 40 and AM 37.*

## **Amendment 99**

**Silvia-Adriana Țicău**

## **Proposal for a regulation**

### **Recital 10**

#### *Text proposed by the Commission*

(10) A high level of professional qualification should increase the socio-economic efficiency of the road transport sector. It is therefore appropriate that applicants for the post of transport manager should undergo high-quality training. To ensure greater uniformity of training and examination and transparency vis-à-vis applicants, it is appropriate to provide that the Member States accredit examination and training centres according to criteria to be defined by them. ***On the grounds of fairness and transparency, it is also appropriate that all applicants, including those who, because they have experience or a diploma, may be exempted from compulsory initial training, should pass an examination.*** Since the completion of the internal market, the national markets are no longer separate. Consequently, those responsible for managing transport activities should possess the requisite knowledge for managing both national and international transport operations. The list of subjects of which knowledge is required in order to obtain a certificate of professional competence and the procedures for the organisation of

#### *Amendment*

(10) A high level of professional qualification should increase the socio-economic efficiency of the road transport sector. It is therefore appropriate that applicants for the post of transport manager should undergo high-quality training. To ensure greater uniformity of training and examination and transparency vis-à-vis applicants, it is appropriate to provide that the Member States accredit examination and training centres according to criteria to be defined by them. Since the completion of the internal market, the national markets are no longer separate. Consequently, those responsible for managing transport activities should possess the requisite knowledge for managing both national and international transport operations. The list of subjects of which knowledge is required in order to obtain a certificate of professional competence and the procedures for the organisation of examinations are likely to evolve with technical progress, and provision should be made for updating them.

examinations are likely to evolve with technical progress, and provision should be made for updating them.

Or. en

### *Justification*

*The compulsory training does not mean necessary a good knowledge for managing both national and international transport operation. A specific training, as described in Exhibit II, is useful and it should be in the interest of transport undertakings to train their employees, but an exam should be the right form to prove the knowledge acquired.*

## **Amendment 100** **Philip Bradbourn**

### **Proposal for a regulation** **Recital 10**

#### *Text proposed by the Commission*

(10) A high level of professional qualification should increase the socio-economic efficiency of the road transport sector. It is therefore appropriate that applicants for the post of transport manager should undergo high-quality training. To ensure greater uniformity of training and examination and transparency vis-à-vis applicants, it is appropriate to provide that the Member States accredit examination and training centres according to criteria to be defined by them. On the grounds of fairness and transparency, it is also appropriate that all applicants, including those who, because they have experience or a diploma, may be exempted from compulsory initial training, should pass an examination. ***Since the completion of the internal market, the national markets are no longer separate. Consequently, those responsible for managing transport activities should possess the requisite knowledge for managing both national and international transport operations.*** The list of subjects of which knowledge is

#### *Amendment*

(10) A high level of professional qualification should increase the socio-economic efficiency of the road transport sector. It is therefore appropriate that applicants for the post of transport manager should undergo high-quality training. To ensure greater uniformity of training and examination and transparency vis-à-vis applicants, it is appropriate to provide that the Member States accredit examination and training centres according to criteria to be defined by them. On the grounds of fairness and transparency, it is also appropriate that all applicants, including those who, because they have experience or a diploma, may be exempted from compulsory initial training, should pass an examination. The list of subjects of which knowledge is required in order to obtain a certificate of professional competence and the procedures for the organisation of examinations are likely to evolve with technical progress, and provision should be made for updating them.

required in order to obtain a certificate of professional competence and the procedures for the organisation of examinations are likely to evolve with technical progress, and provision should be made for updating them.

Or. en

### *Justification*

*Hauliers in certain Member States continue to compete mainly in a national market. It is therefore reasonable to maintain the opportunity for separate qualifications, where this is appropriate.*

## **Amendment 101**

**Anne E. Jensen**

### **Proposal for a regulation**

#### **Recital 11**

#### *Text proposed by the Commission*

(11) Fair competition and road transport that is fully compliant with the rules call for a uniform level of monitoring by Member States. The national authorities responsible for monitoring undertakings and the validity of their authorisations have a crucial role to play in this respect, and it is appropriate to ensure that they take suitable measures if necessary, in particular by suspending or withdrawing authorisations, or declaring as unsuitable transport managers who are negligent or act in bad faith. An undertaking should, however, be warned in advance and should have a reasonable period of time within which to rectify the situation before incurring such sanctions.

#### *Amendment*

(11) Fair competition and road transport that is fully compliant with the rules call for a uniform level of monitoring by Member States. The national authorities responsible for monitoring undertakings and the validity of their authorisations have a crucial role to play in this respect, and it is appropriate to ensure that they take suitable measures if necessary, in particular ***in the most serious cases*** by suspending or withdrawing authorisations, or declaring as unsuitable transport managers who are negligent or act in bad faith. ***This must be preceded by a consideration of the measure in the light of the proportionality principle.*** An undertaking should, however, be warned in advance and should have a reasonable period of time within which to rectify the situation before incurring such sanctions.

Or. da

### *Justification*

*Seeks to ensure that account continues to be taken of the existing differences between the Member States with regard to the administration and enforcement of measures to deal with the most serious infringements. Cooperation in this area must therefore take place with due regard to proportionality as it applies in the Member State which issued the authorisation and is responsible for supervision.*

#### **Amendment 102**

**Luis de Grandes Pascual**

#### **Proposal for a regulation**

##### **Recital 16**

#### *Text proposed by the Commission*

(16) To facilitate freedom of establishment, the production of appropriate documents issued by a competent authority in the country of origin of the road transport operator should be accepted as sufficient proof of ***good repute*** for admission to the activities in question in a host Member State, providing that it can be ascertained that the persons concerned have not been declared unfit to pursue the occupation in the other Member States from which they come.

#### *Amendment*

(16) To facilitate freedom of establishment, the production of appropriate documents issued by a competent authority in the country of origin of the road transport operator should be accepted as sufficient proof of ***compliance with the ethical standards required*** for admission to the activities in question in a host Member State, providing that it can be ascertained that the persons concerned have not been declared unfit to pursue the occupation in the other Member States from which they come.

Or. es

### *Justification*

*See justification for amendments to Articles 3 and 6.*

#### **Amendment 103**

**Anne E. Jensen**

#### **Proposal for a regulation**

##### **Recital 22**

#### *Text proposed by the Commission*

(22) The Commission should, in particular,

#### *Amendment*

(22) The Commission should, in particular,

be authorised to draw up a list of categories, types and degrees of seriousness of infringements **leading** to the loss of the requisite good repute of road transport operators, to adapt to technical progress the Annex to this Regulation concerning the knowledge to be taken into consideration for the recognition of professional competence by the Member States and the Annex concerning the model certificate of professional competence, and to draw up the list of **maximum** infringements **entailing the suspension or withdrawal of** the authorisation to pursue the occupation or a declaration of unsuitability. Since the measures in question are of general scope and are designed to amend non-essential elements of this Regulation or to supplement it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. On the grounds of efficiency, the time limits normally applicable in the context of the regulatory procedure with scrutiny should be shortened for the updating of the model certificate of professional competence.

be authorised to draw up a list of categories, types and degrees of seriousness of **serious** infringements **which may under certain circumstances lead** to the loss of the requisite good repute of road transport operators, to adapt to technical progress the Annex to this Regulation concerning the knowledge to be taken into consideration for the recognition of professional competence by the Member States and the Annex concerning the model certificate of professional competence, and to draw up the list of infringements **which may lead the authorities, under certain circumstances, and observing proportionality with regard to the nature of the infringement, to consider suspending or withdrawing** the authorisation to pursue the occupation or **issuing** a declaration of unsuitability. Since the measures in question are of general scope and are designed to amend non-essential elements of this Regulation or to supplement it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. On the grounds of efficiency, the time limits normally applicable in the context of the regulatory procedure with scrutiny should be shortened for the updating of the model certificate of professional competence.

Or. da

#### *Justification*

*Seeks to ensure that account continues to be taken of the existing differences between the Member States with regard to the administration and enforcement of measures to deal with the most serious infringements. Cooperation in this area must therefore take place with due regard to proportionality as it applies in the Member State which issued the authorisation and is responsible for supervision.*

**Amendment 104**  
**Luis de Grandes Pascual**

**Proposal for a regulation**  
**Recital 22**

*Text proposed by the Commission*

(22) The Commission should, in particular, be authorised to draw up a list of categories, types and degrees of seriousness of infringements ***leading to the loss of the requisite good repute of road transport operators***, to adapt to technical progress the Annex to this Regulation concerning the knowledge to be taken into consideration for the recognition of professional competence by the Member States and the Annex concerning the model certificate of professional competence, and to draw up the list of maximum infringements entailing the suspension or withdrawal of the authorisation to pursue the occupation or a declaration of unsuitability. Since the measures in question are of general scope and are designed to amend non-essential elements of this Regulation or to supplement it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. On the grounds of efficiency, the time limits normally applicable in the context of the regulatory procedure with scrutiny should be shortened for the updating of the model certificate of professional competence.

*Amendment*

(22) The Commission should, in particular, be authorised to draw up a list of categories, types and degrees of seriousness of infringements ***constituting failure to meet the ethical standards required in order to carry on the occupation of road transport operator***, to adapt to technical progress the Annex to this Regulation concerning the knowledge to be taken into consideration for the recognition of professional competence by the Member States and the Annex concerning the model certificate of professional competence, and to draw up the list of maximum infringements entailing the suspension or withdrawal of the authorisation to pursue the occupation or a declaration of unsuitability. Since the measures in question are of general scope and are designed to amend non-essential elements of this Regulation or to supplement it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. On the grounds of efficiency, the time limits normally applicable in the context of the regulatory procedure with scrutiny should be shortened for the updating of the model certificate of professional competence.

Or. es

*Justification*

**Amendment 105**  
**Silvia-Adriana Țicău**

**Proposal for a regulation**  
**Recital 22**

*Text proposed by the Commission*

(22) The Commission should, in particular, be authorised to draw up a list of categories, types and degrees of seriousness of infringements leading to the loss of the requisite good repute of road transport operators, to adapt to technical progress the Annex to this Regulation concerning the knowledge to be taken into consideration for the recognition of professional competence by the Member States and the Annex concerning the model certificate of professional competence, **and to draw up the list of maximum infringements entailing the suspension or withdrawal of the authorisation to pursue the occupation or a declaration of unsuitability**. Since the measures in question are of general scope and are designed to amend non-essential elements of this Regulation or to supplement it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. On the grounds of efficiency, the time limits normally applicable in the context of the regulatory procedure with scrutiny should be shortened for the updating of the model certificate of professional competence.

*Amendment*

(22) The Commission should, in particular, be authorised to draw up a list of categories, types and degrees of seriousness of **severe** infringements leading to the loss of the requisite good repute of road transport operators, to adapt to technical progress the Annex to this Regulation concerning the knowledge to be taken into consideration for the recognition of professional competence by the Member States and the Annex concerning the model certificate of professional competence. Since the measures in question are of general scope and are designed to amend non-essential elements of this Regulation or to supplement it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. On the grounds of efficiency, the time limits normally applicable in the context of the regulatory procedure with scrutiny should be shortened for the updating of the model certificate of professional competence.

Or. en

*Justification*

*The list of the most severe infringements is described in Annex III. The Commission will adopt, not later than 1 January 2010 the list of severe infringements which should be adopted through regulatory procedure with scrutiny referred to in Article 25(3).*

**Amendment 106**

**Mathieu Grosch, Georg Jarzembowski, Willi Piecyk, Dirk Sterckx, Anne E. Jensen, Elisabeth Jeggle**

**Proposal for a regulation**

**Recital 22 a (new)**

*Text proposed by the Commission*

*Amendment*

***(22a) To encourage coach tours specifically for tourists on low incomes and promote tourism in the regions there is a need to re-introduce the 12-day rule for round trips by coach (see paragraph 78 of Parliament's Resolution of 29 November 2007). For this reason 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, should be extended accordingly.***

Or. de

**Amendment 107**

**Eva Lichtenberger, Jaromír Kohlíček**

**Proposal for a regulation**

**Article 2 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

***(a) to undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles the maximum authorised weight of which does not exceed 3.5 tonnes. Member States may, however, lower this limit for all or some categories of transport operations;***

***deleted***

Or. en

*Justification*

*This legislation should also be valid for undertakings, commercially operating with vehicles, lighter than 3,5 tonnes.*

**Amendment 108**

**Dirk Sterckx**

**Proposal for a regulation**

**Article 2 – paragraph 2 – point a**

*Text proposed by the Commission*

a) to undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles the maximum **authorised weight** of which does not exceed **3.5 tonnes**. **Member States may, however, lower this limit for all or some categories of transport operations;**

*Amendment*

a) to undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles the maximum **payload** of which does not exceed **500 kg**.

Or. nl

*Justification*

*It is better to use payload as the criterion. It is possible to remain under the 3.5 tonne maximum authorised weight with a payload as high as 1500 kg. A high level of professional competence must not be confined to haulage firms with vehicles or combinations of vehicles having a maximum authorised weight of 3.5 tonnes.*

**Amendment 109**

**Inés Ayala Sender**

**Proposal for a regulation**

**Article 2 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) to undertakings which are engaged exclusively in **certain** road passenger transport services for non-commercial purposes, which have a main occupation other than that of road passenger transport

*Amendment*

(b) to undertakings which are engaged exclusively in road passenger transport services for non-commercial purposes **or performed free of charge and** which have a main occupation other than that of road

operator, *and which use vehicles driven by their own employees.*

passenger transport operator.

Or. es

*Justification*

*It does not matter who drives the vehicles if the activity concerned is of a non-commercial nature or free of charge.*

**Amendment 110**  
**Mathieu Grosch**

**Proposal for a regulation**  
**Article 2 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) to undertakings which are engaged exclusively in certain road passenger transport services for non-commercial purposes, which have a main occupation other than that of road passenger transport operator, and which use vehicles driven by their own employees.

*Amendment*

(b) to undertakings which are engaged exclusively in certain road passenger transport services for non-commercial purposes *and free of charge*, which have a main occupation other than that of road passenger transport operator, and which use vehicles driven by their own employees.

Or. de

*Justification*

*To prevent unfair competition.*

**Amendment 111**  
**Brian Simpson**

**Proposal for a regulation**  
**Article 2 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) to undertakings which are engaged exclusively in certain road passenger

*Amendment*

(b) to undertakings which are engaged in road passenger transport services

transport services for non-commercial purposes, which have a main occupation other than that of road passenger transport operator, ***and which use vehicles driven by their own employees.***

***exclusively*** for non-commercial purposes ***or free of charge, or*** which have a main occupation other than that of road passenger transport operator,

Or. en

*Justification*

*Charities and voluntary organisations and undertakings that have little impact on the transport market should not be covered by this legislation.*

**Amendment 112**  
**Philip Bradbourn**

**Proposal for a regulation**  
**Article 2 – paragraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) to undertakings engaged exclusively in national transport operations which have only a minor impact on the transport market.***

Or. en

*Justification*

*Member States must continue to be allowed to exempt national operations which do not have an impact on the wider domestic market.*

**Amendment 113**  
**Brian Simpson**

**Proposal for a regulation**  
**Article 2 – paragraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) to undertakings engaged exclusively in national transport operations which***

*have only a minor impact on the transport market.*

Or. en

*Justification*

*Charities and voluntary organisations and undertakings that have little impact on the transport market should not be covered by this legislation.*

**Amendment 114**  
**Inés Ayala Sender**

**Proposal for a regulation**  
**Article 2 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Member States may, after consulting the Commission, refrain from applying this Regulation to undertakings carrying on the occupation of road freight transport operator if their business is confined solely to national transport services with little influence on the transport market on account of***  
***- the nature of the freight carried or***  
***- the short distances travelled.***

Or. es

*Justification*

*To avoid abuses, the Commission should know about the exemptions granted by Member States.*

**Amendment 115**  
**Luis de Grandes Pascual**

**Proposal for a regulation**  
**Article 3 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) *be of good repute;***

**(b) *meet the required ethical standards;***

Or. es

*Justification*

*‘Good repute’ is an archaic term and also unacceptable because it needlessly suggests that persons carrying on a given occupation are apt to engage in morally reprehensible practices; within the letter of the law, moreover, the loss of good repute does not constitute proper grounds for a sanction. The term ‘ethics’ (in Spanish ‘deontologia’) is better suited to professional etiquette as well as being linguistically more uniform.*

**Amendment 116**  
**Eva Lichtenberger, Jaromír Kohlíček**

**Proposal for a regulation**  
**Article 3 – subparagraph 1 –point d a (new)**

*Text proposed by the Commission*

*Amendment*

**(da) *not be younger than 21 years of age.***

Or. en

*Justification*

*Experience and age should be added to professional competence.*

## Amendment 117

Dirk Sterckx

### Proposal for a regulation

#### Article 4 – paragraph 1 – point b

*Text proposed by the Commission*

b) be employed and remunerated by the undertaking or, if the undertaking is a natural person, be that same person.

*Amendment*

b) ***have a genuine link to the undertaking, in other words*** be employed and remunerated by the undertaking or, if the undertaking is a natural person, be that same person, ***or, if the undertaking is a partnership, be entitled to legally represent and make binding decisions on behalf of the partnership.***

Or. nl

*Justification*

*According to the Commission proposal, the transport manager can only be a paid employee of the undertaking or its owner. In reality it is often the person who is in charge of the day-to-day running of the partnership, in other words the director or managing director, who has obtained the certificate of professional competence.*

## Amendment 118

Luis de Grandes Pascual

### Proposal for a regulation

#### Article 4 – paragraph 1 – point b

*Text proposed by the Commission*

(b) be employed and remunerated by the undertaking or, if the undertaking is a natural person, be that same person.

*Amendment*

(b) be employed and remunerated by the undertaking or, if the undertaking is a natural person, be that same person ***or, if the undertaking is a commercial undertaking, the person who holds at least 15% of the shares.***

Or. es

*Justification*

*It is necessary to specify the type of undertaking, namely one consisting of a natural person or a commercial undertaking.*

**Amendment 119**

**Mathieu Grosch**

**Proposal for a regulation**

**Article 4 – paragraph 1 –point b**

*Text proposed by the Commission*

(b) be employed and remunerated by the undertaking or, if the undertaking is a natural person, be that same person.

*Amendment*

(b) be employed and remunerated by the undertaking, **or manage it**, or, if the undertaking is a natural person, be that same person.

Or. en

*Justification*

*Cases where the transport operator is not employed but does manage the undertaking need to be taken into account.*

**Amendment 120**

**Elisabeth Jeggle**

**Proposal for a regulation**

**Article 4 – paragraph 1 –point b**

*Text proposed by the Commission*

(b) be employed and remunerated by the undertaking or, if the undertaking is a natural **person**, be that same person.

*Amendment*

(b) be employed and remunerated by the undertaking or, if the undertaking is **one or more** natural **persons**, be that same person **or a natural person holding the company's shares**.

Or. de

*Justification*

*Ownership issues within a company should not play a determining role in the question of*

*recognising professional aptitude. The important thing is that the person involved in the company should be able to manage the transport operation.*

## **Amendment 121**

**Brian Simpson**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1 –point b**

##### *Text proposed by the Commission*

(b) be ***employed and remunerated by*** the undertaking or, if the undertaking is a natural person, be that same person.

##### *Amendment*

(b) be ***an employee, partner, director, shareholder or have a similar contractual relationship to*** the undertaking or, if the undertaking is a natural person, be that same person.

Or. en

##### *Justification*

*The original proposal is too narrow as it does not recognise the number of roles a Transport Manager may fulfil.*

## **Amendment 122**

**Eva Lichtenberger, Jaromír Kohlíček**

### **Proposal for a regulation**

#### **Article 4 – paragraph 2 –point b**

##### *Text proposed by the Commission*

(b) the contract linking the undertaking with the transport manager specifies the duties to be performed on a ***permanent*** basis by the party concerned, and indicates his or her responsibilities as transport manager; the duties to be specified shall comprise in particular those relating to vehicle maintenance, verification of transport contracts and documents, accounting, the assignment of loads to drivers and vehicles, and the verification of safety procedures;

##### *Amendment*

(b) the contract linking the undertaking with the transport manager specifies the duties to be performed on a ***continuous*** basis by the party concerned, and indicates his or her responsibilities as transport manager; the duties to be specified shall comprise in particular those relating to vehicle maintenance, verification of transport contracts and documents, accounting, the assignment of loads to drivers and vehicles, and the verification of safety procedures ***and protection of people***

*at work;*

Or. xm

*Justification*

*Protection of workers in the workplace and increasing industrial and road transport safety.*

**Amendment 123**  
**Philip Bradbourn**

**Proposal for a regulation**  
**Article 4 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

*(c) the person designated does not manage, in the capacity of transport manager, the transport activities of more than four different undertakings carried out with a maximum total fleet of twelve vehicles;*

*deleted*

Or. en

*Justification*

*This proposal does not effectively address the problem of 'fake' transport manager and is therefore inappropriate. It is for the Competent Authority to satisfy itself that a transport manager has sufficient capacity and takes effective control of operations.*

**Amendment 124**  
**Corien Wortmann-Kool**

**Proposal for a regulation**  
**Article 4 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

c) the person designated does not manage, in the capacity of transport manager, the transport activities of more than four different undertakings *carried out with a*

c) the person designated does not manage, in the capacity of transport manager, the transport activities of more than four different undertakings;

*maximum total fleet of twelve vehicles;*

Or. nl

*Justification*

*The requirement of twelve vehicles per transport manager is an unnecessary infringement of entrepreneurial freedom and existing business practice and should therefore be deleted.*

**Amendment 125**  
**Johannes Blokland**

**Proposal for a regulation**  
**Article 4 – paragraph 2 –point c**

*Text proposed by the Commission*

(c) the person designated does not manage, in the capacity of transport manager, the transport activities of more than four different undertakings *carried out with a* maximum *total fleet of twelve* vehicles;

*Amendment*

(c) the person designated does not manage, in the capacity of transport manager, the transport activities of more than four different undertakings. *The competent authority may decide on the* maximum *number of* vehicles *to be managed by the transport manager*;

Or. en

*Justification*

*As there are great differences between the operational dynamics of transport companies, it is not possible to set a fixed maximum of vehicles to be managed by the transport manager at EU level. If Member States think it necessary to set a fixed maximum, they should be free to do so.*

**Amendment 126**  
**Eva Lichtenberger, Jaromír Kohlíček**

**Proposal for a regulation**  
**Article 4 – paragraph 2 –point d**

*Text proposed by the Commission*

*(d) the person designated is independent*

*Amendment*

*deleted*

*of the other undertakings which call upon him or her to carry out transport operations or which carry out transport operations on his or her behalf.*

Or. en

*Justification*

*'practical experience' is difficult to be checked/controlled in other Member States*

**Amendment 127**

**Corien Wortmann-Kool, Johannes Blokland**

**Proposal for a regulation**

**Article 4 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3) The transport manager shall lose his or her good repute within the meaning of this Regulation if serious infringements or repeated infringements above a certain threshold among the infringements referred to in Article 6(1) are committed in the context of the transport activities which he or she manages.**      *deleted*

Or. nl

*Justification*

*So long as infringements are interpreted and dealt with in different ways in different Member States, and as long as there is as yet no list setting out the categories, nature and seriousness of serious infringements, the repute of the transport manager may not be jeopardised by alleged serious or repeated infringements within different Member States.*

## Amendment 128

Eva Lichtenberger, Jaromír Kohlíček

### Proposal for a regulation

#### Article 5 – point a

##### *Text proposed by the Commission*

(a) have an establishment, situated in that Member State with premises in which it keeps its business documents, and in particular all its accounting documents, personnel management documents and any other document to which the authority competent to authorise the pursuit of the occupation must have access in order to verify compliance with the conditions provided for in this Regulation;

##### *Amendment*

(a) have an establishment, situated in that Member State with premises in which it keeps its business documents ***for the periods laid down by law*** and in particular all its accounting documents, personnel management documents and any other document ***on secure data supports***, to which the authority competent to authorise the pursuit of the occupation must have access in order to verify compliance with the conditions provided for in this Regulation ***while complying with all standards for the protection of personal data.***

Or. en

##### *Justification*

*Security of archived data and protection of personal data and particulars*

## Amendment 129

Corien Wortmann-Kool

### Proposal for a regulation

#### Article 5 – point b

##### *Text proposed by the Commission*

b) have at its disposal vehicles, whether wholly owned or, for example, under a hire purchase, hire or leasing contract or under a purchase contract, ***which are registered in and which it uses in that Member State;***

##### *Amendment*

b) have at its disposal vehicles, whether wholly owned or, for example, under a hire purchase, hire or leasing contract or under a purchase contract;

Or. nl

### *Justification*

*The establishment of a transport undertaking in a given Member State does not necessarily mean that all its vehicles are registered and used in the same Member State. At a time of increased efficiency and internationalisation, therefore, such requirements should not be imposed on the transport sector.*

#### **Amendment 130**

**Bogusław Liberadzki**

#### **Proposal for a regulation**

##### **Article 5 – point b**

#### *Text proposed by the Commission*

(b) have at its disposal vehicles, whether wholly owned or, for example, under a hire purchase, hire or leasing contract or under a purchase contract, which are registered in ***and which it uses in*** that Member State;

#### *Amendment*

(b) have at its disposal vehicles, whether wholly owned or, for example, under a hire purchase, hire or leasing contract or under a purchase contract, which are registered in that Member State;

Or. pl

### *Justification*

*This provision would seriously undermine the freedom to operate, particularly in crossborder areas, thereby limiting the benefits of Schengen.*

#### **Amendment 131**

**Luis de Grandes Pascual**

#### **Proposal for a regulation**

##### **Article 5 – point c**

#### *Text proposed by the Commission*

***(c) have an operating centre, situated in that Member State, with the necessary equipment, and in particular a sufficient number of vehicle parking places for regular use by its vehicles.***

#### *Amendment*

***deleted***

Or. es

### *Justification*

*To stipulate that, in addition to being based in a Member State, an undertaking must have access to a given number of parking places would restrict operational freedom and cause undertakings to incur unnecessary extra costs. The number of parking places must not become an obstacle for road transport operators. Because of the way in which they organise their logistics, some undertakings do not need to have a fixed number of places available.*

#### **Amendment 132**

**Dirk Sterckx**

#### **Proposal for a regulation**

##### **Article 5 – point c**

*Text proposed by the Commission*

*Amendment*

***c) have an operating centre, situated in that Member State, with the necessary equipment, and in particular a sufficient number of vehicle parking places for regular use by its vehicles.*** ***deleted***

Or. nl

### *Justification*

*This criterion is not always workable in practice. There are other, more workable criteria for checking whether the undertaking is genuinely and permanently established on the territory of the Member State which issued the authorisation. For example, a more conclusive criterion is the keeping of business documents on site (consignment notes, invoices, tachograph discs etc.) (see Article 5 (a)).*

#### **Amendment 133**

**Mathieu Grosch**

#### **Proposal for a regulation**

##### **Article 5 – point c**

*Text proposed by the Commission*

*Amendment*

***(c) have an operating centre, situated in that Member State, with the necessary equipment, and in particular a sufficient number of vehicle parking places for***

***(c) have an operating centre, situated in that Member State, with the necessary equipment, and **be able to prove on request where in the Member State of*****

*regular use by its vehicles.*

*establishment the vehicles are parked  
when they are not in use.*

Or. de

*Justification*

*Companies do not have to have their own parking places; in practice vehicles are also parked on the premises of contractors, drivers and so on. But they must be able to prove to an inspector where in the Member State of establishment the vehicles are situated when they are not in use, so as to prevent 'shell' companies.*

**Amendment 134**  
**Inés Ayala Sender**

**Proposal for a regulation**  
**Article 5 – point c**

*Text proposed by the Commission*

(c) *have* an operating centre, situated in that Member State, with the necessary equipment, *and in particular a sufficient number of vehicle parking places for regular use by its vehicles.*

*Amendment*

(c) *run its activities effectively and continuously from* an operating centre, situated in that Member State, with the necessary equipment.

Or. es

*Justification*

*There is no need to say that an undertaking must have parking places: the requirement to have the necessary equipment will suffice.*

**Amendment 135**  
**Johannes Blokland**

**Proposal for a regulation**  
**Article 5 – point c**

*Text proposed by the Commission*

(c) have an operating centre, situated in that Member State, with the necessary

*Amendment*

(c) have an operating centre, situated in that Member State, with the necessary

equipment, *and in particular a sufficient number of vehicle parking places for regular use by its vehicles.*

equipment.

Or. en

#### *Justification*

*For very small and large (international) companies it be difficult to acquire the necessary space or financial means to comply to this provision.*

### **Amendment 136** **Philip Bradbourn**

#### **Proposal for a regulation** **Article 5 – point c**

##### *Text proposed by the Commission*

(c) have an operating centre, situated in that Member State, with the necessary equipment, and in particular a sufficient number of vehicle parking places for *regular use by* its vehicles.

##### *Amendment*

(c) have an operating centre, situated in that Member State, with the necessary equipment, and in particular a sufficient number of vehicle parking places for its vehicles *when not in use.*

Or. en

#### *Justification*

*To be effectively and stably established in a Member State and for the improvement of road safety and the environment, operators must be required to make adequate provision for the parking of their vehicles when they are not in use.*

### **Amendment 137** **Luis de Grandes Pascual**

#### **Proposal for a regulation** **Article 6 – Title**

##### *Text proposed by the Commission*

*Conditions relating to the requirement as to good repute*

##### *Amendment*

*Ethical standards*

*Justification*

*See justification for amendment to Article 3(b).*

**Amendment 138**

**Luis de Grandes Pascual**

**Proposal for a regulation****Article 6 – paragraph 1 – subparagraph 1***Text proposed by the Commission*

1. For the purposes of Article 3(b), ***the requirement as to the good reputation of an undertaking shall mean that*** its managers have not been convicted of any serious criminal offence or offences under commercial law or bankruptcy law and ***that*** they carry out their activity in good faith and in compliance with the rules applicable to road transport and in accordance with professional ethics.

*Amendment*

1. For the purposes of Article 3(b), ***an undertaking shall meet the required ethical standards when*** its managers have not been convicted of any serious criminal offence or offences under commercial law or bankruptcy law and ***when*** they carry out their activity in good faith and in compliance with the rules applicable to road transport and in accordance with professional ethics.

*Justification*

*See justification for amendment to Article 3(b).*

**Amendment 139**

**Luis de Grandes Pascual**

**Proposal for a regulation****Article 6 – paragraph 1 – subparagraph 2***Text proposed by the Commission*

Member States shall determine the special conditions which an undertaking must meet pursuant to this Regulation in order to ***satisfy the requirement as to good reputation***. Member States shall provide that an

*Amendment*

Member States shall determine the special conditions which an undertaking must meet pursuant to this Regulation in order to ***comply with the required ethical standards***. Member States shall provide

undertaking satisfies that requirement if:

that an undertaking satisfies that requirement if:

Or. es

*Justification*

*See justification for amendment to Article 3(b).*

**Amendment 140**

**Elisabeth Jeggle**

**Proposal for a regulation**

**Article 6 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) the natural person(s) whom ***it*** has designated as transport manager pursuant to Article 4 has not (have not) incurred convictions or sanctions in one of the Member States for serious infringements ***or repeated minor infringements*** of Community ***rules*** concerning in particular:

*Amendment*

(b) the natural person(s) whom ***the undertaking*** has designated as transport manager pursuant to Article 4 has not (have not) incurred convictions or sanctions in one of the Member States for serious infringements of Community ***provisions within the meaning of Annex IIa*** concerning in particular:

Or. de

*Justification*

*The reference to ‘repeated minor infringements’ as an indication of unreliability should be deleted. This seems disproportionate in view of the fact that the general risk of participating in road transport continues however much care is taken.*

*The list of serious offences proposed as Annex II a (new) should be incorporated in the Regulation as an appendix to secure EU-wide interpretation and enforcement of the provisions.*

## Amendment 141

Corien Wortmann-Kool, Johannes Blokland

### Proposal for a regulation

#### Article 6 – paragraph 1 – point b – introductory part

*Text proposed by the Commission*

b) the natural person(s) whom it has designated as transport manager pursuant to Article 4 has not (have not) incurred convictions or sanctions in one of the Member States for serious infringements ***or repeated minor infringements*** of Community rules concerning in particular:

*Amendment*

b) the natural person(s) whom it has designated as transport manager pursuant to Article 4 has not (have not) incurred convictions or sanctions in one of the Member States for serious infringements of Community rules concerning in particular:

Or. nl

*Justification*

*So long as infringements are interpreted and dealt with in such different ways in different Member States, repeated minor infringements should not form part of this regulation.*

## Amendment 142

Eva Lichtenberger, Jaromír Kohlíček

### Proposal for a regulation

#### Article 6 – paragraph 1 – point b – point i

*Text proposed by the Commission*

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

*Amendment*

(i) the driving time and rest periods of drivers, working time, and the installation and use of recording equipment;  
***verification should cover their consistent observance, the archiving of data and protection of the personal data obtained;***

Or. xm

*Justification*

*Protection against the counterfeiting of electronic tachygraph cards and increasing road transport safety.*

**Amendment 143**  
**Johannes Blokland**

**Proposal for a regulation**  
**Article 6 – paragraph 2**

*Text proposed by the Commission*

**2. For the purposes of point (b) of the second subparagraph of paragraph 1, the Commission shall adopt *the* list of categories, types and degrees of seriousness of infringements *and the frequency of occurrence beyond which repeated minor infringements shall lead to the loss of the requisite* good repute. *Since these measures are designed to amend non-essential elements of this Regulation and to supplement it, they shall be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 25(3).***

To this end, the Commission shall ***apply the following principles:***

***(a)*** the categories and types of infringement are *those* most frequently encountered;

***(b)*** the *most serious* degree of *infringement concerns those which* create a *serious* risk of fatalities or serious injuries;

***(c)*** the frequency of occurrence beyond which repeated *minor* infringements shall be regarded as serious *shall increase according to* the number of drivers used for the transport activities managed by the *natural person concerned*.

*Amendment*

2. The Commission shall adopt ***a*** list of categories, types and degrees of seriousness of infringements ***of Community rules which may lead to the loss of good repute. Member States shall take into account information on those infringements, including information received from other Member States, when setting the priorities for checks pursuant to Article 11(2).***

***The Commission will evaluate the definitions of Annex III before 2012. The Commission shall take measures to adjust Annex III according to the conclusions of the evaluation in accordance with Article 251 of the EC Treaty.***

To this end, the Commission shall:

***(i)*** *lay down* the categories and types of infringement ***which*** are most frequently encountered;

***(ii)*** *define* the degree of *seriousness of infringements according to their potential to* create a risk of fatalities or serious injuries;

***(iii)*** *define* the frequency of occurrence beyond which repeated infringements shall be regarded as *more* serious, ***by taking into account*** the number of drivers used for the transport activities managed by the *transport manager*.

*Justification*

*Before extending Annex III with other types of infringements, the Commission should present an evaluation of the list presented in Annex III. If this list clearly falls short to the actual serious infringements, it should be updated in accordance with Article 251 of the EC Treaty.*

**Amendment 144**

**Corien Wortmann-Kool, Johannes Blokland**

**Proposal for a regulation****Article 6 – paragraph 2 – subparagraph 1***Text proposed by the Commission*

2. For the purposes of point (b) of the second subparagraph of paragraph 1, the Commission shall adopt the list of categories, types and degrees of seriousness of infringements ***and the frequency of occurrence beyond which repeated minor infringements*** shall lead to the loss of the requisite good repute. Since these measures are designed to amend non-essential elements of this Regulation and to supplement it, they shall be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 25(3).

*Amendment*

2. For the purposes of point (b) of the second subparagraph of paragraph 1, the Commission shall adopt the list of categories, types and degrees of seriousness of ***serious*** infringements which shall lead to the loss of the requisite good repute. Since these measures are designed to amend non-essential elements of this Regulation and to supplement it, they shall be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 25(3).

*Justification*

*So long as infringements are interpreted and dealt with in such different ways in different Member States, repeated minor infringements should not form part of this regulation.*

**Amendment 145**  
**Luis de Grandes Pascual**

**Proposal for a regulation**  
**Article 6 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. For the purposes of point (b) of the second subparagraph of paragraph 1, the Commission shall adopt the list of categories, types and degrees of seriousness of infringements and the frequency of occurrence beyond which repeated minor infringements shall ***lead to the loss of the requisite good repute***. Since these measures are designed to amend non-essential elements of this Regulation and to supplement it, they shall be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 25(3).

*Amendment*

2. For the purposes of point (b) of the second subparagraph of paragraph 1, the Commission shall adopt the list of categories, types and degrees of seriousness of infringements and the frequency of occurrence beyond which repeated minor infringements ***shall constitute failure to meet the required ethical standards***. Since these measures are designed to amend non-essential elements of this Regulation and to supplement it, they shall be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 25(3).

Or. es

*Justification*

*See justification for amendment to Article 3(b).*

**Amendment 146**  
**Corien Wortmann-Kool, Johannes Blokland**

**Proposal for a regulation**  
**Article 6 – paragraph 2 – point c**

*Text proposed by the Commission*

***c) the frequency of occurrence beyond which repeated minor infringements shall be regarded as serious shall increase according to the number of drivers used for the transport activities managed by the natural person concerned.***

*Amendment*

***deleted***

Or. nl

### *Justification*

*So long as infringements are interpreted and dealt with in such different ways in different Member States, repeated minor infringements should not form part of this regulation.*

**Amendment 147**  
**Johannes Blokland**

**Proposal for a regulation**  
**Article 6 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) In the event of a conviction of or where penalties have been imposed on the transport manager or the transport undertaking in one or more of the Member States for one of the most serious infringements of Community rules, as set out in Annex III, the competent authority shall undertake in an appropriate and timely manner a duly completed administrative procedure, including, if appropriate, a check at the premises of the undertaking concerned.*

*The procedure shall determine whether, due to specific circumstances, if the loss of good repute would constitute a disproportionate response in the individual case. Any such finding shall be duly reasoned and justified.*

*If the competent authority finds that the loss of good repute would constitute a disproportionate response, it may decide that the good repute is unaffected. In such case, the reasons shall be recorded in the national register and indicated in the report referred to in to in Article 26(1).*

*If the competent authority does not find that the loss of good repute would constitute a disproportionate response, as referred to in the second subparagraph, the conviction or penalties, referred to in the first subparagraph, shall lead to the loss of good repute.*

*The measures designed to amend non-essential elements of this Regulation relating to the adaptation of Annex III to take account of the development of the Community acquis in the field of road transport shall be adopted in accordance with Article 251 of the EC Treaty.*

Or. en

*Justification*

*There should be sufficient safeguards before conclusions are drawn on the transport managers loss of good repute. Additionally, the list with infringements - which is the basis for a possible loss of good repute - should not be extended without a full legislative procedure.*

**Amendment 148**  
**Luis de Grandes Pascual**

**Proposal for a regulation**  
**Article 6 – paragraph 3**

*Text proposed by the Commission*

3. The ***requirement as to good repute*** shall not be ***satisfied*** until rehabilitation or any other measure having an equivalent effect has taken place pursuant to the relevant existing national provisions.

*Amendment*

3. The ***required ethical standards*** shall not be ***met*** until rehabilitation or any other measure having an equivalent effect has taken place pursuant to the relevant existing national provisions.

Or. es

*Justification*

*See justification for amendment to Article 3(b).*

**Amendment 149**  
**Markus Ferber**

**Proposal for a regulation**  
**Article 7 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. The requirement as to financial standing shall be satisfied where an undertaking can **at all times** meet its actual and potential commitments in the course of the annual accounting year. To this end, the undertaking must prove, **on the basis of annual accounts certified by an auditor or a duly accredited person, that it has at its disposal each year:**

*Amendment*

2. The requirement as to financial standing shall be satisfied where an undertaking can meet its actual and potential commitments in the course of the annual accounting year. To this end, the undertaking must prove **that it has:**

Or. de

*Justification*

*To secure the stability of the business, vehicles are assets and must be covered by long-term capital.*

**Amendment 150**  
**Markus Ferber**

**Proposal for a regulation**  
**Article 7 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) **current assets** totalling at least EUR 9 000 for a single vehicle used and EUR 5 000 for each additional vehicle used;

*Amendment*

(a) **capital resources** totalling at least EUR 9 000 for a single vehicle used and EUR 5 000 for each additional vehicle used;

***Capital resources shall be demonstrated by means of a certified trading balance sheet or a balance sheet for tax purposes. Persons applying for access to the profession of road transport operator for the first time must submit a certified opening balance sheet.***

*Justification*

*To secure the stability of the business, vehicles are assets and must be covered by long-term capital.*

**Amendment 151**

**Mathieu Grosch**

**Proposal for a regulation**

**Article 7 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) ***current assets*** totalling at least ***EUR 9 000*** for a single vehicle used and ***EUR 5 000*** for each additional vehicle used;

*Amendment*

(a) ***capital and reserves*** totalling at least ***EUR 15 000*** for a single vehicle used and ***EUR 7 500*** for each additional vehicle used;

Or. de

*Justification*

*The quick ratio should be deleted as a criterion as it does not allow for reliable data on a company's financial stability; capital and reserves should be used as the reference value instead.*

**Amendment 152**

**Elisabeth Jeggle**

**Proposal for a regulation**

**Article 7 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) ***current assets*** totalling at least EUR 9 000 for a single vehicle used and EUR 5 000 for each additional vehicle used;

*Amendment*

(a) ***capital and reserves*** totalling at least EUR 9 000 for a single vehicle used and EUR 5 000 for each additional vehicle used;

Or. de

### *Justification*

*The intention of referring in future to current assets rather than reserves and capital resources to assess financial reliability runs the risk of using criteria that are damaging to competition and remote from financial reality. The present rule should therefore be maintained.*

#### **Amendment 153** **Mathieu Grosch**

##### **Proposal for a regulation** **Article 7 – paragraph 2 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

***(b) debt claims, securities and cash at bank and in hand totalling more than 80% of debts of which the residual duration is no greater than one year (“quick ratio”  $\geq$  80%).*** ***deleted***

Or. de

### *Justification*

*The ‘quick ratio’ is not an indicator for a business’s financial stability and should therefore not be introduced as an alternative criterion to capital resources and reserves. The values in point (a) for capital and reserves should accordingly be increased.*

#### **Amendment 154** **Luis de Grandes Pascual**

##### **Proposal for a regulation** **Article 7 – paragraph 2 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

***(b) debt claims, securities and cash at bank and in hand totalling more than 80% of debts of which the residual duration is no greater than one year (“quick ratio”  $\geq$  80%).*** ***deleted***

Or. es

*Justification*

*An undertaking must furnish proof regarding its assets and reserves, as specified in paragraph 2(a), in order to demonstrate that it has enough financial resources to start operating in the proper way.*

**Amendment 155**

**Elisabeth Jeggle**

**Proposal for a regulation**

**Article 7 – paragraph 2 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

***(b) debt claims, securities and cash at bank and in hand totalling more than 80% of debts of which the residual duration is no greater than one year ("quick ratio"  $\geq$  80%).*** ***deleted***

Or. de

*Justification*

*The proposed quick ratio procedure is inappropriate for obtaining reliable data on financial reliability.*

**Amendment 156**

**Corien Wortmann-Kool**

**Proposal for a regulation**

**Article 7 – paragraph 2 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

***b) debt claims, securities and cash at bank and in hand totalling more than 80% of debts of which the residual duration is no greater than one year ("quick ratio"  $\geq$  80%).*** ***deleted***

Or. nl

### *Justification*

*The 'quick ratio' requirement is not workable for transport undertakings. In any case it merely provides a snapshot of the situation and is easy to manipulate.*

#### **Amendment 157** **Johannes Blokland**

##### **Proposal for a regulation** **Article 7 – paragraph 2 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

*(b) debt claims, securities and cash at bank and in hand totalling more than 80% of debts of which the residual duration is no greater than one year ("quick ratio"  $\geq 80\%$ ).* *deleted*

Or. en

### *Justification*

*This indicator is not suitable to measure a company's financial situation.*

#### **Amendment 158** **Bogusław Liberadzki**

##### **Proposal for a regulation** **Article 7 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

For the purposes of this Regulation, the value of the euro in those national currencies which are non-participants in the third stage of Monetary Union shall be fixed every **five years**. 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.

For the purposes of this Regulation, the value of the euro in those national currencies which are non-participants in the third stage of 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.

*Justification*

*A five-year period is too long. The exchange rate should be fixed every year.*

**Amendment 159**

**Dirk Sterckx**

**Proposal for a regulation**

**Article 7 – paragraph 3**

*Text proposed by the Commission*

3. By way of derogation from paragraph 2, ***the competent authority may agree that*** an undertaking may give proof of its financial standing by means of a certificate from one or more banks or other financial institutions providing a joint and several guarantee for the undertaking in the form of a bank surety, or any other similar means, in respect of the amounts specified in point (a) of paragraph 2. The bank surety may be called in by the competent authority which authorises the pursuit of the occupation and cannot be released without the agreement of the latter.

*Amendment*

3. By way of derogation from paragraph 2, an undertaking may give proof of its financial standing by means of a certificate from one or more banks or other financial institutions providing a joint and several guarantee for the undertaking in the form of a bank surety, or any other similar means, in respect of the amounts specified in point (a) of paragraph 2. The bank surety may be called in by the competent authority which authorises the pursuit of the occupation and cannot be released without the agreement of the latter. ***The competent authority shall also determine the conditions under which the bank guarantee may be called in and released for the benefit of other creditors.***

Or. nl

*Justification*

*The bank guarantee offers greater security than the quick ratio. A quick ratio merely provides a snapshot of the situation. With a guarantee there is certainty that the money is there and will remain there. The bank guarantee must therefore be a valid option for proving the financial solvency of an undertaking.*

*It must also be possible for creditors other than the competent authority to make claims on the bank guarantee under the conditions set by the competent authority.*

**Amendment 160**  
**Corien Wortmann-Kool**

**Proposal for a regulation**  
**Article 7 – paragraph 3**

*Text proposed by the Commission*

3. By way of derogation from paragraph 2, the competent authority **may** agree that an undertaking may give proof of its financial standing by means of a certificate from one or more banks or other financial institutions providing a joint and several guarantee for the undertaking in the form of a bank surety, or any other similar means, in respect of the amounts specified in point (a) of paragraph 2. The bank surety may be called in by the competent authority which authorises the pursuit of the occupation and cannot be released without the agreement of the latter.

*Amendment*

3. By way of derogation from paragraph 2, the competent authority **should** agree that an undertaking may give proof of its financial standing by means of a certificate from one or more banks or other financial institutions providing a joint and several guarantee for the undertaking in the form of a bank guarantee, or any other similar means, in respect of the amounts specified in point (a) of paragraph 2. The bank guarantee may be called in by the competent authority which authorises the pursuit of the occupation and cannot be released without the agreement of the latter.

Or. en

**Amendment 161**  
**Inés Ayala Sender**

**Proposal for a regulation**  
**Article 8 – paragraph 1**

*Text proposed by the Commission*

1. For the purposes of Article 3(d), ***the requirement as to professional competence shall be satisfied if*** the person(s) ***who is (are) deemed to satisfy it pursuant to Article 4 possesses*** (possess) knowledge corresponding to the level of training provided for in Section 1 of Annex I in the subjects listed therein. ***It*** shall be established, ***following training involving compulsory attendance at courses of a total duration of at least 140 hours***, by means of a compulsory written

*Amendment*

1. For the purposes of Article 3(d), the person(s) ***concerned shall*** possess knowledge corresponding to the level of training provided for in Section 1 of Annex I in the subjects listed therein. ***This*** shall be established by means of a compulsory written examination which, ***if the Member State in question so decides***, may be supplemented by an oral examination. These examinations shall be organised in accordance with Section 2 of Annex I. ***To that end, Member States may***

examination which may be supplemented by an oral examination These examinations shall be organised in accordance with Section 2 of Annex I.A.

***decide to provide for compulsory training leading to the examination.***

Or. es

#### *Justification*

*Some Member States believe that persons have to undergo the necessary training before the examination, and they should be allowed to lay down a requirement to that effect in their national regulations.*

### **Amendment 162**

**Elisabeth Jeggle**

#### **Proposal for a regulation Article 8 – paragraph 1**

##### *Text proposed by the Commission*

1. For the purposes of Article 3(d), the requirement as to professional competence shall be satisfied if the person(s) who is (are) deemed to satisfy it pursuant to Article 4 possesses (possess) knowledge corresponding to the level of training provided for in Section I of Annex I in the subjects listed therein. It shall be established, ***following training involving compulsory attendance at courses of a total duration of at least 140 hours, by means of*** a compulsory written examination ***which may be supplemented by an oral examination.*** These examinations shall be organised in accordance with Section II of Annex I.

##### *Amendment*

1. For the purposes of Article 3(d), the requirement as to professional competence shall be satisfied if the person(s) who is (are) deemed to satisfy it pursuant to Article 4 possesses (possess) knowledge corresponding to the level of training provided for in Section I of Annex I in the subjects listed therein. It shall be established by a compulsory written examination. These examinations shall be organised in accordance with Section II of Annex I.

Or. de

#### *Justification*

*Compulsory attendance on a training course creates disproportionate red tape and incurs substantial costs. Since an examination is required, compulsory participation in a course is also unnecessary as people can provide adequate proof of their professional competence in*

*the examination itself.*

#### **Amendment 163**

**Corien Wortmann-Kool**

#### **Proposal for a regulation**

#### **Article 8 – paragraph 1**

##### *Text proposed by the Commission*

1. For the purposes of Article 3(d), the requirement as to professional competence shall be satisfied if the person(s) who is (are) deemed to satisfy it pursuant to Article 4 possesses (possess) knowledge corresponding to the level of training provided for in Section 1 of Annex I in the subjects listed therein. It shall be established, following training involving ***compulsory attendance at courses of a total duration of at least 140 hours***, by means of a compulsory written examination which may be supplemented by an oral examination. These examinations shall be organised in accordance with Section 2 of Annex I.

##### *Amendment*

1. For the purposes of Article 3(d), the requirement as to professional competence shall be satisfied if the person(s) who is (are) deemed to satisfy it pursuant to Article 4 possesses (possess) knowledge corresponding to the level of training provided for in Section 1 of Annex I in the subjects listed therein. It shall be established, following training, by means of a compulsory written examination which may be supplemented by an oral examination. These examinations shall be organised in accordance with Section 2 of Annex I.

Or. nl

##### *Justification*

*Provided the requirement of independent examinations is satisfied, it remains up to the industry to determine the form given to the training course, particularly since candidates differ in their knowledge and experience.*

#### **Amendment 164**

**Philip Bradbourn**

#### **Proposal for a regulation**

#### **Article 8 – paragraph 1 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

***1a. With regard to applicants intending to***

*perform the effective and continuous management of undertakings engaging solely in national transport operations, Member States may stipulate that the knowledge to be taken into consideration in order to establish professional competence shall cover only subjects relating to national transport. In that case, the certificate of professional competence, a model of which is contained in Annex II hereto, shall state that the holder is qualified to perform the effective and continuous management of undertakings engaging solely in transport operations within the Member State that issued the certificate.*

Or. en

*Justification*

*Reinsertion of Article 3.4. (e) of Directive 96/26/EC (as amended) allowing for Member States to retain the division between National and International CPC. Hauliers in certain Member States continue to compete mainly in a national market. It is therefore reasonable to maintain the opportunity for separate qualifications, where this is appropriate*

**Amendment 165**  
**Mathieu Grosch**

**Proposal for a regulation**  
**Article 8 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The persons concerned shall sit the examination in their Member State of residence.***

Or. de

*Justification*

*To prevent abuse, for instance in the form of ‘exam tourism’.*

**Amendment 166**  
**Marian-Jean Marinescu**

**Proposal for a regulation**  
**Article 8 – paragraph 3**

*Text proposed by the Commission*

3. Member States shall accredit, in accordance with criteria defined by them, the bodies capable of offering applicants high-quality training to prepare them efficiently for the examination, and continuous training so that transport managers who so wish can update their knowledge. Member States shall regularly verify that these bodies at all times fulfil the criteria on the basis of which they were accredited.

*Amendment*

3. Member States shall accredit, in accordance with ***mutually compatible*** criteria defined by them, the bodies capable of offering applicants high-quality training to prepare them efficiently for the examination, and continuous training so that transport managers who so wish can update their knowledge. Member States shall regularly verify that these bodies at all times fulfil the criteria on the basis of which they were accredited.

Or. en

*Justification*

*More precise wording.*

**Amendment 167**  
**Eva Lichtenberger, Jaromír Kohlíček**

**Proposal for a regulation**  
**Article 8 – paragraph 4**

*Text proposed by the Commission*

***4. Member States may exempt from compulsory training applicants who provide proof of at least five years' practical experience in a transport undertaking at management level.***

*Amendment*

***deleted***

Or. en

*Justification*

*Independent persons should not be derogated from this regulation.*

**Amendment 168**  
**Mathieu Grosch**

**Proposal for a regulation**  
**Article 8 – paragraph 4**

*Text proposed by the Commission*

4. Member States may exempt from ***compulsory training applicants*** who provide proof of at least ***five*** years' practical experience in a transport undertaking at management level.

*Amendment*

4. Member States may exempt from ***the examination persons*** who provide proof of at least ***10*** years' ***continuous*** practical experience in a transport undertaking at management level ***before publication of this Regulation.***

Or. de

*Justification*

*Seasoned operators with many years' experience should not have to prove a second time in an examination that they are professionally competent. Obviously this option should be phased out; so we need to prevent people from producing proof of professional competence only via the criterion of professional experience once this Regulation is adopted.*

**Amendment 169**  
**Brian Simpson**

**Proposal for a regulation**  
**Article 8 – paragraph 4**

*Text proposed by the Commission*

4. Member States may exempt from ***compulsory training applicants*** who provide proof of at least ***five*** years' practical experience in a transport undertaking at management level.

*Amendment*

4. Member States may exempt from ***examination persons*** who ***can*** provide proof of at least ***ten*** years' practical ***continuous*** experience in a transport undertaking at management level ***during the previous twenty years.***

Or. en

*Justification*

*Practical experience should be continuous therefore it is not unreasonable to extend the proof of that experience to ten years within a twenty year time-frame.*

**Amendment 170**

**Elisabeth Jeggle**

**Proposal for a regulation**

**Article 8 – paragraph 4**

*Text proposed by the Commission*

4. Member States may exempt from compulsory training applicants who provide proof of at least five years' practical experience in a transport undertaking at management level.

*Amendment*

4. Member States may exempt from compulsory training **and the examination** applicants who provide proof of at least five years' practical experience in a transport undertaking at management level.

Or. de

*Justification*

*The red tape involved is alone enough to mean that it is unwarranted to burden seasoned operators or transport managers with a compulsory exam. In any case the people concerned have already shown proof of competence by their practical experience.*

**Amendment 171**

**Brian Simpson**

**Proposal for a regulation**

**Article 8 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. Member States shall ensure that applicants with practical experience returning to the profession after a three year interval shall undertake any necessary retraining to establish their knowledge of recent developments in the profession.**

Or. en

### *Justification*

*This provision is necessary in order to allow transport managers who possibly lose their ability and efficiency in transport management to be able to update their knowledge through retraining.*

#### **Amendment 172**

**Elisabeth Jeggle**

#### **Proposal for a regulation**

#### **Article 8 – paragraph 5**

##### *Text proposed by the Commission*

5. A Member State may exempt the holders of certain higher education diplomas or technical education diplomas issued in *that* Member State and which entail attendance at courses in the subjects listed in Annex I and which they specifically designate to this end from compulsory training in the subjects covered by the diplomas.

##### *Amendment*

5. A Member State may exempt the holders of certain higher education diplomas or technical education diplomas issued in *the same* Member State and which entail attendance at courses in the subjects listed in Annex I and which they specifically designate to this end from compulsory training in the subjects covered by the diplomas.

Or. de

### *Justification*

*The people concerned have produced evidence of their competence in their diplomas and the associated examinations. The new regulation should follow the existing regulation, which has proved its worth in practice.*

#### **Amendment 173**

**Gilles Savary**

#### **Proposal for a regulation**

#### **Article 8 – paragraph 5**

##### *Text proposed by the Commission*

5. A Member State may exempt the holders of certain higher education diplomas or technical education diplomas issued in that Member State and which entail attendance

##### *Amendment*

5. A Member State may exempt the holders of certain higher education diplomas or technical education diplomas issued in that Member State and which entail attendance

at courses in the subjects listed in Annex I and which they specifically designate to this end from compulsory training in the subjects covered by the diplomas.

at courses in the subjects listed in Annex I and which they specifically designate to this end from compulsory training in the subjects covered by the diplomas ***and from the examination.***

Or. fr

### *Justification*

*It is regrettable that the Member States are unable to establish equivalence between certificates of professional competence. This amendment seeks to enable Member States to exempt the holders of certain diplomas from the requirement to sit the examination.*

## **Amendment 174**

**Brian Simpson**

### **Proposal for a regulation Article 10 – paragraph 2**

#### *Text proposed by the Commission*

2. The competent authority shall record in the electronic register referred to in Article 15 the name of the transport manager designated by the undertaking, the address of the establishment, the number of vehicles used and, if the authorisation is valid for international transport, the serial number of the Community licence and that of the certified copies.

#### *Amendment*

2. The competent authority shall record in the electronic register referred to in Article 15 the name of the transport manager designated by the undertaking ***and an indication that he or she has not been declared unfit to manage the transport activities of an undertaking,*** the address of the establishment, the number of vehicles used and, if the authorisation is valid for international transport, the serial number of the Community licence and that of the certified copies.

Or. en

**Amendment 175**  
**Marian-Jean Marinescu**

**Proposal for a regulation**  
**Article 10 – paragraph 2**

*Text proposed by the Commission*

2. The competent authority shall record in the electronic register referred to in Article 15 the name of the transport manager designated by ***the undertaking***, the address of the establishment, the number of vehicles used and, if the authorisation is valid for international transport, the serial number of the Community licence and that of the certified copies.

*Amendment*

2. The competent authority shall record in the electronic register referred to in Article 15 ***the official name of the undertaking***, the name of the transport manager designated by ***it***, the address of the establishment, the number of vehicles used and, if the authorisation is valid for international transport, the serial number of the Community licence and that of the certified copies.

Or. en

*Justification*

*More appropriate wording.*

**Amendment 176**  
**Bogusław Liberadzki**

**Proposal for a regulation**  
**Article 11 – paragraph 1**

*Text proposed by the Commission*

1. The competent authorities shall verify that undertakings which they have authorised to engage in the occupation continue to fulfil the requirements provided for in Article 3. To that end, they shall check every five years that undertakings still fulfil each of those requirements

*Amendment*

1. The competent authorities shall verify that undertakings which they have authorised to engage in the occupation continue to fulfil the requirements provided for in Article 3. To that end, they shall check every five years ***at least*** that undertakings still fulfil each of those requirements

Or. pl

*Justification*

*The aim is to allow the possibility of more frequent checks on compliance with the requirements of the directive.*

**Amendment 177**  
**Inés Ayala Sender**

**Proposal for a regulation**  
**Article 12 – paragraph 2 – introductory part**

*Text proposed by the Commission*

*2. A warning shall be sent to an undertaking if the competent authority establishes that an undertaking runs the risk of no longer satisfying the requirements provided for in Article 3. If it is established that one of those requirements is no longer satisfied, the warning shall grant a time limit for the undertaking to rectify the situation within the following limits:*

*Amendment*

*2. The competent authority **may require undertakings whose authorisation has been suspended or withdrawn to ensure that its transport managers pass the examination referred to in Article 8 prior to any rehabilitation measure.***

Or. es

*Justification*

*Passing the examination is compulsory; training is voluntary.*

**Amendment 178**  
**Marian-Jean Marinescu**

**Proposal for a regulation**  
**Article 12 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) a time limit not exceeding **six** months for the recruitment of a replacement for the transport manager if the latter no longer satisfies the requirements as to good repute or professional competence, which may be extended by **six** months in the event of the

*Amendment*

(a) a time limit not exceeding **three** months for the recruitment of a replacement for the transport manager if the latter no longer satisfies the requirements as to good repute or professional competence, which may be extended by **three** months in the event of

death or physical incapacity of the transport manager;

the death or physical incapacity of the transport manager;

Or. en

*Justification*

*Six months is too long.*

**Amendment 179**  
**Marian-Jean Marinescu**

**Proposal for a regulation**  
**Article 12 – paragraph 2 – point b**

*Text proposed by the Commission*

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

*Amendment*

(b) a time limit not exceeding ***30 days*** where the undertaking has to rectify the situation by demonstrating that it has an effective and stable establishment;

Or. en

*Justification*

*Six months is too long.*

**Amendment 180**  
**Brian Simpson**

**Proposal for a regulation**  
**Article 15 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) the type of authorisation, the number of vehicles which it covers and, where appropriate, the serial number of the Community licence and that of the certified copies;

*Amendment*

(d) the type of authorisation, the number of vehicles which it covers and, where appropriate, the serial number of the Community licence and that of the certified copies, ***and the vehicle registration mark of each vehicle being operated under the authorisation outside of the undertaking's***

*Member State of establishment.*

Or. en

*Justification*

*This would allow enforcement agencies to build up a compliance history for individual international operators helping to better target vehicles and reduce burdens while making better use of enforcement resources.*

**Amendment 181**

**Corien Wortmann-Kool, Johannes Blokland**

**Proposal for a regulation**

**Article 15 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) the number, the category and the type of serious infringements ***and repeated minor infringements, as referred to in Article 6(1)(b),*** which have resulted in a sanction in the last two years;

*Amendment*

(e) the number, the category and the type of serious infringements which have resulted in a sanction in the last two years;

Or. nl

*Justification*

*So long as infringements are interpreted and dealt with in such different ways in different Member States, repeated minor infringements should not form part of this regulation.*

**Amendment 182**

**Mathieu Grosch**

**Proposal for a regulation**

**Article 15 – paragraph 6**

*Text proposed by the Commission*

6. The Commission may take any initiative necessary in order to facilitate the implementation of paragraph 4. ***It may decide to postpone the time limit referred***

*Amendment*

6. The Commission may take any initiative necessary in order to facilitate the implementation of paragraph 4.

*to in paragraph 4. Since a decision to postpone would be designed to amend non-essential elements of this Regulation, it shall be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 25(4).*

Or. de

*Justification*

*The deadlines for introducing the register are adequate. There is no factual basis for postponing them.*

**Amendment 183**  
**Elisabeth Jeggle**

**Proposal for a regulation**  
**Article 16 – point b**

*Text proposed by the Commission*

(b) all persons have the right of access to data relating to them with the authority responsible for processing the data. This right shall be ensured without constraint, at reasonable intervals and without excessive delay or cost ***for the authority responsible for processing the data or*** for the applicant;

*Amendment*

(b) all persons have the right of access to data relating to them with the authority responsible for processing the data. This right shall be ensured without constraint, at reasonable intervals and without excessive delay or cost for the applicant;

Or. de

*Justification*

*The authorities can justifiably pass on the costs that they incur to those seeking information. The protection of government bodies with inefficient working methods or charging prohibitive fees must be prevented.*

**Amendment 184**  
**Luis de Grandes Pascual**

**Proposal for a regulation**  
**Article 18 – Title**

*Text proposed by the Commission*

Certificates *of good repute* and equivalent documents

*Amendment*

Certificates and equivalent documents  
*relating to the required ethical standards*

Or. es

*Justification*

*An undertaking must furnish proof regarding its assets and reserves, as specified in paragraph 2(a), in order to demonstrate that it has enough financial resources to start operating in the proper way.*

**Amendment 185**  
**Luis de Grandes Pascual**

**Proposal for a regulation**  
**Article 18 – paragraph 1**

*Text proposed by the Commission*

1. Without prejudice to Article 10(4), the new 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 transport operator's Member State(s) of origin showing that this requirement is satisfied.

*Amendment*

1. Without prejudice to Article 10(4), the new Member State of establishment shall accept as sufficient proof of *compliance with the ethical standards required 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 transport operator's Member State(s) of origin showing that this requirement is satisfied.

Or. es

## *Justification*

*See justification for amendment to Article 3(b).*

### **Amendment 186**

**Marian-Jean Marinescu**

#### **Proposal for a regulation**

#### **Article 18 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. If a document required in accordance with paragraphs 1 and 2 has not been issued by the country (countries) of origin, it may be replaced by a declaration on oath or by a solemn declaration made by the person concerned before a competent judicial or administrative authority or, where appropriate, a notary in the Member State of origin; such authority or notary shall issue a certificate authenticating the declaration on oath or the solemn declaration.*** ***deleted***

Or. en

### **Amendment 187**

**Anne E. Jensen**

#### **Proposal for a regulation**

#### **Article 22**

*Text proposed by the Commission*

*Amendment*

***Undertakings which can provide proof that, before certain dates, they were authorised in a Member State to engage in the occupation of road haulage operator or road passenger transport operator in national or international transport shall be exempted from providing proof that they have the professional competence referred to in Article 3(d) until 1 January 2012. Those***

***Undertakings which, and natural persons who, can provide proof of at least 15 years' practical experience in a transport undertaking in a Member State, shall be exempted from the examination required under Article 8 for obtaining a certificate of professional competence.***

*dates are as follows:*

**a) 1 January 1975 for Belgium, Denmark, Germany, France, Ireland, Italy, Luxembourg, Netherlands and the United Kingdom**

**b) 1 January 1981 for Greece,**

**c) 1 January 1983 for Spain and Portugal,**

**d) 3 October 1989 for the territory of the former German Democratic Republic,**

**e) 1 January 1995 for Austria, Finland and Sweden.**

Or. da

#### *Justification*

*It needs to be ensured that operators who have run haulage companies for several years are not placed in a less favourable position than new applicants to the section. Consequently, experience should continue to count as a basis for granting access to the occupation after this new regulation enters into force. Other provisions of the regulation already seek to ensure that operators who infringe the rules can lose their certificate of professional competence.*

#### **Amendment 188 Elisabeth Jeggle**

#### **Proposal for a regulation Article 22 – subparagraph 1**

##### *Text proposed by the Commission*

Undertakings which can provide proof that, before certain dates, they were authorised in a Member State to engage in the occupation of road haulage operator or road passenger transport operator in national or international transport shall be exempted from providing proof that they have the professional competence referred to in Article 3(d) until **1 January 2012**. Those dates are as follows:

##### *Amendment*

Undertakings which can provide proof that, before certain dates, they were authorised in a Member State to engage in the occupation of road haulage operator or road passenger transport operator in national or international transport shall be exempted from providing proof that they have the professional competence referred to in Article 3(d) until **1 January 2015**. Those dates are as follows:

Or. de

*Justification*

*There must be proper protection of the status quo. So all persons who are already operating as transport operator or manager, even without an examination, should – at least for a transitional period – be recognised as professionally competent.*

**Amendment 189**

**Anne E. Jensen**

**Proposal for a regulation**

**Article 23**

*Text proposed by the Commission*

*Amendment*

**Article 23**

**deleted**

**Transitional provisions**

***Undertakings which, before the date of entry into force of this Regulation, have an authorisation to engage in the occupation of road transport operator shall comply with the provisions of this Regulation no later than two years after that date.***

Or. da

*Justification*

*Cf. Amendment to Art. 22 allowing a certificate of professional competence to be granted to operators with 15 years' experience.*

**Amendment 190**

**Mathieu Grosch**

**Proposal for a regulation**

**Article 26 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. By 1 June 2009 the Commission shall report on the question of what would be the impact of extending the scope of this Regulation to include commercial transport with vehicles whose design and***

*equipment are appropriate and which are intended to carry up to nine persons including the driver. The Commission shall if necessary take the relevant initiatives.*

Or. de

*Justification*

*The question arises as to whether extending the scope of the Regulation to include commercial transport with vehicles of up to nine persons (particularly taxis) would make sense to improve the quality of services and the mutual recognition of professional competence between Member States.*

**Amendment 191**

**Mathieu Grosch, Georg Jarzembowski, Willi Piecyk, Dirk Sterckx, Anne E. Jensen, Elisabeth Jeggle**

**Proposal for a regulation  
Article 29 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 29a**

***The following paragraph shall be inserted in Article 8 of Regulation (EG) No 561/2006:***

***(6a) By way of derogation from the above, it shall be permissible in the case of cross-frontier occasional transport to allow the weekly rest period to begin no later than at the end of twelve 24-hour periods after the previous weekly rest period. In such cases two regular, or one regular and one reduced, weekly rest periods shall be granted consecutively. The total accumulated driving time during these twelve 24-hour periods may not exceed 90 hours.***

Or. de

## *Justification*

*A practical, necessary and justified exemption for cross-frontier tourist passenger transport.*

### **Amendment 192**

**Elisabeth Jeggle**

#### **Proposal for a regulation**

#### **Annex I – Section 1 – point e**

*Text proposed by the Commission*

*Amendment*

***E. Business and financial management of the undertaking***                      ***deleted***

***Road haulage and passenger transport***

***The applicant must, in particular:***

***(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 with 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;***

***(6) be able to prepare a budget;***

***(7) be familiar with his undertaking's cost elements (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 with the guarantees and obligations arising therefrom;*

*(11) be familiar with the applications of electronic data transmission in road transport;*

***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;*

***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.*

Or. de

*Justification*

*The list of examination requirements must be reduced as a matter of urgency, to cut out needless red tape and reduce costs. Transport-related requirements for technical know-how, road safety and employment law are fair enough. But where all the other subjects are concerned there is no need for legal provision as these should continue to be the preserve of the company concerned.*

**Amendment 193**  
**Elisabeth Jeggle**

**Proposal for a regulation**  
**Annex II a (new)**

*Text proposed by the Commission*

*Amendment*

***The following annex shall be inserted in the Regulation:***

***ANNEX IIA***

***List of offences referred to in Article 6(2)(b):***

***1. (a) Exceeding the six-day or 14-day maximum driving periods by 25 % or more;***

***(b) During daily working hours, exceeding the maximum daily driving period by 50 % without a break or uninterrupted rest period of no less than 4½ hours.***

***2. Tachograph missing and/or speed limiter missing or use of a fraudulent device capable of changing the readings of the recording equipment and/or speed limiter, or falsification of record sheets or of data downloaded from the tachograph and/or driver card.***

***3. Driving without a valid roadworthiness certificate or driving a vehicle with very serious evident faults, for instance in the braking system, steering, wheels/tyres, suspension or chassis, that pose an immediate danger to road safety and would result in a decision to take the vehicle off the road.***

***4. Carriage of dangerous goods whose carriage is prohibited, or carriage of dangerous goods without the required labelling or marking of the vehicle.***

***5. Carriage of passengers or goods without a valid driving licence or by an undertaking that does not hold a valid Community Licence.***

**6. Driver using a falsified driver card or a another driver's driver card, or a driver card obtained by means of false statements and/or false documents.**

**7. Carriage of goods where the permissible laden weight is exceeded by more than 20 %.**

Or. de

### *Justification*

*The reference to 'repeated minor infringements' as an indication of unreliability should be deleted. This seems disproportionate in view of the fact that the general risk of participating in road transport continues however much care is taken.*

*The list of serious offences proposed as Annex II a (new) should be incorporated in the Regulation as an appendix to secure EU-wide interpretation and enforcement of the provisions.*

### **Amendment 194**

**Eva Lichtenberger, Jaromír Kohlíček**

### **Proposal for a regulation Annex II a (new)**

*Text proposed by the Commission*

*Amendment*

### ***Annex IIa***

***The list of infringements as referred in Article 6.2.(a) is as followed:***

***1. (a) Exceeding the maximum six-day or fortnightly driving time limits by margins of 10 % of more.***

***(b) Exceeding, during a daily working period, the maximum daily driving time limit by a margin of 25 % or more without taking a break or an uninterrupted rest period of at least four and a half hours.***

***2. No tachograph and/or speed limiter fitted or use of a fraudulent device able to modify the records of the recording equipment and/or the speed limiter or falsification of record sheets or data***

*downloaded from the tachograph and/or the driver card.*

*3. Driving without a valid roadworthiness test, including gas and noise emissions performance, or where the vehicle contains a very serious deficiency of, inter alia, the braking system, steering linkages, wheels/tyres, suspension or chassis that would create an immediate risk to road safety that would lead to a decision to immobilise the vehicle.*

*4. Dangerous goods being carried that are prohibited for transport, or dangerous goods that are carried without the required placarding or marking of the vehicle or without respecting other requirements, defined in the directives on transport of dangerous goods. Insufficient knowledge by the driver on the contents of dangerous load and the necessary emergency measures in case of accidents.*

*5. Carriage of passengers or goods without holding a valid driving licence or made by an undertaking which is not holder of a valid Community Licence.*

*6. Driver using a driver card that has been falsified, of which he is not the holder or which has been obtained on the basis of false documents and/or forged documents.*

*7. Carriage of goods by exceeding permissible laden weight by 10 %.*

Or. en

#### *Justification*

*The margin of tolerance should be smaller, in order to be efficient for road safety*