

Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (Text with EEA relevance)

## CHAPTER IV

### SIMPLIFICATION AND ADMINISTRATIVE COOPERATION

#### *Article 16*

#### **National electronic registers**

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

By 31 December 2009, the Commission shall adopt a Decision on minimum requirements for the data to be entered in the national electronic register from the date of its setting-up in order to facilitate the future interconnection of registers. It may recommend the inclusion of the vehicle registration marks in addition to the data referred to in paragraph 2.

- 2 National electronic registers shall contain at least the following data:
- a the name and legal form of the undertaking;
  - b the address of its establishment;
  - c the names of the transport managers designated to meet the conditions as to good repute and professional competence or, as appropriate, the name of a legal representative;
  - d the type of authorisation, the number of vehicles it covers and, where appropriate, the serial number of the Community licence and of the certified copies;
  - e the number, category and type of serious infringements, as referred to in Article 6(1) (b), which have resulted in a conviction or penalty during the last 2 years;
  - f the name of any person declared to be unfit to manage the transport activities of an undertaking, as long as the good repute of that person has not been re-established pursuant to Article 6(3), and the rehabilitation measures applicable.

For the purposes of point (e), Member States may, until 31 December 2015, choose to include in the national electronic register only the most serious infringements set out in Annex IV.

Member States may choose to keep the data referred to in points (e) and (f) of the first subparagraph in separate registers. In such a case, the relevant data shall be available upon request or directly accessible to all the competent authorities of the Member State in question. The requested information shall be provided within 30 working days of receipt of the request. The data referred to in points (a) to (d) of the first subparagraph shall be publicly accessible, in accordance with the relevant provisions on personal data protection.

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

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

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

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

4 Member States shall take all necessary measures to ensure that all the data contained in the national electronic register is kept up to date and is accurate, in particular the data referred to in points (e) and (f) of the first subparagraph of paragraph 2.

5 Without prejudice to paragraphs 1 and 2, Member States shall take all necessary measures to ensure that the national electronic registers are interconnected and accessible throughout the Community through the national contact points defined in Article 18. Accessibility through national contact points and interconnection shall be implemented by 31 December 2012 in such a way that a competent authority of any Member State is able to consult the national electronic register of any Member State.

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

7 Measures designed to amend non-essential elements of this Regulation and relating to a postponement of the time limits referred to in paragraphs 1 and 5 shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

### *Article 17*

#### **Protection of personal data**

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

- (a) all persons are informed when data relating to them is recorded or is planned to be forwarded to third parties. The information provided shall specify the identity of the authority responsible for processing the data, the type of data processed and the reasons for such action;

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

### *Article 18*

#### **Administrative cooperation between Member States**

1 Member States shall designate a national contact point responsible for the exchange of information with the other Member States with regard to the application of this Regulation. Member States shall forward to the Commission the names and addresses of their national contact points by 4 December 2011. The Commission shall draw up a list of all contact points and forward it to the Member States.

2 Member States which exchange information in the framework of this Regulation shall use the national contact points designated pursuant to paragraph 1.

3 Member States which exchange information on the infringements referred to in Article 6(2) or on transport managers declared to be unfit shall comply with the procedure and time limits referred to in Article 13(1) of Regulation (EC) No 1072/2009 or, as appropriate, Article 23(1) of Regulation (EC) No 1073/2009. A Member State which receives notification of a serious infringement which has resulted in a conviction or a penalty in another Member State shall record that infringement in its national electronic register.