

Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (recast) (Text with EEA relevance)

CHAPTER IV

MUTUAL ASSISTANCE AND PENALTIES

Article 11

Mutual assistance

Member States shall assist one another in ensuring the application and monitoring of this Regulation. They shall exchange information via the national contact points established pursuant to Article 18 of Regulation (EC) No 1071/2009.

Article 12

Sanctioning of infringements by the Member State of establishment

1 In the event of a serious infringement of Community road transport legislation committed or ascertained in any Member State, the competent authorities of the Member State of establishment of the haulier who has committed such infringement shall take the appropriate action which may include a warning, if provided for by national law, to pursue the matter which may lead, inter alia, to the imposition of the following administrative penalties:

- a temporary or permanent withdrawal of some or all of the certified true copies of the Community licence;
- b temporary or permanent withdrawal of the Community licence.

These penalties may be determined after the final decision on the matter has been taken and shall have regard to the seriousness of the infringement committed by the holder of the Community licence and to the total number of certified true copies of that licence that he holds in respect of international traffic.

2 In the event of a serious infringement regarding any misuse whatsoever of driver attestations, the competent authorities of the Member State of establishment of the haulier who committed such infringement shall impose appropriate penalties, such as:

- a suspending the issue of driver attestations;
- b withdrawing driver attestations;
- c making the issue of driver attestations subject to additional conditions in order to prevent misuse;
- d withdrawing, temporarily or permanently, some or all of the certified true copies of the Community licence;
- e withdrawing, temporarily or permanently, the Community licence.

These penalties may be determined after the final decision on the matter has been taken and shall have regard to the seriousness of the infringement committed by the holder of the Community licence.

3 The competent authorities of the Member State of establishment shall communicate to the competent authorities of the Member State in which the infringement was ascertained, as soon as possible and at the latest within 6 weeks of their final decision on the matter, which, if any, of the penalties provided for in paragraphs 1 and 2 have been imposed.

If such penalties are not imposed, the competent authorities of the Member State of establishment shall state the reasons therefor.

4 The competent authorities shall ensure that the penalties imposed on the haulier concerned are, as a whole, proportionate to the infringement or infringements which gave rise to such penalties, taking into account any penalty for the same infringement imposed in the Member State in which the infringement was ascertained.

5 The competent authorities of the haulier's Member State of establishment may also, pursuant to national law, bring proceedings against the haulier before a competent national court or tribunal. They shall inform the competent authority of the host Member State of any decisions taken to this effect.

6 Member States shall ensure that hauliers have the right to appeal against any administrative penalty imposed on them pursuant to this Article.

Article 13

Sanctioning of infringements by the host Member State

1 Where the competent authorities of a Member State are aware of a serious infringement of this Regulation or of Community road transport legislation attributable to a non-resident haulier, the Member State within the territory of which the infringement is ascertained shall transmit to the competent authorities of the haulier's Member State of establishment, as soon as possible and at the latest within 6 weeks of their final decision on the matter, the following information:

- a a description of the infringement and the date and time when it was committed;
- b the category, type and seriousness of the infringement; and
- c the penalties imposed and the penalties executed.

The competent authorities of the host Member State may request the competent authorities of the Member State of establishment to impose administrative penalties in accordance with Article 12.

2 Without prejudice to any criminal prosecution, the competent authorities of the host Member State shall be empowered to impose penalties on a non-resident haulier who has committed infringements of this Regulation or of national or Community road transport legislation in their territory during a cabotage operation. They shall impose such penalties on a non-discriminatory basis. These penalties may, inter alia, consist of a warning, or, in the event of a serious infringement, a temporary ban on cabotage operations on the territory of the host Member State where the infringement was committed.

3 Member States shall ensure that hauliers have the right to appeal against any administrative penalty imposed on them pursuant to this Article.

Article 14

Entry in the national electronic registers

Member States shall ensure that serious infringements of Community road transport legislation committed by hauliers established in their territory, which have led to the imposition of a penalty by any Member State, as well as any temporary or permanent withdrawal of the Community licence or of the certified true copy thereof, are recorded in the national electronic register of road transport undertakings. Entries in the register which concern a temporary or permanent withdrawal of a Community licence shall remain in the database for 2 years from the time of the expiry of the period of withdrawal, in the case of temporary withdrawal, or from the date of withdrawal, in the case of permanent withdrawal.