

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 13 September 1989

Proposal for a
COUNCIL DIRECTIVE

amending Directive 84/647/EEC on the use of vehicles
hired without drivers for the carriage of goods by road

and

REPORT FROM THE COMMISSION TO THE COUNCIL

on the use of vehicles hired without drivers for the
carriage of goods by road

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Article 8 of Directive 84/647/EEC on the use of vehicles hired without drivers for the carriage of goods by road⁽¹⁾ requires the Council to re-examine Articles 3(2) and 4(2) of the Directive on the basis of a report from the Commission accompanied by proposals, if appropriate.

These two Articles provide for the Member States:

- (i) to exclude own-account carriage from the scope of the Directive; and
- (ii) to lay down a minimum hire period.

2. These two restrictive clauses have been applied as follows by the Member States:

| Member State | Minimum hire period | Maximum hire period | Own-account carriage exempted |
|--------------|---------------------|---------------------|-------------------------------|
| B | none | none | no |
| DK | none | none | yes |
| D | 6 months | none | yes |
| GR | 3 months | 3 years | no |
| ESP | none | none | yes |
| F | none | none | no |
| IRL | 12 months | none | no |
| I | 6 months | none | yes |
| LUX | none | none | no |
| NL | 6 months | none | no |
| PORT | none | none | yes |
| UK | none | none | no |

⁽¹⁾ OJ No L 335, 22.12.1984, p. 72.

3. To sum up the economic arguments in favour of allowing the use of hired vehicles for the carriage of goods by road:
 - (I) It offers hauliers the choice of vehicles and service best suited to their interests;
 - (II) It lowers the operating costs of hauliers, whether operating for hire or reward or on their own account;
 - (III) It makes the best use of factors of production and avoids tying them up unnecessarily.

4. Short-term vehicle hiring is particularly useful in cases of:
 - (a) temporary demand peaks or surges;
 - (b) seasonal or unexpected demand;
 - (c) short-lived demand for special types of vehicle;
 - (d) replacement of vehicles not available because of breakdowns, maintenance or compulsory roadworthiness tests;
 - (e) test driving different types of vehicles (cheaper, more modern and cleaner vehicles).

As an alternative to investing heavily in vehicles which would be underused, commercial vehicle hiring allows hauliers operating on their own account or for hire or reward to manage their finances more efficiently and cut their fixed costs.

5. Added to this, if own-account operators were excluded from hiring vehicles, many industrial consignors opting to perform their own carriage operations would decide to buy their own vehicle fleet. This would remove part of the market currently taken by hire or reward operators.

6. It follows from the foregoing that abolition of the two restrictive clauses on the use of hired commercial vehicles has advantages for hire or reward operators and for consignors operating vehicles on their own account alike. Directive 84/647/EEC should therefore be amended accordingly.

7. Under the current circumstances it is inadvisable to extend the scope of the Directive to vehicles hired with drivers. The danger is that in certain cases wider use of vehicles hired with a driver could be a way round the social legislation and industrial agreements to protect workers. What is more, although there are certain legal and economic differences between hire or reward operators and hirers of vehicles with drivers, they are parallel, virtually identical activities. The quality standards imposed on hire or reward operators should apply to vehicles hired with drivers, too. They do not at the moment.

For this reason, this Directive should remain confined to vehicles hired without drivers.

PROPOSAL FOR A DIRECTIVE
OF

amending Directive 84/647/EEC on the use of
vehicles hired without drivers for the
carriage of goods by road

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic
Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Whereas Article 8 of Directive 84/647/EEC on the use of vehicles hired
without drivers for the carriage of goods by road⁽⁴⁾ requires the
Council to re-examine Article 3(2) and Article 4(2) of the
abovementioned Directive;

Whereas the two abovementioned Articles offer the Member States the
possibility of excluding own-account carriage from the scope of the
Directive and of laying down a minimum hire period;

Whereas these restrictive clauses have resulted in unequal application
of the Directive in the Community; whereas abolition of these clauses
would allow better financial management and cut the costs of hauliers
operating on their own account or for hire or reward;

(1) OJ No C

(2) OJ No C

(3) OJ No C

(4) OJ No L 335, 22.12.1984, p. 72.

Whereas, therefore, the abovementioned restrictive clauses should be abolished and the abovementioned Directive must be amended accordingly;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 84/647/EEC shall be amended as follows:

- (1) Article 3(2) shall be deleted.
- (2) Article 4(2) shall be deleted.

Article 2

- 1. The Member States shall take the measures necessary to comply with this Directive not later than 30 June 1990 and shall forthwith inform the Commission thereof.
- 2. The provisions adopted in pursuance of the first paragraph refer explicitly to the present directive.

Article 3

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President

Statement of the Impact on small firms and employment of the draft proposal amending Council Directive 84/647/EEC on the use of vehicles hired without drivers for the carriage of goods by road between Member States.

1. Administrative obligations imposed on small firms by application of the draft proposal amending Council Directive 84/647/EEC

No administrative obligations are envisaged; on the contrary the regime proposed will do away with some restrictive obligations.

2. Advantages for small firms

The rationalisation of transport capacity will increase road haulage efficiency, improve vehicle and staff productivity, adapt supply to demand and will minimise the costs of all operations. This flexibility will also enable small carriers to improve their financial management and reduce their fixed costs by hiring vehicles when their own are not available or abnormal demand has to be met.

3. Disadvantages for small firms

No disadvantages are foreseen.

4. Impact on employment

The draft proposal should have no notable impact on employment, because it does not allow for the use of hired vehicles with drivers.

5. Have both sides of industry been consulted beforehand?

A consultation meeting concerning the revision of the Directive was held on 12 May 1989. The users and the trade associations completely supported the deletion from Directive 84/647/EEC of the restrictive clauses (Art. 3(2) and Art. 4(2)), whereas the hire or reward hauliers and the representatives of the trade unions were for maintaining the status quo.

6. Is there any alternative, less binding approach?

No.

REPORT

FROM THE COMMISSION TO THE COUNCIL

on the use of vehicles hired without drivers

for the carriage of goods by road

1. Introduction

Article 8 of Council Directive 84/647/EEC on the use of vehicles hired without drivers for the carriage of goods by road requires the Commission to submit a report to the Council no later than 30 June 1989.

Inter alia, this report must provide a basis for the Council to re-examine Articles 3(2) and 4(2) which allow the Member States to restrict application of the Directive to haulage undertakings in their country.

On 25 July 1988 the Member States were sent a questionnaire asking for details to include in this report.

2. General content of Directive 84/647/EEC

Directive 84/647/EEC permits, under certain conditions, the use of vehicles hired without drivers for the carriage of goods by road, whether for hire or reward or on an own-account basis, for both national services and services between Member States. Articles 2 and 3 of the Directive lay down rules to this effect.

Under Article 2 of the Directive, every Member State must allow vehicles hired in other Member States to be used on its territory, provided a number of conditions have been satisfied, for instance that the hired vehicle is registered or put into circulation in compliance with the laws in the Member State where it was hired, that it is at the sole disposal of the undertaking using it and that it is driven by the undertaking's own staff. Certain documents must be kept on board the vehicle as proof of compliance with these conditions.

Article 3 of the Directive stipulates that the Member States must take the necessary measures to ensure that their undertakings may use hired vehicles under the same conditions as their own vehicles for both national services and operations between Member States, provided the conditions laid down in Article 2 are satisfied.

However, Article 3(2) places certain restrictions on this obligation by allowing the Member States to exclude own-account carriage operations performed by undertakings from their country from the provisions of the Directive.

And Article 4(2) offers further exemptions by allowing the Member States to lay down a minimum hire period for undertakings based on their territory.

III. Member States' replies to the questionnaire of 25 July 1988 from the Directorate-General for Transport

This part of the report is based on the replies from nine Member States, all except Ireland, Portugal and the United Kingdom which have yet to answer the questionnaire.

1. National provisions on the exclusion of own-account operations (Article 3(2) of the Directive)

Four Member States have applied Article 3(2) of the Directive:

Germany: Vehicles may be hired for own-account operations only:
(i) in the event of a breakdown, in which case they may be hired for not more than 30 days (this period may be extended); or
(ii) if the vehicle has no trailer and a payload of less than 4 tonnes.

Spain : Hired vehicles may not be used for own-account carriage operations if:
(i) the gross authorized laden weight of the vehicle is over 6 tonnes;
(ii) the unladen weight of the vehicle is over 3.5 tonnes.

Italy: Hired vehicles may not be used for own-account carriage operations (1).

Denmark: Hired vehicles may not be used for own-account carriage operations.

(1) Measure not yet in force

2. National regulations on hire period (Article 4(2) of the Directive)

Four Member States impose minimum or maximum hire periods:

Germany: (i) A minimum hire period of 6 months has been imposed for long-distance services for hire or reward, though a shorter lease is allowed in the event of a breakdown;
(ii) No minimum hire period has been set for short-distance hire-or-reward services or removals;
(iii) No minimum hire period has been set for own-account operations by lorries with a payload of less than 4 tonnes;
(iv) Trailers may be hired without restriction for both hire-or-reward and own-account services.

Netherlands: (i) Own-account carriage: minimum 6 months;
(ii) Hire-or-reward operations: minimum 6 months.
Exceptions for hire or reward services:
(a) to replace broken down lorries;
(b) hire of commercial vehicles;
(c) use of trailers;
(d) test driving of lorries.
(iii) Operations by lorries

Italy: Minimum hire period: 6 months (1).

Greece: Minimum hire period: 3 months;
maximum hire period: 3 years.

3. Measures sought by road hauliers or own-account operators to make the system more flexible

Five Member States put forward suggestions on this point:

Germany: German consignors have called for abolition of the restrictions on own-account carriage.

(1) Measure not yet in force

Belgium: Belgian carriers have called for abolition of the two restrictive clauses.

France: Vehicle hirers and transport users have called for own-account carriage operators to be allowed to hire vehicles freely for both national and intra-Community services and have said that no minimum hire period should be imposed.

Netherlands: This point was being discussed between the organizations concerned at the time of publication.

Luxembourg: Hauliers have called for Luxembourg to maintain its policy of no restrictions on vehicle hire.

Denmark, Spain and Greece have received no requests to make the system more flexible. Ireland gave no reply.

4. Do the competent authorities wish to maintain or change the current system? If they wish to change it, which arrangements would they prefer?

Belgium and France called for abolition of the restrictions on own-account carriage and of the minimum hire period. France also suggested that the Directive should be amended to include vehicles hired with driver.

Spain, Germany, Luxembourg and Denmark preferred to leave the Directive unchanged so that Luxembourg could continue to apply its deregulated system while Spain and Germany keep their restrictions.

The Netherlands will decide its position in due course.

Greece and Italy made no comment.

5. Data on the vehicle hire sector

- Germany: Germany has no official statistics on the numbers of vehicles hired on a short-or long-term lease for own-account and hire-or-reward services.
- Belgium: Some 1 100 of the total fleet of 21 963 vehicles licensed for international haulage services are available for hire. No data are available on utilization of these vehicles.
- Denmark: An estimated 15% of the commercial vehicles on the road haulage market are leased.
Approximately 20% of the vehicles hired are assigned to international haulage services.
- Spain: The data requested are not available, since the vehicle hire regulations were introduced very recently.
- France: The 1987 road haulage vehicle survey showed that:
- (a) hired vehicles performed 5.5% of all hire or reward operations in tonne-kilometre terms;
 - (b) hired vehicles performed 13% of all own-account operations in tonne-kilometre terms.
- Consequently, hired vehicles performed 8.2% of all services (7.2% in France and 1% of international services with the section in France driven in French vehicles), clocking up almost 100 000 million tonne-kilometres.
- The number of vehicles hired was:
- (a) Payload of 3 tonnes or less:
Hired vehicles accounted for 110 000 vehicles out of the total fleet of 3.5 million units, i.e. less than 5% (3.14%).

(b) Payload of over 3 tonnes:

- (i) Roughly 30 000 of the fleet of 462 000 rigid vehicles are hired, i.e. over 5% (6.5%);
- (ii) Approximately 20 000 of the fleet of 140 000 tractor vehicles are hired, i.e. almost 15% (14.3%);
- (iii) Approximately 20 000 of the 135 000 trailers and semi-trailers are hired, i.e. almost 15% (14.8%).

Accordingly, altogether approximately 180 000 vehicles are hired.

Netherlands: Very few vehicles are hired in the Netherlands, where only 3 000 or so commercial vehicles with a gross weight of not more than 3 500 kg plus about 600 other lorries are available for hire from commercial vehicle hirers.

NB:

There is growing demand for hired vehicles from hire-or-reward operators, who see them as a way to more efficient fleet management.

Luxembourg: Hired vehicles carry just a marginal share of the traffic. Roughly ten vehicles over 3.5 tonnes are available for hire in Luxembourg. Little use is made of them for international services.

Italy: No reply.

Greece: No information available.

6. Relative shares of long-term and short-term leases

In France the legal definitions and economic conditions for long-term and short-term leases vary widely.

In France three trends have been observed over the last few years:

- (a) Generally, most heavy goods vehicles are hired on a long-term lease and lighter commercial vehicles on a short-term lease;
- (b) Ten years ago vehicles with a gross vehicle weight of over 3.5 tonnes and hired on a long-term lease took over 80% of the market open to hired vehicles. Today their market share has fallen to between 60 and 70%;
- (c) The average duration of the long-term leases has fallen to 1 to 2 years, compared with 2 to 5 years a few years ago.

Belgium: Long-term : 20%;
 Short-term : 80%.

Denmark: Most vehicles are hired on a long-term lease (average: five years).
 Short-term leasing takes a small, but growing share of the market, particularly in international services.

Luxembourg: Virtually no vehicles are hired on a long-term lease.

Italy, Greece,
Netherlands,
Spain and

Germany: No information available.

7. Do own-account operators make more use of short-term leases than hire-or-reward operators?

Luxembourg answered no.

Belgium and France answered yes. In France own-account operators account for 80% of commercial vehicle leases. The following developments have been observed in France in recent years:

- (i) The use of hired vehicles has grown particularly strongly in the sector with a high proportion of own-account operations;
- (ii) Large hire-or-reward operators have also been hiring vehicles for their collection and delivery services;
- (iii) There has been a small shift on the vehicle hire market away from own-account operations and towards hire-or-reward services.

No information was available in Germany, Denmark, the Netherlands, Italy, Greece and Spain.

8. What is your authorities' view on extension of the scope of the Directive to vehicles hired with drivers?

No-one has suggested this in Germany. The German government's position will depend on the form which any such extension takes.

In Belgium, vehicles can be hired with driver.

Spain is against any such extension. Denmark sees no need for it. Luxembourg has nothing against it.

Both the Netherlands and France favour such an extension. France felt that the use of vehicles hired with drivers satisfied a definite economic need while at the same time safeguarding that the drivers were fully qualified and were given proper social welfare protection. France therefore called for this option to be opened up to every Member State.

Greece and Ireland made no comment on this point.

IV. Final considerations

1. Directive 84/647/EEC has been applied unevenly in the Member States. Every Member State except Belgium, France, Luxembourg and the United Kingdom has exercised the option to restrict the use of hired commercial vehicles in one way, or to some extent, or another. The table set out below sums up the situation:

| Member State | Minimum hire period | Maximum hire period | Own-account carriage exempted |
|--------------|---------------------|---------------------|-------------------------------|
| B | None | None | No |
| DK | None | None | Yes |
| D | 6 months | None | Yes |
| GR | 3 months | 3 years | No |
| ESP | None | None | Yes |
| F | None | None | No |
| IRL | 12 months | None | No |
| I | 6 months | None | Yes |
| LUX | None | None | No |
| NL | 6 months | None | No |
| POR1 | None | None | Yes |
| UK | None | None | No |

2. The situation on the two leading markets in the Community with no restriction on the use of hired commercial vehicles is as follows:

| Member State | Hired vehicles' share of road transp. | Proportion of hired vehicles used for own-account operations | Proportion of hired vehicles used for hire-or-reward operations | Long-term leases | Short-term leases | Vehicles 3t | Vehicles 30t |
|--------------|---------------------------------------|--|---|------------------|-------------------|-------------|-------------------|
| F | 8.2% | 80% | 20% | 70% | 30% | 110 000 | 70 000 |
| UK | -- | 65% (1) | 35% | + 50% | + 50% | 50 000 | 55 000 (3.5t) |

(1) Including 12% by local authorities

3. These figures show that short-term leases account for a substantial share, if not the majority, of the own-account market, where they satisfy an undeniable need. It therefore follows that the restrictive clauses allowing the exclusion of own-account carriage and for the imposition of a minimum hire period artificially curb economic development of vehicle hire activities.

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