

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation (EEC) on access to the market for the carriage of goods by road in the European Community to or from the territory of a Member State or passing across the territory of one or more Member States

(91/C 238/02)

COM(91) 293 final

(Submitted by the Commission on 26 August 1991)

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,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the establishment of a common transport policy entails *'inter alia'* laying down common rules applicable to access to the market for intra-Community carriage of goods by road on the territory of the Community; whereas those rules should be established in such a way as to contribute to the attainment of the internal transport market;

Whereas these uniform arrangements for market access also entail bringing about freedom to provide services by eliminating all restrictions imposed on the provider of services as a result of his nationality or the fact that he is established in a Member State other than that where the service is to be provided;

Whereas, following the judgment of the Court of Justice of 22 May 1985 in Case 13/83 ⁽¹⁾ and the conclusions adopted on 28 and 29 June 1985 by the European Council concerning the Commission's communication on the completion of the internal market, the Council adopted Regulation (EEC) No 1841/88 ⁽²⁾, amending

Regulation (EEC) No 3164/76 ⁽³⁾, which relates to access to the market for the international carriage of goods by road;

Whereas Article 4a of Regulation (EEC) No 3164/76, as inserted by Regulation (EEC) No 1841/88, provides, with effect from 1 January 1993 and with regard to the kinds of transport operation referred to herein, to abolish transport quotas and to create a free market founded not on quantitative restrictions but on qualitative criteria to be satisfied by road hauliers;

Whereas pursuant to Article 4b of Regulation (EEC) No 3164/76, as inserted by Regulation (EEC) No 1841/88, the Council has to adopt the measures necessary to implement the aforementioned Article 4a;

Whereas with regard to the rules for applying the access arrangements it is necessary to make intra-Community carriage of goods by road conditional on the possession of a quota-free Community transport authorization;

Whereas it is important to ensure that the authorizations are issued to hauliers who offer all the qualitative guarantees needed for the proper functioning of the market concerned;

Whereas it is necessary to specify the conditions for issuing and withdrawing the authorizations and their scope, period of validity and details of usage,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall apply to intra-Community carriage of goods by road for hire or reward.

⁽¹⁾ [1985] ECR 1556.

⁽²⁾ OJ No L 163, 30. 6. 1988, p. 1.

⁽³⁾ OJ No L 357, 29. 12. 1976, p. 1.

Article 2

For the purposes of this Regulation:

- 'intra-Community transport operation' means journeys undertaken by a laden or unladen vehicle during which the vehicle travels from one Member State to another or crosses a border between the Community and a non-member country with all or part of the journey being effected on Community territory,
- 'vehicle' means a motor vehicle, a trailer, a semi-trailer or a coupled combination of vehicles used exclusively for the carriage of goods.

Article 3

1. From 1 January 1993 the transport operations referred to in Article 1 shall be subject to a system of quota-free Community authorizations which will entitle holders to access to the market for the transport operations in question without any quantitative restrictions.

2. Any haulier carrying goods by road for hire or reward who:

- is established in a Member State in accordance with the legislation of that State,
- is entitled in that State, in accordance with its legislation and that of the Community, to carry out intra-Community carriage of goods by road, and
- possesses a Community haulier's authorization,

shall be allowed to effect the transport operations referred to in Article 1.

Article 4

The Community haulier's authorization referred to in Article 3 shall replace the authorization, licence, permit or any other facility that hauliers must possess in order to carry out international transport operations.

Article 5

1. The Community haulier's authorization referred to in Article 3 shall be issued by the competent authorities of the Member State in which the haulier is established within the meaning of Article 52 of the Treaty.

2. Certified true copies of the authorization referred to in Article 3 shall be issued by the same competent authorities as those referred to in paragraph 1 above.

3. The authorization shall correspond to the model set out in the Annex, which also lays down the conditions for using them.

4. The authorization shall be made out in the haulier's name and may not be transferred by the latter to third parties.

Each authorization or certified true copy thereof may be used for only one vehicle at a time. In the case of a coupled combination of vehicles it shall accompany the motor vehicle; it shall cover the whole of the coupled combination of vehicles even if the trailer or semi-trailer is not registered or put into circulation in the name of the authorization holder or is registered or put into circulation in a different Member State or in another State belonging to the European Conference of Ministers of Transport.

The authorization, or a certified true copy thereof, must be produced whenever required by an authorized inspecting officer.

Article 6

1. The authorization shall be issued for a specified period and shall be valid for a maximum of six years.

2. An authorization whose validity is to due to expire shall be wholly or partly extended at the holder's request for a maximum of six years.

Article 7

1. Whenever an application for the issue or extension of an authorization is lodged, and at the latest three years after the issue or extension thereof, the competent authorities shall verify:

- whether the haulier satisfies, or still satisfies, the conditions for access to the profession of road haulier in intra-Community transport operations, and
- whether the haulier is complying with his tax, social, technical and administrative obligations or, in the case of an application lodged by a new haulier, whether it can be assumed, on the basis of general rules approved beforehand, that the haulier will comply with the said obligations.

2. Where the conditions in paragraph 1 were not or not fully satisfied the competent authorities shall reject the application by means of a reasoned decision or shall lay down, in respect of the issue or extension of the authorization, compliance with certain appropriate obligations until the said conditions are satisfied.

Article 8

Even if the conditions referred to in Article 7 have been satisfied the competent authorities may, on the basis of rules in force, after first consulting the Commission, attach conditions to the issue or extension of the authorizations provided that those conditions are warranted on grounds of safety, protection of the environment, the haulier's technical and financial capacity and the application of social rules, and that they are compatible with the right of establishment and freedom to provide services without distorting competition.

Article 9

The competent authorities shall withdraw the authorization where the haulier:

- no longer satisfies the conditions laid down in Article 3 (2) or no longer satisfies the conditions and obligations referred to in Articles 7 and 8,
- has supplied incorrect information in relation to the data required for the issue or extension of the authorization, or
- has been convicted, after the issue of the authorization, of serious and repeated infringement of the provisions governing transport and traffic, notably of the rules on access to the market, driving and rest periods, the weights and dimensions of vehicles, the maintenance, equipment and technical inspection of vehicles, drivers' licences, road safety and the highway code.

Article 10

By 31 January each year Member States shall inform the Commission of the number of hauliers possessing an authorization and of the number of certified true copies issued by the competent authorities in their country during the preceding year.

Article 11

1. Member States shall give each other mutual assistance to ensure the application and monitoring of this Regulation.

To this end, they shall communicate to each other:

- the names of hauliers possessing an authorization, and
- the number of certified true copies issued to each of these hauliers.

2. Where the competent authorities of a Member State learn of an infringement of this Regulation committed by the holder of an authorization issued in

another Member State, the Member State on whose territory the infringement was ascertained shall notify it to the authorities of the Member State that issued the authorization.

The competent authorities shall communicate to each other and to the Commission, every three months, all the information in their possession on the penalties applied in respect of those infringements no later than four months following the date on which a definitive penalty has been imposed.

3. The penalties referred to in paragraph 2 must be non-discriminatory, commensurate with the severity of the infringement, and make it possible *inter alia* to detain the vehicle for at least two days but not exceeding six days where the following infringements have been committed: exceeding driving hours, overloading the vehicle, exceeding the vehicle's authorized dimensions, excess speed, failure to maintain and equip the vehicle as required.

4. If there has been a serious breach of this Regulation the authorization shall be withdrawn immediately.

Article 12

The following shall be repealed:

- Regulation (EEC) No 3164/76,
- Articles 2 and 4 of Council Directive 75/130/EEC ⁽¹⁾,
- the First Directive of 23 July 1962 ⁽²⁾, except as regards carriage on own account as defined in point 11 of Annex I thereto,
- Council Directive 65/269/EEC ⁽³⁾,
- Council Decision 80/48/EEC ⁽⁴⁾.

Article 13

The Member States shall communicate to the Commission the measures taken in relation to the implementation of this Regulation.

Article 14

This Regulation shall enter into force on 1 January 1993.

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

⁽¹⁾ OJ No L 48, 22. 2. 1975, p. 31.

⁽²⁾ OJ No 70, 6. 8. 1962, p. 2005/62.

⁽³⁾ OJ No 88, 24. 5. 1965, p. 1469/65.

⁽⁴⁾ OJ No L 18, 24. 1. 1980, p. 21.

ANNEX

EUROPEAN COMMUNITY

(a)

(DIN A4)

(First page of the authorization)

(Text in the official language(s) of the Member State issuing the authorization)

State issuing the authorization Distinguishing sign:

Name of the authority or responsible body:
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AUTHORIZATION ⁽¹⁾ No

for the intra-Community carriage of goods by road for hire or reward

This authorization entitles ⁽²⁾

.....

.....

to carry goods by road for hire or reward by any route, using a single vehicle or a coupled combination of vehicles, from any Member State of the European Community to any other Member State, or between a Member State and a non-Community country, or between non-Community countries in respect of that part of the journey effected on the territory of the Community, and to move such vehicle or combination unladen over any part of the territory of the Community.

Conditions for use of the authorization:

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This authorization is valid from to

Issued in on

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⁽³⁾

⁽¹⁾ The distinguishing signs are: Belgium (B), Denmark (DK), Germany (D), Greece (GR), Spain (E), France (F), Ireland (IRL), Italy (I), Luxembourg (L), Netherlands (NL), Portugal (P), United Kingdom (GB).

⁽²⁾ Name or business name and full address of the haulier.

⁽³⁾ Signature and stamp of the authority or body issuing the licence.

(b)

(Second page of the authorization)

(Text in the official language(s) of the Member State issuing the authorization)

GENERAL PROVISIONS

This authorization is valid for the intra-Community carriage of goods by road for hire or reward.

It entitles the holder to carry out, on the territory of the Community, and, where appropriate, on the conditions laid down therein:

- transport operations between Member States,
- the following types of transport operation in respect of that part of the journey effected in the Community:
 - transport operations starting in a Member State and ending in a non-Community country,
 - transport operations starting in a non-Community country and ending in a Member State,
 - transport operations between non-Community countries passing in transit through the territory of one or more Member States,
- unladen journeys by vehicles.

The authorization is personal to the holder and non-transferable.

It may be withdrawn by the competent authority of the Member State which issued it, notably where the haulier:

- has not complied with all the conditions for using the authorization,
- has supplied incorrect information with regard to the data needed for the issue or extension of the authorization,
- has been convicted, after the issue of the authorization, of serious and repeated infringements of the provisions governing transport and traffic, notably of the rules on access to the market, driving periods and rest periods, the weights and dimensions of vehicles, the maintenance, equipment and technical inspection of vehicles, drivers' licences, road safety and the highway code.

The authorization may be used for only one vehicle at a time ⁽¹⁾. In the case of a coupled combination of vehicles it must accompany the tractive unit; it covers the coupled combination of vehicles even if the trailer or semi-trailer is not registered or authorized to use the roads in the name of the authorization holder or if it is registered or put into circulation in a different Member State or in another State belonging to the European Conference of Ministers of Transport.

The authorization must be kept in the vehicle.

The authorization must be produced whenever required by an authorized inspecting officer. The holder must comply on the territory of each Member State with the laws, regulations and administrative provisions in force in that State, particularly with regard to transport and traffic.

⁽¹⁾ Vehicle means a single vehicle or a coupled combination of vehicles.