



## UNION EUROPÉENNE DES TRANSPORTEURS ROUTIERS

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# EU Mobility Package

## *Access to Market and Profession*

### UETR Position

#### INTRODUCTION

UETR is the European umbrella organization representing and defending the interests of more than 200.000 road transport undertakings (mostly Micro, Small and Medium Enterprises) from Western and Eastern EU Member States associations, with a total capacity of more than 430.000 commercial vehicles<sup>1</sup>.

This document provides UETR position on the European Commission's proposal of revision of the Regulations on Access to Road Haulage Market and to the occupation of road transport undertaking (n. 1071 and 1072 of 2009).<sup>2</sup>

#### THE EC PROPOSAL - UETR COMMENTS

##### Vehicles of less than 3.5 tonnes

##### **Art. 1 (5 a)**

The EC proposal extends the rules on the access to light commercial vehicles (LCV) sector, only in terms of financial standing and establishment requirements. A "light" version of financial standing: 1800 euros for the first vehicle (instead of 9000 euros) and 900 euros (instead of 6000 euros) for each additional vehicle.

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<sup>1</sup> Within the Union, 95% of the road haulage companies are micro-enterprises with less than 10 employees (small firms or one-man operations).

<sup>2</sup> COM (2017) 281 final of 31.5.2017

*UETR believes that all four pillars (establishment, good repute, financial standing, professional competence) of access to profession have to apply to light vehicles in all EU Member States. This will ensure professionalization and quality in the transport sector as a whole.*

*UETR also supports the maintenance of art. 3.2 of the current Regulation on the possibility for Member States to impose additional obligations for access to profession to new national operators (while the EC proposal removes the current art 3.2). This is actually done in some MS (e.g. Spain and Italy where it is required a minimum fleet of vehicles as a mean to address the market saturation situation).*

#### Requirement of financial standing

##### **Art. 1 (5 b)**

The proposal states that a bank guarantee, a document issued by a financial institution... or another bidding document... can be used when a company has no certified annual accounts.

*UETR supports this approach but also the option of a new enterprise to constitute a share capital equivalent to the required financial capacity, then annual accounts must be deposited and the bank guarantee will only be used if the balance sheet does not have sufficient financial capacity.*

*Moreover, clarity must be provided on the possibility to refer also to a professional liability insurance.*

#### Requirements of establishment

##### **Art. 1 (3 a)**

The EC proposal expands the list of documents maintained by a transport company at its premises. The list is expanded to *commercial contracts and employment contracts*.

*UETR underlines the additional administrative burden (no evidence of utility of commercial contracts is demonstrated for checks) and the unclear wording- how to interpret "commercial contracts" (transport agreements? insurance contracts ?).*

**(3 b)** EC: "Effectively and continuously conduct the administrative and commercial activities with the appropriate administrative equipment and facilities at premises situated in that Member State".

**(3 c)** EC: "Managing the transport operations of vehicles with appropriate technical equipment situated in that Member State."

**(3 d)** EC: "Hold assets and employ staff proportionate to the activity of the establishment".

*UETR stresses the subjective and vague nature of the wording "appropriate" and "proportionate" here, leading to different practices and unharmonized approach among EU Member States authorities.*

*UETR proposes for micro-companies to be allowed to have the establishment at the place where the owner officially lives. This is of paramount importance for the economic activity, in light of the large number of such enterprises in Europe.*

*Finally, for the sake of coordination and consistency, a reference to the applicable EU provisions of the coordination of social security systems<sup>3</sup> is suggested.*

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<sup>3</sup>Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004

## Requirement of good repute

### **Art 1 (4)**

The EC proposal expands the list of subjects whose conduct is relevant for this requirement (executive directors, general partners in the case of partnerships and other legal representatives....as may be determined by MS).

*UETR draws your attention to the following:*

- *The wording for these subjects is not precise enough and gives room to different practices and unharmonized approaches among MS, hence cannot be supported.*
- *It should be clarified that the loss of good repute must not be applied by Member States until the legal appeal procedure has been exhausted .*
- *The creation of a “Comparison table” for infringements and sanctions among national laws is to be taken into account to ensure a minimum level of harmonization of approach.*
- *The wording “convictions, sanctions or infringements” is not clear, the interpretation among MS varies considerably.*
- *The application of the requirement to managers of companies with vehicles from 1.5 to 3.5 tons is to be explored.*
- *EU requirements on access (starting from good repute) to be applied to Transport Intermediaries also, to ensure professionalization and quality in the transport sector as a whole.*

## National electronic register

### **Art. 1 (11)**

According to the EC proposal, to be stored in the national electronic registers are: the license plates of the vehicles in possession of the company; the number of employees; total assets and liabilities, equity and turnover over the last two years and the company's risk classification in accordance with the European Control Directive 2006/22.

*UETR draws your attention to the following:*

- *The need to clearly define what is “assets, liabilities, turnover...”.*
- *Not all Member States have currently set up a national electronic register that is also partially publicly available for searching / checking transport licenses. It would be good if this were imposed by the EU. UETR supports the creation of a European transport license database, such as the existing VIES (VAT Information Exchange System) database <sup>4</sup>, possibly including also license plates.*

## Cabotage

### **Art. 2 (3)**

EC: Definition of cabotage activity: national carriage for hire or reward carried out on a temporary basis in a host Member State, involving the carriage from the picking up of the goods at one or several loading points until their delivery at one or several delivery points, as specified in the consignment note.

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<sup>4</sup> [http://ec.europa.eu/taxation\\_customs/vies/](http://ec.europa.eu/taxation_customs/vies/)

*UETR welcomes the introduction of a clear definition, as today's interpretation varies among MS and it is often difficult for companies to know which MS applies what definition or interpretation.*

**art. 2 (5)**

EC proposal: 5 day period . “Once the goods carried in the course of an incoming international carriage from another Member State or from a third country to a host Member State have been delivered, hauliers referred to in paragraph 1 shall be allowed to carry out, with the same vehicle or, in the case of a coupled combination, the motor vehicle of that same vehicle, cabotage operations in the host Member State or in contiguous Member States. The last unloading in the course of a cabotage operation shall take place within 5 days from the last unloading in the host Member State in the course of the incoming international carriage.”

*UETR draws your attention to the following:*

- *UETR supports the current system of 3 operations in 7 days. Economic and social conditions still vary considerably among EU MS and the 5 day proposal means basically a liberalization of cabotage.*
- *No cabotage is to be allowed in the country neighboring the EU Member state in which an international load has been unloaded. UETR does not agree that carriage from a third country would also give rise to cabotage.*
- *A transport company is to be able to provide clear proof of prior international transport. The evidence may also be transmitted or submitted electronically during the duration of road check, e. g. expressing e-CMR. UETR supports digitalization in road transport and the deployment of the use of the e-CMR.*
- *These provisions are to be applied also in the context of combined transport.*

Co-liability

**Art. 2 (8)**

EC proposal states that Member States should provide for sanctions against consignors, freight forwarders, contractors and subcontractors when they knowingly commission transport services that are in violation of the regulation.

*UETR fully supports the co-responsibility principle. To this aim, UETR proposes this principle to be enlarged and to be applied not only to what is being consciously done (intentional element), but also to the instructions given or the actions that are taken by humans not on purpose or without conscious conduct (as currently legislated in some EU Member States). This is key to ensure a truly mature and fair transport market at the EU level.*