



Council of the  
European Union

Brussels, 11 October 2021  
(OR. en)

12736/21

TRANS 592  
MI 732

#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	11 October 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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No. Cion doc.:	COM(2021) 623 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL On the implementation in the period from 1 January 2017 until 31 December 2018 of certain provisions of Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator

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Delegations will find attached document COM(2021) 623 final.

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Encl.: COM(2021) 623 final



Brussels, 11.10.2021  
COM(2021) 623 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**On the implementation in the period from 1 January 2017 until 31 December 2018 of  
certain provisions of Regulation (EC) No 1071/2009 establishing common rules  
concerning the conditions to be complied with to pursue the occupation of road  
transport operator**

# REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

## On the implementation in the period from 1 January 2017 until 31 December 2018 of certain provisions of Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator

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### **Introduction**

This report refers to the pursuit of the occupation of road transport operators in Member States. Its objective is to ensure close monitoring of the application of 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<sup>1</sup> (hereafter "Regulation (EC) No 1071/2009"). This Regulation applies to all undertakings established in the EU which are engaged in the occupation of road transport operator, as well as those which intend to engage in such an occupation. The occupation of road transport operator refers to both the occupation of road haulage operator<sup>2</sup> and the occupation of road passenger transport operator<sup>3</sup>. Certain categories of undertakings, such as operators of motor vehicles with a laden mass of less than 3.5 tonnes, do not fall within the scope of the Regulation<sup>4</sup>. Regulation (EC) No 1071/2009 defines common rules governing the admission to the occupation of road haulage and road passenger transport operator.

In accordance with Article 3 of this Regulation, undertakings engaged in the occupation of road transport operator should have an effective and stable establishment in a Member State, be of good repute, and have appropriate financial standing and the requisite professional competences. Furthermore, Article 4 of this Regulation imposes an obligation on road transport undertakings to designate a transport manager. This manager must hold a certificate of professional competence confirming the possession of skills and knowledge necessary to manage transport operations in line with all legal and industrial requirements in an effective

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<sup>1</sup> OJ L 300, 14.11.2009, p. 51

<sup>2</sup> Under Article 2(1) of the Regulation, 'the occupation of road haulage operator' means the activity of any undertaking transporting goods for hire or reward by means either of motor vehicles or combinations of vehicles.

<sup>3</sup> Under Article 2(2) of the Regulation, 'the occupation of road passenger transport operator' means the activity of any undertaking operating, by means of motor vehicles so constructed and equipped as to be suitable for carrying more than nine persons, including the driver, and intended for that purpose, passenger transport services for the public or for specific categories of users in return for payment by the person transported or by the transport organiser.

<sup>4</sup> Under Article 1(4) of the Regulation, 'Member States may, however, lower this limit for all or some categories of road transport operations'. As from 21 May 2022, the Regulation will also apply to operators of motor vehicles with a laden mass exceeding 2.5 tonnes that are not exclusively engaged in national transport operations in their Member State of establishment.

and continuous manner. The responsibility to verify transport undertakings' compliance with the conditions laid down in Regulation (EC) No 1071/2009 lies with the Member States. Moreover, well-organised administrative cooperation between Member States plays a key role in improving the effectiveness of monitoring of undertakings operating in the European Union.

Article 26(1) of Regulation (EC) No 1071/2009 sets deadlines for the reporting obligations of the Member States and of the European Commission:

- Every two years from the date of application of the Regulation, Member States should draw up a report on the activities of the competent authorities and forward it to the Commission;
- On the basis of the submissions from Member States, the Commission should draw up a report every two years to be communicated to the European Parliament and the Council.

National reports provided by Member States constitute a crucial input to the Commission report. Article 26 of the Regulation outlines what data should be included in national reports:

"(a) an overview of the sector with regard to good repute, financial standing and professional competence;

(b) the number of authorisations granted by year and by type, those suspended, those withdrawn, the number of declarations of unfitness and the reasons on which those decisions were based;

(c) the number of certificates of professional competence issued each year;

(d) core statistics relating to the national electronic registers and their use by the competent authorities; and

(e) an overview of exchanges of information with other Member States pursuant to Article 18(2), including in particular the annual number of established infringements notified to other Member States and the replies received, as well as the annual number of requests and replies received pursuant to Article 18(3)."

This report covers the quality and timeliness of national data submissions (Section I) and an analysis of the reports provided by Member States (Section II). Section III presents the conclusions.

## **I. Data submission**

This is the fourth report under Regulation (EC) No 1071/2009 and it covers the period from 1 January 2017 until 31 December 2018. The first report<sup>5</sup> covered the period from 4 December 2011 (the date from which the Regulation started to apply) until 31 December 2012. The second report<sup>6</sup> covered the period from 1 January 2013 until 31 December 2014. The third report<sup>7</sup> covered the period from 1 January 2015 until 31 December 2016. The present reporting period is synchronised with the report on the implementation of the social

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<sup>5</sup> COM(2014)592 final, 25/9/2014.

<sup>6</sup> COM(2017)116 final, 7/3/2017.

<sup>7</sup> COM(2019)84 final, 18.2.2019.

legislation relating to road transport<sup>8</sup>, as required by Article 26(2) of Regulation (EC) No 1071/2009. This synchronisation allows Member States and stakeholders to have a coherent overview of the sector in relation to the internal market and social rules in the same reporting period.

According to Article 26 of Regulation (EC) No 1071/2009, Member States are under obligation to report. However, two Member States did not meet this obligation<sup>9</sup>, while some only delivered descriptive information<sup>10</sup>. This is an increase compared to the last period where all Member States met their obligation. Some Member States had a serious delay in providing their data by the deadline of 30 September 2019 with the last report received in October 2020. This affected the timing of this Commission report. In a number of reports, some of the required information was not provided, thus preventing a comprehensive analysis.

For the purpose of consistency and in order to assist the national competent authorities with fulfilling their reporting obligation, a standard form was proposed by the Commission services to the Member States in 2015. This should be used from the second reporting period onwards. Almost all participating Member States used this standard form for their national reports.

Since the Member States submitting reports for the present reporting period are not the same as those which submitted reports in the previous reporting periods, and given the fragmented nature of the information submitted, comparisons between the two reporting periods have to be taken with caution.

## **II. Analysis of data on pursuit of the occupation of road transport operator**

### **1. Overview of the road transport sector with regard to good repute, financial standing and professional competence**

This part of the report is based on information submitted by Member States concerning the national requirements, organisation of checks, level of compliance, and difficulties encountered. The overview is not comprehensive in scope due to the fragmentary nature of the reports made by the Member States. Whenever needed, the reports from the Member States are complemented with data from the above-mentioned evaluation study.

There is great diversity in the way Member States check compliance with the four requirements on access to the occupation of road transport operator set out in the Regulation, as well as in the number of checks carried out. The diverse ways of checking compliance ranges from point-based systems in Germany to annual checks in Latvia and vetting based on convictions in Ireland.

As allowed under certain conditions by Article 3(2) of Regulation (EC) No 1071/2009, several Member States impose national requirements that need to be satisfied in addition to

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<sup>8</sup> Referred to in Article 17 of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).

<sup>9</sup> The MS who did not meet their obligation were the Netherlands and Portugal.

<sup>10</sup> Luxembourg

the four requirements set out in the Regulation (stable and effective establishment, good repute, appropriate financial standing and requisite professional competence) in order to access the occupation of road transport operator. For example, Denmark and Estonia have additional national requirements regarding financial standing, while other examples show additional requirements to e.g. parking facilities.

Estonia reported that checks of compliance with the requirements of the Regulation are carried out according to a risk-based system targeting primarily undertakings which have an increased risk of committing serious or frequent infringements of road transport rules. Moreover, checks are carried out once the owner of the Community Licence applies for a true copy. During the period 2017-2018, 65% of the owners of the Community Licence applied for a true copy, and every mentioned case has been checked. In addition to carrying out checks of stable establishment once the Community Licence has been granted, the Estonian authorities carries out registry-based checks 1 or 2 times a year. In addition to the four criteria, Estonia requires that the applicant of the Community licence must not have any non-staggered tax arrears that exceed the sum specified in their Taxation Act and the applicant must also not have been declared bankrupt.

In Ireland, checks of good repute, financial standing and professional competence are performed at least every five years in the framework of an authorisation for renewal process for each undertaking. In addition, these checks might take place more frequently for some operators which are deemed to present a high risk or come to the attention of the competent authority. Good repute is checked by vetting the transport manager and any other relevant person with the National Vetting Service provided by the National Police Force. This vetting service provides the competent authority with a list of convictions that can be used to determine good repute. During the 5-year period of validity of an operator's licence, there will ordinarily be no need for an operator to furnish additional information to the licensing authority. This only happens when the authority has detected a risk in respect of the specific operator.

In Latvia, checks of compliance with financial standing are performed by means of information from the annual reports provided by the Register of Enterprises. Moreover, all four requirements are checked before granting an authorisation for transport operations. The majority of authorisations suspended originate in requests from the State Tax Inspectorate, when it has decided to suspend the economic activity of the transport company. The certified true copies of Community licences and licences for national transport are issued for each particular vehicle and only for a period of up to twelve months. Therefore, in case of non-compliance with the four requirements, the certified true copies of the Community licences and the licences for national transport are not renewed. Good repute is checked for the transport manager, the undertaking and its members of the board. When the transport manager or members of the board of the undertaking are replaced, the good repute of each of the new members is checked. The Latvian enforcement authorities note some difficulties in determining compliance with the financial standing requirement related to the insurance policy, as there is no detailed description in Regulation (EC) No 1071/2009 about the risks to be insured for a transport undertaking.

In Spain, two methods are used to control compliance with the criteria on access to the profession. The first method consists of requesting undertakings to submit documentation proving that they comply with the four requirements. The second method involves inspectors going to the premises of the undertakings for on-site checks. In Spain, road transport undertakings must apply for a renewal of their authorisation every two years. Therefore,

compliance with the four requirements is controlled every two years. Moreover, a series of inspections are carried out every year in order to verify that the undertakings whose authorisation has not been renewed do not carry out any transport activity.

In Poland, there are 400 inspectors responsible for checks at the roadside and at the premises of road hauliers. The information collected by the inspectors is forwarded to the International Transport Office and to local authorities issuing the Community licenses and checking the four requirements set out in Regulation (EC) No 1071/2009. A stable and effective establishment is considered to be a place with technical equipment and devices appropriate to carry out transport activities in a structured and continuous manner. This includes at least one of the following elements: a parking place; an unloading area; equipment for maintenance of vehicles.

In Germany, there was only a risk rating system at the regional level, but from July 2014 there is a country-wide risk rating system. Infringements are rated with either 5 points (most serious infringements), 3 points (more serious/serious infringements) or 1 point (other infringements). An undertaking is rated as having an increased risk, if it has accumulated either 5 points (for undertakings with up to 10 vehicles), 8 points (up to 50 vehicles) or 11 points (more than 50 vehicles).

Since 2006, the UK's Driver and Vehicle Standards Agency has applied a system known as OCRS (Operator Compliance Risk Score). This system was refined in 2012 in order to improve its predictive ability. The OCRS integrates information on roadworthiness infringements, which are correlated with other infringements.

In Denmark, all new applicants for a national or Community licence are checked for appropriate financial standing, professional competence, debt and stable establishment. Checks of good repute are only conducted, if the police have reported a problem or if there is any other indication that there might be a problem. Infringements are registered for 5 years and comprise the infringements that are detected by the police during roadside checks. The Danish authority typically checks all new applicants as well as around 250 existing operators each year. The latter are selected on the basis of the risk rating system. Operators must meet an initial financial standing requirement of DKK 150,000 (around €20,000) in order to obtain the first two licences, whereas Article 7(1) of Regulation (EC) No 1071/2009 only requires reserves of €9,000 for the first vehicle and €5,000 for each additional vehicle. In Denmark, for each additional vehicle DKK 40,000 (around €5,400) is required. Further, the company must not have arrears to the government exceeding 50,000 DKK (around €6,700). The Danish Transport Authority makes an enquiry with the Danish Tax Authorities on this matter when verifying the appropriate financial standing of the undertaking.

Romania has a risk rating system to target checks of infringements reflecting all offences in road transport for each transport company. If a company opens a branch, checks are done on its stable and effective establishment.

In Luxembourg, the Ministry of the Economy carries out checks before an authorisation is issued in order to verify compliance with all four requirements. Checks of good repute are also carried out when the holder of an authorisation encounters financial difficulties, such as insolvency or bankruptcy in order to protect the co-contracting parties. Checks of good repute, financial standing, professional competence and stable and effective establishment are also carried out when the holder of an authorisation applies for a new authorisation; for example, when widening the scope of activities to another sector for which they need additional authorisation.

Several enforcement authorities stress the demanding nature of checks regarding stable and effective establishment. Among other things, Member States have encountered difficulties due to a lack of administrative capacity to control all road transport undertakings registered in a given Member State. These checks are considered to be more resource-consuming than other checks.

Only one Member State submitted data on the number of checks carried out with regards to the four requirements on access to the occupation of road transport operator. In Romania, the number of checks for fulfilment of conditions for access to the market and good repute carried out in 2017 and 2018 is 10,984 checks. In relation to checks, Estonia reports that during the period 2017-18, 90 administrative procedures concerning serious infringements committed by road transport operators were carried out.

## **2. Authorisations**

Article 2 of Regulation (EC) No 1071/2009 defines the authorisation to pursue the occupation of road transport operator as “an administrative decision which authorises an undertaking which satisfies the conditions laid down in that Regulation to pursue the occupation of road transport operator”.

The legal nature of "administrative decision" varies between Member States. This might be a prerequisite to obtain a licence for national transportation and/or a Community licence in order to carry out international carriage, it might be the equivalent of a licence for national transportation only or it might mean a licence for national and international transport granted by means of one single authorisation.

For example, in Bulgaria and Lithuania there are four types of licences (national passenger, national freight, Community licence for passenger and Community licence for freight). However, in Bulgaria only one document (i.e. authorisation) is granted for national and international transport.

From 2012, undertakings established in Estonia, which intend to operate in the road transport market, must apply for the Community licence. This is the only type of authorisation existing in that Member State.

In Luxembourg, there are only two types of licences: one for national transport and the other one for international transport.

In Romania, only Community licences are granted as authorisations either for passenger transport or freight transport.

In the UK, there are two main types of authorisation that apply to passenger and freight transport undertakings. They are Standard National Licences and International Licences. The International licence is for those undertakings, which carry out international transport, and this corresponds to holders of Community licences. In addition, the UK has further categories outside of the scope of Regulation (EC) No 1071/2009 for own account operators. There is a

further classification for passenger carrying organisations, which are not businesses. These are not considered as operating for hire and reward, such as schools, charities, and community groups.

As a result of the existence of different types of authorisations for undertakings to pursue the occupation of road transport sector, the data submitted by Member States can only be broadly compared. However, most Member States submitted a global number of authorised operators on 31 December 2018, which constitutes a point of reference for data on numbers of authorisations granted, suspended or withdrawn for freight and passenger transport. Austria has 11,402 authorised operators, Belgium has 9,726, Bulgaria has 13,683, Cyprus has 3,101, Czech Republic has 24,713, Germany has 57,348<sup>11</sup>, Denmark has 6,499, Estonia has 3,693, Finland has 15,824, Greece has 12,616<sup>12</sup>, Spain has 95,521, France has 65,057, Hungary has 14,180, Croatia has 564, Ireland has 5,594, Italy has 102,804, Lithuania has 5164, Latvia has 4721, Malta has 53<sup>13</sup>, Poland has 87,603, Sweden has 17,616, Slovenia has 5859, Slovakia has 8895 and the UK has 41,128 authorised operators. Overall in the EU, there were 545,258 freight and 68,106 passenger transport operators<sup>14</sup>. Seven Member States did not report the number of passenger transport operators and four did not report on the number of freight transport operators. The number of freight and passenger transport operators is slightly lower than in the last reporting period, which may be due to a lack of reporting from some Member States, as all Member States submitted their report for 2015-16.

The vast majority of authorised undertakings are road hauliers. The percentage of authorised road hauliers compared to the overall number of authorised operators in the Member States having reported was 89% as of 31 December 2018 (89% as of 31 December 2016), whereas only 11% were passenger transport operators.

## **2.1 Authorisations granted**

On the basis of the data provided by 21 Member States<sup>15</sup>, 238,661 authorisations were granted to pursue the occupation of operator in passenger (12,514) and goods (226,147) transport during the reporting period. This is slightly lower than in the last reporting period, but this may be related to a lack of reporting from some Member States.

The number of authorisations granted ranged from 199 in Denmark to 131.690 in Spain. A detailed table with the information submitted is presented in Annex I to this report.

Most of the authorisations granted in 2017 and 2018 concern road hauliers (95% overall) and only a small share of authorisations concern passenger transport operators (5%). Only Austria issued more authorisations for passenger transport than for goods transport.

## **2.2 Authorisations withdrawn and suspended**

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<sup>11</sup> Greece, Germany and Malta reported only the number of freight operators.

<sup>12</sup> Greece, Germany and Malta reported only the number of freight operators.

<sup>13</sup> Greece, Germany and Malta reported only the number of freight operators.

<sup>14</sup> Germany, Greece, Luxembourg, Malta, Netherlands, Portugal, and Romania did not report the number of passenger transport operators, and Luxembourg, Netherlands, Portugal, and Romania did not report the number of freight transport operators.

<sup>15</sup> Austria, Belgium, Bulgaria, the Czech Republic, Germany, Denmark, Estonia, Greece, Finland, Spain, France, Croatia, Hungary, Ireland, Italy, Latvia, Poland, Sweden, Slovenia, Slovakia, the United Kingdom.

On the basis of data reported by 25 Member States<sup>16</sup>, the total number of authorisations withdrawn or suspended during the period 2017-2018 was 163,202. This is slightly higher than in the last reporting period. It can be observed that the highest number of withdrawals and suspensions of authorisations was reported in Spain and amounted to 142,983 for passenger and goods transport. At the other end of the scale, only one withdrawal or suspension was recorded in Ireland and zero in some Member States<sup>17</sup>. Detailed information on withdrawals and suspended authorisations is included in Annex II to this report.

Withdrawals and suspensions of authorisations were largely due to the expiry of the authorisation/Community licence, winding up of the company or on request by the operators in most of the Member States which reported on the reasons for such withdrawals and suspensions.

However, Spain indicated that the main reason for withdrawal or suspension of authorisations was non-compliance with the four requirements on access to profession (116,263 withdrawals on that basis). In Sweden, the main reason for withdrawals was non-compliance with the requirement of effective and stable establishment (1,438 withdrawals on this basis). For some Member States, the main reason was an operator not having a sufficient financial standing with Denmark (142) and France (147) reporting this. A number of Member States cited “other” as the main reason for withdrawal or suspension of authorisations without specifying what “other” indicates.

### **3. Certificates of professional competence**

Certificates of professional competence attesting the written and oral examinations successfully passed by the candidate drivers are issued by the competent authorities and constitute proof of professional competence, as provided for in Article 8 of Regulation (EC) No 1071/2009.

On the basis of information provided by 23 Member States<sup>18</sup>, 552,313 certificates of professional competence were issued during the reporting period. This number includes certificates granted on the basis of examination as provided by Article 8 of Regulation EC (No) 1071/2009 and through recognition of experience, following an exemption specified in Article 9 of this Regulation.

The biggest share of certificates granted in the EU during this reporting period was in Spain (428,606), followed by Hungary (68,341), Lithuania (9,936) and Romania (9,603). Detailed information is presented in Annex III to this report.

### **4. Transport managers declared unfit**

In accordance with Article 14 of Regulation (EC) No 1071/2009, when a transport manager loses his good repute, the competent authority should declare the transport manager unfit to manage the transport activities of an undertaking.

Declarations of unfitness were issued in 9 of the reporting Member States: Austria (5), Denmark (63), Germany (202), Estonia (6), Finland (13), Italy (84), Poland (10) Sweden (75)

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<sup>16</sup> Luxembourg, Netherlands, and Portugal did not report

<sup>17</sup> Czech Republic, Cyprus, Hungary, Lithuania, and Malta

<sup>18</sup> Austria, Belgium, Bulgaria, The Czech Republic, Germany, Denmark, Estonia, Greece, Spain, Finland, France, Hungary, Ireland, Italia, Lithuania, Latvia, Poland, Romania, Sweden, Slovenia, Slovakia and the United Kingdom.

and United Kingdom (88). The data provided by Member States can be found in Annex II to this report.

## **5. Exchange of information**

According to Article 16 of Regulation (EC) No 1071/2009 each Member State should keep a national register of road transport undertakings that have been authorised to engage in the occupation of road transport operator. Minimum requirements for the data to be entered in these registers and common rules on their interconnection through the European Register of Road Transport Undertakings (ERRU) are defined in Commission Decision (EU) 2016/480<sup>19</sup>. Notably, this data covers the good repute of the transport undertakings, serious infringements committed, and data on the Community licences.

The establishment of the ERRU was envisaged as a next step to facilitate cooperation between the national authorities for the purpose of further enhancement of cross-border enforcement of the European road transport legislation in accordance with Article 16(5) of Regulation (EC) No 1071/2009. The ERRU register should simplify cross-border enforcement, making it more cost-effective, provided that all Member States are connected and that they effectively use the system exchanging quality data contained in their databases. The interconnection of national registers was to be achieved by 31 December 2012. Some Member States comment that participation in ERRU results in better cooperation by exchanging information between Member States and consider it an essential tool for the enforcement of the EU legislation on road transport<sup>20</sup>. Yet, some technical difficulties are also reported<sup>21</sup>, such as receiving requests in the other languages and not all Member States using the WebClient.

Member States sent 31,214 serious infringement notifications and received 27,439 notifications. There were registered 819,622 requests for checks of good repute as sent, while Member States report that they received a total of 2.301.671 requests. This indicates a discrepancy in the numbers.

The data provided by Member States on exchanges of information with other Member States can be found in Annex IV to this report.

## **III. Conclusions**

The following points may be drawn based on the data provided by Member States.

Several Member States impose national requirements in addition to the four requirements of the Regulation (stable and effective establishment, good repute, appropriate financial standing and requisite professional competence) in order to access the occupation of road transport operator. This mostly refers to requirements for financial standing.

In relation to checks, these are performed at different intervals and by different methods. Some Member States have a risk-based system targeting undertakings with an increased risk of committing infringements, while others mainly conduct checks in annual intervals or when new authorisations are requested. Several enforcement authorities stress the demanding nature of checks due to the pressure on administrative capacity. Only two countries reported on

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<sup>19</sup> Commission Implementing Regulation (EU) 2016/480 of 1 April 2016 establishing common rules concerning the interconnection of national electronic registers on road transport undertakings and repealing Regulation (EU) No 1213/2010; OJ L 87, 2.4.2016, p. 4.

<sup>20</sup> Estonia, Bulgaria and Malta

<sup>21</sup> Sweden and Finland

amount of checks or administrative procedures concerning serious infringements committed by road transport operators.

Due to the varying approaches and numbers of authorisations in different Member States, the comparability of this data is limited. Yet, the data indicates that the majority of authorised undertakings are road hauliers (95%). The number of withdrawals and suspensions of authorisations vary greatly among Member States. Withdrawals or suspensions were largely enforced due to expiry of the authorisation or Community licence, winding up of the company or on request by the operators. Some Member States indicated that suspensions were due to non-compliance to the four requirements for access to the profession - namely, Spain, Sweden, Denmark, and France.

Member States also report that the ERRU improves cooperation and is an essential tool for this.

The Commission reminds Member States of their obligation to provide the complete report containing all the elements of data listed in Article 26(1) of Regulation (EC) No 1071/2009 within the required timeframe in order to allow for a fully-fledged report. The Commission also urges Member States to use the standard reporting form for the purpose of consistency of national submissions.