

# QUALIFICATION OF PROFESSIONAL DRIVERS

cepPolicyBrief No. 2017-11

## KEY ISSUES

**Objective of the Regulation:** The qualification of professional lorry and bus drivers is to be improved.

**Affected parties:** Transport companies, lorry and bus drivers, providers of periodic training courses.



**Pro:** (1) A more precise definition of the vehicles whose drivers are exempt from the Professional Driver Qualification Directive, helps to create a level playing field.

(2) The mandatory issuing of separate driver qualification cards ensures mutual recognition of periodic training for drivers from the EU and reduces the overall economic costs.

(3) The requirement for mutual recognition of driver attestations for drivers from third-countries, without the Union code, solves the problem of a lack of mutual recognition of periodic training without causing additional red tape.

**Contra:** –

## CONTENT

### Title

**Proposal COM(2017) 47** of 1 February 2017 for a **Directive** of the European Parliament and of the Council **amending Directive 2003/59/EC on the initial qualification and periodic training of drivers** of certain road vehicles **for the carriage of goods or passengers and Directive 2006/126/EC on driving licences**

### Brief Summary

#### ► Context and objectives

- In order to exercise their profession in the EU, professional drivers of lorries (driving licence category C1, C1E, C, CE) and buses (driving licence category D1, D1E, D, DE) not only have to hold the appropriate driving licence (Driving Licence Directive [2006/126/EC]), but also a certificate of professional training (“initial qualification”) and undergo periodic training courses (Professional Drivers Qualification Directive [2003/59/EC]).
- The Driving Licence Directive governs the minimum requirements for theoretical knowledge – e.g. rules of the road – and practical driving skills necessary for driving a vehicle on public roads.
- The Professional Drivers Qualification Directive governs additional minimum standards for the initial qualification and further periodic training of professional drivers (Art.1) which go beyond the requirements of the Driving Licence Directive and include knowledge about e.g. load securing, driving and rest periods, fuel-efficient driving and rules on the carriage of goods and passengers. They aim to
  - increase road safety,
  - reduce CO<sub>2</sub> emissions by fuel-efficient driving and
  - create a level playing field EU wide.
- Member States must set up a system of mandatory initial qualification and periodic training courses (Art. 3, 5, 7) for which successful trainees receive a “certificate of professional competence” (Art. 6 and 8).
- The Commission’s criticism (p. 4– 5):
  - The Professional Drivers Qualification Directive is interpreted differently by the different Member States.
  - Content of the training does not meet the needs of drivers in practice.
  - Member States do not recognise the training courses in other Member States.
  - The rules in the Professional Drivers Qualification Directive and in the Driving Licence Directive are not coordinated with each other and thus ambiguous.
- These deficiencies are to be remedied by way of the proposed changes.

#### ► Scope: exemption provisions to become more precise

- In order to remove legal uncertainty [SWD(2017) 27, p. 16 et seq.], there will be more precise definition of the vehicles, whose drivers are excluded from the scope of the Professional Drivers Qualification Directive, i.e. those who do not require an initial qualification or periodic training (amended Art. 2).
- In future, exemptions apply to drivers (amended Art. 2 (b), (d)–(g))
  - of vehicles used by the armed forces, civil defence, the fire service and the police only when carriage is undertaken as a consequence of the tasks assigned to those services;

- of vehicles used for emergency and rescue missions, and for the non-commercial transport of humanitarian aid;
- of vehicles used for driving instruction and examination for any person wishing to obtain a driving licence or a certificate of professional competence (Art. 6 and 8), provided that they are not being used for the commercial carriage of goods and passengers;
- of vehicles carrying material, equipment or machinery to be used by the drivers in the course of their work, provided that driving the vehicles is not the drivers' principal activity.

► **Requirements for periodic training**

- The purpose of periodic training, to update knowledge required for the work (Art. 7), is being jeopardised because some Member States permit courses without any relevance to road safety or allow a course module with the same content to be repeated several times.
- In future, periodic training must (amended Art. 7 in conjunction with amended Annex I)
  - cover a variety of subjects and include at least one module on road safety,
  - take account of training needs specific to the transport operations carried out by the driver and developments in technology and the relevant legislation.

► **Mutual recognition of training**

- Mutual recognition by the Member States of periodic training courses completed by EU citizens, is not currently being achieved to the full extent [SWD(2017) 27, p. 8 et seq.].
  - Member States currently have to confirm training, which has been completed within their territory, by endorsing "Union code 95" either on the driving licence or on a separate "driver qualification card" [Art. 10 (1) in conjunction with Annex I]. Union code 95 is made up of the number 95 and the date on which the periodic training ceases to be valid – e.g. "95.01.01.2018" (Driving Licence Directive [2006/126/EC], Annex I).
  - Some Member States only endorse code 95, confirming completion of the periodic training course, on the driving licence – which they issue themselves – and, "for reasons of cost" do not generally issue a separate driver qualification card so that drivers with a foreign driving licence do not receive any proof of training courses completed in these countries. As a result, they can only complete periodic training courses in their country of origin [SWD(2017) 27, p. 9].
  - The cost of issuing driver qualification cards in all Member States is less than the additional costs incurred by drivers and companies for having to undergo periodic training in their home country [SWD(2017) 27, p. 34].
  - Where compliance with the obligation to undergo periodic training cannot be confirmed by endorsing code 95 on the driving licence, the Member State in which the periodic training is completed will in future have to issue the driver with a separate driver qualification card (amended Art. 10 (1)).
- Mutual recognition by the Member States of periodic training courses completed by drivers from third countries who are employed by EU-based companies, is not currently being achieved to the full extent [SWD(2017) 27, p. 12 et seq.].
  - Confirmation of compliance with the periodic training obligation takes place by way of the "driver attestation" for cross-border goods transport (Goods Haulage Regulation [(EC) 1072/2009]).
  - Some Member States currently only issue the driver attestation to drivers complying with the periodic training obligations, but do not endorse code 95 on it. Other Member States only accept driver attestations endorsed with code 95 as proof of the completion of periodic training.
  - In future, Member States must mutually recognise the driver attestation – which confirms that drivers from third countries comply with the periodic training obligations (Goods Haulage Regulation [(EC) 1072/2009]) – even if it has not been endorsed with code 95 (amended Art. 10 (2)).

► **Minimum age requirements**

- The ambiguous rules of the Professional Drivers Qualification Directive and the Driving Licence Directive on the minimum age for drivers of lorries and buses (cf. table) are currently being applied in different ways by the Member States [SWD(2017) 27, p. 18 et seq.]:

Minimum age for drivers of	Lorries		Buses	
	C1, C1E	C, CE	D1, D1E	D, DE
<b>Driving licence category</b>				
<b>Driving Licence Directive (Art. 4)</b>	18	21	21	24
<b>Professional Drivers Qualification Directive (Art. 5)</b>				
- without passengers (optional* in MS)			18*	18*
- ordinary initial qualification (280 hours)	18	18	21	21
optional*:				
- regular services up to max. 50 km			18*	18*
- other services			18*	20*
- accelerated initial qualification (140 hours)	18	21	21	23
- regular services up to max. 50 km				21

- Depending on the type of initial qualification – ordinary or accelerated (Art. 3 (2) and (3)) – the minimum ages shown in the table apply under the Professional Drivers Qualification Directive. Member States have the option to reduce the minimum age indicated by\*.
- The inconsistent application currently means that e.g. German companies can employ younger drivers than Spanish companies because, under Spanish law, the higher minimum age in the Driving Licence Directive takes precedence [Impact Assessment SWD(2017 27, p. 19).
- In future it will be explicitly specified that the provisions of the Professional Drivers Qualification Directive on the minimum age for drivers of lorries and buses take precedence over the Driving Licence Directive (Driving Licence Directive, new Art. 4 (7)).
- Where a Member State opts to allow the driving of vehicles from a lower age (Art. 5 (3) (a) (i), sentence 2 and (ii), sentence 2), the driving licence will only be valid in that Member State (Driving Licence Directive, new Art. 4 (7)),
  - until the holder of the driving licence has reached the relevant minimum age (Art 5 (2) and (3) not including (a) (i), sentence 2 and (ii), sentence 2) and
  - holds a certificate of professional competence for the ordinary or accelerated initial qualification.

### Main Changes to the Status Quo

- ▶ Until now, there has been legal uncertainty about the exemption provisions for the application of the Professional Drivers Qualification Directive. Now, the definitions will be more clearly worded.
- ▶ Until now, some Member States thought that the issue of separate driver qualification cards for periodic training courses completed in their territory, was optional. Now, they must expressly provide drivers from other Member States with confirmation of periodic training by way of separate driver qualification cards.
- ▶ Until now, Member States could refuse to recognise training courses indicated on driver attestations, for drivers from third countries driving for EU companies, where code 95 was not endorsed on the attestation. Now Member States have to recognise them.
- ▶ Until now, there was legal uncertainty about the rules on the minimum age for lorry and bus drivers, who are subject to the Professional Drivers Qualification Directive [2003/59/EC], as compared with the rules under the Driving Licence Directive [2006/129/EC]. It has now been made clear that the minimum age requirements under the Professional Drivers Qualification Directive take precedence.

### Statement on subsidiarity by the Commission

Journeys by lorry or bus are to a significant and increasing degree cross-border in nature. The different interpretations of the Professional Drivers Qualification Directive and the different practices applied by Member States negatively affect the functioning of the single market. The EU must ensure that the minimum level of training content in all Member States is consistent with road safety requirements (Art. 91 (1) (c) TFEU). (P. 3 et seq.)

### Policy Context

One of the aims of the “Policy orientations on road safety 2011-2020” [COM(2010) 389] and the Transport White Paper [COM(2011) 144; see [cepPolicyBrief](#)] is to significantly reduce accidents and injuries on the roads and to halve the number of road deaths by 2020. Central to this is the improvement of road safety education, driving lessons and driver training courses after acquisition of a driving licence.

### Legislative Procedure

1 February 2017 Adoption by the Commission  
 Open Adoption by the European Parliament and the Council, publication in the Official Journal of the European Union, entry into force

### Options for Influencing the Political Process

Directorates General:	Transport
Committees of the European Parliament:	Transport (leading), Rapporteur: TBA
Committees of the German Bundestag:	Transport (leading)
Decision-making mode in the Council:	Qualified majority (acceptance by 55% of Member States which make up 65% of the EU population)

### Formalities

Competence:	Art. 91 TFEU (Transport)
Form of legislative competence:	Shared competence (Art. 4 (2) TFEU)
Procedure:	Art. 294 TFEU (ordinary legislative procedure)

## ASSESSMENT

### Economic Impact Assessment

Removing legal uncertainty about the scope by way of **a more precise definition of the vehicles whose drivers are exempt from the Professional Driver Qualification Directive**, is appropriate. This also **helps to create a level playing field** as, until now, even commercial journeys by vehicles used for driving lessons could be undertaken by drivers without any proof of further periodic training.

The mandatory definition of the learning content of obligatory qualification courses and periodic training courses for drivers of lorries and buses is appropriate because the aim of sensitising drivers to dangers in the interests of road safety and of instructing them how to drive fuel efficiently and reduce CO<sub>2</sub> emissions can only be achieved if this content is included in the relevant courses, and if simply repeating one and the same module is not sufficient to pass a course consisting of several modules.

**The mandatory issuing of separate driver qualification cards** – where code 95 cannot be endorsed on the driving licence –, which must be recognised by all Member States, **ensures mutual recognition of periodic training courses for drivers from the EU. It also reduces the overall economic costs** because the costs of issue are lower than the additional costs, currently borne by drivers or employers, of complying with the periodic training requirements in the home country. **The requirement for mutual recognition of driver attestations for drivers from third-countries, even without code 95, solves the problem of a lack of mutual recognition of periodic training** for drivers from third countries, **without causing additional red tape.**

**Clarifying the minimum age eliminates unequal application of the law** by the Member States. This enables e.g. Spanish companies to employ younger drivers because they no longer have to comply with the minimum age in the Driving Licence Directive – which until now was authoritative under Spanish law. In addition, it increases the attractiveness of driving as a profession **and may help to remedy the lack of drivers and youth unemployment** in affected Member States.

### Legal Assessment

#### Legislative Competency

Unproblematic. The EU is empowered to issue measures to improve road safety (Art. 91 (1) TFEU). This includes establishing minimum standards for the qualification and training of professional drivers.

#### Subsidiarity.

Unproblematic. Due to the significant and increasing amount of cross-border journeys by lorry and bus, EU action does not breach the principle of subsidiarity.

#### Impact on German Law

German authorities currently only confirm the successful completion of the initial qualification and of periodic training courses by the endorsement of code 95 “provided that a German driving licence can be issued” (Section 5 (2) Professional Drivers Qualification Regulation, BKrFQV). Only in exceptional cases, “in order to take account of special regional needs”, are the Bundesländer empowered to permit, by way of legal regulation, the issuance of driver qualification cards to drivers (“frontier workers”) who (1) reside in another Member State, (2) are employed in Germany and (3) complete their periodic training in Germany (Section 8 (4) Professional Drivers Qualification Act, BKrFQG). These restrictions on issuing driver qualification cards would have to be abolished.

### Conclusion

A more precise definition of the vehicles whose drivers are exempt from the Professional Driver Qualification Directive, helps to create a level playing field. The mandatory issuing of separate driver qualification cards ensures mutual recognition of periodic training courses for drivers from the EU and reduces the overall economic costs. The requirement for mutual recognition of driver attestations for drivers from third-countries, without the Union code, solves the problem of a lack of mutual recognition of periodic training without causing additional red tape. Clarifying the minimum age for professional drivers eliminates legal uncertainty and unequal application of the law as between the Member States and may help to reduce youth unemployment and remedy the lack of drivers.