



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24.9.2003
COM(2003) 559 final

2003/0221 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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

(Codified version)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided¹ to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Directive 84/647/EEC of 19 December 1984 on the use of vehicles hired without drivers for the carriage of goods by road³. The new Directive will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

⁴ See Annex I, Part A of this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Directive 84/647/EEC and the instruments amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table contained in Annex II to the codified Directive.

↓ 84/647/EEC (adapted)

2003/0221 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article ~~71~~ thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the ~~European~~ Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

Whereas:

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- (1) Council Directive 84/647/EEC of 19 December 1984 on the use of vehicles hired without drivers for the carriage of goods by road⁴ has been substantially amended⁵. In the interests of clarity and rationality the said Directive should be codified.

¹ OJ C

² OJ C

³ OJ C

⁴ OJ L 335, 22.12.1984, p. 72. Directive as amended by Directive 90/398/EEC (OJ L 202, 31.7.1990, p. 46).

⁵ See Annex I, part A.

↓ 84/647/EEC Recital 1

- (2) From a macroeconomic point of view, the use of hired vehicles permits, in certain situations, an optimum allocation of resources by limiting the wasteful use of factors of production.

↓ 84/647/EEC Recital 2

- (3) From a microeconomic point of view, this possibility brings an element of flexibility to the organisation of transport, and thus increases the productivity of the undertakings concerned.

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- (4) This Directive should be without prejudice to the obligations of the Member States concerning the time-limits for transposition into national law of the Directives set out in Annex I, Part B,

↓ 84/647/EEC (adapted)

HAVE ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive:

- ☒ (a) ☒ “vehicle” means a motor vehicle, a trailer, a semi-trailer, or a combination of vehicles intended exclusively for the carriage of goods;
- ☒ (b) ☒ “hired vehicle” means any vehicle which, for remuneration and for a determined period, is put at the disposal of an undertaking which engages in the carriage of goods by road for hire or reward or for its own account on the basis of a contract with the undertaking which makes the vehicles available.

Article 2

- ☒ 1. ☒ Each Member State shall allow the use within its territory, for the purposes of traffic between Member States, of vehicles hired by undertakings established on the territory of another Member State provided that:
- ☒ (a) ☒ the vehicle is registered or put into circulation in compliance with the laws in the latter Member State;
- ☒ (b) ☒ the contract relates solely to the hiring of a vehicle without a driver and is not accompanied by a service contract concluded with the same undertaking covering driving or accompanying personnel;

☒ (c) ☒ the hired vehicle is at the sole disposal of the undertaking using it during the period of the hire contract;

☒ (d) ☒ the hired vehicle is driven by personnel of the undertaking using it.

☒ 2. ☒ Proof of compliance with the conditions ☒ referred to in paragraph 1(a) to (d) shall be ☒ be provided by the following documents, which must be on board the vehicle:

(a) the contract of hire, or a certified extract from that contract giving in particular the name of the lessor, the name of the lessee, the date and duration of the contract and the identification of the vehicle;

(b) where the driver is not the person hiring the vehicle, the driver's employment contract or a certified extract from that contract giving in particular the name of employer, the name of the employee and the date and duration of the employment contract or a recent pay slip.

If need be, the documents referred to in (a) and (b) may be replaced by an equivalent document issued by the competent authorities of the Member State.

Article 3

1. Member States shall take the necessary measures to ensure that their undertakings may use, for the carriage of goods by road, under the same conditions as vehicles owned by them, hired vehicles registered or put into circulation in compliance with the laws in ☒ the Member State concerned ☒ , provided that ☒ the conditions laid down in Article 2 are satisfied ☒ .

↓ 90/398/EEC Art. 1 point 1

2. Member States may exclude from the provisions of paragraph 1 own-account transport operations carried out by vehicles with a total permissible laden weight of more than 6 tonnes.

↓ 84/647/EEC (adapted)

Article 4

This Directive shall not affect the regulations of a Member State which lays down less restrictive conditions for the use of hired vehicles than those specified in Articles 2 and 3.

Article 5

Without prejudice to Articles 2 and 3, this Directive shall not affect the application of the rules concerning:

- ⊗ (a) ⊗ the organisation of the market for the carriage of goods by road for hire or reward and own account and in particular access to the market and quota restrictions on road capacities;
 - ⊗ (b) ⊗ prices and conditions for the carriage of goods by road;
 - ⊗ (c) ⊗ the formation of hire prices;
 - ⊗ (d) ⊗ the import of vehicles;
 - ⊗ (e) ⊗ the conditions governing access to the activity or occupation of road-vehicle lessor.
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Article 6

Directive 84/647/EEC, as amended by the Directive set out in Annex I, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex II.

Article 7

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.



Article ⊗ 8 ⊗

This Directive is addressed to the Member States.

Done at Brussels, [...]

For the European Parliament
The President
[...]

For the Council
The President
[...]



ANNEX I

Part A

Repealed Directive with its amendment
(referred to in Article 6)

Council Directive 84/647/EEC

(OJ L 335, 22.12.1984, p. 72)

Council Directive 90/398/EEC

(OJ L 202, 31.7.1990, p. 46)

Part B

List of time-limits for transposition into national law
(referred to in Article 6)

Directive	Time-limit for transposition
Directive 84/647/EEC	30 June 1986
Directive 90/398/EEC	31 December 1990

ANNEX II

CORRELATION TABLE

Directive 84/647/EEC	This Directive
Article 1, introductory sentence	Article 1, introductory sentence
Article 1, first indent	Article 1(a)
Article 1, second indent	Article 1(b)
Article 2, introductory sentence	Article 2(1), introductory sentence
Article 2, points 1 - 4	Article 2(1)(a) - (d)
Article 2, point 5, first subparagraph, introductory sentence	Article 2(2), first subparagraph, introductory sentence
Article 2, point 5, first subparagraph, points (a) and (b)	Article 2(2), first subparagraph, points (a) and (b)
Article 2, point 5, second subparagraph	Article 2(2), second subparagraph
Article 3	Article 3
Article 4(1)	Article 4
Article 5, introductory sentence	Article 5, introductory sentence
Article 5, first indent	Article 5(a)
Article 5, second indent	Article 5(b)
Article 5, third indent	Article 5(c)
Article 5, fourth indent	Article 5(d)
Article 5, fifth indent	Article 5(e)
Article 6	_____
Article 7	_____
Article 8	_____
_____	Article 6
_____	Article 7

Article 9

Article 8
Annex I
Annex II
