



## **CORTE HOW TO #4**

# **Differentiate between ERRU, Risk Rating, and Good Repute**

©CORTE 2024 – All rights reserved

## EU MEMBER STATES HAVE FOUR SEPARATE OBLIGATIONS:

<p><b>1. Keep a national electronic register on road transport undertakings of your country.</b></p>	<p>Member States are required to keep a national electronic register of <b>road transport undertakings authorised by them</b> to engage in the occupation of road transport operator. (See Article 16.1 of <a href="#">Regulation (EC) No 1071/2009</a>).</p> <p>The national electronic register must include a minimum set of data on the transport undertaking, including details of serious infringements of specific EU laws committed by the undertaking within its Member State of registration or in another Member State. (See Article 16.2 of <a href="#">Regulation (EC) No 1071/2009</a>).</p>
<p><b>2. Assess good repute of road transport undertakings of your country.</b></p>	<p>Having a “good repute” is one of the requirements for engaging in the occupation of road transport operator. (Article 3 of <a href="#">Regulation (EC) No 1071/2009</a>).</p> <p>Member States are required to determine if an undertaking satisfies the requirements of good repute by considering the conduct of the undertaking, its transport managers, executive directors and any other relevant person as may be determined by the Member State. (See Article 6.1 of <a href="#">Regulation (EC) No 1071/2009</a>).</p>
<p><b>3. Establish Risk Rating for road transport undertakings of your country as per the common formula.</b></p>	<p>Member States are required to introduce a risk rating system for transport undertakings. (See Article 9.1 of <a href="#">Directive 2006/22/EC</a>).</p> <p>For this purpose, a common risk rating calculation formula has been established by the European Commission through the <a href="#">Commission Implementing Regulation (EU) 2022/695</a>.</p>
<p><b>4. Connect your national electronic register to ERRU to share information on transport undertakings of your country, and use ERRU to share information on any serious infringements committed by transport undertaking of another country.</b></p>	<p>Member States must ensure that the national electronic registers are interconnected and accessible, to share information on the road transport undertakings of their country. (Article 16.5 of <a href="#">Regulation (EC) No 1071/2009</a>).</p> <p>Member States must exchange information on convictions and penalties for any serious infringements (of specific EU laws) committed by a transport undertaking registered in another Member State. Doing this will allow the information to be recorded in the national electronic register of the Member State where the transport undertaking is registered. (Article 18.3 of <a href="#">Regulation (EC) No 1071/2009</a>).</p> <p>For the above, European Commission has established the <i>European Register of Road Transport Undertakings or ERRU</i>. It offers several functionalities to Member States including –</p> <ul style="list-style-type: none"> <li>• sending a query to determine the fitness of a transport manager,</li> <li>• notifying the result of a check to the Member State of establishment,</li> <li>• checking the data of a transport undertaking, and</li> <li>• notifying member states that a transport manager has been declared unfit. (See <a href="#">Commission Implementing Regulation (EU) 2016/480</a>)</li> </ul>

INFRINGEMENTS TO BE TAKEN INTO ACCOUNT	FOR GOOD REPUTE	FOR RISK RATING*	FOR NATIONAL eREGISTER (ERRU)
<p><b>EU law Infringements</b> related to driving &amp; rest time and tachographs. These are listed in Annex III of <a href="#">Directive 2006/22/EC</a> (this annex has been updated by <a href="#">Commission Delegated Directive (EU) 2024/846</a>).</p>	✓	✓	✓
<p><b>EU law Infringements</b> related to rules on – working time, weight &amp; dimension, periodic roadworthiness tests &amp; technical roadside inspection, speed limitation devices, initial qualification and periodic training of drivers, driving licences requirements, transport of dangerous goods by road, access to the international road haulage market, access to the market for coach and bus services, animal transport, law applicable to contractual obligations (Rome I), and posting of workers in road transport. These are Listed in Groups 3 to 14 of Annex I of the <a href="#">Commission Regulation (EU) 2016/403</a> (this is an implementing act adopted as per Article 6(2a) of <a href="#">Regulation (EC) No 1071/2009</a>).</p>	✓	✓	✓
<p><b>National law infringements</b> of rules related to commercial law, insolvency law, pay and employment conditions in the profession, road traffic, professional liability, trafficking in human beings or drugs, and tax law.</p>	✓	✗	✗
	<ul style="list-style-type: none"> <li>• <b>Legal basis:</b> Article 6(1) of <a href="#">Regulation (EC) No 1071/2009</a></li> <li>• Only <b>definitive**</b> infringements are to be taken into account.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Legal basis:</b> Article 9 <a href="#">Directive 2006/22/EC</a>, Article 12(1) of <a href="#">Regulation (EC) No 1071/2009</a>, and Recital 4 of <a href="#">Commission Implementing Regulation (EU) 2022/695</a>.</li> <li>• Only <b>definitive**</b> infringements are to be taken into account.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Legal basis:</b> Article 16(2) (e) and Article 6(1)(b) of <a href="#">Regulation (EC) No 1071/2009</a>.</li> <li>• Infringements <b>detected</b> are to be taken into account. It is not necessary that they are <b>definitive</b>. **</li> </ul>

\* For RISK RATING infringements listed in Groups 3 to 14 of Annex 1 of the Commission Regulation (EU) 2016/403 are to be taken into account. The legal basis for this is Article 12(1) of [Regulation \(EC\) No 1071/2009](#) and Recital 4 of [Commission Implementing Regulation \(EU\) 2022/695](#). However, infringements of ‘national laws’ are not to be considered because categorization of severity of ‘national law’ infringements can vary in countries, and this can impact the comparability of risk ratings.

\*\* The infringements become **definitive** when they are no longer subject to review, and it is no longer possible to appeal the decision. (See European Commission’s [Frequently asked questions relating to the implementation of ERRU](#) and [Commission Implementing Regulation \(EU\) 2022/695](#) establishing the common risk rating formula).

## HOW TO Differentiate between ERRU, Risk Rating, and Good Repute



## Legal Text and References:

1. **Article 3 of Regulation (EC) No 1071/2009** – undertakings engaged in the occupation of road transport operator shall: (a) have an effective and stable establishment in a Member State; (b) be of good repute; (c) have appropriate financial standing; and (d) have the requisite professional competence.
2. **Article 6.1 of Regulation (EC) No 1071/2009** – Subject to paragraph 2 of this Article, Member States shall determine the conditions to be met by undertakings and transport managers in order to satisfy the requirement of good repute laid down in Article 3(1)(b).

In determining whether an undertaking has satisfied that requirement, Member States shall consider the conduct of that undertaking, its transport managers, executive directors and any other relevant person as may be determined by the Member State. Any reference in this Article to convictions, penalties or infringements shall include convictions, penalties incurred by or infringements of the undertaking itself, its transport managers, executive directors and any other relevant person as may be determined by the Member State.

The conditions referred to in the first subparagraph shall include at least the following:

- (a) that there be no compelling grounds for doubting the good repute of the transport manager or the transport undertaking, such as convictions or penalties for any serious infringement of national rules in force in the fields of: (i) commercial law; (ii) insolvency law; (iii) pay and employment conditions in the profession; (iv) road traffic; (v) professional liability; (vi) trafficking in human beings or drugs; and (vii) tax law; and
  - (b) that the transport manager or the transport undertaking have not in one or more Member States been convicted of a serious criminal offence or incurred a penalty for a serious infringement of Community rules relating in particular to: (i) the driving time and rest periods of drivers, working time and the installation and use of recording equipment; (ii) the maximum weights and dimensions of commercial vehicles used in international traffic; (iii) the initial qualification and continuous training of drivers; (iv) the roadworthiness of commercial vehicles, including the compulsory technical inspection of motor vehicles; (v) access to the market in international road haulage or, as appropriate, access to the market in road passenger transport; (vi) safety in the carriage of dangerous goods by road; (vii) the installation and use of speed-limiting devices in certain categories of vehicle; (viii) driving licences; (ix) admission to the occupation; (x) animal transport; (xi) the posting of workers in road transport; (xii) the law applicable to contractual obligations; (xiii) cabotage.
3. **Article 12.1 Regulation (EC) No 1071/2009** – Competent authorities shall regularly monitor whether undertakings which they have authorised to engage in the occupation of road transport operator continue to fulfil the requirements laid down in Article 3 of this Regulation. To that end, Member States shall carry out checks, including, where appropriate, on-site inspections at the premises of the undertaking concerned, targeting those undertakings which are classed as posing an increased risk. For that purpose, Member States shall extend the risk rating system established by them pursuant to Article 9 of Directive 2006/22/EC of the European Parliament and of the Council (2) to cover all infringements specified in Article 6 of this Regulation.
  4. **Article 16.1 Regulation (EC) No 1071/2009** – For the purposes of the implementation of this Regulation, and in particular Articles 11 to 14 and Article 26 thereof, each Member State shall keep a national electronic register of road transport undertakings which have been authorised by a competent authority designated by it to engage in the occupation of road transport operator. The data contained in that register shall be processed under the supervision of a public authority designated for that purpose. The relevant data contained in the national electronic register shall be accessible to all the competent authorities of the Member State in question.

By 31 December 2009, the Commission shall adopt a Decision on minimum requirements for the data to be entered in the national electronic register from the date of its setting-up in order to facilitate the future interconnection of registers. It may recommend the inclusion of the vehicle registration marks in addition to the data referred to in paragraph 2.

5. **Article 16.2 of Regulation (EC) No 1071/2009** – National electronic registers shall contain at least the following data: (a) the name and legal form of the undertaking; (b) the address of its establishment; (c) the names of the transport managers designated as meeting the requirements laid down in Article 3 relating to good repute and professional competence or, as appropriate, the name of a legal representative; (d) the type of authorisation, the number of vehicles it covers and, where appropriate, the serial number of the Community licence and of the certified copies; (e) the number, category and type of serious infringements, as referred to in Article 6(1)(b), which have resulted in a conviction or penalty during the last 2 years; (f) the name of any person declared to be unfit to manage the transport activities of an undertaking, as long as the good repute of that person has not been re-established pursuant to Article 6(3), and the rehabilitation measures applicable; (g) the registration numbers of the vehicles at the disposal of the undertaking pursuant to point (g) of Article 5(1); (h) the number of people employed in the undertaking on 31 December of the previous year, which shall be recorded in the national register by 31 March of each year; (i) the risk rating of the undertaking pursuant to Article 9(1) of Directive 2006/22/EC.

The data referred to in points (a) to (d) of the first subparagraph shall be publicly accessible, in accordance with the relevant provisions on personal data protection.

Member States may choose to keep the data referred to in points (e) to (i) of the first subparagraph in separate registers. In such cases, the data referred to in points (e) and (f) shall be made available upon request or shall be directly accessible to all the competent authorities of the Member State in question. The requested information shall be provided within five working days of receipt of the request.

The data referred to in points (g), (h) and (i) of the first subparagraph shall be available to the competent authorities during roadside checks no later than 12 months from the entry into force of the implementing act, adopted pursuant to paragraph 6, specifying the functionalities that allow for the data to be made available to the competent authorities during roadside checks.

The data referred to in points (e) to (i) of the first subparagraph shall only be accessible to authorities other than the competent authorities where those authorities are duly endowed with powers relating to supervision and the imposition of penalties in the road transport sector and their officials are sworn to secrecy or are otherwise under a formal obligation of secrecy.

6. **Article 16.5 of Regulation (EC) No 1071/2009** – Without prejudice to paragraphs 1 and 2, Member States shall take all necessary measures to ensure that the national electronic registers are interconnected and accessible throughout the Community through the national contact points defined in Article 18. Accessibility through national contact points and interconnection shall be implemented by 31 December 2012 in such a way that a competent authority of any Member State is able to consult the national electronic register of any Member State.
7. **Article 18.3 of Regulation (EC) No 1071/2009** – The competent authorities of the Member States shall exchange information on convictions and penalties for any serious infringements referred to in Article 6(2). A Member State which receives notification of a serious infringement referred to in Article 6(2) which has resulted in a conviction or a penalty in another Member State during the previous two years shall record that infringement in its national electronic register.
8. **Commission Implementing Regulation (EU) 2016/480** – Indicating the functionalities offered by ERRU.
9. **Annex I of the Commission Regulation (EU) 2016/403** – Providing a list of infringements related to working time, weight & dimension, periodic roadworthiness tests & technical roadside inspection, speed limitation devices, initial qualification and periodic training of drivers, driving licences requirements, transport of dangerous

goods by road, access to the international road haulage market, access to the market for coach and bus services, animal transport, law applicable to contractual obligations (Rome I), and posting of workers in road transport.

10. **Article 9 of Directive 2006/22/EC** – **1.** Member States shall introduce a risk rating system for undertakings based on the relative number and gravity of any infringement of Regulation (EC) No 561/2006 or of Regulation (EU) No 165/2014 or of national provisions transposing Directive 2002/15/EC that an individual undertaking has committed. By 2 June 2021 the Commission shall, by means of implementing acts, establish a common formula for calculating the risk rating of an undertaking. That common formula shall take into account the number, gravity and frequency of occurrence of infringements and the results of controls where no infringement has been detected, as well as whether a road transport undertaking has been using the smart tachograph, pursuant to Chapter II of Regulation (EU) No 165/2014, on all its vehicles. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2) of this Directive. **2.** Undertakings with a high risk rating shall be checked more closely and more often. The criteria and detailed rules for implementing such a system shall be discussed in the Committee referred to in Article 12, with a view to establishing a system for the exchange of information on best practices. **3.** An initial list of infringements of Regulation (EC) No 561/2006 and Regulation (EU) No 165/2014 and their weighting of gravity is set out in Annex III. With a view to establishing or updating the weighting of gravity of infringements of Regulation (EC) No 561/2006 or (EU) No 165/2014, the Commission is empowered to adopt delegated acts in accordance with Article 15a of this Directive to amend Annex III to take account of regulatory developments and road safety considerations. The category for the most serious infringements should include those in which failure to comply with the relevant provisions of Regulations (EC) No 561/2006 and (EU) No 165/2014 creates a serious risk of death or serious personal injury. **4.** In order to facilitate targeted roadside checks, the data contained in the national risk rating system shall be accessible to all the competent control authorities of the Member State concerned at the time of control. **5.** Member States shall make the information contained in their national risk rating system directly accessible through interoperable national electronic registers as referred to in Article 16 of Regulation (EC) No 1071/2009 to competent authorities of other Member States in accordance with Article 16(2) of that Regulation.
11. **Annex III of Directive 2006/22/EC as updated by Commission Delegated Directive (EU) 2024/846** providing a list of Regulation 561 and 165 infringements and their gravity.
12. **Recital 4 of Commission Implementing Regulation (EU) 2022/69** – In establishing this formula, the Commission should take into account all infringements susceptible to affect the risk rating of the undertakings, which includes infringements of Regulation (EC) No 561/2006 of the European Parliament and of the Council, of Regulation (EU) No 165/2014 of the European Parliament and of the Council, of national provisions transposing Directive 2002/15/EC of the European Parliament and of the Council, and the infringements specified in Article 6 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council.

***DISCLAIMER: This CORTE document consolidates existing knowledge and provides recommendations to support national authorities and the road transport community in harmonized enforcement of road transport rules. It remains for National Courts and ultimately the European Court of Justice to interpret the Law.***