

## Summary of the query from the Office of the Irish Ombudsman - Q2/2016/JAP

Decision

**Case Q2/2016/JAP - Opened on 21/01/2016 - Decision on 01/04/2016**

### Facts and background

The query was submitted by a case handler in the Office of the Irish Ombudsman on 19 January 2016. It related to qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers. In the Irish Ombudsman's view some of the provisions of Directive 2003/59/EC [1] are contradictory.

Article 5(5) of the Directive states that 'drivers undertaking carriage of goods who broaden or modify their activities in order to carry passengers, or vice versa, and who hold a CPC [certificate of professional competence] as provided for in Article 6, shall not be required to repeat the common parts of the initial qualification, but rather only the parts specific to the new qualification'.

Article 8(5) of the directive states that 'drivers undertaking the carriage of goods or passengers by road who have completed courses on periodic training for one of the licence categories provided for in Article 5(2) and (3) shall be exempt from the obligations to undergo further periodic training for another of the categories provided for in those paragraphs'.

Article 5(2) of the directive relates to drivers of a vehicle for the carriage of goods (truck driver) and Article 5(3) relates to drivers of a vehicle carrying passengers (bus driver).

### Query

The European Ombudsman decided to open a query procedure in order to seek an opinion of the Commission's services as rapidly as possible. On 21 January 2016, the Commission was requested to reply to the following question:

1) whether the reading of Article 5(5) of Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers



contradicts the provisions of Article 8(5) of the said Directive?

## **Commission's reply**

On 29 January 2016, the Commission's Directorate-General for Mobility and Transport (MOVE) transmitted its reply. It explained that Article 5(5) of Directive 2003/59/EC regulates the general obligation of initial qualification for drivers who have a certificate of professional competence ('CPC') for either truck or busses and who broaden or modify the competence to also include the other category. Such drivers are not required to repeat the common parts of the initial qualification since they have already been subject to qualification covering all categories (explained in Annex I of the Directive). Those drivers would only have to show the additional qualification relevant for either trucks or buses.

It further noted that Article 8 of the Directive concerns the obligation for professional drivers to undergo periodic training each five years in total of 35 hours. The Directive does not prescribe specific topics for bus and truck driving respectively. Article 8(5) defines that drivers only need to undergo the periodic training once. If the driver has already undergone periodic training for one of the categories (bus or truck), he or she does not need to undergo periodic training also for the other category.

Consequently, the legislator has decided to regulate differently on initial qualification and periodic training in this regard. DG MOVE concluded that in its view the above mentioned provisions are not contradictory.

## **Feedback**

On 1 February 2016, the European Ombudsman sent an invitation to the case-handler at the Irish Ombudsman's Office to get back with possible feedback or observations on the Commission's reply. On 3 February 2016, the case-handler thanked the Ombudsman for the response with no further questions.

## **Closing procedure**

Taking into account the Commission's exhaustive interpretation of the relevant provisions and the fact that the case-handler at the Irish Ombudsman's Office was satisfied with the response, the European Ombudsman concluded that the query was successfully completed and closed the query procedure.

Lastly, the Ombudsman thanked the Commission for its co-operation as regards the new fast-track query procedure and its efforts to provide the reply within a short period of time.



[1] <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32003L0059> [Link]