

Regulation (EU) No 1214/2011 of the European Parliament and of the Council of 16 November 2011 on the professional cross-border transport of euro cash by road between euro-area Member States

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EUROPEAN PARLIAMENT AND OF THE COUNCIL

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on the professional cross-border transport of euro
cash by road between euro-area Member States

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 133 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank⁽¹⁾,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) The introduction of the euro has considerably increased the need for cross-border transport of cash by road. Within the euro area, banks, the large retail sector and other professional cash handlers should be able to contract with the cash-in-transit (CIT) company that offers the best price and/or service and to take advantage of the cash services of the nearest national central bank (NCB) branch or CIT cash centre, even if it is located in another Member State. Furthermore, a large number of Member States whose currency is the euro (hereinafter ‘participating Member States’) have arranged, or may want to arrange for, euro banknotes and coins to be produced abroad. The very principle of a single currency implies the freedom to move cash between participating Member States.
- (2) Due to the marked differences between Member States’ national law, it is generally very difficult to carry out the professional cross-border transport of euro cash by road between participating Member States. This situation is in contradiction to the principle of the free circulation of the euro and is to the detriment of the principle of freedom to provide services, which are among the fundamental principles of the European Union.
- (3) This Regulation is the response to the possible presentation of harmonisation instruments for the transport of cash, as expressed in Article 38(b) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market⁽³⁾.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 1214/2011 of the European Parliament and of the Council. (See end of Document for details)

- (4) With a view to improving CIT security for both the CIT security staff involved and the public, use of the intelligent banknote neutralisation system (IBNS) should be encouraged and, after a thorough analysis of the potential impacts by the Commission, should be capable of being developed in a manner entailing harmonisation of IBNS among the participating Member States, without prejudice to the rules set out in this Regulation on applicable transport arrangements.
- (5) In view of the particular dangers to the health and life of both CIT security staff and the general public that are associated with the activity of transporting cash, it is appropriate that the cross-border transport of euro cash be subject to holding a specific cross-border CIT-licence. Such a licence should be held in addition to the national CIT licence that is required in most participating Member States, the form of which this Regulation does not harmonise. It is, moreover, appropriate that CIT companies established in those participating Member States which do not have a specific approval procedure for CIT-companies in addition to their general rules for the security or transport sectors, demonstrate a minimum experience of 24 months of regularly transporting cash in the Member State of establishment without infringing national law before they are granted a cross-border CIT licence by that Member State. Such an approach would increase mutual confidence between Member States.
- (6) In order to avoid the duplication of obligations and the introduction of an unnecessarily burdensome procedure, it is furthermore appropriate to provide that the holder of a cross-border CIT licence is not required also to hold a Community licence for the international carriage of goods by road, as laid down in Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market⁽⁴⁾.
- (7) The professional cross-border transport of euro cash by road between participating Member States should fully comply with this Regulation or with the law of the Member State of origin, the host Member State and, if applicable, the Member State of transit.
- (8) This Regulation is designed to allow the professional cross-border transport of euro cash by road between participating Member States under conditions that guarantee the security of the transaction, the safety of the CIT security staff involved and of the public and the free movement of euro cash. In accordance with normal market practice, it is also appropriate to allow a limited value of non-euro cash to be transported in the same CIT vehicle.
- (9) In view of the specific requirements facing cross-border CIT workers, it is appropriate that they follow a specific cross-border training module as detailed in Annex VI. In order to avoid unnecessary duplication, the cross-border training module should not include the elements already covered by compulsory training required for carrying out the domestic CIT activity.
- (10) Due to the specific conditions in the CIT sector, it is difficult to organise safe multi-day euro cash deliveries. It is therefore appropriate that a CIT vehicle carrying out the professional cross-border transport of euro cash by road return to its Member State of origin on the same day.

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- (11) The Commission should put forward a proposal to amend the definition of ‘daytime’ and/or of the minimum required length of ad-hoc initial training laid down in this Regulation in the event that the social partners at Union level agree that another definition is more appropriate.
- (12) According to Regulation (EC) No 1072/2009, the number of operations that may be carried out in the host Member State following the international carriage from another Member State is limited to three cabotage operations within 7 days. However, due to the specific characteristics of the CIT sector, it is normal practice for a CIT vehicle to carry out a much larger number of euro cash deliveries/pick-ups per day. It is therefore appropriate to derogate from Regulation (EC) No 1072/2009 by not imposing any limit upon the number of euro cash deliveries/pick-ups that a CIT vehicle may carry out in a host Member State during a single day.
- (13) National rules governing the behaviour of CIT security staff outside a CIT vehicle and governing the security of euro cash delivery/pick-up locations should not cover the possible use of banknote neutralisation systems in combination with the transport of banknotes in a fully-armoured CIT vehicle not equipped with IBNS.
- (14) Article 1(3)(a) of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services⁽⁵⁾ covers posting situations where an undertaking provides transnational services on its own account and under its direction under a contract concluded between the undertaking and the party for whom the services are intended.
- (15) Considering the specific nature of CIT transport services, there is a need to provide for the analogous application of Directive 96/71/EC to all cross-border euro cash transport services in order to provide legal certainty for operators and ensure the practical applicability of the Directive in that sector.
- (16) Due to the specificity of the transport activities concerned and the occasional character of some of those activities, the analogous application of the minimum protection rules laid down in Directive 96/71/EC should be limited to the minimum rates of pay, including overtime rates, as referred to in Article 3(1)(c) of that Directive and these should be guaranteed for the duration of the whole working day in order not to impose an unnecessary administrative burden on the operators. As referred to in Directive 96/71/EC, and within the limits of the case law of the Court of Justice of the European Union, the concept of minimum rates of pay is defined by the national law or practice of the Member State where the worker is posted. Where, as a result of contracts, regulations, administrative provisions or practical arrangements, a CIT worker carries out cross-border transport for more than 100 working days in a calendar year in another Member State, it is appropriate that the minimum protection rules laid down in Directive 96/71/EC apply to such a worker *mutatis mutandis*.
- (17) The application of minimum protection rules in the host Member State should be without prejudice to the application of terms and conditions of employment which are more favourable to the worker under the law, collective agreement or employment contract in the worker’s Member State of origin.

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- (18) For the purpose of establishing the relevant minimum protection rules, it is appropriate that the provisions on information cooperation in Article 4 of Directive 96/71/EC apply *mutatis mutandis*. In this respect, Member States should be able to avail themselves of the administrative cooperation and exchange of information provided for in Directive 96/71/EC.
- (19) This Regulation is without prejudice to the application of Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community⁽⁶⁾.
- (20) In order to take into account technological progress and possible new European standards, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of the amendment of the technical rules on standards in regard to the IBNS, the armouring of CIT vehicles, bulletproof vests and weapons strong-boxes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and of the social partners. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (21) In accordance with the principle of proportionality, as set out in Article 5 of the Treaty on European Union, this Regulation does not go beyond what is necessary in order to achieve its objective, namely to facilitate the professional cross-border transport of euro cash by road between euro-area Member States,

HAVE ADOPTED THIS REGULATION:

SECTION 1

COMMON RULES GOVERNING ALL CROSS-BORDER TRANSPORT OF EURO CASH BY ROAD

Article 1

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (a) ‘participating Member States’ means those Member States whose currency is the euro;
- (b) ‘cross-border transport of euro cash by road’ means the professional transport, either for remuneration on behalf of third parties or carried out within a cash-in-transit (hereinafter ‘CIT’) company, by a CIT vehicle by road of euro banknotes or coins from a participating Member State, for supplying euro banknotes or coins to, or collecting them from, one or more locations in one or more other participating Member States, and in the Member State of origin – without prejudice to the transport of a maximum of 20 % of non-euro cash in relation to the total value of cash transported in the same CIT vehicle – where the majority of euro cash deliveries/pick-ups made by a CIT vehicle

during the same day is carried out on the territory of the host Member State, or, in the case of point-to-point transport, where the transport takes place between two different participating Member States;

- (c) ‘cross-border CIT licence’ means a licence delivered by the granting authority of the Member State of origin which authorises the holder to carry out the cross-border transport of euro cash by road between participating Member States in accordance with the conditions laid down in this Regulation;
- (d) ‘granting authority’ means the authority in the Member State of origin in charge of issuing the cross-border CIT licence;
- (e) ‘Member State of origin’ means the participating Member State in whose territory the CIT company is established. The CIT company is considered to be established if it is actually pursuing an economic activity, in accordance with Article 49 TFEU, for an indefinite period, through a stable infrastructure from where the business of providing services is actually carried out;
- (f) ‘host Member State’ means one or more participating Member States in which a CIT company provides the service of delivering/picking up euro cash other than its Member State of origin;
- (g) ‘Member State of transit’ means one or more participating Member States other than the Member State of origin which the CIT vehicle crosses in order either to reach the host Member State or to return to the Member State of origin;
- (h) ‘daytime’, when referring to transport, means transport carried out between 06.00 and 22.00;
- (i) ‘CIT security staff’ means the employees instructed to drive the CIT vehicle in which the euro cash is being carried or to protect its contents;
- (j) ‘CIT vehicle’ means a vehicle used for the professional transport of euro cash by road;
- (k) ‘vehicle of ordinary appearance’ means a CIT vehicle which has a normal appearance and does not bear any distinctive signs indicating that it belongs to a CIT company or that it is used for the purposes of transporting euro cash;
- (l) ‘point-to-point transport’ means transport from one secure location to another, without any intermediate stops;
- (m) ‘secured area’ means a delivery/pick-up point for euro cash located within a building and secured against unauthorised access in terms of equipment (anti-intrusion systems) and access procedures for persons;
- (n) ‘secure location’ means a location within a secured area, which is accessible to CIT vehicles and in which CIT vehicles can be loaded and unloaded in a secure manner;
- (o) to ‘neutralise’ a banknote means to mutilate or damage it by staining or by other means as specified in Annex II;
- (p) ‘intelligent banknote neutralisation system’ or ‘IBNS’ means a system that meets the following conditions:
 - (i) the banknote container continuously protects the banknotes by means of a euro cash neutralisation system, from a secured area to the euro cash delivery point or from the euro cash pick-up point to a secured area;