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Road haulage company transport manager: too much responsibility, too little salary

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Facts

A road haulage company needed a transport manager. The formal requirements for this position are quite straightforward – training as a freight forwarding merchant could be sufficient.

Since the transport manager role probably did not fully utilise the employee hired for this position, the road haulage company decided to allocate additional responsibility to him and required him to work as a driver at the same time. Therefore, the employee was on the road for most of his time and not at the company premises.

Is this in line with European Commission Regulation 1071/2009 and German law (the so-called "GüKG")?

Decision

According to the Administrative Court of Cologne, it is not that simple.⁽¹⁾ The Court held that the very fact that the employee was on the road for the vast majority of the time due to his main job as a driver, and not on site at the company, already represented an improper transfer of responsibility. The employee could not perform the control duties incumbent upon him. Additionally, it was stated that the salary paid to the employee (only slightly above the minimum wage) was not sufficient to correlate with his responsibilities. Therefore, the company lost its licence.

Comment

The position of a transport manager is an important one in a road haulage company. If it is not properly filled, the haulage company runs the risk of losing its licence and thus having to cease operations. Therefore, it is important to be careful in the selection of personnel and not try to save money in the wrong place.

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Endnotes

(1) Decision dated 16 December 2021, File No. 18 K 5371/18.