



UNION EUROPÉENNE DES TRANSPORTEURS ROUTIERS EUROPEAN ROAD HAULERS ASSOCIATION

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EUROPEAN COMMISSION'S PROPOSAL TO REVISE THE COMMUNITY LEGISLATION ON THE RECORDING EQUIPMENT IN ROAD TRANSPORT

UETR POSITION

INTRODUCTION

UETR is the European umbrella organization representing and defending the interests of more than 200.000 road transport undertakings (mostly Micro, Small and Medium Enterprises) from Western and Eastern EU Member States federations, with a total capacity of more than 430.000 commercial vehicles ¹.

This document provides UETR position on the European Commission's proposal ² amending Regulation n. 3821/85 on recording equipment in road transport and Regulation n. 561/2006 on the harmonisation of certain social legislation relating to road transport.

UETR presented a position paper on the review of tachograph legislation in reply to the public consultation launched by the European Commission on the 23 rd of December 2009.

UETR supported an improvement of the digital tachograph, but was not in favour of the introduction of a new kind of recording equipment, causing more confusion and extra expenses for entrepreneurs ³.

¹ Within the Union, 95% of the road haulage companies are micro-enterprises with less than 10 employees (small firms or one-man operations).

² Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council –COM(2011) 451 final

³ E. g. drivers would need extra vocational training in order to learn how to use the new device.



THE PROPOSAL

Despite the estimation of 515 million euros per year in terms of reduction of administrative burdens for companies, the European Commission recognizes that a full cost-benefit analysis has not been conducted. UETR believes that a thorough analysis would demonstrate that the introduction would cause a significant raise of costs.

UETR doubts that the reduction of making manual entries into the tachograph will save million euros per year. The saving of time is negligible, the introduction of the country code taking a few seconds only. On the other hand, it is to be expected that the cost of the vehicles which will have to be equipped with tachograph with GPS will increase significantly, as well as the cost of the apparatus needed to download data. Moreover, enterprises with vehicles with different types of recording equipment (analogue tachograph, different types of digital tachograph and the new one with GPS) will have to deal with a much more complex fleet management.

According to the European Commission, ¼ of the vehicles in the EU does not respect tachograph rules, but no distinction is made according to the nature and/or the gravity of the infringement, not considering for instance the minor ones. (e.g. not having enough printing paper for the tachograph).

Generalization risks consequently to create a misleading view of infringements committed by road haulers.

UETR highlights that the merge of drivers's card in the driving license would create huge problems in case of card's withholding by controlling authorities. The driver would lose possession of his driving license, being consequently neither able to work nor to drive his own private car. Mistakes made in professional life would potentially have an impact on the private life.

Officers from certain EU countries withhold the driving license more easily than their colleagues in other MS, and without a full knowledge of EU provisions⁴. The problem of the lack of harmonization of sanction at UU level must also be highlighted.

Proposed modifications to Regulation n.561/2006 relate to certain possible derogations only. It would be a missed opportunity not to pursue a broader adjustment concerning driving times and rest period of professional drivers making EU provisions more flexible.

Driving times and rest periods are too rigid and stringent, limiting the economic efficiency of road haulage sector: they have remained basically the same and unchanged for the past 40 years, while infrastructures lack capacity and congestion has tremendously risen.

⁴ Such problem leads to the need of harmonized training programs at EU level. E. g., see TRACE (Transport Regulators Align Control Enforcement- <http://www.traceproject.eu>) as best practice, aimed at introducing a more uniform interpretation of the rules. Enforcing authorities of all EU MS should successfully follow a TRACE-education. Lorry drivers need to meet the requisites of permanent education (for example about driving and resting times). It should be the same for police forces. Only controllers who have taken a special course should be given a controller card. An inquiry of Euro Controle Route already showed that controllers who are less familiar with such matter are more responsible for incorrect controls and unjust and excessive fines. In this way the control on the rules concerning the driving and rest times and tachograph should be reserved for control officers trained with a TRACE-like approach.



Under such a state of things, companies face a trade-off between economic activity (work) and EU rules compliance. A change in legislation can lead to a higher quality level in road haulage sector (e. g. more possibilities to fractionalize the break time are needed. This can be made possible by returning to the old article or by developing a new article offering more possibilities).

ARTICLES - COMMENTS

Article 2

Let. g The control card should always identify an individual controlling officer (and not only the controlling unit/authority) and should only be granted when the officer at hand can show that he is specifically trained in the field of driving and rest times and tachograph rules.

Let. j The proposed definition of “daily working time” violates the definitions of Directive 2002/15⁵. Article 3 of the working time directive explicitly states that breaks and resting times are not considered to be working time. While the driver is taking a break or his rest, he can freely dispose of his time. For that reason pauses and resting times are unpaid. In the definition of daily working time, all interruptions of the work and the resting times under 9 hours are included. This is absolutely unacceptable, meaning that split breaks and rest period would have to be remunerated. The impact on the costs would be huge and the European Commission’s analysis has not taken into account such aspect. There is no sector in the world where employees are remunerated to rest. The reference to split breaks and rest periods should be removed from art. 2.

Article 3

UETR opposes to the exemption from using the tachograph as stated in paragraph 2, because this would cause improper use of vehicles and unfair competition by those subjects that would benefit from this exemption. E. g. serious unfair competition is caused by (agricultural) tractors that are not used for agriculture, horticulture or forestry. For this reason, UETR calls for the abolition of the exemption for vehicles with a maximum velocity that does not exceed 40 km/h, found in article 3b.

Par. 4 allows MS to make it mandatory for domestic (intra national) transport to use the tachograph in other situations than the ones foreseen in the Regulation. This possibility should be limited to vehicles that are registered in the MS, to avoid that vehicles below 3500 kilograms maximum permissible mass from another MS would be obliged to have a tachograph built in. This would lead to hampering free movement of goods. If a lower limit is to be set, then registration on paper of the driving and resting times should be possible⁶. This would cause a major additional burden. Moreover, drivers and companies cannot be asked to know national exceptions in all European countries.

⁵ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities

⁶ E. g. as it is now the case in Germany with the ‘Tageskontrollblatt’.



Article 4

Considering the high costs of new tachograph with GPS, transport companies should have the right of choice between a tachograph with or without GPS. A general introduction of tachograph with GPS in new vehicles seems acceptable only under certain specific and limited conditions, in particular the uniformity in the controls on the driving and resting times within the European Union and complete harmonization of sanctions at EU level.

Article 5

The data that can be viewed from distance should be used only as a filter to choose the vehicles that could be picked out for further inspection. Collected data must never be used to immediately fine without stopping the vehicle and talk to the driver (complementary use of wireless communication for roadside checks).

Road transport sector has become in the last years more and more victim of criminality. The question should be asked if the tachograph with GPS can be adequately secured to avoid that criminals make a wireless connection with the tachograph to get information about the driving and resting times so that it would become easier for them to plan for the ideal moment to commit the crime. That could happen especially with drivers with fixed scheduled routes.

UETR does not oppose to the final objective of a better enforcement of EU social provisions but refutes that efforts are made towards controls on road haulers only: consequently, it calls for the same effort at EU level towards the entire supply chain and the full enforcement of the co-liability principle.⁷

Article 17

Par. 5 Control officers today have not a sufficient technical knowledge to be given the permission to break the tachograph's seal. In case of suspicion of fraud, the vehicle should better be brought to an approved workshop to be checked out and analysed. The workshop should be the only one with the right to break the seal.

Article 23

If public authority does not deliver cards on time, whatever the reason of the delay might be, then it should hand out a written statement to the applicant, so that the applicant can prevent fines. The obligation to handing out this kind of statement has to be inserted in the text of the Regulation. This statement should preferably be of a uniform model at EU level which has to be accepted by controlling authorities. The same for article 24 par. 4.

Article 30

Paragraph 5: the definition of period of availability as provided in Regulation 3821/85 should be kept. The proposed definition, referring to Directive 2002/15 is causing problems due to the fact that periods in

⁷ See art. 10 of Regulation n. 561/2006 par. 4 stating that consignors, freight forwarders, etc just "shall ensure" (it is too vague) that contractually agreed transport time schedules respect this Regulation (and not "shall be liable" as stated for transport undertakings at par. 3 of the same article)

which the mobile worker who is accompanying a vehicle transported by train or ferry will no longer be considered as resting time, as this is the case based on the Regulation 561/06 if the driver has access to a bunk or couchette.

Article 31

Paragraph 1 foresees that damaged driver cards should be kept on board, together with the spare papers/print outs, that are serving as a replacement. Today, damaged driver cards have to be handed over after finishing the trip (when the malfunction arose during the trip) to the authorities that are handing out the card. This is stated in article 16 par. 3 of Regulation 3821/85. If the malfunction is inherent to the card, then a new one is provided free of charge. It is not clear if in the new procedure the malfunctioning or damaged card can be handed to the authority at a later, to see what caused the malfunctioning of the card. In order to avoid misuse, it is advisable to send the damaged card back to the authority that handed out the card.

Paragraph 2: a) ii) these periods should be registered manually only when an analogue tachograph is used. With digital tachograph, these activities are registered by the tachograph and the driver only has to make a print out (at the beginning and at the end of the activities) on which he/she fills out his/her identifying information. This issue needs to be clarified in the text.

Article 35

Control card should only be handed out to the control officers that can demonstrate that they had specific training on EU social provisions.

Article 42

Road safety and social protection values must be valid for all users and all types of transport: consequently, in case of replacement of the radius of exemption for certain national derogations (proposed change of art. 13 of Regulation n.561/2006), the possibility to exempt certain transport services for hire or reward of certain types of goods (e. g. perishable goods- fresh vegetables, fresh fruits, food, delivering postal items etc) made by road haulers with a weak impact on national market (e. g. transport at local level- urban or regional) and with the same radius should also be allowed.

