



ZRZESZENIE MIĘDZYNARODOWYCH PRZEWOŹNIKÓW DROGOWYCH W POLSCE
ASSOCIATION OF INTERNATIONAL ROAD TRANSPORT CARRIERS IN POLAND
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Warszawa, 26.09.2014r

Mr. Siim Kallas
Vice-President of the European Commission
Commissioner for Transport
200, Rue de la Loi
Brussels, Belgium

Dear Sir,

The Association of the International Road Transport Carriers in Poland (ZMPD) is the biggest Polish association in the road transport. It was established in 1957 and affiliates more than 5000 transport operators dealing with international road transport of passengers and goods. ZMPD is an active member of the International Road Transport Union and the only association in Poland authorized by the Polish customs to distribute TIR Carnets and to guarantee within the TIR system. The main goals of our organization is to represent the Polish transport industry and to provide assistance, information and education to our members.

Since we are involved in transport matters and monitor all relevant changes or planned legislation which concerns transport we are highly concerned as regards fines and penalties implemented this summer in France and Belgium in case drivers spend their weekly rest period in vehicles.

As you may know on 21st June 2014 Belgium announced its explicit interpretation of Article 8 of Regulation 561/2006 on the harmonization of certain social legislation relating to road transport and adopted new royal decree that forbids spending the regular weekly rest in the cabin of vehicles and imposes a possible fine of € 1800 for doing so. It is confirmed that in case there is no immediate payment, the authorities can block the vehicle, request a refundable deposit or if the fine is not paid within 96 hours, the vehicle can be confiscated. The case can also be presented to a judge where, in case of a verdict of guilt, the fine can reach € 60 000. On 11th July the French administration published the amendment of the Transport Code that forbids drivers to spend their regular weekly rest in the cabin of vehicles and imposes on transport operators a fine of € 30 000 and one year imprisonment in case these new rules are not properly applied. So far, there is no information on practical application

and enforcement of the new French legislation, the French enforcement authorities seem to have no or very little information how to apply this now restrictive law.

Both countries stated that since the European legislation in Article 8 of Regulation No 561/2006 clearly specifies that: “where a driver chooses to do this, daily rest periods and reduced weekly rest periods away from base may be taken in a vehicle, as long as it has suitable sleeping facilities for each driver and the vehicle is stationary,” it is legitimate to judge that regular weekly rest is excluded from this possibility and therefore it’s forbidden to spend this rest in the cabin.

Unfortunately we cannot agree with this interpretation. From our point of view there is no clear and specific provision in the said Regulation that explicitly forbids spending the regular weekly rest in the vehicle. We agree that for the sake of road safety and appropriate working conditions drivers should have the possibility to spend these rests at their home base however, long distance transports carried out by drivers from peripheral countries cannot be organized or planned in such a way to exclude completely these regular weekly rests from our drivers driving and rest time schedule. The decision taken by France and Belgium is against achievements reached so far and organizational solutions in international road transport. For years we developed technology to assure drivers comfortable and safe rest and to provide them with place to sleep of the best possible standard. The satisfaction of drivers was a common goal for designers, constructors, producers. Service providers in international road transport created coherent and well organized system that gives drivers open access to toilets and other convenience tools in order to improve their social working conditions. Thanks to that the international road transport developed and perfectly provided its service with full respect to drivers needs such as stately place to rest and sleep.

Allow me to underline the importance of Article 19 of the above mentioned Regulation which decides that: “Member States lay down rules on penalties applicable to infringements of this regulation but take all measures necessary to ensure that they are implemented. Those penalties shall be effective, proportionate, dissuasive and non-discriminatory.” I believe these penalties are certainly very effective however there is no doubt they are disproportionate and definitely discriminatory. What is more, € 30 000 penalty required by the French legislation seems to be out of all proportion to this kind of infringement which is sleeping in the cabin. This infringement was never listed amongst the most serious infringements in Annex IV of Regulation 1071/2009 however will now be punished more severely than not resting at all.

One can doubt if there was any impact assessment of this legislation done by France and Belgium. There is no infrastructure ready, there are no secure parking facilities available for vehicles transporting goods with hotels nearby or shuttle buses organized for drivers. France or Belgium never analyzed if perishable goods or dangerous goods can be left on regular parkings without permanent control or monitoring, insurance companies were never consulted if they accept that drivers leave the

vehicle with transported goods, never asked if their insurance contracts would cover such a risk. Please do not forget that such transport are often at risk of goods and fuel theft.

I have to bring to your attention possible negative consequences this legislation will bring to the European transport and citizens. The costs of transports will certainly increase, we will have more empty runs, extra kilometers driven, more CO2 emitted. Drivers unable to find a secure parking with accommodation will be exposed to unnecessary stress, cities nearby highways will soon be congested with trucks and drivers looking for secure parkings and hotels. The new legislation was accepted by governments but its practical implementation is left completely to the transport industry. This situation is unfair, may encourage other countries (like most recently Austria) to follow France and Belgium.

The Polish transport industry is very concerned such protectionism measures are nowadays implemented in the united Europe. We believe this legislation was drafted and proposed in order to become a useful tool against European competition in transport and to eliminate our drivers and transport companies from the European market. This initiative under popular umbrella of fight with social dumping introduces national protectionism, which is strictly against the cornerstones of the single market in Europe. From this perspective we all should condemn these initiatives.

Sincerely yours,



Jan Buczek

ZMPD President