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<Commission>{PETI}Committee on Petitions</Commission>

<Date>{27/03/2024}27.03.2024</Date>

<TitreType>NOTICE TO MEMBERS</TitreType>

Subject: <TITRE> Petition No 0098/2019 by S. M. (Bulgarian) on behalf of Stefi-Trans, bearing 13 signatures, on the checks of resting performed by the French authorities on Bulgarian haulier

 Petition No 0226/2019 by S. L. K. (Bulgarian), on behalf of S.K.L. Trans, on checks of resting performed by the French authorities on a Bulgarian haulier</TITRE>

**1. Summary of petition 0098/2019**

The petitioner representing a Bulgarian transport company complains about checking by some national authorities (French in this case) tachographs of the trucks and hotel billings of the drivers of these trucks, and about issuing high financial fines for not providing the bills. The petitioner recalls that the Regulation 561/2006 of the European Parliament and the Council of 15 march 2006 on the harmonisation of certain social legislation relating to road transport is currently under revision within the Mobility package I legislation and negotiations to obtain some derogations are on going, therefore these controls are inappropriate and unfair. In the petitioner’s opinion, these practices constitute a discrimination of the art. 21 of the EU Charter and violate citizens’ freedom of work and provide services across the MS.

**Summary of petition 0226/2019**

The petitioner representing a Bulgarian transport company complains about checking by French national authorities hotels’ billings of trucks drivers and about issuing high financial fines for not providing the bills. The petitioner points out to the fact that checks were performed massively on the East and Central European trucks’ drivers and that drivers cannot be held responsible for not keeping all previous hotels’ bills. In many cases, drivers use different means of rest (Airbnb or a friend’s place) and therefore cannot provide invoices. In the petitioner’s opinion, controlling and penalizing practices are discriminating, constitute a breach of the Article 21 of the EU Charter of fundamental rights on non-discrimination and violate EU citizens’ rights of freedom to work and to provide services across the EU.

**2. Admissibility**

Petition 0098/2019 declared admissible on 25 March 2019.

Petition 0226/2019 declared admissible on 18 June 2019.

Information requested from Commission under Rule 227(6).

**3. Commission reply**, received on 30 August 2019

Petitions 0098/2019 and 0226/2019

The Commission is well aware of this issue and is currently in contact with the French authorities regarding their control practices to enforce the ban on taking the regular weekly rest in the cabin.

The Commission would like to confirm that national enforcement authorities cannot require drivers to provide documents proving that their regular weekly rest preceding the roadside inspection was not spent in the vehicle. This is in accordance with Article 36 of Regulation (EU) No 165/2014[[1]](#footnote-1) which provides an exhaustive list of the records to be carried by the driver and that must be produced upon the request of an authorised control officer.

Hence, drivers can only be fined for non-compliance with this prohibition when they are caught having a regular weekly rest inside the vehicle at the time of the control.

Therefore, should operators have been affected by inappropriate control practices, they should appeal to the competent national authorities for reimbursement of imposed fines.

*Conclusion*

Based on the above, the Commission considers that the concerns of the petitioner are already addressed by the current legislation. Furthermore, the Commission is currently investigating those control practices to enforce the ban on taking the regular weekly rest inside the cabin with the French control authorities.

**4. REV Commission reply**, received on 7 June 2021

The Commission is aware of this issue and is in contact with the French authorities regarding their control practices to enforce the ban on taking the regular weekly rest in the cabin.

The Commission would like to confirm that national enforcement authorities cannot require drivers to provide documents proving that their regular weekly rest preceding the roadside inspection was not spent in the vehicle. This is in accordance with Article 36 of Regulation (EU) No 165/2014[[2]](#footnote-2) which provides an exhaustive list of the records to be carried by the driver and that must be produced upon request of an authorised control officer.

Hence, drivers can only be fined for non-compliance with this prohibition in case they are caught having a regular weekly rest inside the vehicle at the time of the control. Operators who have been sanctioned following inappropriate control practices may consider appealing against those sanctions, having regard to the relevant national procedures.

The Commission is still in contact with the French authorities and is monitoring this issue to ensure that the ban to take the regular weekly rest is enforced in a manner that complies with Union law.

*Conclusion*

At this stage, the concerns of the petitioner can be considered relevant as the Commission has taken action by contacting the French authorities and requesting them to end the practice referred to in this petition. The Commission is closely monitoring this issue and will take action if it is found that the enforcement practices by the French authorities continue to infringe Union law.

**5. Commission reply (REVISION)**, received on 27 March 2024

**Petitions 0098/2019 and 0226/2019**

*Commission’s observations*

Following the adoption of Mobility Package I ([[3]](#footnote-3)) in 2020, the Commission services have developed several guidance notes and Questions and Answers documents ([[4]](#footnote-4)) which confirm to Member States that enforcers cannot require drivers to provide documents proving that the weekly rest preceding a roadside inspection was spent in a suitable accommodation. These guidance notes specify that fines can be imposed only when drivers are caught, at the time of the control, taking the weekly rest inside the vehicle.

Moreover, according to the information received from the competent French authorities, national inspectors have been provided with clear instructions on the correct procedures for enforcing the ban from taking weekly rests inside vehicles, which exclude the request of documents to drivers and limit the imposition of fines to cases of direct verification by the officers.

*Conclusion*

The above is without prejudice to the fact that the driver may decide to show on a voluntary basis other documents, including hotel bills, in order to ease the roadside check or to rebut conclusions drawn by the authorities on the basis of specific circumstances that appear to suggest that the weekly rest has not been taken in a suitable accommodation.

1. Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport Text with EEA relevance, OJ L 60, 28.2.2014, p. 1–33. [↑](#footnote-ref-1)
2. Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport Text with EEA relevance, OJ L 60, 28.2.2014, p. 1–33. [↑](#footnote-ref-2)
3. () See, in particular, Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs (OJ L 249, 31.7.2020, p. 1), which replaced Article 8(8) of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1). [↑](#footnote-ref-3)
4. ()See Note on enforcement practices of Article 8(8) of Regulation (EC) No 561/2006 on the ban to take regular weekly rest periods in a vehicle and the answer to question 6 in Driving and rest times - Questions and Answers, respectively at

[https://transport.ec.europa.eu/document/download/a4fcb90b-16a7-4589-bbb5-b406ddd82924\_en?filename=2023\_note\_enforcement\_practices\_weekly\_rest\_periods.pdf](https://transport.ec.europa.eu/document/download/a4fcb90b-16a7-4589-bbb5-b406ddd82924_en?filename=2023_note_enforcement_practices_weekly_rest_periods.pdfa) and

<https://transport.ec.europa.eu/document/download/4f497075-9d3a-4867-a634-bf9ed878d4c8_en?filename=qa_mobipack_part_i_en.pdf> [↑](#footnote-ref-4)