



## Summary

# New regulation on driving times and rest periods

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Since 1969, a European regulation has been in place that imposes minimum requirements on the rest periods that lorry drivers take and places restrictions on their driving times. Three objectives were central to this regulation on driving times and rest periods: (1) harmonisation of the conditions under which companies compete so that honest competition is possible, (2) improvement in the working conditions of the drivers and (3) increasing road safety. In drawing up the new regulation 561/2006, an extra objective was added: (4) improving the monitoring and enforcement by the member states of the regulation on driving times and rest periods.

Regulation 561/2006 came into force on 11 April 2007. A comparison of this new regulation with the previous regulation (3820/85) teaches us that the changes in principle were rather limited. Together with the new regulation, however, the monitoring possibilities were also expanded, the fines were increased and the digital tachograph was introduced. For this reason, the new regulation has important consequences in Flanders for both companies and drivers. This can be seen from the case studies in 17 transport companies, and interviews with inspectors and secretaries for the trade unions. This resulted in an enumeration of personal experiences and perceptions on the part of the persons interviewed concerning bottlenecks related to the regulation.

### Honest competition between companies

Honest competition is only possible when companies play by the same rules, also with respect to driving times and rest periods. The case studies and interviews with inspectors, however, show that a number of exceptions provided for in the regulation for specific types of transport contribute to unfair competition. Vehicles with an MTM < 3.5 tonnes do not fall under the regulation, but are deployed for distribution in order to sidestep the regulation on driving times and rest periods. Farm vehicles are being increasingly used to transport building materials in order to sidestep the regulation on driving times and rest periods.

Especially for transport activities characterised by frequent stops (distribution, dockers, man manoeuvres, ...), the digital tachograph registers more driving time than the analogue tachograph. In order to ensure equal treatment of drivers during the transition phase from the analogue to the digital tachograph, guidance note 4 of the European Commission allows inspectors to apply a tolerance of maximum 15 minutes per driving period of 4 hours 30 minutes. In Practice, however, these guidance notes are not well known by managers, transport planners, drivers and inspectors.

Monitoring is an important instrument in ensuring that companies respect the applicable rules concerning driving times and rest periods. The risk of being caught for infringements to the regulation on driving times and rest periods is still small. Consequently, some companies “gamble” on no monitoring and in so doing are able to obtain a large economic advantage. Fraud is also not always detected or not sanctioned severely enough.

## **Working conditions of drivers**

In practice, it appears that drivers, based on the new regulation together with the expanded monitoring possibilities, are actually taking more breaks. This concerns breaks as well as daily and weekly rest periods. This extra rest, is not always quality rest.

In the case of transport over longer distances, the limited daily driving times sometimes require drivers to sleep at unsuitable times and places. This has to do with the type of activities these drivers perform: Their work consists chiefly and driving times and rest periods, and almost no other work or periods of availability. This means that their maximum driving time is reached early in the day. They are required to insert a daily rest period at that moment. Drivers who engage in transports with frequent stops, such as in distribution or dock work, experience problems especially with respect to breaks. The new rule for subdividing breaks, together with the tight schedule and often-limited time that certain destinations are accessible, means that these drivers regularly must rest at crucial working times. In a number of situations, the extra rest that drivers must insert is also more a source of stress and annoyance.

Improved observance of the regulation on driving times and rest periods is causing drivers to actually take more daily and weekly rest. This should be to the advantage of their social and family life. This extra rest, however, does not always occur at home. Improved observance of the regulation on driving times and rest periods after all also means that all driving time assumes greater importance for the company. If a driver drives home with the lorry in the evening to observe his daily rest, the driving time continues to tick. This is driving time that cannot later be used by the company.

Due to unforeseen circumstances, at the end of the day or week drivers regularly do not have enough driving time available to drive home and begin their rest period. Strict compliance with the regulation on driving times and rest periods would then mean that drivers must spend their daily rest period somewhere in a parking area close to home.

Especially drivers who engage in transport over longer distances sometimes are forced to spend their daily and even their weekly rest period in a parking area somewhere on the road. Finding a good place to rest and sleep, however, is not easy: the shortage of (quality) parking areas has been known for some time now. Comfort at these parking areas is often very limited (much noise, danger of hold-ups and theft, limited toilet facilities, no eating establishments, ...) and insufficient to make possible a quality rest period. The uncertainty that exists in practice concerning the exception in the case of full parking areas causes drivers, out of fear for violating the regulation on driving times and rest periods, increasingly to stop on the approach and exit ramps of parking areas.

The regulation on driving times and rest periods is complex for drivers. The broad outlines of the regulation are generally known. Drivers, however, have greater difficulty with, for example, the principle of the period of 24 hours for calculating the daily rest period. Despite this complexity,

training on (the changes to) the regulation on driving times and rest periods and the digital tachograph remains very limited in most companies.

The new regulation on driving times and rest periods, and stricter monitoring thereof, gives drivers less freedom to organise their work themselves. But activities during the rest periods are also restricted. The exception for non-commercial goods transport is limited to lorries with an MTM < 7.5 tonnes. Due to this, participation in truck shows or the performance of volunteer work with the lorry during the rest periods is no longer possible. The digital tachograph reinforces still further this feeling of strict monitoring. The registration of driving times and rest periods. While in practice these infringements are not always sanctioned, they give the drivers the feeling of being very closely monitored.

## **Road safety**

The case studies and interviews with inspectors indicate that in recent years companies are paying more attention to driving times and rest periods. Transport planners take greater account of the regulation on driving times and rest periods when planning routes. Companies explicitly ask their drivers to respect driving times and rest periods, and also monitor this. Yet most companies provide only very limited training. And in the case of urgent transports, companies and drivers are still under pressure to handle these, even if it means a violation of the regulation on driving times and rest periods. A small group of companies and drivers systematically ignore the regulation on driving times and rest periods. Fraud with the tachograph is not always detected. But the small risk of being caught also ensures that these drivers and companies are able to obtain a considerable economic advantage.

A change in mentality is also noticeable among drivers: drivers in recent years have become more aware of their responsibility with respect to driving times and rest periods. Because more driving also means greater income, drivers are sometimes tempted to exceed the maximum driving times.

The regulation on driving times and rest periods occasionally leads to unsafe situations. Drivers sometimes must drive at the moments they need to rest. Resting then means a loss of time for the company. In the case of traffic jams, fear of high fines leads drivers increasingly to park on the shoulder.

Strict legal compliance with the regulation on driving times and rest periods does not guarantee well-rested drivers. In addition to adequate rest, the concrete form given to the rest is also important. This is the driver's responsibility: his/her task is not only to transport goods, but also to do this in a safe way. However, external factors also have an important impact. For example, drivers are tied to a certain parking area and the available facilities.

According to drivers and managers, there is still not enough investigation into the causes of accidents with lorries. In addition to the driving times and rest periods, many other factors are also important, such as the incorrect use of cruise control and the performance of other activities while driving.

## Better monitoring and enforcement

The case studies and interviews with inspectors show that monitoring is not uniformly done in the different member states. The sanctions for the various infringements are not harmonized in Europe. What monitoring and how strictly it is performed varies considerably from member state to member state. But there are also differences between the different monitoring bodies and inspectors in Belgium. The digital tachograph also contributes to these differences. This device generates a list of violations to the minute, leading some inspectors to sanction down to the minute. These differences in monitoring and sanctions do not give an unambiguous signal to drivers and companies concerning the importance of compliance with the rules.

Much uncertainty related to monitoring can also be the result of ignorance concerning the regulation, the guidance notes associated with the regulation and the possible differences in interpretation on the part of all parties concerned: managers, transport planners, drivers and inspectors.

*Liselotte Hedebouw (2008), Nieuwe rij- en rusttijden in het beroepsgoederenvervoer over de weg, StIA/SERV, Brussels, November 2008*