Penalties for serious infringements against the social rules in road transport

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PURPOSE: to analyse the penalties for serious infringements against the social rules in road transport as provided for in the legislation of the Member States.

CONTENT: the report analyses the penalties for serious infringements against the social rules in road transport provided for in the legislation of the Member States.

The infringements concern two regulations. Regulation (EC) No 561/2006 contains very precise rules on the maximum driving times and the minimum rest periods and breaks for drivers engaged in professional transport. Regulation (EEC) No 3821/85 concerns the instalment and use of the tachograph.

26 Member States had informed the Commission of their rules at the time this report was being drawn up. Portugal has not yet complied with its obligations and is therefore involved in an infringement procedure.

The report examines the types of penalties imposed by Member States: financial penalties, immobilisation of the vehicle, driving bans and imprisonment. These penalties can also differ for drivers and for undertakings. A basic distinction can be made between Member States whose legislation does not specify any differences between the different infringements (Austria, the Czech Republic, Ireland, Luxembourg and the United Kingdom) and Member States whose legislation distinguishes between specific infringements and applies different levels of penalties to these infringements.

On the basis of information provided by Member States to the Commission, the report concludes that the **rules on penalties applicable to serious infringements of the social legislation vary appreciably between Member States** as regards the types of penalties, the level of fines and the categorisation of infringements.

While all Member States use fines as a penalty, not all of them provide for the immobilisation of vehicles or imprisonment, for example. In some Member States, withdrawal of a driver's driving licence (Bulgaria, Denmark, Greece, Italy and the United Kingdom) or driver card is possible (Slovakia).

When looking at how Member States grade the different types or levels of infringements, the situation becomes even more complex. The amounts of the fines vary significantly between Member States, from a fixed fine of €58.23 in Malta to €5 000 and more in Austria, Cyprus, Germany and Ireland. This means that **a maximum fine can be several times higher in one country than in another**. This disparity can partly be explained by the socio-economic differences between the Member States, which make the same fine dissuasive and proportionate for drivers and undertakings in one country, but not necessarily in another. However, this reasoning cannot be applied, for example, to the relatively high penalties in Spain or Hungary.

For infringements against rules on driving times and rest periods, it is clear which infringements must be considered more serious than others. However, for infringements against Regulation (EEC) No 3821/85, the categorisation of infringements varies considerably between Member States Some infringements are seen as serious infringements in one country, but not necessarily in another. For drivers and undertakings engaged in international transport, it is therefore very difficult to receive a clear message concerning the

gravity of possible infringements when they do not comply with certain provisions of Regulation (EC) No 561/2006 and Regulation (EEC) No 3821/85, as the penalties they risk in the different Member States give contradictory feedback.

The **Commission considers this situation to be unsatisfactory in terms of equal conditions for drivers and undertakings**. The new Annex to Directive 2006/22/EC, introduced by Commission Directive 2009/5 /EC, provides a basis for a common understanding of what should be considered as serious infringement. Member States are encouraged to take the necessary steps to provide for more harmonised application of the social rules in road transport and thus to improve observance of the social rules in road transport.

The Commission will continue to work on this issue, in particular by supporting dialogue between Member States concerning national interpretation and application of the social rules in road transport through comitology, and taking into account the limits of the competence that Member States and the legislators have decided to give to the Commission.

The report analyses the penalties for serious infringements against the social rules in road transport provided for in the legislation of the Member States, as required by Article 10 of Directive 2006/22/ECon minimum conditions for the implementation of social legislation relating to road transport activities.