

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

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The Commission has presented a report on the application of the derogation provided in Article 8(6a) of Regulation (EC) N° 561/2006 of the European Parliament and of the Council (12-day rule).

Regulation (EC) N° 561/2006 provides in its Article 8 that a driver should start a weekly rest period no later than at the end of six 24-hour periods from the end of the previous weekly rest.

However, Regulation (EC) No 1073/2009 introduced a derogation from this weekly rest provision. The new Article 8(6a) allows **drivers, who are engaged in a single occasional service of international carriage of passengers, to postpone the weekly rest period for up to 12 consecutive 24-hour periods** (hereinafter called the “12-day rule”) following a previous regular weekly rest, provided that specific conditions are met. The Regulation specifies that the Commission should closely monitor the use made of this derogation.

This report follows this monitoring obligation and provides **an overview of the use of the 12-day rule derogation** in the Member States and its perceived impacts in the context of the Regulation's main objectives

In order to collect the necessary information for this report, the Commission addressed a number of questions to the Member States in July 2012. The same questionnaire was also sent to the EU social partners in road transport, namely to the International Road Union (IRU) as the employers' organization and to the European Transport Workers' Federation (ETF) representing the workers in the sector.

The **questions dealt with the following** aspects in particular: (i) the statistics or other sources of information used by Member States to check the use of the derogation; (ii) road safety and the impact of the derogation on it; (iii) tourism promotion and the use of environmentally friendly means of transport; (iv) impact of the derogation on fair competition in the road transport sector, and (v) an assessment of drivers' wellbeing.

Of the 23 Member States that provided answers to the questionnaire, **eight did not provide figures**, on the grounds of lack of information to support a quantifiable answer. The limited amount of quantifiable data received (15 cases) does not allow for an in-depth statistical analysis.

Despite the lack of factual data, following the analysis presented above, certain conclusions can be drawn :

1. **There is no concrete indication of a real negative effect on road safety:** The workers have expressed the view that the 12 consecutive daily driving periods create accumulated and disproportionate fatigue of the driver. However, no factual evidence was provided proving the worsening of road safety due to the use of derogation.
2. **Tourism, the environment, undistorted competition and the well-being of drivers:** the responses received include both positive and negative assessments, with **predominance of positive aspects indicated, except on the issue of the driver's quality of life**. On the latter one,

both sides of the industry indicated the negative consequences, but for different reasons and affecting different aspects of a driver's well-being.

The positive aspects of the derogation included: the reduction of costs for tourists, the use of better vehicles for such long, international trips, the increased opportunities for undertakings, including small ones and the better organisation of drivers' rest periods, with the possibility of spending more time at home. Much of the criticism concerned the restrictive character of the 12-day rule, whilst the concept of derogation was acknowledged as valuable.

3. **Contradictory nature of the answers received:** both sides of the industry expressed very different points of view on most of the questions. While the representatives of the employers identify the additional requirements of the derogation as being the main obstacle to its proper implementation, the representative of drivers considers any attempt to water down these provisions or extending the scope of the derogation as being unacceptable.

In **conclusion**, having analysed the points of view expressed by the Member States and the social partners and bearing in mind certain needs of the market such as simplification of the rules and cost-effective enforcement, the **Commission does not consider it appropriate to propose any amendments to the relevant legislation.**

The Commission will continue its efforts, in cooperation with Member States, to further enhance enforcement of the existing rules, and in particular with regard to the proper application of the derogations. It may revert to the issue should the need arise.