

IRU MEMORANDUM

ON BETTER REGULATION, ENFORCEMENT AND CONTROLS IN ROAD TRANSPORT IN EUROPE AND BEYOND



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I. ANALYSIS

With successive European Union (EU) enlargements and the recently launched complementary EU Neighbourhood Policy, the EU Internal market and its main rules are already covering or are expected to cover in the foreseeable future, the whole European continent and its immediate neighbouring regions and countries.

As a result, a fair and efficiently functioning market and rules, offering equal chances to all, become essential ingredients for the European transport and travel area, where transport and travel are key contributors to cultural understanding and economic prosperity.

The bulk of the EU road transport market has been liberalised in both goods and passenger transport, with the partial exception of cabotage, where some specific rules should be observed. Coach tourism in the EU has been fully liberalised, whilst international regular services by bus and coach still need authorisations but without quantitative restrictions.

The process of establishing common EU rules to regulate key international road transport activities has made considerable progress over the years in such areas as access to the profession, market access, social and technical rules. As far as the EU is concerned, the emphasis should now be put on simplification, clarification, harmonised implementation and above all better enforcement of existing rules, rather than creating new ones.

A similar process has been launched at the pan-European level with the ECMT quota of multilateral licences in freight transport, as well as the ASOR Agreement and the entry into force of its successor, the Interbus agreement on occasional passenger transport services by bus and coach. The idea of a similar agreement to cover international regular services by bus and coach has also been launched.

Remarkable progress has been achieved over the years in further creating and implementing wider international road transport related facilitation and cooperation instruments in the framework of the UNECE (e.g. the UNECE conventions such as the AETR Agreement on the Work of Crews of Vehicles Engaged in International Transport), the ECMT and the WTO.

Notwithstanding the progress in establishing a common regulatory framework for road transport in Europe and in particular the EU, *enforcement and controls have largely remained outside this facilitation and harmonisation mainstream*, mainly because of the prevailing *national* competences in this area. Typically, interpretation of legislation, enforcement, controls and sanctions are issues that are dealt with almost exclusively at national and sometimes even at sub-national (regional) level. Cooperation and information exchange between authorities is at its beginning even within the EU, whilst other stakeholders, such as the road transport industry, are only occasionally recognised as having a stake in the area of enforcement and control.

As a result, even the most advanced EU transport and travel market is segmented in many country-specific enforcement and control areas, thus undermining the efficiency of implementing legislation, whilst placing a disproportionate burden and liability on the shoulders of road transport operators to respect the rules and control authorities to enforce them.

The market is underperforming, the legislation is underachieving, drivers' productivity is reduced, and operators and authorities are experiencing increasing costs and

lower return on invested private and public resources: businesses, authorities, customers and society are all losing out.

The situation is further worsened by:

- a) the regulatory framework itself, which, in many cases, is still overlapping (multilateral and bilateral, EU and national), overcomplicated, restrictive, segmented (national sanctions/infringements, bilateral agreements) or, as in the case of international regular coach lines on the pan-European scale, simply missing.
- b) the inadequate system of fines where a driver is heavily sanctioned for purely administrative mistakes which do not pose any risks to road safety, such as simple omissions on control documents.

In a nutshell: there should be a clear and direct link between legislation, enforcement and controls.

II. WHERE DO WE STAND IN INTERNATIONAL ROAD TRANSPORT AND POSSIBLE NEXT STEPS?

a. Multiple market access regimes, different formalities and control documents

Currently, road freight and passenger transport operators established in the EU and offering international services have to operate under several regulatory regimes depending on their destination.

For road freight transport, four different regimes exist with a different degree of liberalisation: the EU market access rules, the ECMT multilateral licence regime, EU transit agreements and bilateral agreements.

A similar situation prevails in passenger transport by bus and coach. The four different regimes are EU market access rules, ASOR and the Interbus Agreements and bilateral agreements.

IRU requests:

- Reducing the number of regulatory regimes.
- Simplifying and harmonising wherever possible the different control documents leading, e.g. in the case of passenger transport, to one single model of international regular service authorization and one journey form for occasional services.
- Extending the coverage of multilateral agreements. For passenger transport, other potential Contracting Parties could be included in the Interbus Agreement. For freight transport, the scope of systems like the ECMT multilateral quota system could be extended in Europe and, possibly, beyond (in which case regional sub-schemes may be foreseeable, e.g. within the Black Sea region).
- Focusing on the elimination of illegal services in international regular lines by bus and coach as well as goods transport, including by better control on authorizations.
- Optimising the use of information technologies to facilitate the administration of documents.
- For passenger transport, studying the possibility of creating an international agreement for international regular services by bus and coach in Europe

and beyond, to facilitate and harmonise procedures, including authorizations and their issuing.

b. Community licence, certified true copies, bilateral permits and authorisations

The current system of Community licences applicable in the EU has led to over 100 different models of certified copies of Community licences carried on board vehicles.

In addition, existing bilateral permit or authorisation models are neither coherent nor applied in a harmonised way.

In some cases, standard models are still to be adopted like for example the ADR transport document or the CMR e-waybill. This creates an impossible situation for operators, drivers and control officers.

IRU requests:

- Reducing the flexibility allowed to EU Member States to produce certified true copies of Community licences, as well as other transport documents covered by one and the same regulation or international agreement.
- Studying the possibility to draw up and apply standardised models of bilateral permits and authorisations and rules of their issuance; put together a best practice guide for authorities and industry;
- Giving systematically precedence to international/multilateral standards and models, where they exist, over bilateral ones, including in domestic transport.
- Putting to good use information technology to facilitate the handling of control documents.

c. Varying national technical and safety rules – a direct concern for drivers subject to control and enforcement on the road

Many national rules still exist even in the EU in the field of technical and road safety, such as different maximum authorised axle and total weights, different maximum speed limits, as well as the wide variety of rules relating to the installation and wearing of safety belts (in touring coaches). Apart from the highly detrimental economic and operational impact of such divergent rules, the driver/ transport operator is highly vulnerable and lost in this jungle of uncoordinated regulation and thus easy target of (overzealous) enforcement action.

IRU requests:

- Further international harmonisation and simplification of the rules to facilitate proper controls and fair enforcement, including harmonisation of maximum authorized speed limits in Europe (e.g at 100 km/h for buses and coaches and at 90 km/h for trucks), and international standardization of rules on the use of traffic lanes by commercial vehicles.
- The fight against the multiplication, in certain countries and regions, of specific road signs and traffic signals, not harmonised at the international level.
- Promotion of best practices in the field of road safety, including those developed by the industry, such as the IRU Bus and Coach Safety Programme of 20 points and the bus/coach/truck/taxi driver road safety checklists.

d. Awareness and transparency of rules, their enforcement and modification

The EU has made substantial progress in establishing a system of consulting and informing the industry about the legislative process and its outcome. Yet, many things remain to be done in specific areas, such as the interpretation of rules, national particularities in enforcement, categorisation of infringements and sanctions, information on traffic bans etc.

The implementation of the new Regulation on EU Driving and Rest Time Rules is a case in point, where a common interpretation across the EU is needed for enforcement purposes. The IRU is working together with the Commission's formal Regulatory Adaptation Committee and other groups of stakeholders to ensure that the new rules are clearly understood by all relevant parties. Additional tools may need to be developed. Industry and enforcement officers widely recognise the need for a universally accepted form attesting to the fact that a driver has taken holiday or has been for other reasons unable to work on days falling within periods that enforcement officers must check for compliance with driving and rest time rules. This level of government and industry co-operation is a good precedent and should be extended generally.

Beyond the EU, with some minor exceptions at bilateral, intergovernmental and industry level, there is no such established international system and culture of consultation, information exchange and alerting the industry about enforcement, modification or entry into force of new rules.

As a result, lengthy road-side checks, under-informed operators, drivers and enforcement agents without minimum foreign language skills, divergent infringement/sanction regimes and unjustified penalties are everyday realities.

IRU requests:

- More transparency in the implementation and enforcement process in the different EU Member States and non-EU countries alike. Information on transposition dates, entry into force and national particularities, with Internet links to national laws, should be made readily available, including on the websites of the EU and other relevant intergovernmental bodies and institutions. Control officers should also be informed and aware of the entry into force of new EU rules in the various EU countries, or of provisions of international conventions, in cases of different transposition or entry into force dates.
- The creation of a universally accepted driver attestation form to certify periods of holiday or illness.
- The creation of a European system of information exchange on new and/or country-specific rules.
- The reinforcement of the competence and knowledge of control officers, to allow effective and fast controls.
- The potential for raising the awareness and knowledge of rules both of operators, drivers and control officers is practically unlimited and should be tackled in a genuine public private partnership, through training, including with the support of the IRU Academy network of training institutes, joint awareness campaigns, public-private MoUs and codes of conducts, common methodologies (checks, sanctions) and classifications of infringements (heavy, medium, low) etc.

e. Road-side checks

Road-side checks are indeed of great concern in road transport. This is particularly the case in collective passenger transport by bus and coach, where road-side checks are typically carried out in the presence of several dozens of passengers waiting for the check to be completed. Lengthy control procedures are extremely harmful also to smooth goods flows and seamless trade transactions.

IRU requests:

- Highly targeted road-side controls (focus on an agreed selection of main items¹) and improved exchange of information are needed between relevant control authorities inside and outside the country (avoid repetition of identical controls *en route*, e.g. by creating a common international/European road side check control form), including with licence-issuing authorities.
- The duration of controls should not exceed a reasonable time, e.g. comparable to that of controls on a private car.
- The post-control situation should also be clarified, in particular, in cases where a coach with passengers or perishable foodstuffs/live animals on board is immobilized.
- A dedicated code of best practice for control officers should also be developed to address the practical aspects of issues, such as information to be given to drivers/operators, the duration of controls etc., in order to guarantee smooth transport operations.
- Priority should be given to identifying and addressing the small minority of frequent and serious offenders rather than penalizing honest operators.
- Focus controls at parking areas and terminals, thus reducing controls at the roadside. (Regarding bus and coach transport, the creation and promotion of a European network of bus and coach terminals is advocated.)
- The place and role of controls at premises may also need to be redefined, in order to better target frequent/serious offenders.

f. Combating Illegal Employment Practices

Within the European Union there is a definite need to coordinate the efforts of national authorities in the fight against illegal employment in the road transport sector. Employment practises that clearly contravene EU and national social legislation damage employment in road transport as well as the overall image of the industry. Illegal practices may include the unlawful hiring of drivers, fraudulent non payment of tax and social security contributions or the phenomenon of the fake independent driver. It is in everyone's interest that legitimate and lawful conditions of employment are reinforced and strengthened within the sector. In some EU Member States such as Germany, public/private platforms bringing together all stakeholders have been established. This model should be replicated at EU level once the relevant stakeholders have been identified. The IRU, the European Commission, competent authorities - such as tax administrations - and other stakeholders - such as Trade Unions - need to work together to ensure that effective controls which enforce existing employment rules are properly applied.

¹ As a matter of fact, to avoid lengthy controls of brakes at the road side, some countries (D) have worked out a « safety certificate » for brakes, carried on board of the vehicle and proving that adequate controls have been performed; the certificate exempts the vehicle from such checks at the road side.

IRU requests:

- A forum should be established at EU level to review measures undertaken within EU Member States by both government and industry to combat illegal employment in road transport. Sharing of best practises EU level should help identify effective measures which can be used as recommendations and guidelines for use within other Member States.
- An EU platform should encourage the creation – where these do not exist - of similar forums at national level. These would develop and implement strategies on illegal employment and provide input to the EU platform.

g. Visas, border and passenger's identity control

The EU external borders moved further to the East and the problem of excessive waiting times at these borders remains up to now unresolved. In addition, security-related controls have intensified, leading to drivers' and passengers' identity checked not only at the external EU borders but also at some internal borders inside the Schengen area.

A touring coach with 50 or more passengers also takes time to check, causing significant delays on the time schedule. This again has a particularly negative impact, especially on international regular services which run according to a fixed timetable. Trade relations also suffer from excessive driver ID control delays.

In addition, as far as bus and coach transport is concerned, the Schengen Acquis places responsibility for the control of travel documents on the driver. This may facilitate the task of control authorities, but the driver is not legally competent to check travel documents and operational circumstances do not allow him to do so either. Drivers are also not properly trained to carry out identity checks.

Difficulties of obtaining visas for professional drivers represent another significant problem, leading to wasting private and public resources. The problem has emerged as one of the most enduring and harmful barriers for trade and travel in recent years.

IRU requests:

- Controlling identity documents should remain the ultimate responsibility of authorities and not that of bus and coach drivers.
- Border controls of trucks, buses and coaches should not exceed a reasonable time, e.g. 20-30 minutes for buses and coaches and 5 minutes for trucks.
- Controlling valid travel documents to enter or leave the Schengen area must be carried out solely at the borders of the Schengen area. No systematic controls should be carried out inside the Schengen area. Bus and coach operators should not be penalised for passengers who do not possess the necessary travel document for transports *inside* the Schengen area. In case an improperly documented passenger is found on board of a bus/coach, s/he should be taken in charge by the authorities and the bus/coach should be allowed to continue its journey.
- Control authorities and operators should work more closely together to try to find solutions to minimise the impact of intensified security-related controls on international road transport.
- Harmonisation of various control authorities' activities at borders by establishing joint controls, allocating special lanes for commercial goods and passenger traffic and above all by simplifying procedures.

- Where visas are unavoidable, standard procedures and simplified documents for issuing visas to professional drivers are needed, generalising the issuing of 1-year visas for reasonable fees and wherever applicable recognising a supporting role of trade associations. Due consideration should be given to the elaboration of an international driver ID card as the ultimate supporting evidence of visa applications in the framework of an appropriate international organisation, like the International Labour Office (ILO – building on the precedent of ILO Convention 185 on the seafarers' ID card)
- The role of jointly elaborated and agreed public-private MoUs and best practices, such as the IRU voluntary security guidelines for bus and coach, as well as goods transport operators and drivers, should be recognized and enhanced.

III. NEED FOR A EUROPEAN PUBLIC-PRIVATE PARTNERSHIP AND APPROACH IN ENFORCEMENT, CONTROLS AND PREVENTION

A simple and transparent regulatory framework, applied in a harmonised way is a necessary pre-condition to achieve better understanding, higher compliance and efficient enforcement of rules governing road transport.

It should also be recognized that the large majority of operators are honest and law-abiding and this should be reflected in the general approach to controls adopted by control officers, as well as in an adequate system of fines that targets the failures which pose a risk to road safety, transport security and the functioning of the market.

The lack of EU and any other intergovernmental competence in the field of controls and infringements/sanctions should not be a barrier to start progressively developing a European/international approach on enforcement, controls and prevention in a joint public-private partnership. This should involve all relevant stakeholders, such as national governments and control authorities (including bodies such as EUROCONTROL ROUTE, TISPOL and CORTE²), the European Commission, UN regional economic commissions, ECMT, the road transport industry, manufacturers and possibly other bodies having a stake in enforcement and controls.

The aim should be to come to a more efficient and fairer enforcement and control of existing rules, whilst at the same time targeting those that commit serious and repeated infringements of rules. Better information exchanges, including between licence-issuing authorities, who solely have the right to withdraw licences of frequent/serious offenders, as well as the exchange of best practices, training experience, joint awareness campaigns and a better use of IT should be given priority, with the support, where necessary, of EU and other international funding.

A multi-stakeholder Europe-wide/international Forum with various configurations dealing with different issues related to enforcement, control and prevention can certainly prepare the ground and accompany such a strategy. The feasibility of the creation of a European and/or International Road Transport and Control Agency should also be considered.

The current mid-term review of the White Paper on EU Transport Policy provides an excellent opportunity to launch the idea and establish the framework for such a partnership.

² CORTE stands for Confederation of Organisations in Road Transport Enforcement (<http://www.corte.be>), TISPOL stands for Traffic Information System Police (<http://www.tispol.org>), EUROCONTROL ROUTE is a European platform for road transport inspection services.

*Working together
for a better future*



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