

ROAD GOODS CARRIERS' HANDBOOK

Administrative and/or penal sanctions against foreign carriers in case of missing or non complying documents accompanying an international road transport operation

BELARUS

Information provided by: Association of International Road Carriers « BAMAP », Belarus

1. ENFORCING AUTHORITIES

In Belarus, foreign road vehicles may be checked by: officers of the Frontier troops of the Republic of Belarus; officers of the Internal Affairs Authorities (militia); officers of the Customs Authorities, officers of the Ministry of transport and communication; officers of the transport inspection, officers of the State Security Authorities; official courts (art. 3.6, 3.11, 3.12, 3.17, 3.25 of the Republic of Belarus' Procedural and Administrative Code on the Administrative offences).

2. SANCTIONS IN CASE OF MISSING OR NON-COMPLYING DOCUMENTS

2.1 Foreign carrier's documents (passenger and goods transport)

2.1.1 EU licence; ECMT authorisation; bilateral or transit transport authorisation; authorisation for non liberalised passenger transport services

- person(s) sanctioned: driver
- sanctions: fine ranging **from 20 to 50 basic rates**¹ in case of absence of the authorisation for carrying out the international road transportation (Art. 18.42 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: prohibition to enter the country, vehicle sent back to the foreign country

2.1.2 ADR permit

- person(s) sanctioned: driver, the official of the carrier
- sanctions: fine ranging **from 0,5 to 5 basic rates** in case of violation of safety requirements for transport of dangerous goods provided by the legislation (item 1 Art. 18.29 of the Republic of Belarus Code on Administrative Offences)

fine ranging **from 1 to 10 basic rates** in case of violation by the official of the carrier of the safety requirements for transport of dangerous goods provided by the legislation (item 2 Art. 18.29 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: prohibition to enter the country

¹ A basic rate as of October 25th, 2013 amounts to 130 000 BYB, but it is changed by the Government of the Republic of Belarus according to the inflation. The exchange rate as of October 25th, 2013 fixed by the National Bank of the Republic of Belarus is 1 USD = 9160 BYB; 1 Euro = 12 620 BYB

2.2 Driver's Documents (foreign vehicle)

2.2.1 Proof of ID

- person(s) sanctioned: none
- sanctions: none
- compromise settlement: none
- other measures: prohibition to enter the country (Art.27 of the Republic of Belarus Law N°105-3 dated 04.01.2010 "Legal status of foreigners and stateless persons on the territory of the Republic of Belarus")

2.2.2 Driving permit

- person(s) sanctioned: driver
- sanctions: notified warning or fine amounting to a maximum of **2 basic rates** in case of missing document confirming the authorization to drive the vehicle (Art. 18.18 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: none

2.2.3 AETR record sheet, tachograph discs, digital tachograph?

- person(s) sanctioned: driver
- sanctions: fine ranging **from 30 to 50 basic rates** in case of performance of the international transportation without a control device (tachograph) as well as violation of the law on using of the control device (tachograph), record sheets (tachogram) or a driver card, on keeping information regarding driving and rest periods of the driver that caused the distortion or loss of data regarding the driving and rest periods of the driver (item 1 of Art. 18.26 of the Republic of Belarus Code on Administrative Offences)

fine ranging **from 5 to 25 basic rates** in case of infringement of the driving and rest periods by a driver (item 2 Art. 18.26 of the Republic of Belarus Code on Administrative Offences)

fine ranging **from 2 to 5 basic rates** in case of infringement of the prescribed deadline of transferring information from the control device (tachograph) or a driver card into program-technical means (item 3 of Article 18.26 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: none

2.2.4 ADR training certificate (Belarus is a party to the ADR Agreement)

- person(s) sanctioned: driver, the official of the carrier
- sanctions: fine ranging **from 0,5 to 5 basic rates** in case of violation by the driver of the safety requirements for transport of dangerous goods provided by the legislation (item 1 Art. 18.29 of the Republic of Belarus Code on Administrative Offences)

fine ranging **from 1 to 10 basic rates** in case of violation by the official of the carrier of the safety requirements for transport of dangerous goods provided by the legislation (item 2 Art. 18.29 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none

- other measures: prohibition to enter the country, stopping of transportation

2.2.5 Document from employer certifying driver's employment

This document is not obligatory

2.3 **Foreign vehicle's documents**

2.3.1 Registration certificate (grey card)

- person(s) sanctioned: driver
- sanctions: warning or fine amounting to a maximum of **2 basic rates** in a case of driving an unregistered vehicle (item 5 Art. 18.12 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: none

2.3.2 Regular technical inspection

- person(s) sanctioned: driver
- sanctions: fine ranging **from 20 to 50 basis rates** in case of absence of the valid international certificate of technical inspection of the vehicle (Art. 18.42 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: none

2.3.3 ECMT technical certificate

- person(s) sanctioned: none
- sanctions: none
- compromise settlement: none
- other measures: none

2.3.4 Compulsory nationality plate

- person(s) sanctioned: driver
- sanctions: fine ranging **from 10 to 20 basis rates** in case of absence of the number plate or if the number plate was designedly hidden, faked up, or modified in a different way (item 6 Art. 18.12 the Republic of Belarus Code on Administrative Offences)

warning or fine amounting to a maximum of **2 basic rates** in case when the number plate is unreadable, non-standard or fixed with the infringement of the technical normative requirements (item 8 Art. 18.12 the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: none

2.3.5 ADR certificate of approval

- person(s) sanctioned: none
- sanctions: none
- compromise settlement: none
- other measures: prohibited entry or prohibition on further transportation of goods

2.3.6 ATP certificate of compliance

- person(s) sanctioned: none
- sanctions: none
- compromise settlement: no information

- other measures: prohibited entry or prohibition on further transportation of goods in case of out-of-date Certificate or failure to produce Certificate (forgotten, lost)

2.3.7 Hired vehicles

- person(s) sanctioned: none
- sanctions: none
- compromise settlement: none
- other measures: none

2.4 **Transport documents on board foreign vehicles**

2.4.1 Consignment note / CMR international consignment note

- person(s) sanctioned: driver, carrier
- sanctions: fine amounting to a maximum of **10 basis rates** in case of loss of the documents which should be produced to the Customs Authority (item 3 Art. 14.2 of the Republic of Belarus Code on Administrative Offences)

fine ranging **from 5 to 30 basis rates with confiscation** of the goods that are subject of an administrative offense, regardless of who they belong to, **or without confiscation** in case of submission documents to the Customs Authority, containing invalid data regarding the goods (except for the information about the classification code for single Commodity Nomenclature of Foreign Economic Activity of the Customs Union), or producing null documents², or using for these purposes forged identification means or original identification means relating to other goods and (or) vehicles, if such actions give grounds for exemption from Customs payments or for understating of the rate of Customs payments, or non-applying of a ban and (or) limitations established by the Customs legislation of the Customs Union. For the same infringement an individual entrepreneur is sanctioned by a fine ranging **from 10 to 100 basic rates with confiscation** of the goods that are subject of an administrative offense, regardless of who they belong to, **or without confiscation**; and for legal persons the fine ranges **from 20 to 500 basic rates with confiscation** of the goods that are subject of an administrative offense, regardless of who they belong to, **or without confiscation** (item 3 Art. 14.5 of the Republic of Belarus Code on Administrative Offences)

fine ranging **from 10 to 30 basis rates with confiscation** of the goods regardless of who they belong to **or without confiscation** in case of submission of documents, containing invalid data about the name of goods, their quantity, gross weight to the Customs Authority in order to obtain permission for departure of the goods from the Customs territory of the Customs Union if such permission is granted without performance of Customs formalities regarding goods and (or) vehicles. For the same infringement an individual entrepreneur is sanctioned by a fine ranging **from 15 to 100 basic rates with confiscation** of the goods regardless of who they belong to, **or without confiscation**; and for legal persons the fine ranges **from 30 to 500 basic rates with confiscation** of the goods regardless of who they belong to,

² Null documents are forged documents; documents obtained by illegal way; documents relating to other goods and (or) vehicles.

or without confiscation (Art. 14.4 of the Republic of Belarus Code on Administrative Offences)

- compromise settlement: none
- other measures: prohibition to enter the territory of the Republic of Belarus

2.4.2 Loading list (groupage)

- person(s) sanctioned: no information
- sanctions: no information
- compromise settlement: no information
- other measures: no information

2.4.3 ADR transport document, consignor's declaration, ADR security instructions

- person(s) sanctioned: none
- sanctions: none
- compromise settlement: no information
- other measures: prohibition of entry, stopping of the transportation in case of failure to draw up or produce one of these documents or submission of incomplete or non complying documents if these documents are required by the ADR Agreement, seizure of the documents, goods and vehicle

2.4.4 Container packing certificate (ADR)

- person(s) sanctioned: none
- sanctions: none
- compromise settlement: none
- other measures: cancelling of ADR Permit, import ban if the documents are required by the ADR Agreement

2.4.5 Transfrontier movement of waste document (Basel Convention)

- person(s) sanctioned: driver, carrier
- sanctions: fine ranging **from 10 to 50 basic rates** in case of infringement of the security rules during the transportation or of another type of handling of genetic engineering organisms, radioactive, bacteriological, chemical substances and wastes. For the same infringement an individual entrepreneur is sanctioned by a fine ranging **from 20 to 200 basic rates** and for a legal person the fine ranges **from 50 to 1000 basic rates** (item 1 Art. 15.4 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: none

2.5 **Excess load of foreign vehicle**

- person(s) sanctioned: driver
- sanctions: fine ranging **from 20 to 50 basis rates** in case of absence of a special permit for driving heavy or large vehicles provided by the legislation, or violation of the conditions set out in this permit, or deviation from the route specified in the permit (Art.18.43 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: no information
- other measures: While following heavy and (or) large vehicles without special permission the increased amount of the fee to be paid is charged for the part of the route covered. While following with special permission and deviating the vehicle from the approved route the increased amount of the fee to be paid is charged for the area passed along the deviated route (Item 6

of the Regulation, approved by Presidential Decree N°613 dated 26.11.2010)

2.6 Third-party insurance

- person(s) sanctioned: no information
- sanctions: fine of an amount equivalent to **20 basic rates** in case of absence of the contract of compulsory civil liability insurance for the vehicle owners valid in the Republic of Belarus (item 4 Art. 18.20 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: none

2.7 Obligation to produce required documents

- person(s) sanctioned: driver
- sanctions: fine ranging **from 2 to 50 basic rates** or administrative arrest in case of disobeying the legal order or request of the Officer of the public authority (Art. 23.4 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: none

2.8 Obligation to submit to a decision to immobilise the vehicle

- person(s) sanctioned: driver
- sanctions: fine ranging **from 2 to 10 basic rates** (item 1 Art. 18.21 of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: none

3. APPEALS AGAINST SANCTIONS

3.1 Appeals against sanctions pronounced by enforcing agents (police, customs, other)

- authority with which the appeal should be lodged:

Resolution of the Body running the administrative proceedings should be passed to the Superior Body (the Superior Official) or to the Court.

Resolution of the Court should be passed to the Superior Court (items 3 and 4 part 1 Art. 12.2. of the Republic of Belarus Procedural and Administrative Code on the Administrative Offences).

- time-limit to lodge an appeal:

The complaint (appeal) against the Resolution on an administrative offence may be lodged within 10 days from the date of the announcement of the Resolution. If a person in respect of whom the Resolution had been passed was not present during the proceedings the complaint (appeal) against the Resolution may be lodged by the person not later than 10 days from the date of the receipt of the Resolution. The Resolution on imposing of the administrative penalty in the form of arrest or deportation may be appealed within 5 days from the date of announcement of the Resolution (part 1 of Art.12.4 of the Republic of Belarus Procedural and Administrative Code on the Administrative Offences).

3.2 Appeals against sanctions pronounced by an authority reviewing fines (minor offences)

- authority with which the appeal should be lodged:

Resolution of the Body running the administrative proceedings should be passed to the Superior Body (the Superior Official) or to the Court (item 3 part 1 Art. 12.2. of the Republic of Belarus Procedural and Administrative Code on the Administrative Offences).

- time-limit to lodge an appeal:

The complaint (appeal) against the Resolution on an administrative offence may be lodged within 10 days from the date of the announcement of the Resolution. If a person in respect of whom the Resolution had been passed was not present during the proceedings the complaint (appeal) against the Resolution may be lodged by the person not later than 10 days from the date of the receipt of the Resolution. The Resolution on imposing of the administrative penalty in the form of arrest or deportation may be appealed within 5 days from the date of announcement of the Resolution (part 1 of Art.12.4 of the Republic of Belarus Procedural and Administrative Code on the Administrative Offences).

The complaint (appeal) against the valid Resolution on the administrative offence entered into force may be lodged within 6 months from the date when the Resolution on the administrative offence entered into force (part 3 Art. 12.11. of the Republic of Belarus Procedural and Administrative Code on the Administrative Offences).

3.3 Appeals against sanctions pronounced by a court reviewing misdemeanours (serious offences subject to penal sanctions)

- authority with which the appeal should be lodged:

Resolution of the Body running the administrative proceedings should be passed to the Superior Body (the Superior Official) or to the Court;

Resolution of the Court should be passed to the Superior Court (items 3 and 4 part 1 Art. 12.2. of the Republic of Belarus Procedural and Administrative Code on the Administrative Offences).

The Resolution on the Administrative Offence appealed to the Superior Body (the Superior Official) before it was entered into force may be reviewed by the Court in accordance with the complaint or prosecutor protest. The Resolution on the Administrative Offence appealed to the Court before it was entered into force may be reviewed by the president of the Superior Court. The valid Judgment on the administrative offence may be reviewed by the president of the Superior Court regardless of whether the complaint or protest was lodged (part 2 Art. 12.11. of the Republic of Belarus Procedural and Administrative Code on the Administrative Offences).

- time-limit to lodge an appeal:

The complaint (appeal) against the Resolution on an administrative offence may be lodged within 10 days from the date of the announcement of the Resolution. If a person in respect of whom the Resolution had been passed was not present during the proceedings the complaint (appeal) against the Resolution may be lodged by the person not later than 10 days from the date of the receipt of the Resolution. The Resolution on imposing of the administrative penalty in the form of arrest or deportation may be appealed within 5 days from the date of announcement of the Resolution (part 1 of Art.12.4 of the Republic of Belarus Procedural and Administrative Code on the Administrative Offences).

The complaint (appeal) against the valid Resolution on the administrative offence may be lodged within 6 months from the date when the Resolution on the administrative offence entered into force (part 3 Art. 12.11. of the Republic of Belarus Procedural and Administrative Code on the Administrative Offences).

4. SANCTIONS IN CASE OF INCORRECT LOADING OR STOWAGE

- person(s) sanctioned: driver
- sanctions: fine ranging **from 10 up to 30 basic rates** in case of intended damage of seals or locking devices of the vehicle and trailer coupled to it, breakage caused to container, load compartment or removal of seals or damage to separate packages of the load and their shell (Art. 18.34. of the Republic of Belarus Code on Administrative Offences)
- compromise settlement: none
- other measures: none

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