

# 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

## FRANCE

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**Fédération Nationale des Transports Routiers (FNTR), France**

### 1. ENFORCING AUTHORITIES

Documents on board foreign trucks in France may be checked by the following: police, State police, inland transport inspectors, riot police (*CRS - Compagnie Républicaine de sécurité*) and, within the limits of their powers, labour inspectors and customs officials including nuclear safety inspectors.

### 2. SANCTIONS <sup>1/</sup> IN CASE OF MISSING OR NON-COMPLYING DOCUMENTS

#### 2.1 Foreign carrier's documents

##### 2.1.1 EU Licence, ECMT Authorisation, Bilateral or Transit Transport Authorisation

- person(s) sanctioned: carrier (= entrepreneur)
- sanctions: fine of € 1500 in case of omission or loss of anyone of these documents (considered as a class 5 minor offence - Decree of 30.08.1999)  
one-year prison sentence and/or fine of € 15000 when a carrier does not have any of these documents available or when these documents are invalid, e.g. out-of-date, issued to another vehicle or to another company (considered as a misdemeanour - art. 25.II. a of 14.04.1952)
- compromise settlement <sup>2/</sup>: none foreseen
- other measures: for minor offences: deposit<sup>3/</sup> of € 750, possible vehicle immobilisation pending payment (art. L.121-4 of the Highway Code)  
for misdemeanours: deposit from € 1125 to 2250, possible vehicle immobilisation pending payment (art. L 121-4 of the Highway Code)

##### 2.1.2 ADR permit

- person(s) sanctioned: carrier, driver
- sanctions: fine of € 1500 if permit was forgotten or lost (considered as a class 5 minor offence – Decree n° 77-1331 of 30.11.1977 including subsequent amendments)

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<sup>1/</sup> C.f. below (item 4) the description of the sanction system in France.

<sup>2/</sup> In France, flat-rate fines only apply to minor offences according to classification 1 to 4 of a maximum amount of € 750 and provided that there is no other simultaneous offence in an amount exceeding € 750. Flat-rate fines are payable in accordance with the notice of violation, i.e. within 30 days of the offence being established or, very rarely, on the spot in return for a receipt.

<sup>3/</sup> Deposit = fine to be paid on the spot by foreign carriers performing transport operations in France.

one-year prison sentence and/or fine of € 6000 when carrier does not have this permit at all or when permit is invalid, e.g. out-of-date or replaced with another (considered as a misdemeanour - Law n° 75-1335 of 31.12.1975)

- compromise settlement: no flat-rate fine
- other measures: deposit from € 1125 to 2250

## 2.2 Driver's documents (foreign vehicle)

### 2.2.1 Proof of ID

- person(s) sanctioned: driver (generally speaking, the liable person in case of punishment is always the managing director and/or the entrepreneur itself except for Highway Code misdemeanour committed by the driver itself and when the offense is of personal behavior of the driver.
- sanctions: fine of € 3750
- compromise settlement: no information
- other measures: prohibition from entering French territory, prison sentence

### 2.2.2 Driving permit

- person(s) sanctioned: driver
- sanctions: fine of € 38 for failure to immediately produce permit (class 1 minor offence)  
fine of € 750 unless permit is produced within 5 days (class 4 minor offence. Art. R.233-1 of the Highway Code)  
fine of € 450 for non compliance with validity terms or non extension (class 3 minor offence. Art. R221-10 of the Highway Code)  
fine of € 1500 in case permit is not valid for the vehicle driven (class 5 minor offence); in case the offence is repeated (misdemeanour): 2-year prison sentence and fine of € 3750 (Art. R.221-1 and art. L. 221-2 of the Highway Code)  
2-year prison sentence, fine of € 4500 when permit has been cancelled, suspended or withdrawn (misdemeanour)
- compromise settlement: flat-rate fine of € 11 for failure to produce  
flat-rate fine of € 135 unless permit is produced within 5 days.  
flat-rate fine of € 90 if permit is not extended further to a medical check-up  
No compromise settlement foreseen in case of misdemeanour.
- other measures: deposit: € 68 in case of non compliance with permit validity terms or when permit is not extended further to a medical check-up,  
deposit: from € 1125 to 2250 in other cases

### 2.2.3 Record sheet (AETR), tachograph disc and/or the driver's license

- person(s) sanctioned: according to the facts, either the carrier or the driver or both
- sanctions: Fine of € 750 (class 4 minor offence - Regulation (EEC) N° 561/2006 of 15.3.06 and Regulation (EEC) N° 3821/85, Decree 86-11 of 17.10.1986, amended) in case:
  - tachograph does not comply with regulations (device not approved, maladapted, not submitted for regular inspection),
  - of incorrect use of tachograph (activity switch)
  - of failure to use tachograph (device not switched on, no disc),
  - of incorrect use of the discs (discs not approved, maladapted to the device, badly positioned, dirty, damaged, illegible, removed without legitimate reason, bearing no hand-written indications in the blank part, no hand-written documents as required in case of breakdown

of the tachograph, no discs for the period prior to the check)

fine of € 1500 for offences such as: failure to produce the disc supposed to be in the device, use of same disc for over 24h, use of several discs for the same day without legitimate reason (class 5 minor offence, fine doubled in case the offence is repeated - Decree n° 86-11 of 17.10.1986, amended)

one-year prison sentence, fine of € 30000 (Order n° 58-1310 of 23.10.1958, art. 3) in case of misdemeanour (failure to fit tachograph, tampering with or irregular use of tachograph, disc forgery)

- compromise settlement: flat-rate fine of € 135 for class 4 minor offence, none foreseen in case of more serious offence or misdemeanour
- other measures: deposit of € 135 for a class 4 minor offence  
deposit from € 1125 to 2250 in case of class 5 minor offence and possible vehicle immobilisation,  
deposit from € 2250 to 4500 in case of misdemeanour

#### 2.2.4 ADR training certificate

- person(s) sanctioned: carrier, driver
- sanctions: 150 à 300 € fine and/or 10 to 15 days of jail in case of unjustified absence and offenses to ADR's annexes A and B (modified Decree dated 30.11.1977)
- compromise settlement: none foreseen
- other measures: deposit: € 750, possible vehicle immobilisation

#### 2.2.5 Document from employer certifying driver's employment

Commission Regulation (EC) 484/2002 requires a driver's attestation when a UE company employs a driver of a third country outside the European Economic Area (EEA). Decree n°2007-801 of 11 May 2007 modify the French employment law by imposing to all workers of a third country (outside the EU or the EEA or Switzerland) to hold a work permit requested by the employer and delivered by the Prefect of Region.

- person(s) sanctioned: carrier
- sanctions: fine of € 1500 for missing employment certificate (class 5 minor offence - Decree n° 99-752 of 30.08.1999)
- compromise settlement: none foreseen
- other measures: deposit: € 750

### 2.3 **Foreign vehicle's documents**

#### 2.3.1 Registration certificate (grey card)

- person(s) sanctioned: carrier, driver
- sanctions: fine of € 38 for failure to produce certificate (forgotten, lost) (class 1 minor offence)  
fine of € 750 unless certificate is produced within 5 days (class 4 minor offence, art. R 233-1 of the Highway Code)
- compromise settlement: flat-rate fine of € 11 (for class 1 minor offences)  
flat-rate fine of € 135 (for class 4 minor offences)
- other measures: deposit: € 135

#### 2.3.2 Regular technical inspection

- person(s) sanctioned: carrier, driver
- sanctions: fine of € 750 (class 4 minor offence - Art. R.323-1 of the Highway Code)  
If the vehicle carries dangerous materials, failing to a technical visit is liable to penalty (for the carrier) of 1 year in jail and 30 000 € of fine (legislation dated 31.12.1975, amended).

- compromise settlement: Flat-rate fine reduced to € 90
  - other measures: no information
- 2.3.3 Compulsory nationality plate<sup>4/</sup>
- person(s) sanctioned: carrier
  - sanctions: fine of € 750 in case of missing plate (class 4 minor offence; art. R.317-8 of the Highway Code)  
fine of € 450 for non complying plate (class 3 minor offence; art. R.317-8 of the Highway Code)
  - compromise settlement: flat-rate fine reduced to € 45 (non complying plate)  
flat-rate fine reduced to € 90 (missing plate)
  - other measures: no information
- 2.3.4 ADR certificate of approval
- person(s) sanctioned: carrier, principal (obligation to check the ADR approval)
  - sanctions : 150 à 300 € fine and/or 10 to 15 days of jail in case of out-of-date certificate or failure of presentation (Decree dated 30.11.1977 amended)  
1 year in jail and 30 000 € fine in case of non-issuance of the certificate (offense, according to Law dated 31.12. 1975 amended)
  - compromise settlement: none foreseen
  - other measures: deposit from € 1125 to 2250, vehicle immobilisation
- 2.3.5 ATP certificate of compliance
- person(s) sanctioned: carrier, driver, principal (having acted with full knowledge of the facts)
  - sanctions: fine of € 1500 in case of out-of-date certificate or failure to produce document (forgotten, lost) according to the Order of 20.07.1998 (class 5 minor offence)
  - compromise settlement: none foreseen
  - other measures: no information
- 2.3.6 Hired vehicles
- person(s) sanctioned: carrier
  - sanctions: fine of € 1500 for failure to produce a copy of the vehicle hire contract or evidence of hire (class 5 minor offence; Decree of 30.08.1999)
  - compromise settlement: none foreseen
  - other measures: deposit 750 €
- 2.4 Transport documents on board foreign vehicles**
- 2.4.1 Transport operation follow-up document<sup>5/</sup> /
- person(s) sanctioned: carrier

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<sup>4/</sup> EU vehicles travelling on EU territory and bearing the European symbol as well as their country's initials as per EC Regulation 2411/98 are not required to display their country's distinguishing sign at the rear of the vehicle as foreseen by the UN Conventions on road traffic

<sup>5/</sup> This document may be replaced with a CMR consignment note provided that the latter include the compulsory indications stated in the "follow-up document", i.e.:

- upon vehicle's departure: date and time of arrival at the loading point requested by the consignor or loader, actual date and time of arrival at loading point, date and time of departure of the loaded vehicle, signature of the carrier, consignor or loader;
- at destination: date and time of arrival at the unloading point, actual date and time of unloading, signature of carrier and of consignee.

- sanctions: vehicle immobilisation is ordered if the missing follow-up document or missing compulsory items is concurrent with one of the three following infringements:
  - exceeding maximum authorised speed by over 20 km/h
  - exceeding maximum daily driving time by over 20%
  - daily rest time reduced to under 6 hours.
- compromise settlement: none foreseen
- other measures: no information

#### 2.4.2 Consignment note / CMR international consignment note

- person(s) sanctioned: carrier, driver
- sanctions: fine of € 1500 (class 5 minor offence; Decree of 30.08.1999)
- compromise settlement: none foreseen
- other measures: deposit 750 €,
  - + possible vehicle immobilisation in case the "follow-up document" or the CMR consignment note bearing the compulsory indications of the "follow-up document" is missing. Vehicle immobilisation is ordered if the absence of one of these documents is concurrent with one of the three following infringements:
    - exceeding maximum authorised speed by over 20 km/h
    - exceeding maximum daily driving time by over 20%
    - daily rest time reduced to under 6 hours

#### 2.4.3 Loading list (groupage)

- person(s) sanctioned: carrier
- sanctions: fine of € 1500 in case of inaccurate loading list or failure to produce it within 3 days (class 5 minor offence, Decree of 30.08.1999)
- compromise settlement: none foreseen
- other measures: deposit 750 €

#### 2.4.4 ADR transport document

Consignor's declaration The consignor who does not mention in the transport documents or on the packing or containing dangerous materials is potentially liable of 1 year in jail and 30 000 € fine (Law dated 31.12. 1975 amended).

##### ADR security instructions

- person(s) sanctioned: carrier, principal
- sanctions: Fine of 150 à 300 € and/or 10 to 15 days in jail for failure of non-issuance, of presentation, incomplete document or not in conformity (Decree of 30.11.1977, amended)
- compromise settlement: none foreseen
- other measures: deposit from € 1125 to 2250, vehicle immobilisation

#### 2.4.5 Container packing certificate

- person(s) sanctioned: carrier, consignor
- sanctions: fine of € 150 à 300 and/or 10 to 15 days in jail (Decree of 30.11.1977, amended)
- compromise settlement: none foreseen
- other measures: deposit from € 1125 to 2250, vehicle immobilisation

#### 2.4.6 Transfrontier movement of waste document (Basle Convention)

- person(s) sanctioned: carrier
- sanctions: 1-year prison sentence, fine of € 6000 for failure to draw up or to produce document (misdemeanour)
- compromise settlement: none foreseen
- other measures: deposit from € 1125 to 2250, vehicle immobilisation

### 2.5 **Excess load of foreign vehicle**

- person(s) sanctioned: principal, carrier
- sanctions: fine of € 750 in case excess load is established or wrong weight declared (class 4 minor offence, article R.312-2 of the Highway Code)  
fine of € 1500 if the excess load exceed 20% of authorised weight (class 5 minor offence, article R.312-2 of the Highway Code)
- compromise settlement: flat-rate fine of € 135 if the sanction does not exceed € 750
- other measures: vehicle immobilisation if the excess load is over 5% of authorised weight, recovery of evaded road tax (twice the amount of taxes due)

## 2.6 Third-party insurance

- person(s) sanctioned: driver
- sanctions: fine of € 150 for failure to immediately produce international Green Card (class 2 minor offence, article R.233-3 of the Highway Code)  
fine of € 750 unless document is produced within 5 days (class 4 minor offence, article R.233-3 of the Highway Code)
- compromise settlement: flat-rate fine reduced to € 22  
flat-rate fine of € 135 unless document is produced within 5 days
- other measures: no information

## 2.7 Obligation to produce required documents

- person(s) sanctioned: driver, carrier
- sanctions: 6-month prison sentence, fine of € 3750 for refusal to produce required documents (misdemeanour, art. 25.II. d/ of the Law of 14.04.1952, amended),  
3-year prison sentence, fine of € 45000 for use of altered private documents or in case of private document forgery (misdemeanour, art. 441-1 of the Penal Code)  
5-year prison sentence, fine of € 75000 for use of altered administrative documents or in case of administrative document forgery (misdemeanour, art. 441-2 of the Penal Code)
- compromise settlement: none foreseen
- other measures: deposit from € 1125 to 2250 for refusal to produce required documents,  
deposit from € 2250 to 4500 for use of altered documents or in case of document forgery

## 2.8 Obligation to submit to a decision to immobilise the vehicle

- person(s) sanctioned: carrier
- sanctions: one-year prison sentence, fine of € 15000 in case an immobilised vehicle is put into circulation or for refusal to submit to an administrative sanction pronounced in implementation of the LOTI law (misdemeanour. (art. 25.II. d/ and e/ of the Law of 14.04.1952, amended)
- compromise settlement: none foreseen
- other measures: deposit from € 1125 to 2250

## 3. APPEALS AGAINST SANCTIONS

### 3.1 Penal sanctions

#### 3.1.1 Appeals in case of minor offences

### 3.1.1.1 Time-limit to appeal against sanctions ordered by the enforcing agents (class 1, 2, 3 and 4 minor offences)

Appeals must be lodged with the Prosecutor of the Police Court within 30 days from the official report of the offence.

If the appeal is dismissed by the Police Court, the fine is increased by and amount to:

- € 33 (for class 1 minor offences)
- € 75 (for class 2 minor offences)
- € 180 (for class 3 minor offences)
- € 375 (for class 4 minor offences)

### 3.1.1.2 Appeals against sanctions pronounced by a judge in the form of a criminal judgment (class 5 minor offence)

Appeals (by opposition channel) must be lodged with the Prosecutor of the Police Court having issued the judgment within 30 days from the dispatch of the letter notifying the criminal judgment.

Appeals against decisions by the Police Court must be lodged with the Prosecutor of the Police Court within 10 days from the date of the decision or, in case of absence of the accused, within 10 days from notification of the decision.

### 3.1.2 Appeals in case of misdemeanours

Appeals against sanctions pronounced by a court of summary jurisdiction (misdemeanours) must be lodged with the clerk of the court's office within 10 days from the date of the judgment by the court of summary jurisdiction or, in case of absence of the accused, within 10 days from notification of the judgment.

## 3.2 **Administrative sanctions**

Administrative sanctions only apply to transport undertakings with headquarters in France. Sanctions consist of withdrawals or suspensions of licences and radiation to the register.

## 4. **SANCTIONS AS PER TRANSPORT REGULATIONS**

### a) **Penal sanctions**

The French penal system foresees three types of offences: minor offences, misdemeanours and crimes. Offences in the field of road transport fit into the former two categories.

#### Minor offences

Minor offences are distributed into five classes according to the seriousness of the offence. The fine, to be set by the judge, amounts to a maximum of:

- |        |                             |
|--------|-----------------------------|
| € 38   | for class 1 minor offences; |
| € 150  | for class 2 minor offences; |
| € 450  | for class 3 minor offences; |
| € 750  | for class 4 minor offences; |
| € 1500 | for class 5 minor offences. |

For the latter, provided that the regulations so foresee, the amount may be doubled in case of repeated offence and some fines may be complemented by a penalty revoking or restricting rights (suspension of the driving permit, vehicle immobilisation, confiscation of the instrument used to commit the offence).

Offences of the first 4 classes may be subject to flat-rate fines (compromise settlement). This means that, subject to payment of a flat-rate fine, the legal action abates. This procedure does not apply where several offences, one of which at least may not be subject to a flat-rate fine, were established at the same time.

This flat-rate may be reduced or increased in some cases:

- it is reduced for infringements to the Highway Code not relating to parking and only sanctioned by a fine, provided that payment is made within three days of the offence being established;
- it is increased if payment is made beyond 30 days.

In practice, payment may be effected:

- either by cheque;

- or by purchasing a penalty stamp to be affixed to a letter-card from a counterfoil register on which the offence is reported, and sending this letter-card to the reporting authority.

The rights of the defendant are protected since the offender is entitled to dispute the existence of the offence. Such dispute must be justified in a letter to be submitted to the public prosecutor of the police court. The offence is then judged in the same way as other offences not subject to a flat-rate fine.

### Misdemeanours

These are the most serious offences and come under the courts of summary jurisdiction. The relevant sanctions are much more severe than for minor offences. They consist of a fine whose amount, to be set by the judge, exceeds € 3,750 and may, for certain offences, reach € 75,000, with or without a prison sentence attached.

### Deposits

When the offence is a misdemeanour or a minor offence not subject to immediate payment, drivers of foreign companies not residing in France have to pay a deposit, i.e. an amount to guarantee payment of the fine to be subsequently set by the court.

The amount of the deposit is set by a decree by the Minister of Justice. For minor offences, the amount is set precisely as follows:

€ 11	for class 1 minor offences;
€ 35	for class 2 minor offences;
€ 68	for class 3 minor offences;
€ 135	for class 4 minor offences;
€ 750	for class 5 minor offences.

As for misdemeanours, the amount is set by the Public Prosecutor, within minimum and maximum ceilings set by a ministerial decree:

€ 125 to 2,250	for misdemeanours sanctioned by a maximum fine of € 15,000;
€ 2,250 to 4,500	€ for misdemeanours sanctioned by a fine of over € 15,000.

In the case of a flat-rate fine, no deposit is necessary if the flat-rate fine is paid on the spot, since the legal action then abates.

If several minor offences are established, the relevant deposits are cumulative. If several misdemeanours are established, only one deposit is payable, in an amount corresponding to the misdemeanour which carries the highest fine.

### Appeals

If the person reported considers that the sanction procedure is unjustified, they may assert their arguments:

- before the Public Prosecutor of the place where the offence was established (who is vested with prosecuting rights);
- if the Prosecutor has referred the matter to the court, before the judge at the hearing;
- if the court has passed judgment, by appealing the latter within 2 months.

## **b) Administrative sanctions**

These apply to companies residing in France; each area has a board for administrative sanctions (C.S.A). The board is chaired by a magistrate from the administrative or civil law judiciary. It is composed of representatives of the administration, of the industry, of employees and of users.

The role of these boards is to review resident companies with a record of repeated offences, to hear their representatives and to put forward to the Prefects relevant administrative sanctions against such companies.

Their task is definitely not to judge offences – this falls under civil law courts (police courts for minor offences and courts of summary jurisdiction for misdemeanours) – but rather to review the case of companies who have accumulated offences and whose behaviour is reprehensible or no longer complies with the rules of admission to the occupation.

These sanctions are pronounced by the regional Prefect for goods transport undertakings and by the departmental Prefect for passenger transport undertakings. The Prefect may withdraw



copies of the EU licence either temporarily or for good. The Prefect may also inflict a sanction immobilising the vehicles at the company's disposal.

Summary Picture Relating to Sanctions

<b>RANKING FINE</b>	<b>AMOUNT OF THE FINE</b>	<b>FLAT RATE FINE</b>	<b>FLAT RATE FINE INCREASED</b>	<b>FLAT RATE FINE REDUCED</b>	<b>DEPOSIT</b> As of January 2002 (Decree dated 19/12/2001)
1 <sup>ST</sup> CLASS	38 € maximum	11 €	33 €	NONE	11 €
2 <sup>ND</sup> CLASS	150 € maximum	35 €	75 €	22 €	35 €
3 <sup>RD</sup> CLASS	450 € maximum	68 €	180 €	45 €	68 €
4 <sup>TH</sup> CLASS	750 € maximum	135 €	375 €	90 €	135 €
5 <sup>TH</sup> CLASS	<b>1 500 € maximum</b> (3 000 € in case of repeat offence) / or confiscation, immobilisation, suspension of permit...)	NONE			<b>750 €</b>
<b>OFFENCE</b>	Maximum <b>75 000 €</b> and/or 6 months to 10 years in jail maximum	NONE			<b>1.125 € to 2.250 €</b> For offenses liable to 15.000 € maximum  <b>2.250 € to 4.500 €</b> For offenses liable to 15.000 € maximum

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