

AD/BR5656/OKA

Brussels, 14 December 2017

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## **IRU Position on the EU Mobility Package – Technical analysis and recommendations relating to driving and rest times**

**IRU technical analysis and recommendations to European legislators on the Commission proposal to modify the EU rules on driving and rest times and the digital tachograph**

### **I. BACKGROUND**

**IRU makes concrete proposals to create optimal safety, working and operational conditions**

IRU welcomes the Commission proposals on driving and rest times and on tachographs ([COM\(2017\) 277](#)). The key IRU priorities for this revision are the creation of a fairer competitive framework in the EU road freight, passenger transport and logistics markets, the simplification and clarification of existing rules, a more aligned implementation and application of the existing rules, and a more efficient, intelligence-led enforcement.

From this perspective, IRU welcomes the Commission's proposals to further clarify existing rules and to make them more enforceable, but regrets that in the process, new unclear provisions on driving and rest time rules have been tabled, which will increase administrative burden, reduce operational flexibility, and could ultimately negatively affect the business viability of road transport companies.

IRU is therefore making concrete proposals to EU legislators on how best to shape the future driving and rest time rules and rules on tachographs, with the objective to create optimal working and operational conditions for both drivers and companies, and indeed for our customers and passengers, which contribute to offering safer and increasingly sustainable road transport, logistics and mobility services to European citizens, businesses and visitors.

These IRU proposals are the result of an intensive intra-industry debate and are supported either unanimously or by a large majority of IRU members – the representative trade associations – from all EU Member States.

### **II. REGULATION (EC) NO 561/2006 ON DRIVING AND REST TIME RULES**

#### **1. Article 4 – Definition of non-commercial services: IRU supports Commission proposal and proposes further clarifications**

IRU welcomes the new definition proposed by the Commission of non-commercial carriage as being different from for-hire and reward and own account, and which is characterised by no remuneration, and no income generation.

However, IRU would like this definition to be further clarified to take into account recent developments, such as development of new business models and practices from the platform economy, and including taking into consideration that even in case

of indirect financial contribution, the service should be classified as “commercial transport”.

In addition, IRU pleads for a harmonisation of similar definitions, such as this one, across the relevant legal instruments proposed within the Mobility Package.

**2. Article 6.5 – Recording work other than driving and availability: IRU proposes more pragmatic approach and wording**

For IRU, the proposed amendment represents a strict approach (also related to the leave letter issue) where the driver is required to fully register his or her activities in the last 28-day period in the tachograph, retroactively. Not only does this approach reflect a fundamental and significant change in policy regarding the obligations for registration by a driver in such a way that administrative burdens are placed on the road transport industry, but it increases the risks of unintentional mistakes, which can result in serious infringement.

IRU therefore favours a more pragmatic approach than the Commission and proposes to amend the stricter Commission proposal by requesting drivers to register other work and availability before beginning to drive in-scope vehicles.

IRU also proposes to amend the (stricter) Commission proposal by requesting drivers to register other work and availability since the last weekly rest period. The issue is of particular importance for drivers in occasional passenger transport, who are often driving out of scope vehicles, due to the occasional/seasonal character of this activity. It is indeed very common during low season that coach drivers only carry out very occasionally services in the scope of the regulation, whilst often driving school buses out of scope. Therefore, the administrative load for such drivers to manually introduce these days would be very burdensome due to the numerous out of scope operations leading to a high risk of errors and fines.

**3. Article 7 – Second driver can take a break in a moving vehicle: IRU supports EC proposal and suggests more pragmatic wording**

IRU welcomes this clarification, explicitly stating that the second driver can take a break in a moving vehicle, since the current text is a source of varying interpretations and enforcement approaches across the EU.

In addition, IRU proposes a more pragmatic wording more in line with current [Guidance Note 2](#) and operational practice.

**4. Article 8.6 – Reference week and combination of reduced and regular weekly rest: IRU proposes a genuine four-week reference period**

The EC proposes a rolling reference period of four weeks, where the driver can take either four regular weekly rests or two reduced and two regular ones. In such a case, compensation has to be taken before the end of the third week.

However, in order to further improve enforceability and offer additional options for operators to better plan the transport operation, and for drivers to make a more flexible use of compensations for a better work-life balance, IRU proposes to further improve this EC proposal by introducing a genuine four-week reference period, with compensation for reduced weekly rest taken before the end of the fourth week, coupled with:

- additional facility for the driver to be able to combine, in addition to the Commission proposal, one regular weekly rest with three reduced weekly rests within the 4-week period, thus creating the possibility for the driver to spend a longer rest period at the end of the four-week period.
- increasing the reference period for the total accumulated driving time from (currently) two to four weeks and, respectively, from 90 to 180 hours.

**5. Article 8.7 – Attaching the compensation to a regular weekly rest only: IRU opposes EC proposal and proposes to keep current wording**

IRU is of the opinion that this Commission amendment represents a tightening of the regulatory framework when it comes to the obligation to attach the compensation to regular weekly rest only, and compensate the remaining rest before the end of the third week.

Therefore, IRU does not support this Commission proposal and proposes to keep the current wording of Regulation 561/2006, which offers the much needed, widely used, and undisputed so far, flexibility to attach the compensation to daily and reduced weekly rest as well.

**6. Article 8.8.a – EC proposes that 45-hour+ weekly rest must not be taken in a vehicle: IRU favours a more realistic approach and proposes wording, strategy and road map to move ahead**

For many years, IRU has been pointing out the lack of suitable parking and rest facilities in the EU, which is still the case today. With this background, the total prohibition of regular weekly rest in the vehicle would disrupt a major sub-section of the road transport industry, disrupt certain important transport routes and put the economic viability of many road transport SMEs at risk by increasing their costs.

In addition, the general wording used of “*suitable accommodation*” and “*adequate facilities*” leave room for interpretation and will certainly give rise to enforcement difficulties.

IRU’s preferred option therefore is:

- to not support the Commission proposal in its current wording and to propose a more flexible option, combining the possibility for drivers to spend regular weekly rest periods in the vehicle if a number of well-defined and easily-verifiable conditions are met, such as the vehicle being appropriately equipped and stationary, and the driver having access to a guaranteed minimum of sanitary facilities, such as toilet and shower.
- to request that the Commission carry out a mandatory study on adequate parking facilities, and organise, in cooperation with EU Member States, regular (yearly) reporting on the evolution of the situation, whilst at the same time supporting (including through dedicated funds) creation of adequate parking facilities, including through enhanced public-private partnerships.
- when clear evidence exists of sufficient capacities, one could resume discussions on a full ban of regular weekly rest in the vehicle.

**7. Article 8.8.b – Operator to plan work to allow driver’s return home: IRU proposes pragmatic wording and an extension of the reference period from three to four weeks**

The highly mobile character of the road transport sector inevitably requires, in case of certain long-distance transport operations, the absence of the driver from the base. This fact has been accepted as one of the features of the job of the long distance driver. Moreover, the planning of long-distance transport operations and customers’ demands make spending a certain amount of rest time away from base or in the vehicle inevitable.

In addition, it is unclear how to understand and interpret the “*home*” provision and how to prove to the enforcement authorities that the driver was at home.

- IRU proposes therefore to replace the term “home” with the term “country of establishment of the undertaking”, which already exists in the EU legislation, to ensure clarity and enforceability (via checks at premises).
- IRU notes with satisfaction the Commission’s explanation that the driver’s return to the country of establishment of the undertaking is not an obligation but a right/choice of the driver.
- For IRU, rules should encourage employers to organise long weekly rest for drivers in the country of establishment of the undertaking. Therefore, IRU

supports the Commission proposal requiring companies to organise the work of drivers in such a way as to allow them, if they so wish, to spend longer weekly rest periods at the country of establishment of the undertaking (or at another private location chosen by the driver), whilst extending the reference period from three (current Commission proposal) to four weeks.

**8. Article 9 – Making “ferry rule” more flexible: IRU supports EC proposal and proposes further improvement**

IRU supports the Commission proposal to allow drivers accompanying the vehicle transported by a train or a ferry, to interrupt no more than twice their reduced weekly rest for other activities.

However, IRU requests greater flexibility for drivers to be able to make use of this flexibility, not only in case of reduced weekly rest but also in case of regular weekly rest, to address specific situations of longer train/ferry journeys.

**9. Article 12 – “Reach suitable accommodation” clause: IRU requests further clarifications and proposes additional clearly described flexibility for drivers to be able to reach a suitable accommodation**

IRU strongly insists on the need for further clarifications, in particular regarding the meaning of “*to be able to reach a suitable accommodation*” and the criteria indicating when safety is not jeopardised, and proposes a limited, clearly described extension of daily driving time for drivers to be able to reach a suitable accommodation. IRU opposes any loss of flexibility that might arise through potential restrictive wordings or interpretations that might be proposed.

In addition, IRU supports a more benevolent enforcement approach to Article 12. Negligible vehicle movements, for example, when loading/unloading, boarding/alighting, related to the vehicle cleaning and technical maintenance, stop-and-go movements at borders, or in exceptional circumstances such as unforeseen events on EU borders, should be approached with professional discretion by enforcers and assessed in the context of the overall rest taken by the driver and the potential of such an infringement to endanger road safety.

Further consideration is needed to the possibility of addressing negligible movements, i.e., potentially via a change in the way infringements are categorised in Annex III of Directive 2006/22/EC. A workable and straightforward solution would be to add a new category to the classification of infringements, namely, “very minor infringements”, which could be dealt with through a “warning”, to cover cases of infringements related to “negligible movements” and minor administrative infringements, such as the absence of print rolls.

**10. Cooperation between Member States and information: IRU supports Commission proposals and requests better information**

IRU supports the Commission proposals aimed at enhancing information exchange and mutual cooperation between Member States, including on risk rating.

IRU also proposes that an obligation be introduced for the Commission to publish available information, such as on Member States temporary exceptions (Article 14, paragraph 2), and on penalties applicable in EU Member States (Article 19, paragraph 1), on its website.

**III. REGULATION (EU) NO 165/2014 ON TACHOGRAPHS**

**1. Article 34(7) of tachograph regulation – Manual recording of crossing border: IRU requests clearer and pragmatic wording**

IRU considers that, with the current wording, this new obligation introduced by the new Article 34(7) will add a significant burden to drivers, will increase the possibility of unintentional mistakes, and will be prone to diverging enforcement practices in

EU Member States. It will also most likely result in practical problems, most acute in passenger transport, where passengers will have to wait until a suitable place is found and country code inserted. In regions where many Member States border each other, it is not uncommon to cross the border many times during a working shift. Inserting the country code will significantly affect the available driving time, which should be compensated. Bottlenecks and delays could also occur around border crossings due to the demands of this requirement.

Therefore, IRU does not support the current Commission wording (“...on arrival at the suitable stopping place”).

IRU is ready to support the following wording: “...on arrival **at the first planned stopping place**”, leaving the initiative to the driver/company to decide on the next (planned) stop, such as when taking a break or a rest.

In addition, a provision allowing drivers to not enter the country code when crossing a country in transit only, should also be foreseen.

#### **IV. IRU REQUESTS THREE SPECIFIC DEROGATIONS FOR COACH TOURISM DRIVERS, TO ACCOMMODATE SPECIFIC TOURISM-RELATED OPERATIONAL AND DRIVING PATTERNS**

Coach tourism business has specificities and driving patterns, derived from the specific requirements of tourism businesses and customers, which make it very different from the rest of the road transport business. Therefore, IRU requests the introduction of three specific derogations for coach tourism drivers to fit the specificity and driving patterns of this business, whilst at the same time guaranteeing road safety and the well-being of drivers.

##### **1. Improved 12-day derogation, extended to national transport, without a single-trip restriction and full weekly rest before and after using derogation**

The current wording of the 12-day derogation has made it practically impossible for companies to make full use of it, in particular due to the “single trip restriction” and the lack of possibility to make use of the derogation at national level. An appropriate 12-day derogation, as proposed, would allow extended rest periods to be taken at home or at a place of the driver’s choice, as compensation for weeks with reduced rest. This would provide possibilities for a more satisfactory work-life balance (effectively, regular short holidays) for drivers. The same driver would be able to stay with the group for the duration of the tour, providing a source of confidence, trust, familiarity, group spirit. There is no evidence whatsoever that making use of the derogation would jeopardise road safety.

##### **2. Possibility for drivers to extend – twice per week – their daily duty time to 16 hours (currently 15 hours)**

Increasing, twice per week, driver’s duty time to 16 hours, without exceeding regulatory driving time and without reducing daily rest, will allow drivers to better meet specific tourists’ demands, such as late-night cultural events’ journeys, tourist group’s dinners at restaurants, unforeseen traffic situations (jams), allowing the driver to bring tourists safely and comfortably to hotels. Customer demands could therefore be better incorporated, making the service more flexible and more attractive. The service offer will become much more attractive to the general benefit of coach tourism and European tourist sites/cultural events, which would otherwise not be served, except by private car.

##### **3. Introducing a reference period of 13 weeks to address seasonality in tourism business**

The inability to reduce drivers’ weekly rest to 24 hours on a consecutive basis significantly limits coach tourism companies’ operational flexibility, in particular during tourist seasonal activity peaks. As a result, the coach tourism sector is losing market

share due to the failure of the current rules to reflect that. The proposed flexibility would enable the company to provide consistent service to customers whilst preventing unnecessary disruptions to the itinerary. Such flexibility would increase the attractiveness of this most safe, green, affordable and efficient means of doing tourism, without jeopardising road safety, since the usual pattern of driving of coach tourism drivers is different and more aligned with the requirements of tourists and their sightseeing preferences. The potential issue related to accumulated driver fatigue can be efficiently addressed by reducing, by 20 hours, the total accumulated time in the reference period of four weeks.

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