

# **Study on sanctions in the field of commercial road transport**

**- CONTRACT NO 2011/MOVE/D3/ETU/514-2011/SI2.612723 -**

**FINAL REPORT III**

February 2013

Submitted by:



**Contracted by:**  
Specific Contract No.  
MOVE/D2/SER/2011-  
363/SI2.602698

European Commission  
Directorate-General for  
Mobility and Transport  
DM 28  
Brussels, Belgium

**Contractor:**

Grimaldi  
Boulevard de Waterloo, 30  
Brussels 1000  
+32(0)25511201

Via Pinciana, 25  
00198 Rome  
+39 06844651

Via F.lli Gabba, 4  
20121 Milan  
+39 02 30309330  
[www.grimaldilex.com](http://www.grimaldilex.com)

**Main Authors  
of the Report:**

Francesco Sciaudone  
Dalila Frisani

**Sub-contractors:**

**Austria**  
Dr. Severin Glaser

**Bulgaria**  
Georgiev, Todorov & Co  
Parchevich Str., 27  
1000 Sofia, Bulgaria

**Cyprus**  
Andreas Neocleous & Co LLC  
Makarios III Avenue, 195  
CY-3030 Limassol, Cyprus

**Denmark**

Gorrissen Federspiel  
H. C. Andersens Boulevard 12,  
1553 Copenhagen V, Denmark

**Estonia, Latvia, Lithuania**

Sorainen AS

**Finland Sweden and Poland**

Magnusson Advokatbyrå  
Mäster Samuelsgatan 6  
Box 7413, SE -103 91 Stockholm, Sweden

**Germany**

Arnecke Siebold Rechtsanwälte  
Partnerschaftsgesellschaft  
Hamburger Allee 4 (WestendGate)  
60486

**Greece**

M. & P. Bernitsas Law Offices  
5, Lykavittou Street  
GR-10672 Athens, Greece

**Ireland**

Matheson Ormsby Prentice  
Sir John Rogerson's Quay, 70  
Dublin 2, Ireland

**Luxembourg**

Molitor  
Avocats à la Cour  
8, rue Sainte-Zithe  
P.O. Box 690  
L-2016 Luxembourg-City

**Malta**

Fenech & Fenech Advocates  
198, Old Bakery Street,  
VLT1455 Valletta, Malta

**Netherlands**

Kneppelhout & Korthals N.V.  
Boompjes 40  
3011 XB Rotterdam

**Portugal**

Abreu Advogados  
Av. das Forças Armadas, 125 - 12.º  
1600-079 Lisboa

**Czech republic, Hungary, Romania, Slovakia**

Kinstellar SCA

**Slovenia**

Law Firm Rojs, Peljhan, Prelesnik & partners o.p.,  
d.o.o.  
Tivolska cesta 48  
1000 Ljubljana, Slovenija

**Spain**

Amya Abogados  
Princesa, 61  
28008 Madrid, Spain

**United Kingdom**

McGrigors  
Old Bailey, 5  
London EC4M 7BA  
DX 227 London Chancery Lane, UK

**Professor John Alois Emericus Vervaele****Disclaimer:**

This report was produced for DG Mobility and Transport and represents the Consultant views. These views have not been adopted or in any way approved by the Commission and should not be relied

upon as a statement of the Commission's or DG Mobility and Transport's views, nor of the conformity of described practices with applicable EU law. The European Commission does not guarantee the accuracy of the data included in this report, nor does it accept responsibility for any use made thereof.

# Table of Contents

## 17 LATVIA - COUNTRY REPORT ON SANCTIONS IN THE ROAD

<b>TRANSPORT SECTOR .....</b>	<b>11</b>
17.1 Social rules on road transport .....	11
17.1.1 Rules on Driving Times and Rest Periods .....	11
17.1.2 Tachograph .....	16
17.2 Road package .....	18
17.2.1 Regulation (EC) No 1071/2009 .....	18
17.2.2 Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 .....	20
17.3 Standards of vehicles and load and necessary licences .....	22
17.3.1 Directive 2008/68/EC .....	22
17.3.2 Directive 96/53/EC .....	25
17.3.3 Directive 2009/40/EC .....	27
17.3.4 Directive 2006/126/EC .....	28
17.4 Notion of criminal sanction and of administrative sanction in the Latvian legal system.....	30
17.5 Scope of application of Latvian criminal law .....	33
17.6 Summary tables.....	34
17.7 Sanctions which could be considered substantially criminal in the Latvian legal system.....	107
17.8 Effectiveness of the sanctions system.....	109

## 18 LITHUANIA - COUNTRY REPORT ON SANCTIONS IN THE ROAD

<b>TRANSPORT SECTOR .....</b>	<b>113</b>
18.1 Social rules on road transport .....	113
18.1.1 Rules on Driving Times and Rest Periods .....	113
18.1.2 Tachograph .....	121
18.2 Road package .....	125
18.2.1 Regulation (EC) No 1071/2009 .....	125
18.2.2 Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 .....	128
18.3 Standards of vehicles and load and necessary licences .....	129
18.3.1 Directive 2008/68/EC .....	129
18.3.2 Directive 1996/53/EC .....	133
18.3.3 Directive 2009/40/EC .....	134

18.3.4	Directive 2006/126/EC .....	135
18.4	Notion of criminal sanction and administrative sanction in the Lithuanian legal system.....	136
18.5	Scope of application of Lithuanian criminal law .....	139
18.6	Summary tables.....	141
18.7	Sanctions which could be considered substantially criminal in the Lithuanian legal system.....	177
18.8	Effectiveness of the sanctions system.....	182
<b>19</b>	<b>LUXEMBOURG - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR .....</b>	<b>184</b>
19.1	Social rules on road transport .....	184
19.1.1	Rules on Driving Times and Rest Periods .....	184
19.1.2	Tachograph .....	188
19.2	Road Package.....	189
19.2.1	Regulation (EC) No 1071/2009 .....	189
19.2.2	Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 ...	190
19.3	Standards of vehicles, load and necessary licences .....	191
19.3.1	Directive 2008/68/EC .....	191
19.3.2	Directive 96/53/EC .....	192
19.3.3	Directive 2009/40/EC .....	192
19.3.4	Directive 2006/126/EC .....	193
19.4	Notion of criminal and administrative sanction in the Luxembourg legal system .....	194
19.5	The scope of application of the Luxembourgish criminal law .....	198
19.6	Summary tables.....	199
19.7	Sanctions which could be considered substantially criminal in the Luxembourg legal system .....	314
19.8	Effectiveness of the sanctions system.....	316
<b>20</b>	<b>MALTA - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR .....</b>	<b>332</b>
20.1	Social rules on road transport .....	332
20.1.1	Rules on Driving Times and Rest Periods .....	332
20.1.2	Tachograph .....	348
20.2	Road package .....	352

20.2.1	Regulation (EC) No 1071/2009 .....	352
20.2.2	Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 ...	355
20.3	Standards of vehicles and load and necessary licences .....	356
20.3.1	Directive 2008/68/EC .....	356
20.3.2	Directive 96/53/EC .....	357
20.3.3	Directive 2009/40/EC .....	358
20.3.4	Directive 2006/126/EC .....	359
20.4	Notion of criminal sanction and of administrative sanction in the Maltese legal system.....	360
20.5	Scope of application of Maltese criminal law.....	363
20.6	Summary tables.....	366
20.7	Sanctions which could be considered substantially criminal in the Maltese legal system.....	421
20.8	Effectiveness of the sanctions system.....	423
<b>21</b>	<b>THE NETHERLANDS - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR.....</b>	<b>427</b>
21.1	Social rules on road transport .....	427
21.1.1	Rules on driving time, breaks and rest periods .....	427
21.1.2	Cronotacograph.....	437
21.2	Road package .....	439
21.2.1	Regulation (EC) No 1071/2009, Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 .....	440
21.3	Standards of vehicles and load and necessary licenses.....	442
21.3.1	Directive 2008/68/EC .....	442
21.3.2	Directive 96/53/EC .....	447
21.3.3	Directive 2009/40/EC .....	450
21.3.4	Directive 2006/126/EC .....	452
21.4	Notion of criminal sanction and of administrative sanction in the Dutch legal system and brief notes on extraterritorial application of criminal law .....	455
21.5	Scope of application of Dutch criminal law .....	458
21.6	Summary table .....	459
21.1	Sanctions which could be considered substantially criminal in the Dutch legal system	499
21.2	Effectiveness of the sanction system .....	500



<b>22</b>	<b>NORTHERN IRELAND ("NI") - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR.....</b>	<b>502</b>
22.1	Social rules on road transport .....	502
22.1.1	Rules on Driving Times and Rest Periods .....	502
22.1.2	Tachograph .....	505
22.2	Road Package.....	506
22.2.1	Regulation (EC) No 1071/2009 .....	507
22.2.2	Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 ...	507
22.3	Standards of vehicles and load and necessary licenses.....	508
22.3.1	Directive 2008/68/EC .....	508
22.3.2	Directive 96/53/EC .....	509
22.3.3	Directive 2009/40/EC .....	510
22.3.4	Directive 2006/126/EC .....	511
22.4	Notion of criminal sanction and of administrative sanction in the Northern Irish legal system .....	512
22.5	Scope of application of Northern Ireland criminal law .....	514
22.6	Summary Tables .....	515
22.7	Sanctions which could be considered substantially criminal in the Northern Ireland legal system .....	611
22.8	Effectiveness of the sanctions system.....	612
<b>23</b>	<b>POLAND - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR .....</b>	<b>620</b>
23.1	Social rules on road transport .....	620
23.1.1	Rules on Driving Times and Rest Periods .....	620
23.1.2	Tachograph .....	627
23.2	Road package .....	633
23.2.1	Regulation (EC) No 1071/2009 .....	633
23.2.2	Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 ...	635
23.3	Standards of vehicles, load and necessary licences .....	638
23.3.1	Directive 2008/68/EC .....	638
23.3.2	Directive 96/53/EC .....	641
23.3.3	Directive 2009/40/EC .....	643
23.3.4	Directive 2006/126/EC .....	644
23.4	Notion of criminal and administrative sanction in the Polish legal system.	646

23.5	The scope of application of the Polish criminal law .....	648
23.6	Summary tables.....	650
23.7	Effectiveness of the sanctions system.....	701

# 17 LATVIA - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

## 17.1 *Social rules on road transport*

### 17.1.1 Rules on Driving Times and Rest Periods

#### 17.1.1.1 Regulation (EC) No 561/2006

The Regulation has been implemented in the Road Traffic Law<sup>1</sup> and in the Latvian Administrative Violations Code (the “LAVC”)<sup>2</sup>. The sanction system related to the infringements of rules on driving times, breaks and rest periods envisaged in the Regulation (EC) No 561/2006 is envisaged in Section 149 of the LAVC.

As to the subject to whom the penalties are applicable, Paragraphs 4-6 of Section 149 of the LAVC specify that the sanctions are imposed upon the driver of the vehicle or upon the carrier.

#### (i) Driving times

Paragraphs 4-6 of Section 149 of the LAVC introduce different thresholds of penalties for the infringements of rules on driving times.

According to Paragraph 4 of Section 149 of the LAVC, if the driver of the vehicle exceeds the daily driving time limits as follows:

- exceeding the daily driving time of nine hours by less than one hour when the extension to ten hours is not allowed,

---

<sup>1</sup> Road Traffic Law (in Latvian: Ceļu satiksmes likums). Official publication: “Latvijas Vēstnesis”, No. 274/276 (989/991), 21 October 1997; “Ziņotājs”, No. 22, 27 November 1997, in force as of 4 November 1997.

<sup>2</sup> The Latvian Administrative Violations Code (in Latvian: Latvijas Administratīvo pārkāpumu kodekss). Official publication: “Ziņotājs”, No. 51, 20 December 1984, in force as of 1 July 1985.

- exceeding the daily driving time of nine hours by one to two hours when the extension to ten hours is not allowed,
- exceeding the daily driving time of nine hours by more than two hour when the extension to ten hours is not allowed,
- exceeding the extended daily driving time of ten hours by less than one hour when the extension is allowed,
- exceeding the extended daily driving time of ten hours by one to two hours when the extension is allowed,
- exceeding the extended daily driving time of ten hours by more than two hours when the extension is allowed.

According to Paragraph 5, if the driver has exceeded the weekly driving time as follows:

- exceeding the weekly driving time by less than four hours,
- exceeding the weekly driving time by four to fourteen hours,
- exceeding the weekly driving time by more than fourteen hours.

If the driver has exceeded the biweekly driving time for:

- exceeding the driving time accumulated in two consecutive weeks by less than ten,
- exceeding the driving time accumulated in two consecutive weeks by ten to twenty hours and thirty minutes,
- exceeding the driving time accumulated in two consecutive weeks by more than twenty hours and thirty minutes.

(ii) Breaks

Paragraph 1 of Section 149 of the LAVC introduces different thresholds of penalties for the infringements on break time.

For exceeding the driving time without taking a break as determined in regulatory enactments, manifested as follows:

- exceeding the uninterrupted driving time by less than thirty minutes without taking a break as determined in regulatory enactments,
- exceeding the uninterrupted driving time by thirty minutes up to one and a half hours without taking a break as determined in regulatory enactments,

- exceeding the uninterrupted driving time by more than one and a half hour without taking a break as determined in regulatory enactments.

(iii) Rest periods

Paragraphs 2 of Section 149 of the LAVC introduces three different thresholds of penalties for the infringements of the rules on the daily rest period.

For decreasing the daily time of rest manifested as follows:

- reducing the daily resting time of at least eleven hours by less than one hour when no reduced daily resting time is allowed,
- reducing the daily resting time of at least eleven hours by one hour up to two and a half hours when no reduced daily resting time is allowed, reducing the daily resting time of at least eleven hours by more than two and a half hours when no reduced daily resting time is allowed, reducing the reduced daily resting time of at least nine hours by less than one hour,
- reducing the reduced daily resting time of at least nine hours by one hour up to two hours,
- reducing the reduced daily resting time of at least nine hours by more than two hours,
- reducing the divided daily resting time of at least three hours plus nine hours by less than one hour,
- reducing the divided daily resting time of at least three hours plus nine hours by one hour up to two hours,
- reducing the divided daily resting time of at least three hours plus nine hours by more than two hours,
- reducing the daily resting time of at least nine hours by less than one hour if the vehicle is driven by several drivers,
- reducing the daily resting time of at least nine hours by one hour up to two hours if the vehicle is driven by several drivers,
- reducing the daily resting time of at least nine hours by more than two hours if the vehicle is driven by several drivers.

Paragraph 3 of Section 149 of the LAVC introduces several different thresholds of penalties for the infringements of the rules on weekly rest period. For decreasing the weekly time of rest, manifested as follows:

- reducing the reduced weekly resting time of twenty-four hours by less than two hours,
- reducing the reduced weekly resting time of twenty-four hours by two to four hours,
- reducing the reduced weekly resting time of twenty-four hours by more than four hours,
- reducing the weekly resting time of forty-five hours by less than three hours if the reduced weekly resting time is not allowed,
- reducing the weekly resting time of forty-five hours by three to nine hours if the reduced weekly resting time is not allowed,
- reducing the weekly resting time of forty-five hours by more than nine hours if the reduced weekly resting time is not allowed.

(iv) Recidivism

There is no particular liability for recidivism for violation of rules on driving times and rest periods.

(v) Transport undertaking's liability

Under Paragraphs 1-7 of Section 149 of the LAVC for severe violations of driver's time of work and rest regulations both the driver of the vehicle and the carrier are liable. Also Paragraph 7 of Section 149 of the LAVC prescribes liability for violations of driver's time of work and rest detected during an inspection at the company - a fine in the amount of LVL 100 to LVL 1 000 is imposed on the carrier.

(vi) Foreign drivers

As prescribed under Section 16 of the LAVC, in the territory of Latvia, foreign citizens are accountable under the same regulatory enactments as citizens of the Republic of Latvia.

The LAVC does not prescribe administrative liability for administrative violations committed outside of the territory of the Republic of Latvia.

#### **17.1.1.2 Directive 2006/22/EC (amended by Directive 2009/4/EC)**

Directive 2006/22/EC has been transposed in Latvia by means of various measures, *inter alia*:

- Ministru Kabineta noteikumi, No. 520 of 2005 (Latvijas Vēstnesis, No. 115 of 22 July 2005),
- Ministru Kabineta noteikumi, No. 715 of 2005 (Latvijas Vēstnesis, No. 152 of 23 September 2005),
- Ministru Kabineta noteikumi, No. 474 of 2007 (Latvijas Vēstnesis, No. 117 of 20 July 2007),
- Ministru Kabineta noteikumi, No. 665 of 2008 (Latvijas Vēstnesis, No. 134 of 29 August 2008),
- Ministru Kabineta noteikumi, No. 411 of 2011 (Latvijas Vēstnesis, No. 89 of 8 June 2011).

Pursuant to the Regulations of the Cabinet of Ministers No. 411 (2011), "Procedure for Organising and Realisation of Road Carriage Control", road carriages are controlled by:

- 1) Control inspections of municipalities;
- 2) Control inspections of carriers;
- 3) The State Border Guard;
- 4) Customs institutions of the State Revenue Service;
- 5) The State Police.

Annex 2 to the Regulations No. 411 provides groups of infringements for violations of (a) the Regulation No 561/2006 and (b) the Regulation No 3821/85.

### **17.1.1.3 Directive 2002/15/EC**

The Directive has been implemented by the Regulations of the Cabinet of Ministers No. 474 of 3 July 2007 “Regulations regarding Organisation, Observance and Recording of the Working Time of Mobile Workers”<sup>3</sup>.

Pursuant to Section 8 of the Regulations No. 474, a mobile worker shall not work for more than six consecutive hours without a break. Working time must be interrupted by a break of at least 30 minutes when working hours total between six and nine hours, and of at least 45 minutes when working hours total more than nine hours. Breaks, which are not breaks from driving, may be subdivided into periods of at least 15 minutes each.

As prescribed under Section 11 of the Regulations No. 474, mobile workers (including apprentices and trainees) work in conformity with the provisions of Regulation No. 561/2006. Liability for violations of the Regulations No. 474 is prescribed under Section 149<sup>37</sup> of the LAVC which is analysed in detail above.

## **17.1.2 Tachograph**

### **17.1.2.1 Regulation (EEC) No 3821/85**

Sanctions for infringements of Regulation (EEC) No 3821/85 are prescribed under Section 149 of the LAVC.

Paragraphs 1-10 of Section 149 of the LAVC provide that in the cases foreseen by the Regulation (EEC) No 3821/85, vehicles have to circulate equipped of tachograph having the same characteristics and the same instructions foreseen in the Regulation.

---

<sup>3</sup> Regulations of the Cabinet of Ministers No. 474 of 3 July 2007 “Regulations regarding Organisation, Observance and Recording of the Working Time of Mobile Workers” (in Latvian: *Transportlīdzekļu apkalpes locekļu darba laika organizēšanas, ievērošanas un uzskaites noteikumi*). Official publication: “Latvijas Vēstnesis”, No. 117 (3693), 20 July 2007, in force as of 21 July 2007.



Section 149 of the LAVC prescribes liability for longer use of the record card (tachogram), for use of several record cards, for removing the record card, for difference between the time recorded on the record card and the official clock-time, for failure to use or misuse of the switch mechanism, for producing a dirty or damaged record card, for use of a record card that does not comply with the recording equipment, for insufficient amount of paper in the digital recording equipment, for misuse of the record card or driver's card. The fine varies from a warning up to LVL 200 on the driver and from LVL 300 up to LVL 3,000 on the carrier.

#### *Speed control equipment*

Paragraphs 17-24 of Section 149 of the LAVC prescribe liability for performing transportation with a vehicle that is not equipped with recording equipment when required, or with a speed limiter in compliance with requirements of regulatory enactments, for performing transportation with vehicle whose recording equipment or speed limiter has not been tested for the first time or regularly, for performing transportation with a vehicle whose recording equipment without confirmation of type, for performing transportation if the speed limiter or recording equipment is damaged and the damage has not been repaired pursuant to the specified procedure or if in case of a damaged recording equipment, the driver does not register the data manually, for using a vehicle in transportation with a manipulation device that can be used to falsify data or information indicated in print-outs, for falsifying or hiding or other manipulation with the data which may result in falsification or destruction of data or information indicated in the print-outs. The fine varies from LVL 200 up to LVL 500 on the driver and from LVL 500 up to LVL 1 000 on the carrier.

#### *Liability of the transport undertaking*

Paragraph 8 of Section 149 prescribes liability of the carrier for failure to provide the driver with the documents determined in regulatory enactments for confirmation of the driver's time of work and rest and the record cards (tachograms). In this case a fine in amount from LVL 50 up to LVL 100 may be imposed on the carrier.

Paragraphs 23 and 24 of Section 149 provide the carrier's liability for failure to comply with regulations on recording and storing the data of driver's time of work and

rest and documents at the company and for violation of regulations on use of the record equipment for the driver's time of work and rest, speed limiter, record card or the driver's card, detected at the company during an inspection. The fine that may be imposed on the carrier for such violations varies from LVL 100 up to LVL 1 000.

### *Competent Authority*

Subject to Section 211 of the LAVC, the responsible authority for examination of administrative violation cases under the abovementioned provisions of the LAVC are road transport control institutions of local governments.

### *Foreign drivers*

As prescribed under Section 16 of the LAVC, in the territory of Latvia foreign citizens are accountable under the same regulatory enactments as citizens of the Republic of Latvia.

## **17.2 Road package**

### **17.2.1 Regulation (EC) No 1071/2009**

The implementation of Regulation No 1071/2009 has been envisaged in Regulations of the Cabinet of Ministers No. 121 of 21 February 2012<sup>4</sup> ("Regulations No. 121").

---

<sup>4</sup> Regulations of the Cabinet of Ministers No. 121 of 21 February 2012 (in Latvian: *Kārtība, kādā izsniedz, uz laiku aptur vai anulē speciālās atļaujas (licences) un licences kartītes komercpārvadājumu veikšanai ar autotransportu un izsniedz autopārvadājumu vadītāja profesionālās kompetences sertifikātus*). Official publication: "Latvijas Vēstnesis", No. 32 (4635), 24.02.2012., in force as of 1 April 2012.

Section 4.1 of the Regulations No. 121 provides that a licence is issued for a period of 10 years and, pursuant to Section 21, a licence card for road transport carriage for hire is issued for a period not exceeding 12 months.

Under Section 35 of the Regulations No. 121, the operation of the licence may be stayed if the carrier has violated Latvian or international road transport regulatory enactments, performs carriage of passengers without the necessary permission, or violates regulatory enactments on border crossing.

Under Section 36 of the Regulations No. 121, the licence may be annulled if the carrier has submitted false information for acquiring the licence, violates regulatory enactments of tax area, for the second time in a one-year period (a) has violated Latvian or international road transport regulatory enactments or (b) performs carriage of passengers without the necessary permission, or (c) violates regulatory enactments on border crossing.

The competent authority under the Regulations No. 121 is the Latvian Road Transport Administration. Certificates of professional competence are issued by the Ministry of Transport of the Republic of Latvia.

As regards criminal sanctions, pursuant to Section 265 of the Criminal Law for a person who commits illegal manufacturing, selling, issuing, forging or destroying registration documents, or vehicle identification number marks or registration number plates of a vehicle, the applicable punishment is deprivation of liberty for a term not exceeding four years, or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage<sup>5</sup>.

For a person who commits stealing of registration documents or registration number plates of a vehicle, the applicable punishment is deprivation of liberty for a term not exceeding six years, or community service, or a fine not exceeding eighty times the minimum monthly wage. But for a person who commits the abovementioned acts, if commission thereof is repeated or by a group of persons pursuant to prior agreement, the applicable punishment is deprivation of liberty for a term not exceeding eight years or community service, or a fine not exceeding one hundred and fifty times the minimum monthly wage.

---

<sup>5</sup> Minimum monthly wage in Latvia for year 2012 is LVL 200 (approx. EUR 285).

Regarding the loss of good repute, pursuant to Section 10 of the Regulations No. 121, the licence is issued if the carrier complies with the requirements for obtaining the licence listed under the Regulations No. 121 and the Regulation No 1071/2009. In order to receive a licence the carrier must submit a written confirmation about its conformity with Article 6 of the Regulation No 1071/2009. If violations or non-conformities with Articles 13 or 14, or Annex IV of the Regulation No 1071/2009 are found, the responsible authority may decide on termination or withdrawal of the licence.

### **17.2.2 Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009**

Both Regulations No. 1072/2009 and No. 1073/2009 have been implemented by the Regulations of the Cabinet of Ministers No. 122 of 21 February 2012 (“Regulations No. 122”). The Regulation No. 1073/2009 has been implemented also in the Regulations of the Cabinet of Ministers No. 327 of 20 April 2004 “Procedures for the Performance of Own-account Passenger and Freight Transport Operations”<sup>6</sup> (“Regulations No. 327”) and No. 37 of 10 January 2012 (“Regulations No. 37”).

Pursuant to Sections 9.1. and 9.2. of the Regulations No. 122, the Latvian Road Transport Administration issues the European Community licence copies for a period up to 12 months, not exceeding the durability of the European Community licence on freight carriage for hire. The Latvian Road Transport Administration also issues driver attestations.

Under Section 19 of the Regulations No. 122, the Latvian Road Transport Administration decides on stay of operation or annulment of the European Community licence and the European Community licence copy, or annulment of the driver attestation if the violations and non-compliances prescribed in the Regulation No. 1072/2009 have been established.

---

<sup>6</sup> Regulations of the Cabinet of Ministers No. 327 “Procedures for the Performance of Own-account Passenger and Freight Transport Operations” of 20 April 2004 (in Latvian: *Kārtība, kādā veicami pasažieru un kravas pārvadājumi*). Official publication: Latvijas Vēstnesis, No. 68 (3016), 30 April 2004, in force as of 1 May 2004.

Under Section 4 of the Regulations No. 327, the durability of an on own-account transport operation certificate must not exceed five years. The certificate may be annulled if the own-account transport operation provider has submitted false information, or on basis of the certificate performs carriage for hire, has not taken out the certificate in one month or has repeatedly violated regulatory enactments on road transport or road traffic.

As provided in Section 23 of the Regulations No. 37, a licence for a route to third country is issued for a period not exceeding five years. Such licence may be annulled if the carrier has not commenced provision of the transport operations pursuant to regulatory enactments, or violates the requirements of the licence, or has not closed the route for time as prescribed under the Regulations No. 37 and has not provided more than 70% of the trips for three months in a row, or has submitted false information in the application or report, or has not taken out the licence in six months.

Liability for violations of the regulations regarding documents necessary for road transport operations is prescribed in Paragraphs 1-12 of Section 149 of the LAVC. The Section prescribes liability in cases of performance of carriage for hire or of own-account carriage without the licence card, the European Community licence copy or own-account transport operation certificate certifying rights to provide carriage for hire or own-account carriage transport services with the particular vehicle, or for performance of regular carriage of passengers for hire without the licence present, or for performance of freight or passenger carriage for hire violating the usage regulations of the own-account transport operation certificate or without such certificate, or without a licence card or the European Commission licence copy or violating the usage regulations of such licence card or the European Commission licence copy, or for performance of an international carriage for hire violating the usage regulations of the international road transport licence or without such licence, or for performance of international freight carriage for hire without the driver attestation if the driver is a non-EU citizen, or for performance of regular carriage of passengers for hire without the licence or without a written contract on carriage. The fine for the abovementioned violations may be imposed on the driver of the vehicle in amount from LVL 2 up to LVL 50, but for carrier from LVL 25 up to LVL 500.

As prescribed under Section 16 of the LAVC, in the territory of Latvia foreign citizens are accountable under the same regulatory enactments as citizens of the Republic of Latvia.

Paragraph 10 of Section 149 of the LAVC provides a liability for carriers in respect of vehicle drivers which are non-EU citizens – in the case of performance of international freight carriage for hire without the driver’s attestation if the driver of the vehicle is a non-EU citizen, a fine may be imposed on the carrier in the amount of LVL 50.

### **17.3 Standards of vehicles and load and necessary licences**

#### **17.3.1 Directive 2008/68/EC**

Provisions of the Directive No. 2008/68/EC have been implemented into the Regulations of the Cabinet of Ministers No. 226 of 29 April 2003 “Procedures for Carriage of Dangerous Freight by Railway”<sup>7</sup>, No. 377 of 22 April 2004<sup>8</sup>, No. 674 of 9 September 2005 “Procedures for Carriage of Dangerous Freight”<sup>9</sup> and No. 156 of 21 February 2006 “Regulations Regarding Appointment of Safety Advisers (Consultants), Vocational Qualification and Activities Thereof in the Field of Transport of Dangerous Goods”<sup>10</sup>.

---

<sup>7</sup> Regulations of the Cabinet of Ministers No. 226 of 29 April 2003 “Procedures for Carriage of Dangerous Freight by Railway” (in Latvian: *Noteikumi par bīstamo kravu pārvadāšanu pa dzelzceļu*). Official publication: “Latvijas Vēstnesis”, No. 66 (2831), 6 May 2003, in force as of 7 May 2003.

<sup>8</sup> (In Latvian: *Noteikumi par lejamkravu pārvadāšanu cisternās un bunkura pusvagonos*). Official publication: “Latvijas Vēstnesis”, No. 66 (3014), 28 April 2004, in force as of 29 April 2004.

<sup>9</sup> Regulations of the Cabinet of Ministers No. 674 of 9 September 2005 “Procedures for Carriage of Dangerous Freight” (in Latvian: *Bīstamo kravu pārvadājumu noteikumi*). Official publication: “Latvijas Vēstnesis”, No. 144 (3302), 9 September 2005, in force as of 10 September 2005.

<sup>10</sup> Regulations of the Cabinet of Ministers No. 156 of 21 February 2006 “Regulations Regarding Appointment of Safety Advisers (Consultants), Vocational Qualification and Activities Thereof in the Field of Transport of Dangerous Goods” (in Latvian: *Noteikumi par drošības konsultantu*

Under Section 8 of the Regulations No. 674, the driver's licence for carriage of dangerous freights is issued by the Road Traffic Safety Directorate. Regulations of the Cabinet of Ministers No. 514 of 8 June 2010 prescribe procedures for acquiring a driving licence for the carriage of dangerous freights.

As provided under Section 4 of the Regulations No. 156, a merchant performing the carriage of dangerous freights by road or railway, loading or unloading of dangerous freights and other such actions, appoints in writing one or several safety advisers (consultants) in the undertaking thereof who control the conformity with the norms of legal acts in the field of transport of dangerous goods and reduce the risk to human life, health, personal property and the environment.

The professional qualification certificate for a person who has obtained a qualification and passed an exam is issued by the Ministry of Transport for a period of five years. The qualification of a safety adviser (consultant) may be obtained only by a person who has the right to reside in the Republic of Latvia.

Paragraphs 1-19 of Section 149 of the LAVC provide liability for violations of the regulations regarding carriage of dangerous freight. The particular section of the LAVC provides liability for:

- submission of dangerous freight for carriage without the necessary signs,
- performance of carriage of dangerous freight by road transport without the necessary documents or for not providing the driver of the vehicle with such documents, or for wrong completion of such documents,
- performance of carriage of dangerous freight which are prohibited on roads,
- performance of carriage of dangerous freight in an unsuitable vehicle or container, or without complying with labelling usage periods,
- delivering of dangerous freight for carriage in unsuitable packaging, or in a case of wrong delivery for carriage of together packed dangerous freights, or if cargo package filling does not comply with the regulatory enactments,

---

*(padomnieku) norīkošanu, to profesionālo kvalifikāciju un darbību bīstamo kravu pārvadājumu jomā*). Official publication: "Latvijas Vēstnesis", No. 39 (3407), 8 March 2006, in force as of 9 March 2006.

- performance of carriage of dangerous freight without complying with safety requirements regarding loading together with other cargoes, or violating regulations for placement and fixation of dangerous freight,
- operating an engine unnecessary or smoking near dangerous freight during its loading or unloading,
- leakage of dangerous freight because of non-air-tightness of the package, or for carriage in an incorrectly closed package, or for carriage of such empty, unrefined and unclosed package in which dangerous freight is carried, or if restraints of dangerous freight are on outer surface of the package,
- performance of carriage of dangerous freight by vehicle with incorrect data on the data plate, or by vehicle without recognition or dangerous signs, or by vehicle with such signs if dangerous freight is not carried,
- performance of carriage of dangerous freight without the necessary individual security means, additional equipment or fire extinguishers, or for non-compliance of such means or equipment with regulatory enactments,
- placing the vehicle with dangerous freight for stand-by without engaging hand brake,
- performance of carriage of passengers in a vehicle in which dangerous freight is carried,
- non-assigning (or not submitting a respective notice on assignment) of a safety consultant (adviser) which deal with the carriage of dangerous freight by road transport, as well as the consigning, loading, unloading or performing other actions in relation to dangerous freight,
- non-drafting of a dangerous freight security plan, or for incorrect drafting, or not providing such plan upon request of a responsible institution.

For the abovementioned violations, a fine may be imposed in the amount of LVL 30 up to LVL 200 upon the driver of the vehicle, from LVL 100 up to LVL 3,000 for the carrier, from LVL 300 up to LVL 500 for the consignor – who is a natural person –, from LVL 100 up to LVL 5,000 for the consignor – which is a legal person –.

Section 260 of the Criminal Law provides that for a person who commits violation of traffic provisions or provisions regarding vehicle operation, if commission



thereof is by a person operating the vehicle, and as a result thereof slight bodily injury has been caused to the victim, the applicable punishment is deprivation of liberty for a term not exceeding two years or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage, with or without deprivation of the right to operate a vehicle for a term not exceeding five years.

For a person who commits violation of traffic provisions or provisions regarding vehicle operation, if commission thereof is by a person operating the vehicle, and as a result thereof moderate bodily injury has been caused to the victim, the applicable punishment is deprivation of liberty for a term not exceeding five years or custodial arrest, or community service, or a fine not exceeding one hundred times the minimum monthly wage, with or without deprivation of the right to operate a vehicle for a term not exceeding five years.

For a person who commits violation of traffic provisions or provisions regarding vehicle operation, if commission thereof is by a person operating a vehicle and as a result thereof serious bodily injury has been occasioned to the victim or the death of a human being has been caused thereby, the applicable punishment is deprivation of liberty for a term not exceeding ten years, with or without deprivation of the right to operate a vehicle for a term not exceeding five years.

As prescribed under Section 16 of the LAVC, in the territory of Latvia foreign citizens are accountable under the same regulatory enactments as citizens of the Republic of Latvia.

### **17.3.2 Directive 96/53/EC**

The Directive No. 96/53/EC has been implemented by the Regulations of the Cabinet of Ministers No. 571 of 29 June 2004 “Road Traffic Regulations” (the “Road Traffic Regulations”)<sup>11</sup>. Provisions of Annex 1 of the Directive have been implemented into Annex 3 of the Road Traffic Regulations.

---

<sup>11</sup> Regulations of the Cabinet of Ministers No. 571 of 29 June 2004 “Road Traffic Regulations” (in Latvian: *Ceļu satiksmes noteikumi*). Official publication: “Latvijas Vēstnesis”, No. 103 (3051), 1 July 2004, in force as of 1 July 2004.

Section 208 of the Road Traffic Regulations provides that the acquisition of an authorisation from the responsible authority for transportation is necessary if the full mass, size or axis loading of the vehicle exceeds the limits prescribed in Annex 3 of the Road Traffic Regulations. The authorisation is issued by a state-owned-company “Latvian State Roads” in accordance with Regulations of the Cabinet of Ministers No. 343 of 6 April 2010 “Regulations on Large-Size and Large-Weight Transportations”<sup>12</sup>.

Liability for violations of the regulations regarding carriage of freight is prescribed under Section 149 of the LAVC. The particular Section provides liability for:

- exceeding the manufacturer’s specified mass or distribution of loadings on the axles by (a) more than 5%, (b) by more than 20%,
- violating the regulations regarding freight storage and security,
- performing the carriage of freight containers by vehicles which are unsuitable or have not been registered pursuant to regulatory enactments,
- violating regulatory enactments on marking the freight outside the vehicle dimensions (a) during daytime, or (b) during poor visibility or night time,
- performing road carriage by exceeding the permitted 1) actual mass (a) up to 2 tonnes, or (b) from 2 to 5 tonnes, or (c) from 5 to 8 tonnes, or (d) for more than 8 tonnes, or 2) axle loading of the vehicle (a) up to 0.5 tonnes, or (b) from 1 to 3 tonnes, or (c) from 2 to 3.5 tonnes, or (d) for more than 3.5 tonnes,
- performing road carriage by exceeding the allowed size limits,
- violating regulatory enactments on cabotage road carriage,
- performing carriage for hire with other person’s vehicle without the documents confirming lease or labour relations,
- violating a prohibition to participate in the road traffic that has been imposed upon constituting a violation during road carriage inspection.

For the abovementioned violations, a monetary fine may be imposed upon the driver of the vehicle in the amount from LVL 10 up to LVL 500, for the carrier from

---

<sup>12</sup> Regulations of the Cabinet of Ministers No. 343 of 6 April 2010 „Regulations on Large-Size or Large-Weight Transportations” (in Latvian: *Noteikumi par lielgabarīta un smagsvara pārvadājumiem*). Official publication: „Latvijas Vēstnesis”, No. 60 (4252), 15 April 2010, in force as of 16 April 2010.

LVL 50 up to LVL 4 000, for the consignor – who is a natural person – from LVL 30 up to LVL 500, but for a legal person – from LVL 50 up to LVL 4 000.

Pursuant to Section 258 of the Criminal Law, a person who commits intentional destruction or damage of roads, road construction or equipment, railways, water or air transport vehicles, transport telecommunication networks or signalling system devices, or electronic or communications equipment, or other intentional acts resulting in their becoming unusable for operations as well as where disruption of transport operations is caused thereby, is punished with a deprivation of liberty for a term not exceeding ten years.

However, for a person who commits the same acts, if serious consequences have been caused thereby, the applicable punishment is deprivation of liberty for a term of at least three years and up to fifteen years.

As prescribed under Section 16 of the LAVC, in the territory of Latvia foreign citizens are accountable under the same regulatory enactments as citizens of the Republic of Latvia.

### **17.3.3 Directive 2009/40/EC**

The Directive No. 2009/40/EC is a consolidated version, and the entire consolidated directive requirements have been already implemented by the Regulations of the Cabinet of Ministers No. 466 of 29 April 2004 “Regulations on State Roadworthiness Tests of Vehicles and Roadworthiness Control on Roads”<sup>13</sup> (the “Regulations No. 466”), which stipulate that every vehicle that takes part in road traffic shall pass the state roadworthiness test at least once every year.

Paragraph 1 of Section 149 prescribes that in the case of the utilisation of such vehicle in road traffic, and for which the State roadworthiness test has not been carried out, a fine may be imposed on the driver of the vehicle in the amount of LVL 40 up to

---

<sup>13</sup> Regulations of the Cabinet of Ministers No. 466 of 29 April 2004 “Regulations on State Roadworthiness Tests of Vehicles and Roadworthiness Control on Roads” (in Latvian: *Noteikumi par transportlīdzekļu valsts tehnisko apskati un tehnisko kontroli uz ceļiem*). Official publication: “Latvijas Vēstnesis”, No. 69 (3017), 1 May 2005, in force as of 1 May 2004.

LVL 80. Under Paragraph 20 of Section 149, in the case of issuing an order to use a vehicle, which is damaged, for which reason it is prohibited from being driven, or which has not undergone a State roadworthiness test in the prescribed period of time – a fine may be imposed on the person responsible for the operation of the vehicle, in the amount varying from LVL 50 up to LVL 100.

As prescribed under Section 16 of the LAVC, in the territory of Latvia foreign citizens are accountable under the same regulatory enactments as citizens of the Republic of Latvia.

#### **17.3.4 Directive 2006/126/EC**

The respective provisions of the Directive No. 2006/126/EC have been implemented by the Road Traffic Law and by the Regulations of the Cabinet of Ministers No. 103 of 2 February 2010 “Procedure for Acquiring and Renewal of Driving Licences and Procedure for Issuance, Exchange and Revocation of Driving Licences”<sup>14</sup>.

Section 4 (5) of the Road Traffic Law provides that driver licences are issued and annulled by the Road Traffic Safety Directorate. A driver of a motor vehicle must have a driving licence which must be presented upon the request of police officers, officials of the Road Transport Inspection (during the control of passengers and cargo transport by road), border guards (on the State border or border area) or customs staff (in the bonded zones). Driving permits are issued for a period of 10 years.

Liability for violations of the conditions for vehicle technical state and equipment is provided in Section 149, as described above, and in Section 149<sup>4</sup> which provides liability for:

- driving a motor vehicle without a driving licence present,

---

<sup>14</sup> Regulations of the Cabinet of Ministers No. 103 of 2 February 2010 “Procedure for Acquiring and Renewal of Driving Licences and Procedure for Issuance, Exchange and Revocation of Driving Licences” (in Latvian: *Transportlīdzekļu vadītāja tiesību iegūšanas un atjaunošanas kārtība un vadītāja apliecības izsniegšanas, apmaiņas un atjaunošanas kārtība*). Official publication: “Latvijas Vēstnesis”, No. 25 (4217), 12 February 2010, in force as of 13 February 2010

- driving a motor vehicle if a prohibition on driving is in force, or if the driving licence has not been acquired or has been taken away,
- driving a motor vehicle without having the driving licence of the relevant category.

For the abovementioned violations a fine in the amount varying from LVL 2 up to LVL 300 may be imposed on the driver of the vehicle.

If the driver of the vehicle commits a violation of driving a motor vehicle when a prohibition on driving is in force, or when the driving licence has not been acquired or has been taken away for the second time in a one-year period, an administrative arrest from 5 to 12 days and a monetary fine in the amount of LVL 400 may be imposed upon the driver of the vehicle.

Pursuant to Section 265 of the Criminal Law, a person who commits illegal manufacturing, selling, issuing, forging or destroying registration documents, or vehicle identification number marks or registration number plates of a vehicle, is punishable with a deprivation of liberty for a term not exceeding four years, or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage.

For a person who commits stealing of registration documents or registration number plates of a vehicle, the applicable punishment is deprivation of liberty for a term not exceeding six years, or community service, or a fine not exceeding eighty times the minimum monthly wage. But for a person who commits the abovementioned acts, if commission thereof is repeated or by a group of persons pursuant to prior agreement, the applicable punishment is the deprivation of liberty for a term not exceeding eight years or community service, or a fine not exceeding one hundred and fifty times the minimum monthly wage.

Section 275 of the Criminal Law prescribes liability for forgery of a document, seal or stamp and use and sale of a forged document, seal or stamp. For forging a document conferring rights or a release from obligations, of a seal or a stamp, as well as commits using or selling a forged document, seal or stamp, the person may be punished with a deprivation of liberty for a term not exceeding two years, or custodial arrest, or by community service, or a fine not exceeding forty times the minimum monthly wage. If such act is repeated or for the purpose of acquiring property, or by a group of persons pursuant to prior arrangement, or substantial harm is caused thereby to the State power

or administrative order or to rights and interests protected by law of a person, the punishment may be a deprivation of liberty for a term not exceeding four years or community service, or a fine not exceeding sixty times the minimum monthly wage.

#### ***17.4 Notion of criminal sanction and of administrative sanction in the Latvian legal system***

Section 35 of the Criminal Law provides that the punishment as provided for in the Criminal Law is a compulsory measure which a court, within the limits of the Criminal Law, adjudges on behalf of the State against persons guilty of the commission of a criminal offence or in the cases provided for by law, determined by a public prosecutor by drawing up an injunction regarding the punishment. The objective of punishment is to punish the offender for a committed criminal offence, as well as to achieve that the convicted person or other persons comply with the law and refrain from committing criminal offences.

Pursuant to Section 36 of the Criminal Law, punishments are divided as (a) basic punishments and (b) additional punishments:

- a) basic punishments are: deprivation of liberty, custodial arrest, confiscation of property, community service and a fine;
- b) additional punishments are: confiscation of property, deportation from the Republic of Latvia, a fine, limitation of rights, police supervision and a prohibition to become a candidate in Saeima [Latvian Parliament], European Parliament, republic city council and county council elections.

For a person who has committed a criminal violation or a less serious crime, a public prosecutor in drawing up an injunction regarding a punishment may specify a fine or community service, as well as an additional punishment – limitation of rights.

In a legal person matter, a natural person who has committed a criminal offence acting as an individual or as a member of the collegial institution of the relevant legal person on the basis of a right to represent the legal person, to act on behalf of or to take decisions in the name of such legal person, or realising control within the scope of the legal person or while in the service of the legal person, shall be criminally liable.

For legal persons, who are not public law legal persons, the coercive measures provided for in Chapter VIII of the Criminal Law may be applied. For certain criminal violations for a legal person one of the following coercive measures may be specified: liquidation, limitations of rights, confiscation of property, or monetary levy, and additional coercive measures that may be specified are: confiscation of property and compensation for harm caused. Applicability of the coercive measures depends on the severity of the criminal violation and its consequences:

- 1) for the criminal violations provided for in the Special Part of the Criminal Law and less serious crimes by a legal person, as a basic coercive measure, only a monetary levy may be applied, except in cases where the legal person, a branch, representation or structural unit thereof has been especially established for committing a criminal offence;
- 2) for the serious and especially serious crimes provided for in the Special Part of the Criminal Law by a legal person, as basic coercive measures liquidation, limitation of rights, confiscation of property or monetary levy may be applied;
- 3) confiscation of property may also be applied to a legal person as an additional coercion measure, if as a result of the offence by the legal person, it has gained a material benefit and as basic coercion measures, limitation of rights or monetary levy has been applied to it;
- 4) compensation for harm caused by the offence may be applied as an additional coercive measure to a legal person, if as a result of the criminal offence by the legal person, it has caused substantial harm or serious consequences are caused thereby.

Only a person who is guilty of committing a criminal offence, that is, one who deliberately (intentionally) or through negligence has committed an offence which is set out in the Criminal Law and which has all the constituent elements of a criminal offence, may be held criminally liable and punished.

Administrative liability arises regarding violations indicated in the LAVC, if criminal liability has not been provided for regarding these violations by the nature thereof in accordance with the laws in force.

Pursuant to Section 22 of the LAVC, administrative sanction is the means of liability and must be applied in order to educate a person, who has committed an administrative violation, in the spirit of law abiding and respecting provisions of social

life, as well as in order to prevent the violator of the rights, as well as other persons, from committing new violations.

The following administrative sanctions may be applied for the commitment of an administrative violation:

- a) a warning;
- b) a fine;
- c) the confiscation of the administrative violation object or the instrument of commitment;
- d) a forfeiture of special rights assigned to a person;
- e) a prohibition to obtain the right to drive a means of transport for a certain period of time;
- f) a prohibition for a specified period to obtain a licence to drive a recreational craft;
- g) a forfeiture of rights to hold particular offices, or the forfeiture of rights to specified or all forms of commercial activities;
- h) an administrative arrest.

The confiscation of an object and instrument of commitment, the forfeiture of special rights, as well as the forfeiture of rights to hold particular offices or the forfeiture of rights to specified or all forms of commercial activities may be applied both as a basic sanction or an additional sanction. Prohibition for a certain period of time to obtain a driving licence to drive a means of transport or a recreational craft may be applied only as an additional sanction. Other administrative sanctions referred to in Section 23, Paragraph one of the LAVC may be applied only as basic sanctions. For each administrative violation, one basic sanction may be applied, or one basic sanction and one or several additional sanctions.

In special cases provided for in the LAVC and binding regulations issued by local government councils (parish councils), legal persons shall be subject to liability for administrative violations. Persons performing commercial activity, but which are not legal persons, are subject to liability for administrative violations as legal persons.

The maximum fine, which may be imposed for administrative violations on a natural person is LVL 500, but for legal persons, the maximum fine is LVL 10,000.



#### Concurrence between several administrative sanctions

If a person has committed administrative violations, which have been determined simultaneously, and they are examined by one and the same institution (official), administrative sanction shall be imposed within the framework of that sanction which is provided for the more serious violation. In such case, a basic sanction may be supplemented by any of the additional sanctions, which are provided for in the Sections 35 of the LAVC, which determine liability for any of the violations committed. Record-keeping in an administrative violation matter may not be commenced, but a commenced record-keeping shall be terminated, if for this fact a criminal matter has been initiated.

The maximum fine, which may be imposed for administrative violations on a natural person is LVL 500, but for legal persons, the maximum fine is LVL 10 000.

#### Concurrence between administrative and criminal sanctions

Pursuant to Paragraph 2 of Section 9 of the LAVC: “[a]dministrative liability shall arise regarding violations indicated in this Code, if criminal liability has not been provided for regarding these violations by the nature thereof in accordance with the laws in force”. Thus, imposing both administrative and criminal liability for the same violation is impossible. If one person has committed two or more administrative violations, an administrative sanction shall be imposed for each violation separately. Thus, both administrative and criminal liability cannot be imposed upon a person for one violation. However, if two or more different violations have been committed, the person may face both administrative and criminal liability depending on the nature and severity of the violation.

### **17.5 Scope of application of Latvian criminal law**

Section 4 of the Criminal Law prescribes that Latvian citizens, non-citizens and foreigners who have a permanent residence permit for the Republic of Latvia, are held liable, in accordance with the Criminal Law, in the territory of Latvia for an offence committed in the territory of another state or outside the territory of any state regardless

of whether it has been recognised as criminal and punishable in the territory of commitment.

Foreigners who do not have permanent residence permits for the Republic of Latvia and who have committed serious or especially serious crimes in the territory of another state which have been directed against the Republic of Latvia or against the interests of its inhabitants, are held criminally liable in accordance with the Criminal Law irrespective of the laws of the state in which the crime has been committed, if they have not been held criminally liable or committed to stand trial in accordance with the laws of the state where the crime was committed.

Foreigners who do not have a permanent residence permit for the Republic of Latvia and who have committed a criminal offence in the territory of another state, in the cases provided for in international agreements binding upon the Republic of Latvia, irrespective of the laws of the state in which the offence has been committed, are held liable in accordance with the Criminal Law if they have not been held criminally liable for such offence or committed to stand trial in the territory of another state.

## **17.6 Summary tables**

The national authorities responsible for imposing and executing administrative and criminal sanctions are as follows:

- State Police for the violation of the following sections of the LAVC: Sections Section 149;
- Municipal road control authorities for the violation of the following sections of the LAVC: Sections 149 (except for the violations determined in Paragraphs 2, 8, 9, and 13);
- State Revenue Service for the violation of the following articles of the LAVC: Paragraphs 8 and 9 of Section 149;
- State Border Guard for the violation of the following sections of the LAVC: Paragraphs 1-12, 15-17 of Section 149.

The table below provides an overview of the administrative and criminal sanctions foreseen in the Latvian legal system for the infringements of EU commercial road

transport legislation. In the table, we specify whether criminal sanctions are cumulative or alternative to administrative sanctions.

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<b>SOCIAL RULES ON ROAD TRANSPORT</b>						
<b><u>Rules on Driving Times, Breaks and Rest Periods</u></b>						
<b>Regulation 561/06/EC</b>	<b><u>Liability for exceeding daily driving time limits</u></b>					
<b>Article 6.1</b>	<a href="#"><u>The Latvian Administrative Violations Code</u></a>	Section 149. <sup>37</sup> , Paragraph 4 (1)	Exceeding the daily driving time being nine hours by less than one hour if the extension to ten hours is not allowed	Driver	<b>Warning or fine LVL 10</b>	
<b>Article 6.1</b>		Section 149. <sup>37</sup> , Paragraph 4 (2)	Exceeding the daily driving time being nine hours by one to two hours if the extension to ten hours is not allowed	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Article 6.1		Section 149. <sup>37</sup> , Paragraph 4 (3)	Exceeding the daily driving time being nine hours by more than two hour if the extension to ten hours is not allowed	Driver Carrier	<b>Fine 50-100</b> <b>Carrier 150-300</b>	
Article 6.1		Section 149. <sup>37</sup> , Paragraph 4 (4)	Exceeding the extended daily driving time being ten hours by less than one hour if the extension is allowed	Driver	<b>Warning or fine LVL 10</b>	
Article 6.1		Section 149. <sup>37</sup> , Paragraph 4 (5)	Exceeding the extended daily driving time being ten hours by one to two hours if the extension is allowed	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-100</b>	

<b>Table LV 1</b>						
<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Section of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
<b>Article 6.1</b>		Section 149. <sup>37</sup> , Paragraph 4 (6)	Exceeding the extended daily driving time being ten hours by more than two hours if the extension is allowed	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	
<b>Article 6.1</b>		Section 149. <sup>37</sup> , Paragraph 7	For violations of driver's time of work and rest detected during an inspection at the company	Carrier	<b>Fine LVL 100-1 000</b>	
<b><u>Liability for exceeding weekly driving time limits</u></b>						
<b>Article 6.2</b>	<a href="#"><u>The Latvian Administrative Violations Code</u></a>	Section 149. <sup>37</sup> , Paragraph 5 (1)	Exceeding the weekly driving time by less than four hours	Driver	<b>Warning of fine LVL 10</b>	
<b>Article 6.2</b>		Section 149. <sup>37</sup> , Paragraph 5 (2)	Exceeding the weekly driving time by four to	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-100</b>	

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			fourteen hours			
Article 6.2		Section 149. <sup>37</sup> , Paragraph 5 (3)	Exceeding the weekly driving time by more than fourteen hours	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	
Article 6.2		Section 149. <sup>37</sup> , Paragraph 7	For violations of driver's time of work and rest detected during an inspection at the company	Carrier	<b>Fine LVL 100-1 000</b>	
<u>Liability for exceeding biweekly driving time limits</u>						
Article 6.3	<a href="#"><u>The Latvian Administrative Violations Code</u></a>	Section 149. <sup>37</sup> , Paragraph 6 (1)	Exceeding the driving time accrued in two consecutive weeks by less than ten hours	Driver	<b>Warning or fine LVL 10</b>	
Article 6.3		Section 149. <sup>37</sup> ,	Exceeding the driving time accrued in two	Driver	<b>Fine LVL 30-50</b>	

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Paragraph 6 (2)	consecutive weeks by ten to twenty hours and thirty minutes	Carrier	<b>Carrier LVL 50-150</b>	
<b>Article 6.3</b>		Section 149. <sup>37</sup> , Paragraph 6 (3)	Exceeding the driving time accrued in two consecutive weeks by more than twenty hours and thirty minutes	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	
<b>Article 6.3</b>		Section 149. <sup>37</sup> , Paragraph 7	For violations of driver's time of work and rest detected during an inspection at the company	Carrier	<b>Fine LVL 100-1 000</b>	
<b><u>Liability for exceeding driving time limits</u></b>						
<b>Article 7</b>	<a href="#"><u>The Latvian Administrative</u></a>	Section 149. <sup>37</sup> , Paragraph 1 (1)	Exceeding the uninterrupted driving time by less than thirty minutes	Driver	<b>Warning or fine LVL 10</b>	



Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">Violations Code</a>		without taking a break determined in regulatory enactments			
<b>Article 7</b>		Section 149. <sup>37</sup> , Paragraph 1 (2)	Exceeding the uninterrupted driving time by thirty minutes up to one and a half hours without taking a break determined in regulatory enactments	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	
<b>Article 7</b>		Section 149. <sup>37</sup> , Paragraph 1 (3)	Exceeding the uninterrupted driving time by more than one and a half hour without taking a break determined in regulatory enactments	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Article 7		Section 149. <sup>37</sup> , Paragraph 7	For violations of driver's time of work and rest detected during an inspection at the company	Carrier	<b>Fine LVL 100-1 000</b>	
<u>Liability for decreasing the daily time rest periods</u>						
Article 8.2	<a href="#"><u>The Latvian Administrative Violations Code</u></a>	Section 149. <sup>37</sup> , Paragraph 2 (1)	Decreasing the daily time of rest being at least eleven hours if no decreased daily time of rest is allowed by less than one hour	Driver	<b>Warning or fine LVL 10</b>	
Article 8.2		Section 149. <sup>37</sup> , Paragraph 2 (2)	Decreasing the daily time of rest being at least eleven hours if no decreased daily time of rest is allowed by one	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			hour up to two and a half hours			
<b>Article 8.2</b>		Section 149. <sup>37</sup> , Paragraph 2 (3)	Decreasing the daily time of rest being at least eleven hours if no decreased daily time of rest is allowed by more than two and a half hours	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	
<b>Article 8.2</b>		Section 149. <sup>37</sup> , Paragraph 2 (4)	Decreasing the decreased daily time of rest being at least nine hours by less than one hour	Driver	<b>Warning or fine LVL 10</b>	
<b>Article 8.2</b>		Section 149. <sup>37</sup> , Paragraph 2 (5)	Decreasing the decreased daily time of rest being at least nine hours by one hour up to two hours	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Article 8.2		Section 149. <sup>37</sup> , Paragraph 2 (6)	Decreasing the decreased daily time of rest being at least nine hours by more than two hours	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	
Article 8.2		Section 149. <sup>37</sup> , Paragraph 2 (7)	Decreasing the divided daily time of rest being at least three hours plus nine hours by less than one hour	Driver	<b>Warning or fine LVL 10</b>	
Article 8.2		Section 149. <sup>37</sup> , Paragraph 2 (8)	Decreasing the divided daily time of rest being at least three hours plus nine hours by one hour up to two hours	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	
Article 8.2		Section 149. <sup>37</sup> ,	Decreasing the divided daily time of rest being at	Driver	<b>Fine LVL 50-100</b>	

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Paragraph 2 (9)	least three hours plus nine hours by more than two hours	Carrier	<b>Fine LVL 150-300</b>	
<b>Article 8.5</b>		Section 149. <sup>37</sup> , Paragraph 2 (10)	Decreasing the daily time of rest being at least nine hours by less than one hour if the vehicle is driven by several drivers	Driver	<b>Warning or fine LVL 10</b>	
<b>Article 8.5</b>		Section 149. <sup>37</sup> , Paragraph 2 (11)	Decreasing the daily time of rest being at least nine hours by one hour up to two hours if the vehicle is driven by several drivers	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	
<b>Article 8.5</b>		Section 149. <sup>37</sup> , Paragraph 2 (12)	Decreasing the daily time of rest being at least nine hours by more than two	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			hours if the vehicle is driven by several drivers			
Article 8.2, 8.5		Section 149. <sup>37</sup> , Paragraph 7	For violations of driver's time of work and rest detected during an inspection at the company	Carrier	<b>Fine LVL 100-1 000</b>	
<u>Liability for decreasing the weekly time rest periods</u>						
Article 8.6	<a href="#">The Latvian Administrative Violations Code</a>	Section 149. <sup>37</sup> , Paragraph 3 (1)	Decreasing the decreased weekly time of rest being twenty-four hours by less than two hours	Driver	<b>Warning or fine LVL 10</b>	
Article 8.6		Section 149. <sup>37</sup> , Paragraph 3 (2)	Decreasing the decreased weekly time of rest being twenty-four hours by two to four hours	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Article 8.6		Section 149. <sup>37</sup> , Paragraph 3 (3)	Decreasing the decreased weekly time of rest being twenty-four hours by more than four hours	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	
Article 8.6		Section 149. <sup>37</sup> , Paragraph 3 (4)	Decreasing the weekly time of rest being forty-five hours by less than three hours if the decreased weekly time of rest is not allowed	Driver	<b>Warning or fine LVL 10</b>	
Article 8.6		Section 149. <sup>37</sup> , Paragraph 3 (5)	Decreasing the weekly time of rest being forty-five hours by three to nine hours if the decreased weekly time of rest is not allowed	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	

Table LV 1						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Article 8.6		Section 149. <sup>37</sup> , Paragraph 3 (6)	Decreasing the weekly time of rest being forty-five hours by more than nine hours if the decreased weekly time of rest is not allowed	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	
Article 8.6		Section 149. <sup>37</sup> , Paragraph 7	For violations of driver's time of work and rest detected during an inspection at the company	Carrier	<b>Fine LVL 100-1 000</b>	



Table LV 2						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<b>SOCIAL RULES ON ROAD TRANSPORT</b>						
<b><u>Tachograph</u></b>						
<b>Regulation No. 3821/1985/EEC</b>	<b><u>Liability for violations of regulations on recording the drivers' time of work and rest</u></b>					
<b>Article 3.1</b>	<b><u>The Latvian Administrative Violations Code</u></b>	Section 149. <sup>38</sup> , Paragraph 17	For performing transportation with a vehicle that is not equipped with recording equipment if its necessity is determined by regulatory enactments, or speed limiter in compliance with requirements or regulatory enactments	Driver Carrier	<b>Fine LVL 200-400</b> <b>Fine LVL 500-1 000</b>	

**Table LV 2**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Section of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
<b>Article 15.2</b>		Section 149. <sup>38</sup> , Paragraph 1 (1)	For use of the record card (tachogram) longer than the determined time if the recorded data are legible	Driver	<b>Warning or fine LVL 10</b>	

<b>Article 15.2</b>		Section 149. <sup>38</sup> , Paragraph 1 (2)	For use of the record card (tachogram) longer than the determined time if the recorded data are illegible	Driver Carrier	<b>Fine LVL 100-200</b> <b>Fine LVL 300-500</b>	
<b>Article 14.4</b>		Section 149. <sup>38</sup> , Paragraph 2	For use of several record cards (tachograms) without reason within twenty-four hours	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	
<b>Article 15.2</b>		Section 149. <sup>38</sup> , Paragraph 3 (1)	For removing the record card (tachogram) or the driver's card without reason if it does not affect recording of the respective data	Driver	<b>Warning or fine</b> <b>LVL 10</b>	
<b>Article 15.2</b>		Section 149. <sup>38</sup> , Paragraph 3 (2)	For removing the record card (tachogram) or the driver's card without reason if it affects recording of the respective data	Driver Carrier	<b>Fine LVL 100-200</b> <b>Fine LVL 300-500</b>	

<b>Article 15.3</b>		Section 149.38, Paragraph 4	For difference between the time recorded on the record card (tachogram) and the official clock-time of the country of the vehicle registration	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	
<b>Article 15.3</b>		Section 149.38, Paragraph 5	For failure to use or misuse of the switch mechanism of the recording equipment	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	
<b>Article 15.1</b>		Section 149.38, Paragraph 6 (1)	For producing a dirty or damaged record card (tachogram) if the recorded data are legible	Driver	<b>Warning or fine</b> <b>LVL 10</b>	
<b>Article 15.1</b>		Section 149.38, Paragraph 6 (2)	For producing a dirty or damaged record card (tachogram) if the recorded data are illegible	Driver Carrier	<b>Fine LVL 100-200</b> <b>Fine LVL 300-500</b>	
<b>Article 13</b>		Section 149.38, Paragraph 7	For use of a record card (tachogram) that does not comply with the recording	Driver Carrier	<b>Fine LVL 100-200</b> <b>Fine LVL 300-500</b>	

			equipment			
<b>Article 14.1</b>		Section 149.38, Paragraph 8	For failure to provide the driver with the documents determined in regulatory enactments for confirmation of the driver's time of work and rest and the record cards (tachograms)	Carrier	<b>Fine LVL 50-150</b>	
<b>Article 14.1</b>		Section 149.38, Paragraph 9	For insufficient amount of paper in the digital recording equipment for printing the information	Driver Carrier	<b>Warning or fine LVL 10 Warning or fine LVL 30</b>	
<b>Article 15.5</b>		Section 149.38, Paragraph 10 (1)	For misuse of the record card (tachogram) or driver's card, manifested as failure to enter data (non-registration) manually in cases determined in regulatory	Driver Carrier	<b>Fine LVL 50-100 Fine LVL 150-300</b>	

			enactments			
<b>Article 15.5</b>		Section 149.38, Paragraph 10 (2)	For misuse of the record card (tachogram) or driver's card, manifested as: misuse of the record card (tachogram) or the driver's card if several drivers are involved in transportation	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	
<b>Article 15.5</b>		Section 149.38, Paragraph 10 (3)	For misuse of the record card (tachogram) or driver's card, manifested as failure to indicate the driver's name or surname in the record card (tachogram)	Driver Carrier	<b>Fine LVL 30-100</b> <b>Fine LVL 50-300</b>	
<b>Article 15.5</b>		Section 149.38, Paragraph 10 (4)	For misuse of the record card (tachogram) or driver's card, manifested	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	

			as failure to register the beginning or end date of using the record card (tachogram) in the record card (tachogram)			
<b>Article 15.5</b>		Section 149.38, Paragraph 10 (5)	For misuse of the record card (tachogram) or driver's card, manifested as: 5) failure to register the beginning or end place of using the record card (tachogram) in the record card (tachogram)	Driver	<b>Warning or fine LVL 10</b>	
<b>Article 15.5</b>		Section 149.38, Paragraph 10 (6)	For misuse of the record card (tachogram) or driver's card, manifested as failure to indicate the change of vehicle registration number or the time of vehicle change in the record card (tachogram) -	Driver	<b>Warning or fine LVL 10</b>	

<b>Article 15.5</b>		Section 149.38, Paragraph 10 (7)	For misuse of the record card (tachogram) or driver's card, manifested as failure to record odometer readings in the record card (tachogram) upon starting to use this card (tachogram)	Driver Carrier	<b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b>	
<b>Article 15.5</b>		Section 149.38, Paragraph 10 (8)	For misuse of the record card (tachogram) or driver's card, manifested as failure to record odometer readings in the record card (tachogram) upon ending to use this card (tachogram)	Driver	<b>Warning or fine</b> <b>LVL 10</b>	
<b>Article 15.5a</b>		Section 149.38, Paragraph 10 (9)	For misuse of the record card (tachogram) or driver's card, manifested as failure to record the state name in the recording equipment	Driver	<b>Warning or fine</b> <b>LVL 10</b>	



<p><b>Article 15.2</b></p> <p><b>Article 16.2</b></p>		<p>Section 149.<sup>38</sup>, Paragraph 11</p>	<p>For incorrect or incomplete filling in the report on driver's time of work in the calendar week</p>	<p>Driver Carrier</p>	<p><b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b></p>	
<p><b>Article 16.2</b></p>		<p>Section 149.<sup>38</sup>, Paragraph 12</p>	<p>For transporting passengers without observing requirements in relation to filling in the journal necessary for recording and planning the driver's time of work and rest</p>	<p>Driver Carrier</p>	<p><b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b></p>	
<p><b>Article 15.7</b></p>		<p>Section 149.<sup>38</sup>, Paragraph 13</p>	<p>For failure to produce documents, record cards (tachograms) or data carriers that confirm the driver's time of work and rest determined in regulatory enactments</p>	<p>Driver Carrier</p>	<p><b>Fine LVL 100-200</b> <b>Fine LVL 150-300</b></p>	
<p><b>Article 14.4</b></p>		<p>Section 149.<sup>38</sup>, Paragraph 14</p>	<p>For driving a vehicle equipped with digital</p>	<p>Driver Carrier</p>	<p><b>Fine LVL 200-400</b> <b>Fine LVL 500-1 000</b></p>	

			recording equipment without a driver's card or with more than one driver's card or with another driver's card			
<b>Article 14.4</b>		Section 149.38, Paragraph 15	For driving a vehicle equipped with digital recording equipment with a damaged driver's card or a driver's card whose term has expired	Driver Carrier	<b>Fine LVL 100-200</b> <b>Fine LVL 300-500</b>	
<b>Article 156.3</b>		Section 149.38, Paragraph 16	For failure to inform an institution in charge within seven days about damage to the driver's card, mistakes in card operation or its loss	Driver	<b>Warning or fine</b> <b>LVL 10</b>	
<b>Article 14.4</b>		Section 149.38, Paragraph 24	For violation of regulations on use of the record equipment for the driver's time of work and rest, speed limiter, record	Carrier	<b>Fine LVL 100-1 000</b>	

			card (tachogram) or driver's card, detected at the company during an inspection			
<b>Article 15.7</b>		Section 149. <sup>39</sup> , Paragraph 1	In the case of refusing to comply with lawful requests of officials of road transport controlling institutions to deliver the motor vehicle for inspection of its roadworthiness, equipment, size, actual mass or axis loading, or for not handing over the motor vehicle for the abovementioned inspections	Any natural person Any legal person	<b>Fine LVL 100-500</b>  <b>Fine LVL 1 000-5 000</b>	
<b>Article 15.7</b>		Section 149. <sup>39</sup> , Paragraph 2	In the case of refusing to submit documents prescribed in regulatory enactments for inspection upon request of officials	Legal person	<b>Fine LVL 500-1 500</b>	

			of road transport controlling institutions			
<b>Regulation No. 3821/1985/EEC</b>	<b><u>Liability for violations of regulations on use of vehicle speed limiter and regulations on recording equipment</u></b>					
	<b><u>The Latvian Administrative Violations Code</u></b>	Section 149. <sup>38</sup> , Paragraph 17	For performing transportation with a vehicle that is not equipped with recording equipment if its necessity is determined by regulatory enactments, or speed limiter in compliance with requirements or regulatory enactments	Driver Carrier	<b>Fine LVL 200-400</b> <b>Fine LVL 500-1 000</b>	
<b>Article 13</b>		Section 149. <sup>38</sup> , Paragraph 18	For performing transportation with a vehicle whose recording equipment or speed limiter has not been tested for the first time or regularly	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b>	

<b>Article 3.1</b>		Section 149.38, Paragraph 19	For performing transportation with a vehicle having a recording equipment without confirmation of type	Driver Carrier	<b>Fine LVL 100-200</b> <b>Fine LVL 300-500</b>	
<b>Article 15.8</b>		Section 149.38, Paragraph 20 (1)	For performing transportation if the speed limiter or recording equipment is damaged and the damage has not been eliminated pursuant to the specified procedure or if in case of a damaged recording equipment the driver does not register the data manually, manifested as failure to timely eliminate damage of the speed limiter or recording equipment in case the vehicle could return to the base within seven days	Carrier	<b>Fine LVL 300-500</b>	

<p>Article 15.8</p> <p>Article 16.1</p>		<p>Section 149.38, Paragraph 20 (2)</p>	<p>For performing transportation if the speed limiter or recording equipment is damaged and the damage has not been eliminated pursuant to the specified procedure or if in case of a damaged recording equipment the driver does not register the data manually, manifested as failure to eliminate damage of the speed limiter or recording equipment in the nearest licensed service when the vehicle cannot return to the base within seven days</p>	<p>Driver</p> <p>Carrier</p>	<p><b>Fine LVL 50-100</b></p> <p><b>Fine LVL 150-300</b></p>	
<p>Article 15.8</p>		<p>Section 149.38, Paragraph 20 (3)</p>	<p>For performing transportation if the speed limiter or recording equipment is damaged and the damage has not been</p>	<p>Driver</p> <p>Carrier</p>	<p><b>Fine LVL 100-200</b></p> <p><b>Fine LVL 300-500</b></p>	

			<p>eliminated pursuant to the specified procedure or if in case of a damaged recording equipment the driver does not register the data manually, manifested as failure to manually record all the information at the time when the recording equipment does not work or works incorrectly</p>			
<p><b>Article 15.8</b></p>		<p>Section 149.<sup>38</sup>, Paragraph 20 (4)</p>	<p>For performing transportation if the speed limiter or recording equipment is damaged and the damage has not been eliminated pursuant to the specified procedure or if in case of a damaged recording equipment the driver does not register the data manually, manifested</p>	<p>Driver Carrier</p>	<p><b>Fine LVL 50-100</b> <b>Fine LVL 150-300</b></p>	

			<p>as failure to indicate the driver's card number or name or surname or the number of the driver's licence in the temporary record card (tachogram) for the time when the recording equipment does not work or works incorrectly</p>			
<b>Article 15.8</b>		Section 149. <sup>38</sup> , Paragraph 20 (5)	<p>For performing transportation if the speed limiter or recording equipment is damaged and the damage has not been eliminated pursuant to the specified procedure or if in case of a damaged recording equipment the driver does not register the data manually, manifested as failure to sign the temporary record card</p>	<p>Driver Carrier</p>	<p><b>Fine LVL 30-50</b> <b>Fine LVL 50-150</b></p>	



			(tachogram) or print-out used while the recording equipment does not work or works incorrectly			
<b>Article 16.3</b>		Section 149. <sup>38</sup> , Paragraph 20 (6)	For performing transportation if the speed limiter or recording equipment is damaged and the damage has not been eliminated pursuant to the specified procedure or if in case of a damaged recording equipment the driver does not register the data manually, manifested as failure to submit an official notice to the member state institutions in charge in case the driver's card is stolen	Driver	<b>Fine LVL 100-200</b>	
<b>Article 15.8</b>		Section 149. <sup>38</sup> , Paragraph 21	For use of a vehicle in transportation with a manipulation device that	Driver Carrier	<b>Fine LVL 200-400</b> <b>Fine LVL 500-1 000</b>	

			can be used to falsify data or information indicated in print-outs			
<b>Article 15.8</b>		Section 149. <sup>38</sup> , Paragraph 22	For falsifying the data recorded in the record card (tachogram), saved on the recording equipment or driver's card or print-outs of the recording equipment, hiding, destructing or for manipulations with the record card (tachogram), recording equipment or driver's card, which may result in falsification or destruction of data or information indicated in the print-outs	Driver Carrier	<b>Fine LVL 200-400</b> <b>Fine LVL 500-1 000</b>	
<b>Article 14.2, Article 14.5</b>		Section 149. <sup>38</sup> , Paragraph 23	For failure to comply with regulations on recording and storing the data of driver's time of work and	Carrier	<b>Fine LVL 100-1 000</b>	

			rest and documents at the company			
<b>Article 15.2</b>		Section 149.38, Paragraph 24	For violation of regulations on use of the record equipment for the driver's time of work and rest, speed limiter, record card (tachogram) or driver's card, detected at the company during an inspection	Carrier	<b>Fine LVL 100-1 000</b>	

Table LV 3

EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<u>Road Package</u>						
Regulation (EC) 1073/2009	<u>Liability for violating regulations regarding documents necessary for performance of road carriage</u>					
	<a href="#">The Latvian Administrative Violations Code</a>	Section 149. <sup>36</sup> , Paragraph 1	In the case of carriage of a carriage for hire or own-account carriage without licence card, copy of European Community permit or own-account carriage certificate present, which certify rights to provide commercial carriage or own-account carriage with the particular vehicle	Driver	<b>Fine LVL 2</b>	
Regulation (EC) 1071/2009						
Regulation (EC) 1072/2009						

**Table LV 3**

	Section 149. <sup>36</sup> , Paragraph 2	In the case of carriage of regular carriages for hire of passengers without permission or confirmation present	Driver Carrier	<b>Fine LVL 5</b> <b>Fine LVL 25</b>	
	Section 149. <sup>36</sup> , Paragraph 3	In the case of performance of own-account carriage of freight or passengers, violating the usage regulations for the own-account carriage certificate	Driver Carrier	<b>Fine LVL 10-25</b> <b>Fine LVL 50-100</b>	
	Section 149. <sup>36</sup> , Paragraph 4	In the case of performance of own-account carriage of freight or passengers, without the own-account carriage certificate issued according to the specified procedures	Carrier	<b>Fine LVL 100-200</b>	

**Table LV 3**

	Section 149. <sup>36</sup> , Paragraph 5	In the case of performance of passenger or freight carriage for hire without licence card issued according to the specified procedures or a copy of the European Commission permission	Carrier	<b>Fine LVL 150-300</b>	
	Section 149. <sup>36</sup> , Paragraph 6	In the case of performance of passenger or freight carriage for hire violating licence card or the European Commission permission copy usage regulations	Driver Carrier	<b>Fine LVL 20-40</b> <b>Fine LVL 100-200</b>	
	Section 149. <sup>36</sup> , Paragraph 7	In the case of violating licence or the European Commission permission usage regulations	Carrier	<b>Fine LVL 150-300</b>	

**Table LV 3**

	Section 149. <sup>36</sup> , Paragraph 8	In the case of international carriage for hire violating regulations on use of international road transport permission	Driver	<b>Fine LVL 40</b>	
	Section 149. <sup>36</sup> , Paragraph 9	In the case of performance of international carriage for hire without international road transport permission for the particular road transportation kind	Carrier	<b>Fine LVL 200-300</b>	
	Section 149. <sup>36</sup> , Paragraph 10	In the case of performance of international freight carriage for hire without the necessary driver's attestation if the driver is not a citizen of the European Union	Carrier	<b>Fine LVL 50</b>	

**Table LV 3**

	Section 149. <sup>36</sup> , Paragraph 11	In the case of regular performance of passenger carriage for hire without the permission or confirmation	Carrier	<b>Fine LVL 150-300</b>	
	Section 149. <sup>36</sup> , Paragraph 12	In the case of performance of irregular carriage for hire upon order without a written contract on carriage-	Driver Carrier	<b>Fine LVL 20-50</b> <b>Fine LVL 200-500</b>	
	Section 149. <sup>36</sup> , Paragraph 13	In the case of violating the Europe Transport Minister conference permission usage regulations-  A fine shall be imposed on the driver of the vehicle in an amount from LVL 50 up to LVL 100, for carrier from LVL 200 up to LVL	Driver Carrier	<b>Fine LVL 50-100</b> <b>Fine LVL 200-500</b>	



**Table LV 3**

Table LV 3						
			500.			
	<a href="#"><u>Criminal Law</u></a>	Section 265 (1)	For illegal manufacturing, selling, issuing, forging or destroying registration documents, or vehicle identification number marks or registration number plates of a vehicle	Any person		<b>Deprivation of liberty for a term not exceeding four years, or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage.</b>
Section 265 (3)		For commission of the abovementioned acts, if commission thereof is repeated or by a group of persons pursuant to prior agreement	Any person		<b>Deprivation of liberty for a term not exceeding eight years or community service, or a fine not exceeding one hundred and fifty times the minimum monthly wage.</b>	
Section 275 (1)		For a forgery of a document conferring rights or a release from obligations, of a seal or a	Any person		<b>Deprivation of liberty for a term not exceeding two years, or custodial arrest, or by community service, or a fine not</b>	

**Table LV 3**

			stamp, as well as commits using or selling a forged document, seal or stamp			<b>exceeding forty times the minimum monthly wage.</b>
		Section 275 (2)	For commission of the abovementioned acts, if commission thereof is repeated, or for the purpose of acquiring property, or by a group of persons pursuant to prior arrangement, or substantial harm is caused thereby to the State power or administrative order or to rights and interests protected by law of a person	Any person		<b>Deprivation of liberty for a term not exceeding four years or community service, or a fine not exceeding sixty times the minimum monthly wage.</b>
		Section 207 (1)	For engaging in entrepreneurial activities, without registration or	Any person		<b>Deprivation of liberty for a term not exceeding two years, or custodial arrest, or community</b>

**Table LV 3**

			<p>without a special permit (licence) where the requirement for such is prescribed by law, or commits continuing operation of an undertaking (company) after issue of an order for suspension of its operation, if commission of such acts is repeated within a one year period</p>			<p><b>service, or a fine not exceeding one hundred times the minimum monthly wage, with or without deprivation of the right to engage in entrepreneurial activity for a term not exceeding three years.</b></p>
		<p>Section 207 (2)</p>	<p>For engaging in entrepreneurial activity, without registration or without a special permit (licence) where the requirement for such is provided for by law, or commits continuing operation of an</p>	<p>Any person</p>		<p><b>Deprivation of liberty for a term not exceeding five years or confiscation of property, or community service, or a fine not exceeding one hundred and fifty times the minimum monthly wage, with or without deprivation of the right to engage in entrepreneurial activity for a</b></p>

**Table LV 3**

			undertaking (company) after issue of an order for suspension of its operation, if substantial harm has been caused, by such entrepreneurial activity or continuation of operation, to the State, or to the rights and interests protected by law of a person			<b>term of not less than two years and not exceeding five years.</b>
--	--	--	--	--	--	--

Table LV 4						
EU legislation	Relevant National Legislation for infringement	Section of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<u>Standards of Vehicle, Load and Necessary Licences</u>						
Directive 2008/68/EC	<u>Liability for violating regulations regarding performance of carriage of dangerous freight</u>					
	<a href="#">The Latvian Administrative Violations Code</a>	Section 149. <sup>34</sup> , Paragraph 1	In the case of unauthorised carriage of dangerous freight without the signs prescribed in the regulatory enactments about dangerous freight	Consignor (natural person) Consignor (legal person)	<b>Fine LVL 300-500</b>  <b>Fine LVL 2 000-5 000</b>	

			in the vehicle			
		Section 149.34, Paragraph 2	In the case of carriage of dangerous freight by road transport without the documents necessary for carriage of dangerous freight by road transport or in a case for not providing the driver of the vehicle with such documents, or for wrong completion of such documents	Driver Carrier Consignor (natural person) Consignor (legal person)	<b>Fine LVL 30-100</b> <b>Fine LVL 100-700</b> <b>Fine LVL 50-300</b> <b>Fine LVL 100-1 000</b>	
		Section 149.34, Paragraph 3	In the case of carriage of dangerous freight	Carrier Consignor	<b>Fine LVL 250-500</b> <b>Fine LVL 250-500</b>	

			<p>carriage of which is prohibited on roads, or for carriage of such dangerous freight which is prohibited from carriage in cisterns or bulk freight carriages – a fine shall be imposed on carrier</p>	<p>(natural person) Consignor (legal person)</p>	<p><b>Fine LVL 1 000-5 000</b></p>	
		<p>Section 149.<sup>34</sup>, Paragraph 4</p>	<p>In the case of carriage of dangerous freight in an unsuitable vehicle or container, or without complying with labelling, cistern-container or</p>	<p>Driver Carrier Consignor (natural person) Consignor (legal person)</p>	<p><b>Fine LVL 50-200</b> <b>Fine LVL 300-1 000</b> <b>Fine LVL 200-500</b> <b>Fine LVL 400-2 000</b></p>	

			cistern inspection or usage periods			
		Section 149. <sup>34</sup> , Paragraph 5	In the case of delivering of dangerous freight for carriage in unsuitable packaging, or in a case of wrong delivery for carriage of together packed dangerous freights	Consignor (natural person)  Consignor (legal person)	<b>Fine LVL 250-500</b>  <b>Fine LVL 500- 3 0000</b>	
		Section 149. <sup>34</sup> , Paragraph 6	In the case of carriage of dangerous freight if the road transport cistern or cargo package filling does not comply with provisions of the normative	Driver  Carrier  Consignor (natural person)  Consignor (legal person)	<b>Fine LVL 50-200</b>  <b>Fine LVL 250-500</b>  <b>Fine LVL 250-500</b>  <b>Fine LVL 500- 3 000</b>	



			enactments, or for not complying with packaging signing or labelling requirements			
		Section 149.34, Paragraph 7	In the case of carriage of dangerous freight without complying with mixed loading prohibitions or with necessary safety requirement regarding loading together with other cargoes, or placement and fixation of dangerous freight	Driver Carrier Consignor (natural person) Consignor (legal person)	<b>Fine LVL 50-200</b> <b>Fine LVL 250-500</b> <b>Fine LVL 250-500</b> <b>Fine LVL 500-3 000</b>	
		Section 149.34,	In the case of operating an	Driver	<b>Fine LVL 20-40</b>	

		Paragraph 8	engine of a vehicle in which or from which a dangerous freight is loaded			
		Section 149. <sup>34</sup> , Paragraph 9	In the case of not complying with smoking prohibition or for use of open fire near to dangerous freight during loading or unloading of the freight	Any natural person	<b>Fine LVL 30</b>	
		Section 149. <sup>34</sup> , Paragraph 10	In the case of leakage of dangerous freight because of non-air-tightness of the cistern or package, or for carriage of	Driver Carrier Consignor (natural person) Consignor	<b>Fine LVL 50-200</b> <b>Fine LVL 300-3 000</b> <b>Fine LVL 100-500</b> <b>Fine LVL 300-</b>	

			dangerous freight in an incorrectly closed tank or package, or for carriage of such empty, unrefined and unclosed tank or package in which dangerous freight is carried, or if restraints of dangerous freight are on outer surface of the package or tank	(legal person)	<b>3 000</b>	
	Section 149. <sup>34</sup> , Paragraph 11	In the case of carriage of dangerous freight in a cistern with incorrect information on data plate	Driver Carrier Consignor (natural or legal person)	<b>Fine LVL 50-200</b> <b>Fine LVL 250-1 000</b> <b>Fine LVL 100-250</b>		

		Section 149.34, Paragraph 12	In the case of carriage of dangerous freight by vehicle which does not have the vehicle recognition or dangerous signs pursuant to regulatory enactments	Driver Carrier Consignor (natural or legal person)	<b>Fine LVL 30-200</b> <b>Fine LVL 50-250</b> <b>Fine LVL 30-200</b>	
		Section 149.34, Paragraph 13	In the case of marking the vehicle with recognition signs or dangerous signs, if dangerous freight is not carried in the vehicle	Driver	<b>Warning or fine LVL 20</b>	
		Section 149.34, Paragraph 14	In the case of carriage or	Driver Consignor	<b>Fine LVL 10-50</b>	

			consigning of dangerous freight without the necessary individual security means, additional equipment of vehicle or fire extinguishers or if individual security means, additional equipment or fire extinguishers does not comply with the requirements	(natural or legal person)	<b>Fine LVL 25-150</b>	
		Section 149. <sup>34</sup> , Paragraph 15	In the case of standing-by of a vehicle that carries dangerous freight without engaged hand brake	Driver	<b>Fine LVL 10</b>	

		Section 149.34, Paragraph 16	In the case of carriage of passengers in a vehicle in which dangerous freight is carried	Driver	<b>Fine LVL 40</b>	
		Section 149.34, Paragraph 17	In the case of failure to assign a safety consultant (adviser) to merchants, institutions and organisations, which deal with the carriage of dangerous freight by road, as well as the consigning, loading, unloading or other actions in relation to dangerous freight	Any legal person	<b>Fine LVL 500-3 000</b>	

		Section 149. <sup>34</sup> , Paragraph 18	In the case of failure to submit a notice on assignment a safety consultant (adviser), or for a failure to submit a notice on accident with dangerous freight, or for a failure to submit an annual report on actions with dangerous freights in road transport area to the responsible institution in terms prescribed in the regulatory enactments	Any legal person	<b>Fine LVL 100-300</b>	
		Section 149. <sup>34</sup> ,	In the case of failure to draft	Any natural person	<b>Fine LVL 50-100</b>	

		Paragraph 19	dangerous freight carriage security plan, or for incorrect drafting, or failure to provide dangerous freight carriage security plan upon request of a responsible institution	Any legal person	<b>Fine LVL 200-500</b>	
	<a href="#"><u>Criminal Law</u></a>	Section 260 (1)	For commission of violation of traffic provisions or provisions regarding vehicle operation, if commission thereof is by a person operating the vehicle, and as a result thereof slight bodily	Any person		Deprivation of liberty for a term not exceeding two years or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage, with or without deprivation of the right to operate a vehicle for a term not exceeding five years.



			injury has been caused to the victim			
		Section 260 (1) <sup>1</sup>	For commission of violation of traffic provisions or provisions regarding vehicle operation, if commission thereof is by a person operating the vehicle, and as a result thereof moderate bodily injury has been caused to the victim	Any person		Deprivation of liberty for a term not exceeding five years or custodial arrest, or community service, or a fine not exceeding one hundred times the minimum monthly wage, with or without deprivation of the right to operate a vehicle for a term not exceeding five years.

			the applicable punishment is			
		Section 260 (2)	For commission of violation of traffic provisions or provisions regarding vehicle operation, if commission thereof is by a person operating a vehicle and as a result thereof serious bodily injury has been occasioned to the victim or the death of a human being has been caused thereby	Any person		Deprivation of liberty for a term not exceeding ten years, with or without deprivation of the right to operate a vehicle for a term not exceeding five years.
		Section 260 (3)	For commission either of the abovementioned	Any person		Deprivation of liberty for a term of not less than three and not exceeding fifteen years, with

			offences while under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances			deprivation of the right to operate a vehicle for a term not exceeding five years and with or without confiscation of property.
<b>Council Directive 96/53/EC</b>	<b><u>Liability for violating the regulations regarding carriage of freight</u></b>					
	<a href="#"><u>The Latvian Administrative Violations Code</u></a>	Section 149. <sup>33</sup> , Paragraph 1	In the case of exceeding the manufacturer's specified mass or distribution of loadings on the axles by more than 5%	Driver	<b>Warning or fine LVL 10</b>	
		Section 149. <sup>33</sup> , Paragraph 2	In the case of exceeding the manufacturer's	Driver	<b>Fine LVL 30</b>	

			specified mass or distribution of loadings on the axles by more than 20%			
		Section 149.33, Paragraph 3	In the case of violation of the regulations regarding freight storage and security	Driver	<b>Fine LVL 40</b>	
		Section 149.33, Paragraph 4	In the case freight containers or timber product carriage with a vehicle, which is not specifically intended for this purpose and is not correspondingly registered	Driver	<b>Fine LVL 40</b>	

		Section 149.33, Paragraph 5	In the case of violation of the regulations, which stipulate the marking of the freight outside of the vehicle dimensions, during daytime	Driver	<b>Warning or fine LVL 10</b>	
		Section 149.33, Paragraph 6	In the case of violation of the regulations, which stipulate the marking of the freight outside of the vehicle dimensions, during night time or during poor visibility conditions	Driver	<b>Fine LVL 20</b>	

		Section 149. <sup>33</sup> , Paragraph 7	In the case of carriage of freight without a permit issued according to the specified procedures, exceeding the prescribed vehicle (vehicle component) permitted actual mass up to 2 tonnes or axle loading up to 0.5 tonnes, or axle loading if the permissible loading of each axle axis is not determined, up to 1 tonne	Driver Carrier Consignor (natural person) Consignor (legal person)	<b>Fine LVL 20-50</b> <b>Fine LVL 50-200</b> <b>Fine LVL 30-100</b> <b>Fine LVL 50-200</b>	
		Section 149. <sup>33</sup> ,	In the case of carriage of freight	Driver	<b>Fine LVL 50-250</b>	

		Paragraph 8	without a permit issued according to the specified procedures, exceeding the prescribed vehicle (vehicle component) permitted actual mass from 2 up to 5 tonnes or axle loading from 0.5 tonnes up to 2 tonne, or axle loading if the permissible loading of each axle axis is not determined, from 1 tonne up to 3 tonne	Carrier  Consignor (natural person)  Consignor (legal person)	<b>Fine LVL 400-1 000</b>  <b>Fine LVL 100-250</b>  <b>Fine LVL 400-1 000</b>	
		Section 149. <sup>33</sup> , Paragraph 9	In the case of carriage of freight	Driver  Carrier	<b>Fine LVL 125-200</b>  <b>Fine LVL 1 000-</b>	

			<p>exceeding the prescribed vehicle (vehicle component)</p> <p>permitted actual mass from 5 up to 8 tonnes or axle loading from 2 tonne up to 3.5 tonnes, or axle loading if the permissible loading of each axle axis is not determined, from 3 tonne up to 5 tonne</p>	<p>Consignor (natural person)</p> <p>Consignor (legal person)</p>	<p><b>1 600</b></p> <p><b>Fine LVL 250-400</b></p> <p><b>Fine LVL 1 000-1 600</b></p>	
		Section 149.33, Paragraph 10	<p>In the case of carriage of freight exceeding the prescribed vehicle (vehicle component)</p>	<p>Driver</p> <p>Carrier</p> <p>Consignor (natural person)</p>	<p><b>Fine LVL 200-500</b></p> <p><b>Fine LVL 500-1 600</b></p> <p><b>Fine LVL 400-500</b></p> <p><b>Fine LVL 1 600-</b></p>	



			permitted actual mass for 8 tonnes or more, or axle loading for 3.5 tonnes or more, or axle loading if the permissible loading of each axle axis is not determined, for 5 tonne or more	Consignor (legal person)	<b>4 000</b>	
		Section 149.33, Paragraph 11	In the case of carriage of freight exceeding the prescribed vehicle (vehicle component) permitted dimensions	Driver Carrier Consignor (natural person) Consignor (legal person)	<b>Fine LVL 50-100</b> <b>Fine LVL 200-400</b> <b>Fine LVL 100-200</b> <b>Fine LVL 200-400</b>	
		Section 149.33, Paragraph 20	In the case of violation of	Driver Carrier	<b>Fine LVL 50</b> <b>Fine LVL 200-500</b>	

			regulatory enactments on cabotage road carriage	Consignor (natural or legal person)	<b>Fine LVL 50-100</b>	
		Section 149.33, Paragraph 21	In the case of commercial carriage with other person's vehicle without documents prescribed under the regulatory enactments that confirm lease obligations or labour legal relations	Driver Carrier	<b>Fine LVL 20-50</b> <b>Fine LVL 100-250</b>	
		Section 149.33, Paragraph 22	In the case of violating a prohibition to participate in road	Driver Carrier	<b>Fine LVL 200-400</b> <b>Fine LVL 500-1 000</b>	

			traffic that has been imposed upon constituting a violation during road carriage control			
	<b><u>Liability for violating the regulations regarding conditions for vehicle roadworthiness and equipment</u></b>					
<b>Directive 2009/40/EC</b>	<b><u>The Latvian Administrative Violations Code</u></b>	Section 149.24, Paragraph 1	In the case of the utilisation of such vehicle in road traffic to which a state roadworthiness test has not been carried out	Driver	<b>Fine LVL 40-80</b>	
		Section 149.24, Paragraph 19	In the case of issuing an order to use a vehicle, which is damaged, for which reason it is	Any person which is responsible for operation of the vehicle	<b>Fine LVL 50-100</b>	

			prohibited from being driven, or which has not passed a State roadworthiness test in the prescribed period of time			
<b>Directive 2006/126/EC</b>	<u><a href="#">The Latvian Administrative Violations Code</a></u>	Section 149.4, Paragraph 1	In the case of driving a motor vehicle without [ <i>inter alia</i> ] a driver's licence present	Driver	<b>Warning or fine LVL 2</b>	
		Section 149.4, Paragraph 4	In the case of driving a motor vehicle if a prohibition on driving is in force, or if the driver's licence has not been acquired or has been taken	Driver	<b>Fine LVL 30</b>	

			away, with exception if the prohibition on driving has been imposed within the administrative violation points system			
	Section 149.4, Paragraph 5	In the case of driving a motor vehicle without having the relevant category driver's licence	Driver	<b>Fine LVL 30-200</b>		
	Section 149.4, Paragraph 6	In the case of driving a motor vehicle without driver's licence (driver's licence has not been obtained pursuant to the regulatory enactments or has	Driver	<b>Fine LVL 200-300</b>		

			<p>been taken away),  or if the  prohibition on use  of the driver's  licence which has  been imposed  within the  administrative  violation points  system is in force</p>			
	<p><u>Recidivism</u></p>	<p>Section 149.<sup>4</sup>, Paragraph  7</p>	<p>In the case of  driving a motor  vehicle repeatedly  in one year  without driver's  licence (driver's  licence has not  been obtained  pursuant to the  regulatory  enactments or has  been taken away),  or if the</p>	<p>Driver</p>	<p><b>Administrative  arrest from 5 to 15  days with fine  LVL 400</b></p>	

			prohibition on use of the driver's licence which has been imposed within the administrative violation points system is in force			
--	--	--	--	--	--	--

The table below gathers the sanctions which are considered formally criminal in the Latvian legal system. Please note that only few infringements in the road transport are sanctioned with criminal sanctions, and they mostly include general crimes like forgery and illegal exercise of an activity.



**Table LV 5**

**Infringements of commercial road transport legislation**

<p><b>Type of infringement(s) and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Criminal sanction</b></p>	<p><b>Is it dissuasive?</b></p>
<p>Section 207 (1) Criminal Law, For engaging in entrepreneurial activities, without registration or without a special permit (licence) where the requirement for such is prescribed by law, or commits continuing operation of an undertaking (company) after issue of an order for suspension of its operation, if commission of such acts is repeated within a one year period.</p> <p>Regulation (EC) 1073/2009, Regulation (EC) 1071/2009, Regulation (EC) 1072/2009</p>	<p>Deprivation of liberty for a term not exceeding two years, or custodial arrest, or community service, or a fine not exceeding one hundred times the minimum monthly wage, with or without deprivation of the right to engage in entrepreneurial activity for a term not exceeding three years.</p>	<p>Yes</p>
<p>Criminal Law, Section 207 (2) For engaging in entrepreneurial activity, without registration or without a special permit (licence) where the requirement for such is provided for by law, or commits continuing operation of an undertaking (company) after issue of an</p>	<p>Deprivation of liberty for a term not exceeding five years or confiscation of property, or community service, or a fine not exceeding one hundred and fifty times the minimum monthly wage, with or without deprivation of the right to engage in entrepreneurial activity for a term of not less than two years and not exceeding five years</p>	<p>Yes</p>

**Table LV 5**

**Infringements of commercial road transport legislation**

<p><b>Type of infringement(s) and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Criminal sanction</b></p>	<p><b>Is it dissuasive?</b></p>
<p>order for suspension of its operation, if substantial harm has been caused, by such entrepreneurial activity or continuation of operation, to the State, or to the rights and interests protected by law of a person.</p> <p>Regulation (EC) 1073/2009, Regulation (EC) 1071/2009, Regulation (EC) 1072/2009</p>		

## ***17.7 Sanctions which could be considered substantially criminal in the Latvian legal system***

As regards the infringements that under Latvian law are sanctioned with an administrative sanction which is in substance criminal, our opinion is as follows.

The legal nature of the sanctions provided for administrative violations in the field of commercial road transport must be considered as administrative sanctions and should not be treated as sanctions of criminal nature. Pecuniary sanctions for administrative violations may vary from LVL 1 up to LVL 500 (approx. from EUR 1,43 up to EUR 712) for natural persons and up to LVL 10 000 (approx. EUR 14,229) for legal persons, but for criminal offences – from 3 to 200 minimal monthly wages (LVL 200), i.e., from LVL 600 up to LVL 40 000 (approx. from EUR 853 up to EUR 56,915). Although both the LAVC and the Criminal Law prescribe confiscation (for administrative violations – confiscation of the administrative violation object or the instrument of commitment, but for criminal offences – confiscation of property), due to the apparent difference between administrative sanctions and criminal sanctions, it cannot be concluded that some of the sanctions provided in the LAVC are in fact criminal by nature.

The analysis showed also that infringements of commercial road transport are not sanctioned with sanctions such as the withdrawal of authorizations or other measures that could be classified as substantial criminal sanctions.

**Table LV 6**

**Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR**

<b>Type of infringement and Article of reference in national legislation</b>	<b>Administrative sanction that could be qualified as criminal sanction</b>	<b>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</b>	<b>Is it dissuasive?</b>
<b>Corresponding EU legislation</b>			<b>Yes or not</b>

There are no sanctions imposed by the Latvian legislation implementing the EU directives and regulations on commercial road transport which are formally administrative but are substantially criminal.

## **17.8 Effectiveness of the sanctions system**

The Latvian sanctions system in the field of commercial road transport has the following features:

- a. infringements in the field of commercial road transport are categorised under their gravity as very serious, serious and minor infringements and such categorisation helps to rate the risk of further possible infringements of a transport undertaking (this classification is provided under the Regulations of the Cabinet No. 121 (2011) transposing provisions of the Directive No. 2006/22/EC);
- b. pecuniary sanctions that may be imposed upon drivers are less severe than the sanctions provided for the transport undertakings which are usually economically stronger subjects;
- c. specific sanctions for the infringements described in Annex IV of Regulation No 1071/2009 are established under Latvian law, however, the sanctions for most of such infringements are modest;
- d. sanctions in the field of commercial road transport are differentiated and applied in accordance with the principle of proportionality (however see sub c). The competent authorities examine circumstances mitigating and aggravating liability for administrative violations;
- e. administrative sanctions in the field of commercial road transport are structured by one legal act and can be found in the Latvian Administrative Violations Code, however, the code has faced more than 100 amendments since its entry into force and has therefore become very boundless. Although discussions on drafting a new administrative violations code in Latvia have been going on for a couple of years, no new regulatory enactment has been promulgated;
- f. criminal sanctions are applied only for the severest violations;
- g. section 32 (2) of the LAVC provides that in imposing a sanction, the nature of the committed violation, the personality of a violator, the degree of his or her culpability, the liability mitigating and aggravating circumstances shall be taken into account. Therefore, authorities impose sanctions by taking into account the

company's turnover and the expected impact of the administrative penalty on the company's financial situation.

We have been confirmed by the Latvian Government that the Road Traffic Surveillance Bureau has the capacity to perform roadside checks 24h/7days a week.

That said, it could be argued that Latvian sanctions are not dissuasive to the extent that the pecuniary penalties are not high, not even for the most serious infringements. Neither dissuasive additional sanctions such as the withdrawal of licences or of other authorizations is foreseen in addition to such financial penalties.

We were not provided recent figures by any of the Latvian stakeholders consulted.

We found a report including the following figures on commercial road transport and included them in the following table. The table shows that the number of infringements of social rules in the years 2006-2009 has actually more than doubled. The same trend is observed with respect to the non-observance of carriage rules of dangerous cargos. An increase of the number of infringements has been recorded also in the area of exceeding the allowed weight of vehicles.

The figures of 2009 confirm that the number of infringements of road transport legislation in Latvia is still substantial.

In conclusion it could be argued that the Latvian sanction system is not effective to the extent that sanctions are not dissuasive enough.

**Table LV 7**

<b>Type of violation</b>	<b>Number 2006</b>	<b>Number 2007</b>	<b>Number 2008</b>	<b>Number 2009</b>
Non observance of the working resting schedule	999	2805	2626	2467
Non observance of licensing rules	426	542	414	241
Non observance of rules of non-commercial carriage	420	373	435	216
Exceeding the allowed weight of a motor vehicle or of the axle load	140	529	406	151
Non observance of the motor vehicle dimension	94	150	102	77
Non observance of carriage rules of dangerous cargoes	43	155	139	193
Non observance of international carriage rules	27	94	43	24
Non observance of rules of	3	149	174	180

**Table LV 7**

<b>Type of violation</b>	<b>Number 2006</b>	<b>Number 2007</b>	<b>Number 2008</b>	<b>Number 2009</b>
securing cargoes				
Other violations	9	2	13	230

Source: [http://www.cash-project.eu/tiedostot/CASH%20report%203\\_2012%20FINAL.pdf](http://www.cash-project.eu/tiedostot/CASH%20report%203_2012%20FINAL.pdf)



## 18 LITHUANIA - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

### 18.1 Social rules on road transport

#### 18.1.1 Rules on Driving Times and Rest Periods

##### 18.1.1.1 Regulation (EC) No 561/2006

The Regulation (EC) No 561/2006 has been implemented by the Road Transport Code of the Republic of Lithuania<sup>15</sup> (“Road Transport Code”) and the Code of Administrative Violations of Law of the Republic of Lithuania<sup>16</sup> (“Code of Administrative Violations of Law”). The sanction system related to the infringements of rules on driving times, breaks and rest periods specified by Regulation (EC) No 561/2006 is envisaged by Articles 142<sup>5</sup>, 142<sup>6</sup>, 142<sup>7</sup>, 142<sup>8</sup> and 142<sup>9</sup> of Code of Administrative Violations of Law.

The sanctions mentioned below are applied to a driver engaged in a carriage of goods and passengers.

##### Driving times

Article 142<sup>5</sup> of Code of Administrative Violations of Law sets penalties for the infringements of rules on exceeding the limits of daily driving or uninterrupted driving time.

If a driver exceeds daily driving or uninterrupted driving time limits:

- from 15 minutes up to 30 minutes, he/she can be punished with a pecuniary sanction up to LTL 50 (app. EUR 15) (Part 1 of Article 142<sup>5</sup>);

---

<sup>15</sup> The Road Transport Code of the Republic of Lithuania, dated 19 November 1996, as amended.

<sup>16</sup> The Code of Administrative Violations of the Law of the Republic of Lithuania, dated 13 December 1984, as amended.

- over 30 minutes but no more than 1 hour, he/she can be punished with a pecuniary sanction from LTL 100 (app. EUR 29) up to LTL 200 (app. EUR 58) (Part 2 of Article 142<sup>5</sup>);
- over 1 hour but no more than 2 hours, he/she can be punished with a pecuniary sanction from LTL 200 (app. EUR 58) up to LTL 300 (app. EUR 87) (Part 3 of Article 142<sup>5</sup>);
- over 2 hours but no more than 3 hours, he/she can be punished with a pecuniary sanction from LTL 300 (app. EUR 87) up to LTL 500 (app. EUR 145) (Part 4 of Article 142<sup>5</sup>);
- over 3 hours but no more than 4 hours, he/she can be punished with a pecuniary sanction from LTL 500 (app. EUR 145) up to LTL 750 (app. EUR 217) (Part 5 of Article 142<sup>5</sup>);
- over 4 hours, he/she can be punished with a pecuniary sanction from LTL 750 (app. EUR 217) up to LTL 1000 (app. EUR 290) (Part 6 of Article 142<sup>5</sup>).

Article 142<sup>7</sup> of Code of Administrative Violations of Law sets penalties for the infringements of rules on exceeding limits of weekly driving time or accumulated driving time during 2 consecutive weeks (biweekly driving time).

If a driver exceeds the limits of weekly or biweekly driving time:

- no more than 2 hours, he/she can be punished with a pecuniary sanction up to LTL 100 (app. EUR 29) (Part 1 of Article 142<sup>7</sup>);
- over 2 hours but no more than 4 hours, he/she can be punished with a pecuniary sanction from LTL 100 (app. EUR 29) up to LTL 200 (app. EUR 58) (Part 2 of Article 142<sup>7</sup>);
- over 4 hours but no more than 8 hours, he/she can be punished with a pecuniary sanction from LTL 200 (app. EUR 58) up to LTL 300 (app. EUR 87) (Part 3 of Article 142<sup>7</sup>);
- over 8 hours, he/she can be punished with a pecuniary sanction from LTL 300 (app. EUR 87) up to LTL 500 (app. EUR 145) (Part 4 of Article 142<sup>7</sup>).

#### Rest periods

Article 142<sup>6</sup> of Code of Administrative Violations of Law sets penalties for the infringements of rules on daily rest periods.

If the insufficient daily rest period for a driver is:

- no more than 1 hour, he/she can be punished with a pecuniary sanction up to LTL 100 (app. EUR 29) (Part 1 of Article 142<sup>6</sup>);
- over 1 hour but no more than 2 hours, he/she can be punished with a pecuniary sanction from LTL 100 (app. EUR 29) up to LTL 200 (app. EUR 58) (Part 2 of Article 142<sup>6</sup>);
- over 2 hours but no more than 4 hours, he/she can be punished with a pecuniary sanction from LTL 200 (app. EUR 58) up to LTL 300 (app. EUR 87) (Part 3 of Article 142<sup>6</sup>);
- over 4 hours but no more than 6 hours, he/she can be punished with a pecuniary sanction from LTL 500 (app. EUR 145) up to LTL 750 (app. EUR 217) (Part 4 of Article 142<sup>6</sup>);
- over 6 hours, he/she can be punished with a pecuniary sanction from LTL 750 (app. EUR 217) up to LTL 1000 (app. EUR 290) (Part 5 of Article 142<sup>6</sup>).

If the rules of splitting the daily resting time into corresponding periods are infringed, a driver may be punished with a pecuniary sanction varying from LTL 100 (app. EUR 29) up to LTL 200 (app. EUR 58) (Part 6 of Article 142<sup>6</sup>).

#### *Other related infringements*

Part 7 of Article 142<sup>8</sup> of Code of Administrative Violations of Law sets penalties for the infringements of rules on driving and resting times other than those laid down by Articles 142<sup>5</sup>-142<sup>7</sup>. If such rules are infringed, a driver can be punished with a pecuniary sanction varying from LTL 50 (app. EUR 15) up to LTL 100 (app. EUR 29). Therefore, the sanctions for the infringements of rules on break periods should fall within the scope of Part 7 of Article 142<sup>8</sup> of Code of Administrative Violations of Law.

#### *Recurrence of infringement*

The exact amount of each pecuniary sanction (fine) is determined by taking into account the average of minimum and maximum values of corresponding pecuniary sanction as well as the mitigating and/or aggravating circumstances. If mitigating circumstances are identified, the corresponding pecuniary sanction should be less than

the average. In the event of aggravating circumstances, the corresponding sanction should be above the average (Part 1 of Article 30<sup>2</sup> of Code of Administrative Violations of Law).

The fact of having committed the same type of infringement over a year for which an administrative sanction was already imposed to a person is considered as aggravating circumstance (Paragraph 5 of Article 32 of Code of Administrative Violations of Law). Respectively, if the rules on driving times, breaks and rest periods are infringed over the same year once again, the pecuniary sanction should be above the average of the corresponding sanction.

*Liability of a head of the transport undertaking or an authorised person*

Article 142<sup>9</sup> of Code of Administrative Violations of Law sets penalties to head of transport undertaking or a person authorised by him to manage the activities of carriage of goods and passengers for the infringements of rules on driving and resting times.

If it is identified from record sheets of recording equipment, data transferred from digital recording equipment and (or) from driver's card (only from those which were checked by undertaking):

- from 5% up to 10% of working and rest infringements, a head of the transport undertaking or an authorised person may be punished with a pecuniary sanction varying from LTL 200 (app. EUR 58) up to LTL 500 (app. EUR 145) (Part 1 of Article 142<sup>9</sup>);
- from 10% up to 20% of working and rest infringements, a head of the transport undertaking or an authorised person may be punished with a pecuniary sanction varying from LTL 500 (app. EUR 145) up to LTL 1000 (app. EUR 290) (Part 2 of Article 142<sup>9</sup>);
- over 20% of working and rest infringements, a head of the transport undertaking or an authorised person may be punished with a pecuniary sanction varying from LTL 1000 (app. EUR 290) up to LTL 2000 (app. EUR 579) (Part 3 of Article 142<sup>9</sup>).

Article 142<sup>9</sup> of Code of Administrative Violations of Law also sets penalties to a head of the transport undertaking or an authorised person for the infringements of rules on keeping for a given time the compulsory record sheets of recording equipment, data

transferred from digital recording equipment and (or) from driver's card. However, these sanctions for such infringements fall under the scope of Regulation No. 3821/85.

Therefore, they will be discussed later.

*Foreign driver/foreign head of transport undertaking or an authorised person*

According to Part 32 of Article 2 of the Law on the Legal Status of Foreigners<sup>17</sup>, foreigner means any person other than a citizen of the Republic of Lithuania irrespective of whether he/she is a foreign citizen or a stateless person.

According to Article 16 of Code of Administrative Violations of Law, foreigners who committed an administrative offence are subject to the same obligations and provisions of Code of Administrative Violations of Law, unless the other laws or international agreements of the Republic of Lithuania provide otherwise.

Therefore, the aforementioned administrative sanctions are also applied to a foreign driver or to a foreign head of the transport undertaking or an authorised person. In a current view, there are no other special rules or sanctions for such persons.

Please note that if the infringements of Regulation (EC) No 561/2006 are committed abroad, Lithuanian laws (sanctions) are not applied.

A person who has committed an administrative offence is liable under the laws of the corresponding state where the administrative offence is committed (Part 1 of Article 8 of the Code of Administrative Violations of Law). Respectively, the sanctions applicable to the infringements of Regulation (EC) No 561/2006 foreseen by Articles 1425, 1426, 1427, 1428 and 1429 of the Code of Administrative Violations of Law are applied only to the infringements committed in the territory of the Republic of Lithuania.

**18.1.1.2 Directive 2006/22/EC (amended by Directive 2009/4/EC and Directive 2009/5/EC)**

---

<sup>17</sup> The Law on the Legal Status of Foreigners No IX-2206, dated 29 April 2004, as amended.

Directive 2006/22/EC has been implemented by the Resolution No. 546 of the Government of the Republic of Lithuania<sup>18</sup> (“Resolution No. 546”) and also by the Order No. 2B-453 of State Road Transport Inspectorate under the Ministry of Transport and Communications<sup>19</sup> (“Order No. 2B-453”).

The infringements of Regulation (EC) No 561/2006 and Regulation (EEC) No 3821/85 were categorised under their gravity as very serious, serious and minor infringements by Order No. 2B-453. The categorization of such infringements is identical as contained in annex III of Directive 2006/22/EC.

Minor infringements are considered as infringements which pose a danger to road safety and (or) worsening the working conditions of drivers (Part 1 of Article 4 of Order No. 2B-453).

Serious infringements are considered as infringements which pose a great danger to road safety or which sharply increase unfair competition or where such infringements cause health disorders of drivers who fall within the scope of Regulation (EC) No 561/2006 and Regulation (EEC) No 3821/85 (Part 2 of Article 4 of Order No 2B-453).

Very serious infringements are considered as infringements which pose a very high risk to road safety or (and) cause serious personal injuries, death or material loss of traffic participants (Part 3 of Article 4 of Order No. 2B-453).

The categorization of infringements under their gravity established by Order No. 2B-453 is used in order to create a risk rating system of transport undertakings (to assess the infringements committed by a driver or an undertaking) or on purpose that infringements would be understood and assessed equally as in the other Member States (Article 1 of Order No. 2B-453).

According to Article 6 of Resolution No. 546 the checks of transport undertakings are organised with respect to the previous experience and in cases when very serious infringements of Regulation (EC) No 561/2006 and (or) Regulation (EEC)

---

<sup>18</sup> Procedure of Inspection of Road Transport Drivers of Driving and Rest Regime and Reports Submission approved by the Resolution No 546 of the Government of the Republic of Lithuania, dated 30 May 2007, as amended.

<sup>19</sup> List of Infringements of Regulation No 561/06/EC and Regulation No 3821/85/EEC Categorised under Gravity approved by the Order No 2B-453 of State Road Transport Inspectorate under the Ministry of Transport and Communications.

No 3821/85 were identified when the checks were carried out on the road (roadside check).

### **18.1.1.3 Directive 2002/15/EC**

Directive 2002/15/EC has been implemented by the Resolution No. 587 of the Government of the Republic of Lithuania<sup>20</sup> (“Resolution No. 587”). More specifically, Chapter II of Resolution No. 587 lay down provisions on Work and Rest Features in Road Transport.

According to Part 1 of Article 11 of Resolution No. 587, the average weekly working time period cannot exceed 48 hours. Maximum weekly working time can be extended up to 60 hours, if over four months, an average of 48 hours a week is not exceeded.

Respectively, employers should ask the mobile worker to provide in writing for an account of time worked for another employer and mobile workers should provide in writing for an account of time worked for another employer.

According to Part 2 of Article 11 of Resolution No. 587, without prejudice to the level of protection provided by Regulation (EC) No 561/2006 (or failing that, by AETR Agreement), persons performing mobile road transport can work for no more than six consecutive hours without a break. Working time shall be interrupted by a break of at least 30 minutes, if working hours total between six and nine hours, and of at least 45 minutes, if working hours total more than nine hours. Breaks may be subdivided into periods of at least 15 minutes each.

Pursuant to Part 4 of Article 11 of Resolution No. 587 if night work is performed, the daily working time cannot exceed ten hours in each 24 period.

Article 13 of Resolution No. 587 foresees that mobile workers must be informed of the relevant national requirements, the internal rules of the undertaking and agreements between the two sides of industry, in particular collective agreements and any company agreements, reached on the basis of Resolution 587, without prejudice to Part 4 of

---

<sup>20</sup> Specific Features of Work and Rest in the Sectors of Economic Activities approved by the Resolution No 587 of the Government of the Republic of Lithuania, dated 14 May 2003, as amended.

Article 99 of the Labour Code of the Republic of Lithuania<sup>21</sup> (“Labour Code”) on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship.

According to Article 14 of Resolution No. 587, working time of persons performing mobile road transport activities shall be recorded. Records shall be kept for ten years after the end of the period covered. Employers shall be responsible for recording the working time of mobile workers. Employers shall upon request provide mobile workers with copies of the records of hours worked.

Regulation No. 587 does not provide any specific sanctions for such possible infringements or does not exclude the application of the sanctions foreseen by 142<sup>5</sup>, 142<sup>6</sup>, 142<sup>7</sup>, 142<sup>8</sup> and 142<sup>9</sup> of the Code of Administrative Violations of Law. Infringements of rules laid down by Resolution No. 587 are considered as infringements of labour laws where the penalties for such infringements are established by Articles 41 and 41<sup>5</sup> of Code of Administrative Violations of Law.

According to Part 1 of Article 41 of Code of Administrative Violations of Law, if an employer or his/her authorised persons infringe the requirements of labour laws, labour safety and labour hygiene, he/she may be punished with a pecuniary sanction varying from LTL 500 (app. EUR 145) up to LTL 5000 (app. EUR 1448).

According to Part 1 of Article 415 of Code of Administrative Violations of Law, if an employer or his/her authorised persons do not record the working time of employees in accounting sheet approved by the Government of the Republic of Lithuania or the recording of working time of employees, who are working under an employment contract in enterprises, institutions and organizations, and which is obviously incorrect (including overtime work, work at night and work time during public holidays and rest days), they may be punished with a pecuniary sanction varying from LTL 500 (app. EUR 145) up to LTL 3,000 (app. EUR 869).

If such infringement is repeated, the employer or his/her authorised persons may be punished with a pecuniary sanction varying from LTL 5,000 (app. EUR 1448) up to LTL 10,000 (app. EUR 2,896).

#### *Recurrence of infringement*

---

<sup>21</sup> The Labour Code of the Republic of Lithuania, dated 4 June 2002, as amended.



The same provisions of Articles 30<sup>2</sup> and 32 of Code of Administrative Violations of Law are applied in case of the infringement of Part 1 of Article 41 of Code of Administrative Violations of Law.

### *Foreigners*

According to Article 16 of Code of Administrative Violations of Law, foreigners who committed an administrative offence are subject to the same obligations and provisions of Code of Administrative Violations of Law, unless other laws or international agreements of the Republic of Lithuania provide otherwise.

Part 2 of Article 5 of Labour Code foresees specific provisions of application of labour laws to persons who are working in transport sector. Labour laws or other regulatory acts of the Republic of Lithuania are applied to such persons, if the employers who own such vehicles fall within the jurisdiction of the Republic of Lithuania. Respectively, all legal entities established in the Republic of Lithuania and its branches which statutory seat or principal place of business is in the Republic of Lithuania fall within the jurisdiction of the Republic of Lithuania.

In conclusion, the foreign transport undertakings are liable for the infringements of rules established by Resolution No. 587, if the foreign transport undertaking complies with the aforementioned requirements.

## **18.1.2 Tachograph**

### **18.1.2.1 Regulation (EEC) No 3821/85**

Regulation (EEC) No 3821/85 has been implemented by the Order No. 3-96 of the Minister of Ministry of Transport and Communications<sup>22</sup> (“Order No. 3-96”), the Order No. 2B-88 of State Road Transport Inspectorate under the Ministry of Transport

---

<sup>22</sup> Provisions on Security of Implementation of Digital Tachographs approved by the Order No 3-96 of the Minister of Ministry of Transport and Communications, dated 20 February 2004, as amended.

and Communications<sup>23</sup> (“Order No. 2B-88”) and Code of Administrative Violations of Law.

Sanctions for infringements against Regulation (EEC) No 3821/85 are foreseen by Articles 142<sup>8</sup>, 142<sup>9</sup> and 142<sup>10</sup> of Code of Administrative Violations of Law.

Article 142<sup>8</sup> of Code of Administrative Violations of Law sets penalties for the infringements of rules when there is no type approved recording equipment installed, where recording equipment is not functioning or the equipment is not responding to the standards imposed by the law and also for the infringements of rules when the data of recording equipment, record sheets or driver’s cards are improperly used or tampered.

If a driver or a head of the transport undertaking or an authorised person performs their activities:

- without recording equipment or is not correctly functioning or not responding to the standards:
  - a driver may be punished with a fine of up to LTL 1000 (app. EUR 290);
  - a head of the transport undertaking or an authorised person may be punished with a fine of up to LTL 3000 (app. EUR 869) (Part 1 of Article 142<sup>8</sup>);
- where one of the functions of recording equipment is specially disabled or the recording equipment is adapted to tamper the data of driving and rest periods:
  - a driver may be punished with a fine varying from LTL 500 (app. EUR 145) up to LTL 2000 (app. EUR 579);
  - a head of the transport undertaking or an authorised person may be punished with a fine varying from to LTL 2500 (app. EUR 724) up to LTL 5000 (app. EUR 1448) (Part 2 of Article 142<sup>8</sup>);
- where the record sheets and (or) driver’s cards which are not responding to the standards are used or the usage procedure of them is infringed:
  - a driver may be punished with a fine varying from LTL 100 (app. EUR 29) up to LTL 200 (app. EUR 58);

---

<sup>23</sup> Rules on Issuing the Identification Cards Used in Digital Tachographs approved by the Order No 2B-88 of State Road Transport Inspectorate under the Ministry of Transport and Communications, dated 23 March 2005, as amended.

- a head of the transport undertaking or an authorised person may be punished with a fine varying from LTL 250 (app. EUR 72) up to LTL 500 (app. EUR 145) (Part 3 of Article 142<sup>8</sup>);
- where the data of record sheets, data transferred from digital recording equipment or from driver's card, and (or) date of printouts is tampered:
  - a driver may be punished with a fine varying from LTL 1000 (app. EUR 290) up to LTL 2000 (app. EUR 579);
  - a head of the transport undertaking or an authorised person may be punished with a fine varying from LTL 2000 (app. EUR 579) up to LTL 4000 (app. EUR 1158) (Part 4 of Article 142<sup>8</sup>);

The other sanctions which are established by Part 5-7 of Article 142<sup>8</sup> are only applied to a driver.

If a driver:

- fails to present the necessary record sheets for the period established by laws or the presented record sheets are blank or not responding to the standards and (or) fails to present driver's card and (or) drives a vehicle without any driver's card and (or) uses not his driver's card, he/she may be punished with a pecuniary sanction varying from LTL 500 (app. EUR 145) up to LTL 1000 (app. EUR 290) (Part 5 of Article 142<sup>8</sup>);
- uses the necessary record sheet longer than 24 hours, he/she may be punished with a pecuniary sanction varying from LTL 500 (app. EUR 145) up to LTL 1000 (app. EUR 290) (Part 6 of Article 142<sup>8</sup>);
- infringes other rules than those laid down by Article 1428 of Code of Administrative Violations of Law, he/she may be punished with a pecuniary sanction varying from LTL 50 (app. EUR 15) up to LTL 100 (app. EUR 29) (Part 7 of Article 142<sup>8</sup>).

Article 142<sup>9</sup> of Code of Administrative Violations of Law sets penalties to a head of the transport undertaking or an authorised person for the infringements of rules on keeping for a corresponding time compulsory record sheets of recording equipment, data transferred from digital recording equipment and (or) from driver's card.

If a head of the transport undertaking or an authorised person does not keep a corresponding time:

- from 5% up to 10% of the record sheets of recording equipment, data transferred from digital recording equipment and (or) from driver's card, they

may be punished with a pecuniary sanction varying from LTL 200 (app. EUR 58) up to LTL 500 (app. EUR 145) (Part 1 of Article 1429);

- from 10% up to 20%, a head of the transport undertaking or an authorised person may be punished with a pecuniary sanction varying from LTL 500 (app. EUR 145) up to LTL 1000 (app. EUR 290) (Part 2 of Article 1429);
- over 20%, a head of the transport undertaking or an authorised person may be punished with a pecuniary sanction varying from LTL 1000 (app. EUR 290) up to LTL 2000 (app. EUR 579) (Part 3 of Article 1429).

### 1. Speed control equipment

Article 142<sup>10</sup> of Code of Administrative Violations of Law sets penalties for the infringements of rules of speed control equipment.

If a driver or a head of the transport undertaking or an authorised person performs their activities without speed control equipment installed or the device is not working or turned off:

- a driver may be punished with a pecuniary sanction varying from LTL 1,000 (app. EUR 290) up to LTL 2,000 (app. EUR 579),
- a head of the transport undertaking or an authorised person may be punished with a pecuniary sanction varying from LTL 2,000 (app. EUR 579) up to LTL 4,000 (app. EUR 1158).

#### Recurrence of infringement

The same provisions of Articles 30<sup>2</sup> and 32 of Code of Administrative Violations of Law are applied (see above).

#### Foreign driver / foreign head of transport undertaking or an authorised person

According to Article 16 of Code of Administrative Violations of Law, foreigners who committed an administrative offence are subject to the same obligations and provisions of Code of Administrative Violations of Law, unless other laws or international agreements of the Republic of Lithuania provide otherwise.

Therefore, the aforementioned administrative sanctions are also applied to a foreign driver or to a foreign head of the transport undertaking or an authorised person. At the present time, there are no other special rules or sanctions for such persons.

## **18.2 Road package**

### **18.2.1 Regulation (EC) No 1071/2009**

The Regulation (EC) No 1071/2009 is implemented by Article 8 of Road Transport Code and Resolution No. 1434 of the Government of the Republic of Lithuania<sup>24</sup> (“Resolution No. 1434”).

According to Part 1 of Article 8 of Road Transport Code, a carriage of passengers by bus and carriage of goods by vehicles (or by a combination of vehicles) which maximum permissible mass exceeds 3,5 tonnes for a reward can be performed by a transport undertaking only if a corresponding licence is issued. The licences are issued for a 10-year period. For each vehicle that performs the carriage of passengers or goods, a corresponding copy of the licence is issued.

Most of the licences (or their copies) are issued/suspended/withdrawn by the State Road Transport Inspectorate under the Ministry of Transport and Communications (State Road Transport Inspectorate).

According to Part 9 of Article 8 of Road Transport Code, a transport undertaking that wishes to receive a licence must comply with requirements of Article 3 of Regulation (EC) No 1071/2009 for the whole period until the corresponding licence is issued. State Road Transport Inspectorate is obliged to check if a driver complies with such requirements. If it is identified by State Road Transport Inspectorate that a transport undertaking runs the risk of no longer fulfilling the requirements laid down by Article 3 of Regulation (EC) No 1071/2009, the transport undertaking is immediately notified in writing about possible suspension or withdrawal of its licence.

---

<sup>24</sup> Rules on Licensing of Road Transport Activity approved by the Resolution No 1434 of the Government of the Republic of Lithuania, dated 7 December 2011.

According to Part 15 of Article 8 of Road Transport Code, a licence is suspended, if an undertaking fails:

- to notify the change of address of its management center;
- to inform about the replacement, dismissal from job, death or inability of the transport manager;
- to return the licence in case of changes in the licence's data.

After the elimination of infringements for which the licence has been suspended, State Road Transport Inspectorate removes the suspension of such licence (Article 50 of Resolution No. 1434).

According to Part 16 of Article 8 of Road Transport Code, the licence is withdrawn if an undertaking:

- presents an application to withdraw a licence;
- is bankrupt;
- is liquidated or was reorganised and the activities of such undertaking is over;
- was warned about the possible withdrawal of the licence or where the licence has been suspended for infringements of corresponding transport undertaking activities but such infringements were not eliminated;
- submits documents with fake data in order to obtain a licence (if such circumstances appear after the issuing of a licence).

The legal grounds for the withdrawal or suspension of a licence slightly differs from the withdrawal or suspension of copies of a licence. However, the main difference is that State Road Transport Inspectorate may suspend the validity of issued copies of a licence where the infringements of Annex IV of Regulation No 1071/2009 are identified (Part 17 of Article 8 of Road Transport Code). Therefore, it can be stated that Lithuanian law provides specific sanctions for the infringements described in Annex IV of Regulation No 1071/2009.

In addition, the specific sanctions for the infringements described in Annex IV of Regulation No 1071/2009 are foreseen by Chapter VII of Resolution No. 1434. If a transport undertaking, a head of transport undertaking or a transport manager has been punished (sanctioned) for the infringements described in Annex IV of Regulation No 1071/2009, State Road Transport Inspectorate shall perform an inspection in accordance with Part 2 of Article 6 of Regulation No 1071/2009. After the inspection, State Road Transport Inspectorate shall adopt a decision on whether the good repute of

a transport undertaking, a head of transport undertaking or transport manager is lost or not. If it is decided by State Road Transport Inspectorate that the good repute of the transport manager is lost, it is considered that the transport manager does not fit to manage the transport activities. As a consequence, a person who has lost his good repute or has been recognized as unsuitable to manage the transport activity of an undertaking cannot take the position of a head of transport undertaking or performs activities as a transport manager for one year (if an administrative sanction for such infringements has been imposed) or until the previous record of convictions will be removed (in the event where a criminal sanction has been imposed) (Articles 52-56 of Resolution No. 1434).

If a transport undertaking is performing its activities without a necessary licence, the sanctions of Code of Administrative Violations of Law and even of Criminal Code of the Republic of Lithuania<sup>25</sup> (“Criminal Code”) may be applied.

Article 173 of Code of Administrative Violations of Law sets sanctions for persons who undertake economic, commercial, financial or professional activities by unlawful means.

Respectively, if a person performs economic, commercial, financial or professional activities:

- without a necessary licence (permit) or by other unlawful means, he/she may be punished with a pecuniary sanction varying from LTL 1,000 (app. EUR 290) up to LTL 3,000 (app. EUR 869) and the production, equipment, material or incomes received from such unlawful performance may be confiscated (Part 1 of Article 173);
- without a necessary licence (permit) or by other unlawful means and uses the illegal employed people for such activities, he/she may be punished with a pecuniary sanction varying from LTL 6,000 (app. EUR 1738) up to LTL 10,000 (app. EUR 2896) and the production, equipment, material or incomes received from such unlawful performance may be confiscated (Part 3 of Article 173).

If the activities described by Part 1 of Article 173 of Code of Administrative Violations of Law are repeated, the pecuniary sanction for persons may vary from LTL 3,000 (app. EUR 869) up to LTL 6000 (app. EUR 1738) and the production,

---

<sup>25</sup> The Criminal Code of the Republic of Lithuania, dated 26 September 2000, as amended.

equipment, material or incomes received from such unlawful performance may be confiscated (Part 2 of Article 173).

Article 202 of Criminal Code also sets sanctions for persons who undertake economic, commercial, financial or professional activities illegally.

According to Part 1 of Article 202 of Criminal Code a person who undertakes economic, commercial, financial or professional activities in the form of a business or on a large scale without holding a licence (authorisation) to engage in the activities for which it is required or by other unlawful means, he/she may be punished with a community service or a fine or a restriction of liberty or an imprisonment sentence for a term of up to four years.

Part 3 of Article 202 of Criminal Code foresees that a legal entity shall also be held liable for the acts provided for in this Article.

There are two main distinctive features of administrative and criminal liability for such infringements:

- The administrative liability is applied, if the income (revenue) for such illegally activities or income (revenue) for the last 12 months or the value of goods not included into accounting does not exceed the amount of 500 of minimum standard of living (MSL) which is approximately EUR 18,825 (Article 173 of Code of Administrative Violations of Law);
- The criminal liability is applied, if the illegal activities are in the form of a business or on a large scale. These criteria are separately assessed by the court in each case.

### **18.2.2 Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009**

The Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 are implemented by the same Article 8 of Road Transport Code and by Resolution No. 1434.

These national measures do not provide any specific sanctions for the infringements against Regulation (EC) No 1072/2009 and Regulation (EC) No



1073/2009. All sanctions that may be applied in respect to Regulation (EC) No 1071/2009 may also be applied to these two Regulations (see above).

### **18.3 Standards of vehicles and load and necessary licences**

#### **18.3.1 Directive 2008/68/EC**

Directive 2008/68/EC is implemented by the Law No. IX-636<sup>26</sup>, Resolution No 337 of the Government of the Republic of Lithuania<sup>27</sup> (Resolution No. 337) and the Code of Administrative Violations of Law.

Article 136<sup>1</sup> of Code of Administrative Violations of Law sets sanctions for the infringements of rules related to the appointment of safety adviser for the carriage of dangerous goods or submission of reports about transport undertaking activities.

If a safety adviser for the carriage of dangerous goods is not appointed by an undertaking or there is no notice received about such appointment:

➤ a head of transport undertaking or an authorised person may be punished with a pecuniary sanction varying from LTL 400 (app. EUR 116) up to LTL 800 (EUR 232) (Part 1 of Article 136<sup>1</sup>);

If a report of activities related to carriage, loading/unloading and temporary storage of dangerous goods are not submitted or fake data about such activities are submitted:

➤ a head of transport undertaking or an authorised person may be punished with a pecuniary sanction varying from LTL 200 (app. EUR 58) up to LTL 400 (app. EUR 116) (Part 2 of Article 136<sup>1</sup>).

Article 136<sup>2</sup> of Code of Administrative Violations of Law sets sanctions for the infringements of rules on the carriage of dangerous goods by road transport to:

---

<sup>26</sup> The Law on Carriage of Dangerous Goods by Car, Rail and Inland Waterway, dated 11 December 2001, as amended.

<sup>27</sup> The Inland Transport of Dangerous Goods in the Republic of Lithuania approved by Resolution No 337 of the Government of the Republic of Lithuania, dated 23 March 2000, as amended.

- consignor of goods (a head of undertaking or other person who present the goods for carriage);
- a head of undertaking which provides transportation services or to a driver;
- a head of undertaking which provides loading services or to the loader.

If the dangerous goods which are barred from the carriage are handed over/loaded for carriage or carried by road transport:

- a consignor of dangerous goods and a head of transport undertaking which provides transportation services shall be punished with a pecuniary sanction varying from LTL 1,000 (app. EUR 290) up to LTL 2,000 (app. EUR 579); or
- a driver shall be punished with a pecuniary sanction varying from LTL 200 (app. EUR 58) up to LTL 400 (app. EUR 116), whereas a head of undertaking which provides loading services or the loader shall be punished with a fine varying from LTL 400 (app. EUR 116) up to LTL 800 (app. EUR 232) (Part 1 of Article 136<sup>2</sup>).

If dangerous goods are handed over/loaded for a carriage or carried by road transport where dangerous goods are leaking (crumbling) or there is no reference to the dangerous goods in transportation documents or the packages are not marked/labelled or the vehicle is not labelled or the dangerous goods are handed over for carriage without a corresponding application of rules of loading, mixed loading or fastening:

- a consignor of dangerous goods or a head of transport undertaking which provides loading services or a loader or a head of transport undertaking which provides transportation services shall be punished with a pecuniary sanction varying from LTL 400 (app. EUR 116) up to LTL 800 (app. EUR 232); or
- a driver shall be punished with a pecuniary sanction varying from LTL 200 (app. EUR 58) up to LTL 400 (app. EUR 116) (Part 2 of Article 136<sup>2</sup>).

If dangerous goods are handed over for carriage where packaging do not comply with the requirements or the dangerous goods are carried in containers or tanks in bulk or when the rules of loading, filling of tanks or packaging, fastening of goods are not applied, or when a consignor of dangerous goods may have known or knew that the vehicle or its driver did not comply with corresponding requirements for the carriage of dangerous goods:

➤ a consignor of dangerous goods shall be punished with a pecuniary sanction varying from LTL 400 (app. EUR 116) up to LTL 800 (app. EUR 232) (Part 3 of Article 136<sup>2</sup>).

If dangerous goods are carried by road transport where such road transport is not suitable or does not have a corresponding certificate or does not comply with the certified standards and, therefore, presents a direct hazard, or when the maximum allowable amount of goods in a vehicle is exceeded or dangerous goods are carried by road transport in a forbidden way or when the rules of temporary storage are not applied or when a driver who carries dangerous goods does not meet the requirements of vocational training or does not follow the prohibition to smoke:

➤ a head of transport undertaking which provides transportation services shall be punished with a pecuniary sanction varying from LTL 400 (app. EUR 116) up to LTL 800 (app. EUR 232); or

➤ a driver shall be punished with a pecuniary sanction varying from LTL 200 (app. EUR 58) up to LTL 400 (app. EUR 116) (Part 4 of Article 136<sup>2</sup>).

If dangerous goods are handed over for carriage when the date of test, checks and (or) usage of packaging, intermediate bulk containers or large packaging is expired or dangerous goods are carried in damaged packaging/intermediate bulk containers/large packaging or the goods are carried in structurally unsuitable containers or tanks (tank-containers) (including empty and uncleaned) are not properly closed or the mix packaging are carried and the outside of packaging is not properly prepared or the vehicle is not properly marked or instructions in writing are not presented to a driver or such instructions do not match the dangerous goods which are carried by road transport:

➤ a consignor of dangerous goods shall be punished with a pecuniary sanction varying from LTL 100 (app. EUR 29) up to LTL 400 (app. EUR 116) (Part 5 of Article 136<sup>2</sup>).

If dangerous goods are carried by road transport where a vehicle (combination of vehicles) does not comply with the certified standards but there is no direct hazard or there is no equipment which is described in instructions for a driver or when the dangerous goods are carried in damaged packaging/containers or empty/uncleaned packaging of dangerous goods are damaged or the hazardousness of a vehicle is not

properly labelled/marked or there is no necessary instructions to a driver or such instructions do not match the dangerous goods which are carried by a driver or there is no necessary and valid fire-extinguishers in the vehicle or vehicle with the dangerous goods is left for parking without following the necessary requirements:

➤ a head of undertaking which provides transportation services or a driver shall be punished with a pecuniary sanction varying from LTL 100 (app. EUR 29) up to LTL 400 (app. EUR 116) (Part 6 of Article 136<sup>2</sup>).

If dangerous goods are loaded for carriage where the packaging are damaged or they are not leak proof (including damaged packaging which are empty and uncleaned):

➤ a head of undertaking which provides loading services or a loader shall be punished with a pecuniary sanction varying from LTL 100 (app. EUR 29) up to LTL 400 (app. EUR 116) (Part 7 of Article 136<sup>2</sup>).

If dangerous goods are handed over for the carriage by road transport where the other information related to carriage of dangerous goods is not provided or the other rules of carriage of dangerous goods established by legal acts are infringed (except the cases provided above by Article 136<sup>2</sup>):

➤ a consignor of dangerous goods shall be punished with a warning or by pecuniary sanction of up to LTL 100 (app. EUR 29) (Part 8 of Article 136<sup>2</sup>).

If dangerous goods are carried by road transport where the markings/labels or their letters, numbers or symbols do not comply with the necessary requirements or the size of them is unsuitable or the other information related to carriage of dangerous goods is not provided in transport documents or a driver during the carriage of dangerous goods fails to present a vocational training certificate (but a driver has such certificate) or the other rules of carriage of dangerous goods established by legal acts are infringed (except the cases provided above by Article 136<sup>2</sup>):

➤ a head of undertaking which provides transportation services or a driver may be punished with a warning or a pecuniary sanction of up to LTL 100 (app. EUR 29) (Part 9 of Article 136<sup>2</sup>).

A head of undertaking which provides transportation services and a driver are not responsible for the infringements described by Parts 1-2, 4, 6, 9 of Article 136<sup>2</sup> of Code of Administrative Violations of Law; whereas a head of undertaking which

provides loading services or to loaders are not liable for the infringements described by Parts 1-2, 7 of Article 136<sup>2</sup> of Code of Administrative Violations of Law, if such infringements are made due to the wrong information provided in transport documents by other persons (Part 10 of Article 136<sup>2</sup>).

The administrative liability is not applied if the carriage of dangerous goods is performed without exceeding the allowable amount or when the transportation of dangerous goods is followed by the derogations established by laws (unless the prohibited dangerous goods are carried).

### Foreigners

According to Article 16 of Code of Administrative Violations of Law, foreigners who committed an administrative offence are subject to the same obligations and provisions of Code of Administrative Violations of Law, unless other laws or international agreements of the Republic of Lithuania provide otherwise.

Therefore, the aforementioned administrative sanctions are also applied to a foreigner. In a current view, there are no other special rules or sanctions for such persons.

### **18.3.2 Directive 1996/53/EC**

Council Directive 96/53/EC has been implemented by the Law No. VIII-2032<sup>28</sup> and by the Order No. 3-66 of Ministry of Transport and Communications<sup>29</sup> (Order No. 3-66).

The sanctions related to infringements pertaining to the maximum vehicles authorised dimensions are set by Part 3 of Article 145 of Code of Administrative Violations of Law.

---

<sup>28</sup> The the Law on the Financing of Road Maintenance and Development Programme No. VIII-2032, dated 12 October 2000, as amended.

<sup>29</sup> Maximum Authorised Dimensions, Load of Axle (Axles) and Maximum Authorised Weights of Road Vehicles approved by the Order No. 3-66 of Ministry of Transport and Communications, dated 18 February 2002, as amended.

If a vehicle (or a combination) is being driven without permission where the allowable load of axle (axles) and (or) maximum authorised weight is exceeded, or if a vehicle (or a combination) is being driven where the allowable dimensions (with/without the cargo) are exceeded:

- a driver may be punished with a pecuniary sanction varying from LTL 500 (app. EUR 145) up to LTL 1,000 (app. EUR 290); and
- a head of a transport undertaking or a person authorised by him to manage the activities of carriage of goods and passengers may be punished with a sanction varying from LTL 1,000 (app. EUR 290) up to LTL 2,000 (app. EUR 579).

*Foreign driver/foreign head of transport undertaking or an authorised person*

According to Article 16 of Code of Administrative Violations of Law, foreigners who committed an administrative offence are subject to the same obligations and provisions of Code of Administrative Violations of Law, unless other laws or international agreements of the Republic of Lithuania provide otherwise.

Therefore, the aforementioned administrative sanctions are also applied to a foreign driver or to a foreign head of the transport undertaking or an authorised person. At the present time, there are no other special rules or sanctions for such persons.

### **18.3.3 Directive 2009/40/EC**

Directive 2009/40/EC has not been transposed by the Lithuanian authorities because it is the recast directive.

The relevant rules on roadworthiness tests for motor vehicles and their trailers have been provided by the Law No. VIII-2043<sup>30</sup> and by the Order No. 2B-290 of State

---

<sup>30</sup> The Law on Road Traffic Safety No. VIII-2043, dated 12 October 2000, as amended.

Road Transport Inspectorate under the Ministry of Transport and Communications<sup>31</sup> (Order No. 2B-290).

The sanctions for infringements on rules on roadworthiness tests for motor vehicles and their trailers are established by Article 123 of Code of Administrative Violations of Law.

According to Part 1 of Article 123 of Code of Administrative Violations of Law, vehicle (including trailers) which are not registered (re-registered) in accordance with the procedures of law, or the vehicle is being driven without a valid roadworthiness certificate, or the vehicle is with technical faults for which driving is prohibited by Traffic rules:

- a driver may be punished with a pecuniary sanction varying from LTL 100 (app. EUR 29) up LTL 150 (app. EUR 43).

The sanction for driving the vehicle with the fake roadworthiness certificate is established by Criminal Code.

According to Part 1 of Article 300 of Criminal Code, any person who produces a false document, forges a genuine document or stores, transports, forwards, uses or handles a document known to be false or a genuine document known to be forged shall be punished by a fine or by arrest or by imprisonment for a term of up to three years.

According to Part 3 of Article 300 of Criminal Code, any person who commits the acts provided for in paragraph 1 where this incurs major damage shall be punished by imprisonment for a term of up to six years.

Pursuant to Part 4 of Article 300 of Criminal Code, any legal entity shall also be held liable for the acts provided for in this Article.

### **18.3.4 Directive 2006/126/EC**

Directive 2006/126/EC is implemented by the Law No. VIII-2043<sup>32</sup>.

---

<sup>31</sup> Technical Requirements for Motor Vehicles and Their Trailers approved by the Order No. 2B-290 of State Road Transport Inspectorate under the Ministry of Transport and Communications, dated 29 July 2008, as amended.

<sup>32</sup> The Law on Road Traffic Safety No VIII-2043, dated 12 October 2000, as amended.

The main sanctions for the infringements of rules on driving licences are foreseen by Article 128 of Code of Administrative Violations of Law.

If a person is driving a vehicle without a driving licence or driving a vehicle falling in a category not covered by a driving licence, he/she may be punished with a pecuniary sanction varying from LTL 1,000 (app. EUR 290) up to LTL 1,500 (app. EUR 434) or administrative arrest may be imposed (Part 1 of Article 128).

If a person is driving a vehicle without a driving licence where a driving licence was revoked, he/she may be punished with a pecuniary sanction varying from LTL 1,500 (app. EUR 434) up to LTL 2,500 (app. EUR 724) or administrative arrest may be imposed.

If a vehicle has been transferred to other person who does not have a driving licence or such person is driving a vehicle falling in a category not covered by a driving licence, he/she may be punished with a pecuniary sanction varying from LTL 200 (app. EUR 58) up to LTL 400 (app. EUR 116) (Part 2 of Article 128).

The liability for using a fake driving licence is foreseen by Article 300 of Criminal Code.

Part 2 of Article 300 of Criminal Code foresees that a person who produces a false identity driving licence or forges a genuine driving licence or stores, transports, forwards, uses or handles driving licence known to be false or a genuine driving licence known to be forged shall be punished by arrest or by imprisonment for a term of up to four years.

Part 3 of Article 300 of Criminal Code foresees that a person who commits the acts provided for in paragraph 2 of this Article, where this incurs major damage, or produces a large quantity of false driving licences or forges a large quantity of genuine driving licence or stores, transports, forwards, uses or handles a large quantity of driving licences known to be false or genuine driving licences known to be forged shall be punished by imprisonment for a term of up to six years.

#### ***18.4 Notion of criminal sanction and administrative sanction in the Lithuanian legal system***



Pursuant to Part 1 of Article 41 of Criminal Code, a criminal sanction is a compulsion measure applied by the State which is imposed by a court's judgment upon a person who has committed a crime or misdemeanour. In other words, criminal sanctions are the consequences of criminal acts (crimes or misdemeanours). These sanctions are subject to the principle of legality. Pursuant to Article 2 of Criminal Code, a person shall be held liable under Criminal Code only when the act committed by him is forbidden by a criminal law.

Article 42 of the Criminal Code foresees criminal sanctions to natural persons:

- If a person commits a crime, the following sanctions may be imposed: 1) community service; 2) a fine; 3) restriction of liberty; 4) arrest; 5) fixed-term imprisonment; 6) life imprisonment.
- If a person commits a misdemeanour, the following penalties may be imposed: 1) community service; 2) a fine; 3) restriction of liberty; 4) arrest.

Article 43 of Criminal Code foresees criminal sanctions to legal entities which are:

- a fine;
- restriction of operation of the legal entity;
- liquidation of the legal entity.

A legal entity is held liable, if such liability for a corresponding criminal act is expressly stated in Criminal Code (Part 1 of Article 20 of Criminal Code). However, the criminal liability of a legal entity does not release from criminal liability a natural person who has committed, organised, instigated or assisted in the commission of the criminal act (Part 4 of Article 20 of Criminal Code). It is also important to notice that State, a municipality, a state and municipal institution and agency as well as international public organisation is not held liable as legal entity (Part 5 of Article 20 of Criminal Code).

Respectively, administrative sanctions are the consequence of the administrative offences which mainly are described by Code of Administrative Violations of Law. The administrative sanctions are applied to natural and legal persons. The following sanctions may be imposed on a person (natural or legal) who commits administrative offence:

- warning;

- fine;
- confiscation of an object which was a tool or a direct object of an administrative offence or confiscation of an income which was received by the administrative offence;
- deprivation of special rights (for example driving);
- administrative arrest;
- exclusion from the work (duties);
- other sanctions foreseen by other laws.

In cases provided by Code of Administrative Violations of Law, a fine may be changed into a community service.

The main differences between administrative and criminal sanctions are the following:

- all criminal sanctions are laid down only by Criminal Code. Respectively, administrative sanctions could be found not only in the Code of Administrative Violations of Law but even in the other laws;
- criminal sanctions can only be imposed by a court, whereas administrative sanctions can also be imposed by the Lithuanian authorities;
- as a legal consequence of a criminal sanction, a convicted person has a criminal record about his previous conviction where the duration of such record depends on the type of a criminal offence (for example, record of previous conviction of a person convicted of intentional crimes remains entire lifetime). A court takes into consideration the records of previous convictions when imposing a penalty (sanction) in the event of recidivism. As regards the administrative sanctions, if a person upon whom an administrative sanction has been imposed did not commit a new administrative offence within the year, it is later considered that there are no previous administrative sanctions imposed on such person.
- different limitation periods: the administration sanctions may be imposed no later than 6 months after the administrative offence has been committed (with some exceptions). Respectively, the limitation periods of criminal sanctions for criminal offences are longer and depending on the type of criminal offence.

#### *Concurrence between several administrative sanctions*

In case of concurrence of administrative offences, the administrative sanctions are imposed by authorised authority in accordance within the procedure established by

Article 33 of the Code of Administrative Violations of Law. As a general rule, sanctions for each administrative offence are imposed by authorised authority separately and there are no limits to the sanctions applicable. However, where a person has committed several administrative offences and these administrative cases are investigated by the same institution (for example, by the State Road Transport Inspectorate under the Ministry of Transport and Communications of the Republic of Lithuania), the final administrative sanction for several committed administrative offences should be imposed within the limits of the sanction of the more severe administrative offence (under the practice of the Supreme Administrative Court of the Republic of Lithuania the severity of the administrative offences could be assessed by the severity of the sanctions provided therein.). In addition, the confiscation of an object, prohibition to exercise a special right or suspension from work may be imposed as additional administrative sanctions, if such sanction is provided for the committed infringements (Part 2 of Article 33 of the Code of Administrative Violations of Law).

It is important to note that the provisions described above do not state that the final sanction for several administrative offences must be equal to the most severe sanction described by the law. As regards the final sanction, an authorised authority should assess the nature of the committed administrative offences and other important circumstances in each administrative case. The same rules are applied, if the same behaviour of a person infringes more than one rule (requirement) established by Lithuanian laws (the case of full concurrence of the administrative sanctions).

#### *Concurrence between administrative and criminal sanctions*

As to the relation between administrative and criminal sanctions, Part 2 of Article 9 of Code of Administrative Violations of Law foresees that the administrative liability for the administrative offences is applied, if the criminal liability is not applied to such offences. In other words, administrative sanctions cannot be applied when criminal sanctions are also applied.

### **18.5 Scope of application of Lithuanian criminal law**

The rules on the scope of application of Lithuanian criminal law are laid down by Articles 3-9<sup>1</sup> of Criminal Code.

The persons who have committed criminal acts within the territory of the state of Lithuania shall be punished according to provisions of Criminal Code. The place of commission of a criminal act shall be the place where a person acted or ought to have acted or could have acted or the place where the consequences provided for by a criminal law occurred. Respectively, a single criminal act committed both in the territory of the State of Lithuania and abroad shall be considered to have been committed in the territory of the Republic of Lithuania if it was commenced or completed or discontinued in this territory (Article 4 of Criminal Code).

Articles 5-6 of Criminal Code lay down the rules on the application of Lithuanian criminal law for actions committed abroad. If a crime was committed abroad, citizens or permanent residents of the Republic of Lithuania are held liable under the Lithuanian law (the provisions of Criminal Code). If a foreigner who does not have a permanent residence in the Republic of Lithuania commits a crime abroad, he/she is liable under Lithuanian law if the committed crime is directed against the Republic of Lithuania as provided by Articles 114-128 of Criminal Code (for example, treason, espionage, disclosure of a state secret).

Pursuant to Part 1 of Article 8 of Criminal Code, any person who has committed abroad the crimes provided for in Articles 5-6 of this Code shall be held criminally liable only where the committed act is recognised as a crime and is punishable under the criminal code of the state of the place of commission of the crime and the Criminal Code of the Republic of Lithuania. Where a person who has committed a crime abroad is prosecuted in the Republic of Lithuania, but a different penalty is provided for this crime in each country, the person shall be subject to a penalty according to laws of the Republic of Lithuania. However, it may not exceed the maximum limit of penalty specified in the criminal laws of the state of the place of commission of the crime.

Article 7 of Criminal Code provides rules on the scope of application of Lithuanian criminal law to the crimes provided by international treaties. According to Part 1 of Article 7 of Criminal Code, any persons shall be liable under Criminal Code regardless of their citizenship and place of residence, also of the place of commission of a crime and whether the act committed is subject to punishment under laws of the place of commission of the crime when they commit the following crimes subject to liability under international treaties (for example, bribery).

However, a person who has committed the crimes provided by Articles 5-7 of the Criminal Code of the Republic of Lithuania shall not be held liable under Criminal Code where he/she:

- has served the sentence imposed by a foreign court;
- has been released from serving the entire or a part of the sentence imposed by a foreign court;
- has been acquitted or released from criminal liability or punishment by a foreign court's judgement, or no penalty has been imposed by reason of the statute of limitation or on other legal grounds provided for in that state.

## **18.6 Summary tables**

Competent authorities responsible for imposing administrative sanctions are the following:

- The State Labour Inspectorate of the Republic of Lithuania (State Labour Inspectorate). State Labour Inspectorate is responsible for imposing administrative sanctions established by Articles 41 and 415 of Code of Administrative Violations of Law.
- The Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania (Financial Crime Investigation Service). Financial Crime Investigation Service is responsible for imposing administrative sanctions established by Article 173 of Code of Administrative Violations of Law.
- The State Road Transport Inspectorate under the Ministry of Transport and Communications of the Republic of Lithuania. State Road Transport Inspectorate is responsible for imposing administrative sanctions established by Articles 1425-14210, Part 3 of Article 145 and 1362 of Code of Administrative Violations of Law. State Road Transport Inspectorate has a right to withdraw the authorisation to engage in the occupation of road transport operator which is established by Part 4 of Article 48 and Article 45 of Resolution No. 1434.

- The Police of the Republic of Lithuania (Police). Police is responsible for imposing administrative sanctions Articles 123, 142<sup>5</sup>-142<sup>10</sup>, 145, and 136<sup>2</sup> of Code of Administrative Violations of Law. Therefore, the authorisation of Police and State Road Transport Inspectorate in most cases overlaps.

Competent authorities responsible for imposing criminal sanctions are the Lithuanian courts.

The table below provides an overview of the administrative and criminal sanctions foreseen in the Lithuanian legal system for the infringements of the EU commercial road transport legislation.

Table LT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
Regulation 561/06/EC	<u>Driving Times</u>  <u>Code of Administrative Violations of Law</u>	Part 1 of Article 142 <sup>5</sup>	Exceeding the daily driving or uninterrupted driving from 15 up to 30 minutes	Driver	Up to €15	
		Part 2 of Article 142 <sup>5</sup>	Exceeding the daily driving or uninterrupted driving over 30 minutes but no more than 1 hour	Driver	From €29 up to €58	
		Part 3 of Article	Exceeding the daily driving or	Driver	From €58 up to €87	

Table LT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
		142 <sup>5</sup>	uninterrupted driving over 1 hour but no more than 2 hours.			
		Part 4 of Article 142 <sup>5</sup>	Exceeding the daily driving or uninterrupted driving over 2 hour but no more than 3 hours	Driver	<b>From €87 up to €145</b>	
		Part 5 of Article 142 <sup>5</sup>	Exceeding the daily driving or uninterrupted driving over 3 hour	Driver	<b>From €145 up to €217</b>	



Table LT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
			but no more than 4 hours			
		Part 6 of Article 142 <sup>5</sup>	Exceeding the daily driving or uninterrupted driving over 4 hours	Driver	<b>From €217 up to €290</b>	
		Part 1 of Article 142 <sup>7</sup>	Exceeding the weekly or biweekly no more than 2 hours	Driver	<b>Up to €29</b>	
		Part 2 of Article	Exceeding the weekly or	Driver	<b>From €29 up to €58</b>	

Table LT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
		142 <sup>7</sup>	biweekly over 2 hours but no more than 4 hours			
		Part 3 of Article 142 <sup>7</sup>	Exceeding the weekly or biweekly over 4 hours but no more than 8 hours	Driver	<b>From €58 up to €87</b>	
		Part 4 of Article 142 <sup>7</sup>	Exceeding the weekly or biweekly over 8 hours	Driver	<b>From €87 up to €145</b>	

Table LT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">Rest Periods</a>  <a href="#">Code of Administrative Violations of Law</a>	Part 1 of Article 142 <sup>6</sup>	Insufficient daily rest period of no more than 1 hour	Driver	Up to €29	
		Part 2 of Article 142 <sup>6</sup>	Insufficient daily rest period is over 1 hour but no more than 2 hours	Driver	From €29 up to €58	
		Part 3 of Article 142 <sup>6</sup>	Insufficient daily rest period is over 2 hour but no more than 4 hours	Driver	From €58 up to €87	

Table LT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
		Part 4 of Article 142 <sup>6</sup>	Insufficient daily rest period is over 4 hour but no more than 6 hours	Driver	<b>From €145 up to €217</b>	
		Part 5 of Article 142 <sup>6</sup>	Insufficient daily rest period is over 6 hours	Driver	<b>From €217 up to €290</b>	
		Part 6 of Article 142 <sup>6</sup>	Infringements of rules on splitting the daily rest period into corresponding periods	Driver	<b>From €29 up to €58</b>	

Table LT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
	<p style="text-align: center;"><u>Other infringements</u></p> <p style="text-align: center;"><u>Code of Administrative Violations of Law</u></p>	Part 7 of Article 142 <sup>8</sup>	Infringements of rules on driving and rest other than those laid down by Articles 142 <sup>5</sup> -142 <sup>7</sup>	Driver	<b>From €15 up to €29</b>	
	<p style="text-align: center;"><u>Transport undertaking's liability</u></p>	Part 1 of Article 142 <sup>9</sup>	Identification from 5% to 10% of working and rest infringements	Head of transport undertaking or authorised person	<b>From €58 up to €145</b>	

Table LT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
	<u>Code of Administrative Violations of Law</u>	Part 2 of Article 142 <sup>9</sup>	Identification from 10% to 20% of working and rest infringements	Head of transport undertaking or authorised person	<b>From €145 up to €290</b>	
		Part 3 of Article 142 <sup>9</sup>	Identification over 20% of working and rest infringements	Head of transport undertaking or authorised person	<b>From €290 up to €579</b>	
<b>Directive 2002/15/EC</b>	<u>Working time and rest periods</u>	Part 1 of Article 41	Infringement of labour laws	Employer or authorised person	<b>From €145 up to €1448</b>	

Table LT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">Code of Administrative Violations of Law</a>	Part 1 of Article 41 <sup>5</sup>	Not recording of working time of employees in accounting sheet or recording is obviously incorrect	Employer or authorised person	<p><b>From €145 up to €869</b></p> <p><b>If repeated, from €1448 up to €2896</b></p>	

Table LT 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
<p><b>Regulation 3821/1985/EC</b></p>	<p><u>Code of Administrative Violations of Law</u></p>	<p>Part 1 of Article 142<sup>8</sup></p>	<p>-no recording equipment installed; -the installed equipment is not functioning properly; -the recording equipment do not comply with necessary requirements;</p>	<p>Driver  Head of transport undertaking or authorised person</p>	<p><b>Up to €290</b>  <b>Up to €869</b></p>	
		<p>Part 2 of Article</p>	<p>One of the functions of</p>	<p>Driver</p>	<p><b>From €145 up</b></p>	



Table LT 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
		142 <sup>8</sup>	tachograph is specially disabled or the recording equipment is adapted to tamper the data of driving and rest periods	Head of transport undertaking or authorised person	to €579  From €724 up to €1448	
		Part 3 of Article 142 <sup>8</sup>	Record sheets and/or driver's cards do not comply with the requirements or the usage procedure is	Driver  Head of transport undertaking or authorised person	From €29 up to €58  From €72 up to €145	

Table LT 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
			infringed.			
		Part 4 of Article 142 <sup>8</sup>	Data of record sheets, data transferred from digital recording equipment or from driver's car or data of printouts is tampered	Driver  Head of transport undertaking or authorised person	<b>From €290 up to €579</b>  <b>From €579 up to €1158</b>	
		Part 5 of Article 142 <sup>8</sup>	Failure to present the necessary record sheets for the period established by	Driver	<b>From €145 up to €290</b>	

Table LT 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
			laws or the presented record sheets are blank or not responding to the standards and (or) failure to present driver's card and (or) driving a vehicle without any driver's card and (or) using not his driver's card			
		Part 6 of Article	Usage of the necessary record	Driver	From €145 up	

Table LT 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
		142 <sup>8</sup>	sheet longer than 24 hours		to €290	
		Part 7 of Article 142 <sup>8</sup>	Infringement of other rules than those laid down by Article 142 <sup>8</sup>	Driver	From €15 up to €29	
		Article 142 <sup>10</sup>	There is no speed control equipment installed; speed control equipment is not working or turned off	Driver  Head of transport undertaking or authorised person	From €290 up to €579  From €579 up to €1158	

Table LT 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Responsible persons</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>

Table LT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
<b>Regulation No. 1071/2009/EC, 1072/2009/EC, 1073/2009/EC.</b>	<a href="#">Road Transport Code</a>	Part 15 of Article 8	Failure to inform about replacement, dismissal from job, death or inability of transport manager.	Transport undertaking (as defined by Regulation 1071/2009/EC)	<b>Suspension of a licence</b>	
		Part 16 of Article 8	Submission of documents with a fake data in order to receive a licence	Transport undertaking (as defined by Regulation 1071/2009/EC)	<b>Withdrawal of a licence</b>	<b>In case of forgery, fine, arrest or imprisonment for a term of up to three years</b> <b>If a major damage incurs, imprisonment for a term of up to six years (Article 300 of Criminal Code)</b>
		Part 17 of Article 8	Infringements described by Annex IV of Regulation 1071/2009	Transport undertaking (as defined by Regulation 1071/2009)	<b>Suspension of a copy of a licence</b>	

Table LT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">Resolution No 1432</a>	Articles 52-56	Infringements described by Annex IV of Regulation 1071/2009 and as a consequence a loss of good repute.	Head of transport undertaking and transport manager	<p><b>Prohibition to take a position of a head of transport undertaking or to perform activities as a transport manager for a corresponding period.</b></p> <p><b>In case the administrative</b></p>	

Table LT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
					<p>sanctions were applied for the infringements, the prohibition is valid until it is considered that the administrative sanctions was not imposed to such person (usually, administrative sanction is valid for 1 year if no new administrative</p>	



Table LT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
					<p>offences were made)</p> <p>In case the criminal sanctions were applied, the prohibition is valid until the previous records of convictions are removed</p>	
	<p><u>Code of Administrative Violations of</u></p>	<p>Part 1 of Article 173</p>	<p>Performing transport activities without licence or</p>	<p>Person who performs such illegal activities</p>	<p>From €290 up to €869 with a confiscation</p>	

Table LT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
	<u>Law</u>		by other unlawful means		illegally received incomes or other objects.  In case of a recurrence, from €869 up to €1738	
		Part 3 of Article 173	Performing transport activities without licence or by other unlawful means and usage of illegally employed workers	Person who performs such illegal activities	From €1738 up to €2896 with a confiscation of illegally received incomes or other objects	Community service, fine, restriction of liberty or imprisonment for a term up to four years (Article 202 of Criminal Code)

Table LT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)

Table LT 4

**STANDARDS OF VEHICLES AND LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
<b>Directive 2008/68/EC</b>	<b><u>Code of Administrative Violations of Law</u></b>	Part 1 of Article 136 <sup>1</sup>	No safety adviser appointed or no notice about such appointment received	Head of transport undertaking or authorised person	<b>From €116 up to €232</b>	
		Part 2 of Article 136 <sup>1</sup>	No report related to the carriage of dangerous goods is received or the received report is with a fake	Head of transport undertaking or authorised person	<b>From €58 up to €116</b>	<b>In case of forgery, fine, arrest or imprisonment for a term of up to three years</b>

Table LT 4

STANDARDS OF VEHICLES AND LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
			data			
		Part 1 of Article 136 <sup>2</sup>	Dangerous goods which are barred from carriage are handed over/loaded for carriage or carried by road transport	Consignor of dangerous goods and head of transport undertaking which provides transportation services  or  driver and	<b>From €290 up to €579</b>          <b>From €58 up to €116</b>	

Table LT 4

**STANDARDS OF VEHICLES AND LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
				head of undertaking which provides loading services or loader	From €116 up to €232	
		Part 2 of Article 136 <sup>2</sup>	See a detailed list of infringements in page 13 of the Study	Consignor of dangerous goods or head of transport undertaking which provides loading services or loader or head of transport undertaking which provides transportation services	From € 116 up to €232	

Table LT 4

**STANDARDS OF VEHICLES AND LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
				Driver	<b>From €58 up to €116</b>	
		Part 3 of Article 136 <sup>2</sup>	See a detailed list of infringements in page 13 of the Study	Consignor of dangerous goods	<b>From €116 up to €232</b>	
		Part 4 of Article 136 <sup>2</sup>	See a detailed list of infringements in	Head of transport undertaking which provides transportation	<b>From €116 up to €232</b>	

Table LT 4

STANDARDS OF VEHICLES AND LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
			page 13 of the Study	services  Driver	<b>From €58 up to €116</b>	
		Part 5 of Article 136 <sup>2</sup>	See a detailed list of infringements in page 13 of the Study	Consignor of dangerous	<b>From €29 up to €116</b>	
		Part 6 of Article 136 <sup>2</sup>	See a detailed list of infringements in page 14 of the Study	Head of undertaking which provides transportation services or driver	<b>From €29 up to €116</b>	



Table LT 4

**STANDARDS OF VEHICLES AND LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
		Part 7 of Article 136 <sup>2</sup>	See a detailed list of infringements in page 14 of the Study	Head of undertaking which provides loading services or loader	<b>From €29 up to €116</b>	
		Part 8 of Article 136 <sup>2</sup>	See a detailed list of infringements in page 14 of the Study	Consignor of dangerous goods	<b>Warning or a fine up to €29</b>	
		Part 9 of Article 136 <sup>2</sup>	See a detailed list of infringements in page 14 of the Study	Head of undertaking which provides transportation services or driver	<b>Warning or a fine up to €29</b>	

Table LT 4

**STANDARDS OF VEHICLES AND LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
<b>Directive 96/53/EC</b>	<b><u>Code of Administrative Violations of Law</u></b>	Part 3 of Article 145	Vehicle is being driven without permission where the allowable load of axle (axles) and (or) maximum authorised weight is exceeded, or if a vehicle is being driven where the allowable dimensions (with/without the cargo) are	Driver  Head of the transport undertaking or authorised person	<b>From €145 up to €290</b>  <b>From €290 up to €579</b>	

Table LT 4

**STANDARDS OF VEHICLES AND LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
			exceeded			
<b>Directive 2009/40/EC</b>	<b><u>Code of Administrative Violations of Law</u></b>	Article 123	Vehicles are not registered (re-registered) in accordance with the procedures of law, or the vehicle is being driven without a valid roadworthiness certificate, or the vehicle is with technical faults for which driving is	Driver  Transport undertaking (in case of a criminal liability)	<b>From €29 up to €43</b>	<b>In a case of forgery, fine, arrest or imprisonment for a term of up to three years</b>  <b>In a case of forgery and major damage, imprisonment for a term of up to six years.</b>

Table LT 4

**STANDARDS OF VEHICLES AND LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
			prohibited by Traffic rules			
<b>Directive 2006/126/EC</b>	<a href="#">Code of Administrative Violations of Law</a>	Part 1 of Article 128	Driving a vehicle without a driving licence or driving a vehicle falling in a category not covered by a driving licence	Driver  Transport undertaking (in case of criminal sanctions)	<b>From €290 up to €434 or administrative arrest</b>	<b>In case of forgery of a driving licence, arrest or imprisonment for a term of up to four years</b>  <b>Or in case of producing/using a large quantity of fake driving licences imprisonment for a term of up to six years</b>

Table LT 4

**STANDARDS OF VEHICLES AND LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Responsible persons	Administrative sanction(s)	Criminal sanction(s)
		Part 2 of Article 128	Driving a vehicle without a driving licence where a driving licence was revoked	Driver	<b>From €434 up to €724 or administrative arrest</b>	

The table below gathers the sanctions which are considered formally criminal in the Lithuanian legal system. Please note that most of the criminal sanctions are applied in case the behaviour can be qualified as forgery. Illegal exercise of an activity is also punished with a criminal sanction.

<b>Table LT 5</b>		
<b>Infringements of commercial road transport legislation</b>		
<b>Type of infringement(s) and Article of reference in national legislation</b>	<b>Criminal sanction</b>	<b>Is it dissuasive?</b>
<b>Corresponding EU legislation</b>		
Road Transport Code, Part 16 of Article 8 Submission of documents with a fake data in order to receive a licence Regulations No. 1071/2009/EC, 1072/2009/EC, 1073/2009/EC	In case of forgery, fine, arrest or imprisonment for a term of up to three years If a major damage incurs, imprisonment for a term of up to six years (Article 300 of Criminal Code)	Yes
Code of Administrative Violations of Law, Part 3 of Article 173, Performing transport activities without licence or by other unlawful means and usage of illegally employed workers. Regulations No. 1071/2009/EC, 1072/2009/EC,	Community service, fine, restriction of liberty or imprisonment for a term up to four years (Article 202 of Criminal Code)	Yes

Table LT 5

Infringements of commercial road transport legislation

<p>Type of infringement(s) and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Criminal sanction</p>	<p>Is it dissuasive?</p>
<p>1073/2009/EC</p>		
<p>Code of Administrative Violations of Law, Part 2 of Article 1361</p> <p>No report related to the carriage of dangerous goods is received or the received report is with a fake data</p> <p>Directive 2008/68/EC</p>	<p>In case of forgery, fine, arrest or imprisonment for a term of up to three years</p>	<p>Yes</p>
<p>Code of Administrative Violations of Law Article 123,</p> <p>Vehicles are not registered (re-registered) in accordance with the procedures of law, or the vehicle is being driven without a valid roadworthiness certificate, or the vehicle is with technical faults for which driving is prohibited by Traffic rules</p> <p>Directive 2009/40/EC</p>	<p>In a case of forgery, fine, arrest or imprisonment for a term of up to three years</p> <p>In a case of forgery and major damage, imprisonment for a term of up to six years</p>	<p>Yes</p>
<p>Code of Administrative Violations of Law, Part 1 of Article 128,</p> <p>Driving a vehicle without a driving licence or driving a vehicle falling in a category not covered by a driving</p>	<p>In case of forgery of a driving licence, arrest or imprisonment for a term of up to four years</p> <p>Or in case of producing/using a large quantity of fake driving licences imprisonment for a term of up to six years</p>	<p>Yes</p>

**Table LT 5**

**Infringements of commercial road transport legislation**

<b>Type of infringement(s) and Article of reference in national legislation</b>	<b>Criminal sanction</b>	<b>Is it dissuasive?</b>
<b>Corresponding EU legislation</b> licence Directive 2006/126/EC		



## **18.7 Sanctions which could be considered substantially criminal in the Lithuanian legal system**

According to Lithuania legal experts, the legal nature of the sanctions provided for the administrative offences in the field of commercial road transport should be considered as administrative sanctions and such sanctions shall not be treated as of criminal nature because of the following:

- The fines for the administrative offences regarding commercial road transport are not very high, if we compare the fines applied to the other administrative offences established by the Code of Administrative Violations of Law. Also, there is a remarkable difference between the administrative fines and the criminal fines established by the Criminal Code of the Republic of Lithuania (for example, a criminal offender (natural person) may be punished with a pecuniary sanction even up to LTL 195 000 (app. EUR 56,476)).
- As regards the confiscation of an object, the sanction for the offence is usually considered as an additional (penal) sanction which only assist the implementation of the purpose of a main sanction and usually, the court may impose the confiscation of an object only with the main sanction applied to the offender. The confiscation may be treated as an additional measure to prevent persons from committing illegal activities.
- In the Lithuanian court practice, the withdrawal of a licence is treated as one of economic sanctions applied to legal entities. The application of withdrawal of a licence results in negative consequences to legal entities; however, the sanction cannot be treated as of criminal nature. Articles 52-53 of the Criminal Code of the Republic of Lithuania foresees sanctions such as the restriction of operation of a legal entity or even liquidation of a legal entity where the criminal nature of such sanctions is obvious and the application of such sanctions results in a severe consequences to the offenders.

That said, in the light of the case law of the ECHR and by consideration of the impact that some sanctions might have on the offender, it is posited in agreement that the following infringements are sanctioned with administrative sanctions that should be qualified as criminal.

**Table LT 6**

**Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR**

<p><b>Type of infringement and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Administrative sanction that could be qualified as criminal sanction</b></p>	<p><b>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</b></p>	<p><b>Is it dissuasive?</b></p>
<p>Road Transport Code, Part 15 of Article 8, Failure to inform about replacement, dismissal from job, death or inability of transport manager.  Regulation No. 1071/2009/EC</p>	<p>Suspension of a licence</p>	<p>The sanctions affects substantially the economic interest of the offender</p>	<p>Yes</p>
<p>Road Transport Code, Part 16 of Article 8, Submission of documents with a fake data in order to receive a licence  Regulation No. 1071/2009/EC</p>	<p>Withdrawal of a licence</p>	<p>The sanctions affects substantially the economic interest of the offender</p>	<p>Yes</p>
<p>Resolution No. 1432, Articles 52-56</p>	<p>Prohibition to take a position of a head</p>	<p>The sanctions affects</p>	<p>Yes</p>

**Table LT 6**

**Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR**

<p><b>Type of infringement and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Administrative sanction that could be qualified as criminal sanction</b></p>	<p><b>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</b></p>	<p><b>Is it dissuasive?</b></p>
<p>Infringements described by Annex IV of Regulation 1071/2009 and as a consequence a loss of good repute.</p>	<p>of transport undertaking or to perform activities as a transport manager for a corresponding period.</p> <p>In case the administrative sanctions were applied for the infringements, the prohibition is valid until it is considered that the administrative sanctions was not imposed to such person (usually, administrative sanction is valid for 1 year if no new administrative offences were made)</p>	<p>substantially the economic interest of the offender</p>	

**Table LT 6**

**Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR**

<p><b>Type of infringement and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Administrative sanction that could be qualified as criminal sanction</b></p>	<p><b>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</b></p>	<p><b>Is it dissuasive?</b></p>
<p>Code of Administrative Violations of Law, Part 1 of Article 128</p> <p>Driving a vehicle without a driving licence or driving a vehicle falling in a category not covered by a driving licence</p> <p>Directive 2006/126/EC</p>	<p>From €290 up to €434 or administrative arrest</p>	<p>The sanction of arrest affects the personal freedom of the offender</p>	<p>Yes</p>
<p>Code of Administrative Violations of Law, Part 2 of Article 128</p> <p>Driving a vehicle without a driving licence where a driving licence was revoked</p>	<p>From €434 up to €724 or administrative arrest</p>	<p>The sanction of arrest affects the personal freedom of the offender</p>	<p>Yes</p>

**Table LT 6**

**Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR**

<b>Type of infringement and Article of reference in national legislation</b>  <b>Corresponding EU legislation</b>	<b>Administrative sanction that could be qualified as criminal sanction</b>	<b>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</b>	<b>Is it dissuasive?</b>
Directive 2006/126/EC			

## **18.8 Effectiveness of the sanctions system**

The Lithuanian sanctions system in the field of commercial road transport has the following features:

- the infringements in the field of commercial road transport are categorised under their gravity as very serious, serious and minor infringements and such categorization helps to rate the risk of further possible infringements of a transport undertaking;
- the pecuniary sanctions applied to drivers are less than the sanctions provided for the transport undertakings which are usually economically stronger subjects;
- the specific sanctions for the infringements described in Annex IV of Regulation No. 1071/2009 are established by the Lithuanian laws. If the most serious infringements described in Annex IV of Regulation No. 1071/2009 are identified, a person cannot take the position of a head of transport undertaking or perform activities as a transport manager for a corresponding time;
- the sanctions in the field of commercial road transport are quite differentiated and the proportionality of sanctions for each infringement is guaranteed;
- most of the administrative sanctions in the field of commercial road transport are structured by one legal act and can be easily found by anyone in Code of Administrative Violations of Law (with only few exceptions);
- the criminal sanctions are applied only as a last resort;
- authorities which impose the sanctions or operators to whom such sanctions could be applied are also highlighted in the Lithuanian law;
- the sanctions for administrative offences in the field of road transport were recently raised. Consequently, based on the public information, the amount of infringements in the field of road transport has decreased.

However, the sanction system in the field of commercial road transport also has some disadvantages because the sanctions are not differentiated among undertakings which have a big annual turnover and transport undertakings with a smaller one. Therefore, the sanctions are not very proportional as regards this issue.

That said, we received some information and figures concerning the infringements detected in Lithuania in 2011. Based on the information available for 2011, 12,399 infringements were detected concerning the provision of EU professional road transport legislation and 5,168 infringements were committed by foreign drivers.

In 2011, 6 Community licences have been withdrawn and 45 copies of Community licences have been suspended temporarily for the period, which was not shorter than 30 days, till the detected faults were eliminated in Lithuania.

We notice that the level of financial penalties is not high in Lithuania. This conclusion applies to penalties addressing undertakings and drivers.

By considering the fact that the number of infringements detected is substantial considering the volume of road traffic of the country and that nearly half of the infringements were committed by foreign drivers, it could be argued that the sanction system is not effective and that foreign drivers could have an incentive to be sanctioned in Lithuania.

# 19 LUXEMBOURG - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

## 19.1 Social rules on road transport

### 19.1.1 Rules on Driving Times and Rest Periods

#### 19.1.1.1 Regulation (EC) No 561/2006

Regulation (EC) No 561/2006 is directly applicable as such in Luxembourg. Criminal sanctions incurred for non-compliance with this Regulation are laid down by the Luxembourg regulation ("*Réglement Grand Ducal*") of 16 June 2011 on the installation and the use of tachograph.

In addition, criminal and administrative sanctions related to road transport can also be found in the following Luxembourg legislation:

- The Luxembourg Law of 14 February 1955, as amended, regulating public road traffic.
- The Luxembourg Decree of 23 November 1995, as amended, regulating public road traffic.
- The Luxembourg Regulation of 26 August 1993, as amended, on pecuniary administrative sanctions.

#### Foreign drivers

As a general rule, Article 3 of the Luxembourg Criminal Code states that any criminal offence that has been committed within the territory of Luxembourg, regardless of the nationality of the guilty person, is punishable in Luxembourg.

As a result, non-resident drivers / undertakings who commit an infringement within the territory of Luxembourg will be punished according to the applicable Luxembourg provisions and in accordance with our Appendix (as already provided).



In addition, specific rules also apply to non-resident drivers / undertakings as follow:

Article 16 of the Law of 14 February 1955, as amended, regulating public road traffic states that:

If the offender, not being resident in Luxembourg, fails to pay an administrative pecuniary sanction directly at the moment of the infringement, he must provide the Grand Ducal Police with a deposit including the amount of the administrative sanction together with potential judicial fees. Until the deposit has been provided, the vehicle will be immobilised. The driver and the owner are jointly liable for the payment of the above fine.

Article 17 of the Law of 14 February 1955, as amended, regulating public road traffic states that:

The Grand Ducal Police have the authority to immobilise a vehicle on a public road, either by taking the driver's keys or by using mechanical tools especially if the non resident driver is not complying with the public road legislation and does not pay the administrative pecuniary sanction or at least the required deposit.

The Customs and Excise Administration Agency also have the authority to immobilise a vehicle on a public road, either by taking the driver's keys or by using mechanical tools, especially if the non resident driver is not complying with the public road legislation as regards vehicle layouts and loading limits, registration plate, identification number and on-board documentation, and the road transport legislation and does not pay the administrative pecuniary sanction or at least the required deposit. Articles 173 and 174 of the Decree of 23 November 1955 regulating public road transport, in particular as amended by the new Luxembourg regulation of 23 May 2012, are concerned with non-residents.

Article 173 lists the required documentation that has to be provided by a non-resident in the event of a police or customs check, unless, within the EU, it is not required under the legislation of the country where the vehicle is registered or under the legislation of the country of the driver's residence, particularly:

- a valid driving licence;
- a valid registration form;
- a certificate of civil liability;

- a certificate of roadworthiness test;
- the required documentation for the transport of dangerous goods;
- the qualification card of the driver;
- the required documentation for the trailer.

Article 174 states that infringements committed in violation of the Decree of 23 November 1955 are sanctioned by a fine of between EUR 25.00 and EUR 250. In addition, where infringements are construed as serious infringements in accordance with Article 7 of the Law of 14 February 1955, the maximum of the fine is increased to EUR 500. In cases of recidivism, the maximum fine applies.

Administrative sanctions apply cumulatively with Article 173 and 174 of the Decree of 23 November 1955 regulating public road transport.

Please note that the new Luxembourg regulation of 23 May 2012 has also amended the Regulation of 26 August 1993 on pecuniary administrative sanctions. As a result, pecuniary administrative sanctions apply cumulatively with the criminal sanctions listed above, as follows:

- a non-resident who does not comply with the Vienna Convention on road traffic of 8 November 1968 is sanctioned by a pecuniary administrative fine of EUR 49;
- a non-resident who does not comply with article 173 of the amended Decree of 23 November 1955 regulating public road transport, is sanctioned by a pecuniary administrative fine of EUR 24 for each document not shown;
- a non-resident who does not comply with the minimum age requirement as provided by his national legislation is sanctioned by a pecuniary administrative fine of EUR 74.

#### **19.1.1.2 Directive 2006/22/EC (amended by Directive 2009/4/EC and Directive 2009/5/EC)**

This Directive has been implemented by the:

- *Règlement grand-ducal du 12 août 2008 portant application de la directive 2006/22/CE du Parlement européen et du Conseil du 15 mars 2006 établissant les conditions minimales à respecter pour lamise en oeuvre des règlements du Conseil*

(CEE) n° 3820/85 et (CEE) n° 3821/85 concernant la législation sociale relative aux activités de transports routiers et abrogeant la directive 88/599/CEE du Conseil<sup>33</sup> (“the Regulation of 12 August 2008”).

➤ *Règlement grand-ducal du 8 novembre 2010– modifiant le règlement grand-ducal du 12 août 2008 portant application de la directive 2006/22/CE du Parlement européen et du Conseil du 15 mars 2006 établissant les conditions minimales à respecter pour la mise en oeuvre des règlements du Conseil (CEE) n° 3820/85 et (CEE) n° 3821/85 concernant la législation sociale relative aux activités de transport routier et abrogeant la directive 88/599/CEE du Conseil et– portant transposition de la directive 2009/5/CE de la Commission du 30 janvier 2009 modifiant l’annexe III de la directive 2006/22/CE du Parlement européen et du Conseil établissant les conditions minimales à respecter pour la mise en œuvre des règlements du Conseil (CEE) n°3820/85 et (CEE) n° 3821/85 concernant la législation sociale relative aux activités de transport routier<sup>34</sup>.*

*Inter alia* the implementing measures foresee the creation of a *Commission de coordination* in charge of ensuring coordination with the authorities of other Member States and of providing national reports to the European Commission.

In compliance with the Directive the Regulation of 12 August 2008 establishes that controls shall cover every year 2% of the working days of drivers .As from 1 January 2010 such percentage should amount to 3%. It also specifies that at least 30% of such days have to be checked at roadside and 50% at the premises of undertakings.

Please note that Luxembourg has used as a basis for sanctioning infringements of Regulation (EC) No. 561/2006 and Regulation (EEC) No. 3821/1985 the categorization foreseen by Annex III to the Directive 2006/22/EC (see table below). Annex II to Regulation of 12 August 2008 foresees such sanction system. Please note that Luxembourg has used as a basis for sanctioning infringements of Regulation (EC) No 561/2006 and Regulation (EEC) No 3821/85 the categorization foreseen by Annex III to the Directive 2006/22/EC (see table below). Annex II to Regulation of 12 August 2008, as amended, foresees such sanction system.

---

<sup>33</sup> Mémorial Luxembourgeois A, 132, 1 September 2008, pages 1990-1994.

<sup>34</sup> Mémorial Luxembourgeois A, 199, 9 November 2011, pages 3340-3350.

Please note that Annex II of the amended Regulation of 12 August 2008 refers to a group of infringements foreseen in Regulation (EC) No 561/2006 as well as the ones foreseen in Regulation (EC) No 3821/85. Annex II of the amended Regulation of 12 August 2008 defines the level of severity of the listed infringements between (VSI, SI and MI) but does not provide these infringements with a specific sanction.

The sanctions have to be found into Regulation of 16 June 2011 and Annex II of Regulation of 16 June 2011.

Infringements that are qualified as VSI by Annex II of the amended Regulation of 12 August 2008 are sanctioned by article 13§1 of the Regulation of 16 June 2011 (se table below).

### **19.1.1.3 Directive 2002/15/EC**

Directive 2002/15/EC has been implemented by the Luxembourg law of 21 July 2007 on the organisation of the working time of persons performing mobile road transport activities; and the Luxembourg law of 28 July 2011 on the organisation of the working time of persons performing mobile road transport activities.

#### *Foreign drivers*

See above.

## **19.1.2 Tachograph**

### **19.1.2.1 Regulation (EEC) No 3821/85**

Regulation (EEC) No 3821/85 is directly applicable as such in Luxembourg. Criminal sanctions incurred for non-compliance with this Regulation are laid down by the Luxembourg regulation of 16 June 2011 on the installation and the use of tachograph.

In addition, criminal and administrative sanctions related to road transport can also be found in the following Luxembourg legislation:

- The Luxembourg Law of 14 February 1955, as amended, regulating public road traffic.
- The Luxembourg Decree of 23 November 1995, as amended, regulating public road traffic.
- The Luxembourg Regulation of 26 August 1993, as amended, on pecuniary administrative sanctions.

#### Foreign drivers

See above.

## **19.2 Road Package**

### **19.2.1 Regulation (EC) No 1071/2009**

Regulation (EC) No 1071/2009 is directly applicable as such in Luxembourg. There are no specific Luxembourg implementing regulation.

In addition, criminal and administrative sanctions related to road transport can also be found in the following Luxembourg legislation:

- The Luxembourg Law of 14 February 1955, as amended, regulating public road traffic.
- The Luxembourg Decree of 23 November 1995, as amended, regulating public road traffic.
- The Luxembourg Regulation of 26 August 1993, as amended, on pecuniary administrative sanctions.

Regarding the loss of good repute, this notion is provided for under the Luxembourg law of 30 July 2002 covering admission to the occupation of road haulage operator and road passenger transport operator, which implements Directive (EC) 98/76.

Article 7 of the law of 30 July 2002 states that the good repute requirement is compromised if the holder of the business permit:

- is declared unfit to operate his business as regards the applicable legislation;
- has been convicted of serious infringements of the applicable legislation in relation to remuneration and working conditions or the activity of the transport by road of goods or passengers and particularly as regards the rules on driving times, breaks and rest periods, dimension and mass (in the case of utility vehicles), road safety and vehicle safety as well as the protection of the environment and other rules relating to business.

*Foreign undertakings*

See above.

### **19.2.2 Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009**

Please also note that Regulation (EC) No 1072/2009 has been implemented by a Luxembourg Regulation of 19 April 2012 on access to the road transport market, but published in the Memorial (the Luxembourg Gazette) as of 9 May 2012.

Regulation (EC) No 1072/2009 has been implemented by a regulation of 19 April 2012 on access to the road transport market.

Pursuant to the Luxembourg Regulation of 19 April 2012, cabotage is allowed within the limits of Chapter III Regulation (EC) No 1072/2009. The EU Regulation 1072/2009 is applied in Luxembourg since 14 May 2010 for the provisions on cabotage and since 4 December 2011 for the rest of the provisions. There is however an exemption regarding cabotage operations conducted within the Benelux (Luxembourg, Belgium and the Netherlands) where EU regulations on carriage limits do not apply. Article 8 paragraphs 2 to 5 of Regulation (EC) No 1072/2009 do not apply in Luxembourg when the cabotage operator is established in Belgium or in the Netherlands.

For non-compliance with Articles 3, 4 paragraph 3 and 6, 5 paragraph 6, 8 and 9

of Regulation (EC) No 1072/2009, the following sanctions apply (Article 7 of the Luxembourg Regulation of 19 April 2012):

- imprisonment from 8 days to 3 months; and/or
- a fine of between EUR 251 to 15,000.

In addition, when carriage takes place without a certified copy of the Community Licence together with the driver attestation, or if there is an infringement committed in violation to the rules of cabotage, the vehicle used for this carriage can be impounded.

Regulation (EC) No 1073/2009 is directly applicable as such in Luxembourg. There are no specific Luxembourg implementing regulations.

#### *Foreign undertakings*

See above.

### **19.3 Standards of vehicles, load and necessary licences**

#### **19.3.1 Directive 2008/68/EC**

Directive 2008/68/EC has not been implemented as such by a dedicated law.

Sanctions for carriage prohibited by Directive (EC) No. 2008/68 are provided for by the Luxembourg regulation dated 31 January 2003 on the carriage of dangerous goods by road, as amended.

The European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) has been published by the Luxembourg Decree (“Arrêté Grand-Ducal”) of 29 January 2011 and by the Luxembourg Decree of 6 February 2009 on ADR, as amended.

In addition, criminal and administrative sanctions related to road transport can also be found in the following Luxembourg legislation:

- The Luxembourg Law of 14 February 1955, as amended, regulating public road traffic.

- The Luxembourg Decree of 23 November 1995, as amended, regulating public road traffic.
- The Luxembourg Regulation of 26 August 1993, as amended, on pecuniary administrative sanctions.

### **19.3.2 Directive 96/53/EC**

Directive (EC) 96/53 has been implemented by the Luxembourg regulation of 10 February 1999 regulating the traffic on all public roads, as amended.

In addition, criminal and administrative sanctions related to road transport can also be found in the following Luxembourg legislation:

- The Luxembourg Law of 14 February 1955, as amended, regulating public road traffic.
- The Luxembourg Decree of 23 November 1995, as amended, regulating public road traffic.
- The Luxembourg Regulation of 26 August 1993, as amended, on pecuniary administrative sanctions.

#### *Foreign drivers*

See above.

### **19.3.3 Directive 2009/40/EC**

Please note that Directive (EC) No. 2009/40 on roadworthiness tests for motor vehicles and their trailers has now been implemented in Luxembourg by the Luxembourg Regulation of 23 May 2012. Provisions related to roadworthiness tests for motor vehicles and their trailers have to be found in Luxembourg the amended Regulation of 27 January 2001 establishing the rules on roadworthiness tests for motor



vehicles and implementing Directive 1996/96/CE and in the Regulation of 23 May 2012.

In addition, please find below the infringements that are sanctioned in this matter.

Failing to submit a valid roadworthiness test certificate to the authorized authorities is sanctioned by:

A fine between EUR 25.00.- and 250.00.- which can be doubled as of EUR 500,00 in case of VSI or SI (Article 174 of the Luxembourg Decree of 23 November 1955, regulating public road transport in particular Article 98 regarding roadworthiness test certificate and Article 70 regarding onboard documents).

And a pecuniary administrative fine of EUR 24,00.- (Luxembourg Regulation of 26 August 1993, as amended, on pecuniary administrative sanctions).

Using of a vehicle not covered by a valid roadworthiness test certificate, the following sanctions apply:

A fine between EUR 25.00.- and 250.00.- which can be doubled as of EUR 500,00 in case of VSI or SI (Article 174 of the Luxembourg Decree of 23 November 1955, regulating public road transport in particular Article 98 regarding roadworthiness test certificate and Article 70 regarding onboard documents).

And a pecuniary administrative fine of EUR 145,00.- and the revocation of two points on the driving license (Luxembourg Regulation of 26 August 1993, as amended, on pecuniary administrative sanctions).

### **19.3.4 Directive 2006/126/EC**

Directive (EC) 2006/126 has been implemented by the Luxembourg regulation of 8 December 2011 related to road traffic and driving licence.

In addition, criminal and administrative sanctions related to road transport can also be found in the following Luxembourg legislation:

- The Luxembourg Law of 14 February 1955, as amended, regulating public road traffic.
- The Luxembourg Decree of 23 November 1995, as amended, regulating public

road traffic.

- The Luxembourg Regulation of 26 August 1993, as amended, on pecuniary administrative sanctions.

#### Foreign drivers

See above.

### **19.4 Notion of criminal and administrative sanction in the Luxembourg legal system**

In Luxembourg, criminal sanctions are subject to the principle of legality, which means that no criminal sanctions can be pronounced in the absence of a law, existing at the time of the offence, which prescribes it (Article 2 of the Luxembourg Criminal Code).

There are three different levels of infringements:

- crime;
- offence, i.e. a major offence or misdemeanour (*Délit*);
- contravention, i.e. a minor offence (*Contravention*).

Individuals committing a crime are punishable by:

- life or time imprisonment;
- a fine of a minimum of EUR 251;
- special confiscation;
- the removal of titles, position etc;
- the removal of the use of certain civil or political rights;
- the closing down of the firm;
- the publication of the decision; and/or
- the ban on carrying out certain professional or social activities.

Individuals committing an offence are punishable by:

- imprisonment from 8 days to 5 years;
- a fine of a minimum of EUR 251;
- special confiscation;
- the removal of the use of certain of certain civil or political rights;
- the closing of the undertaking;
- the publication of the decision;
- the ban on carrying out certain professional or social activities, and/or
- the ban on driving certain type of vehicles.

In addition, the Court can sentence the individual to the following:

- the ban on driving certain type of vehicles during a maximum period of 5 years;
- the confiscation of vehicles owned by the individual; and/or
- community service.

Individuals committing a contravention are punishable by:

- a fine from EUR 25 to EUR 250 unless the law states otherwise;
- special confiscation, and/or;
- the ban on driving certain type of vehicles.

In addition, since the Luxembourg law of 3 March 2010, legal persons may also incur, under specific conditions, criminal liability for all crimes or offences provided by the Luxembourg Penal Code and other specific laws (Article 34 of Luxembourg Penal Code). Legal persons cannot be criminally liable for contraventions.

A legal entity may be held criminally liable if the following conditions are met:

- the crime or the offence has been committed in its name and in its interest; and
- the crime or the offence has been committed by one of its legal bodies; or
- by one or some of its legally appointed directors or managers.

The criminal liability of a legal person does not exclude the criminal responsibility of the individuals, authors or accomplices of the offence.

The Court can sentence a legal person with the following penalties (Articles 35 to 40 of Penal Code):

- a fine of at least EUR 500.- and at most EUR 750,000.- for a crime. The

maximum rate of the incurred fine will be quintupled in the case of a crime or an offence enumerated in Article 37 of Penal code, such as money laundering, receiving stolen goods or bribery;

- a special confiscation;
- an exclusion from the participation in public procurements;
- the dissolution of the legal entity only if the legal entity was created or diverted from its object to commit the incriminated infringement.

Regarding limitation periods, criminal offences cannot, except in specific cases, be prosecuted 10 years after the commission of a crime, 5 years for an offence and 1 year for a contravention.

Administrative penalties can apply in combination with criminal penalties. Such penalties can be imposed by specific authorities and in particular by the agents of the Grand-Ducal Police (*Police Grand Ducale*), the members of the Custom and Excise Administration (*Administration des Douanes et Accises*) and the Minister in charge of transport issues.

Administrative penalties imply the payment of an amount of money, but might also consist in measures that limit the right to use a good.

Luxembourg administrative sanctions in road transport sector are notably the following:

- pecuniary administrative sanctions (*avertissement taxé*);
- immobilisation of the vehicle;
- impounding of the vehicle;
- temporary or permanent withdrawal of some or all of the certified copies of the licence or temporary or permanent withdrawal of the licence;
- withdrawal of a driving licence or penalty-points.

#### Concurrence between several sanctions

If during a police or customs check more infringements are detected, it is construed as a *counours réel* which means that the sanction for each infringement is taken into account (Article 58 of the Luxembourg Criminal Code).

The following rules also apply (Articles 59 to 64 of the Luxembourg Criminal

Code).

When concurrent infringements are qualified as contraventions or minor offences (*contraventions*), the sanctions of each infringement are cumulated.

When concurrent infringements are qualified as contraventions and offences or misdemeanours (*délits*), the sanctions for each contraventions are cumulated, whereas only the higher penalty for the offences is applied. The maximum sanction for the offences can be doubled unless the result is higher than the sum of the sanction of each infringement.

When concurrent infringements are qualified as offences (*délits*), only the higher sanction is applied. The maximum of the sanction can be doubled unless the result is higher than the sum of the sanction of each infringement.

When concurrent infringements are qualified as crimes, offences and contraventions, only the higher sanction is applied.

When concurrent infringements are qualified as crimes, only the higher sanction is applied and this can be increased by up to 5 years above the maximum.

In addition, special confiscation always applies for concurrent infringements.

Furthermore, when concurrent infringements are qualified as contraventions and are also punishable by normal traffic fines (parking fines, etc.), each sanction applies.

When concurrent infringements are punishable by pecuniary administrative sanctions, there are as many pecuniary administrative sanctions as there are infringements.

Where the same behaviour infringes more than one rule, it is construed as a “*counours idéal*” which means that only the higher sanction applies (Article 65 of the Luxembourg Criminal Code).

#### *Concurrence between administrative and criminal sanctions*

Administrative and criminal sanctions can be applied in a cumulative way in Luxembourg.

## **19.5 The scope of application of the Luxembourgish criminal law**

Pursuant to Article 3 of the Criminal Code, Luxembourg criminal liability applies to any criminal offence committed within the Luxembourg territory, regardless of the nationality of the liable person.

According to Article 4 of Luxembourg Criminal Code, Luxembourg criminal liability applies to infringement committed abroad by a national or a foreigner only in specific cases defined by law.

The rules on extraterritoriality are laid down in Articles 5 to 7-4 of the Luxembourg Criminal Code of Proceeding and provide, in particular, that:

- Every Luxembourger who commits a crime under Luxembourg law outside the territory of Luxembourg can be punished and judged in Luxembourg.
- Every Luxembourger who commits an offence under Luxembourg law outside the territory of Luxembourg can be punished and judged in Luxembourg if the fact is construed as a criminal offence in the State where it has been committed. If the offence is committed against an individual, the offender can only be prosecuted at the request of the Minister of Justice and if either a complaint of the victim or his/her family has been filed before, or the offence has been officially denounced to the Luxembourg authorities by the authorities of the State where the criminal offence has been committed.
- In the case of specific infringements, every individual who lives in Luxembourg, as well as a foreigner who has committed abroad specific criminal offences listed by law (such as the use of a false passport, identity card, counterfeiting, kidnapping of a minor, torture, etc.) can be punished and judged in Luxembourg.
- Every foreigner who commits abroad any of the following offences, as author or accomplice, is punishable in Luxembourg: crimes against the personality of the Luxembourg State, crimes of counterfeiting the seal of the State and use of this counterfeited seal, crimes of falsification of the legal coins of the State, or of other debit certificates.

## 19.6 Summary tables

Please note the following comments:

- There is no specific sanction for infringements categorized as VSI (very serious infringement). VSI infringements are sanctioned in accordance with Article 13§ 3 and 4 of the Luxembourg Regulation of 16 June 2011, i.e. an imprisonment from 8 days to 5 years and/or a fine from EUR 251 to EUR 25,000. Luxembourg Courts apply criminal sanction *in concreto* when fixing the fine and particularly take into account the severity of the infringement, the financial situation of the individual, mitigating circumstances, etc.
- The Luxembourg regulation of 16 June 2011 on the installation and the use of tachograph directly refers to the infringements listed Regulation (EC) No 561/2006.
- Sanctions provided under the Luxembourg Regulation of 16 June 2011 apply to infringements committed in another EU Member State or outside the EU, if these infringements are established in Luxembourg. If the undertaking or the driver can prove that the same infringement has already been sanctioned or that a proceeding is currently pending in another member State, no sanctions will be applied in Luxembourg (Article 13§2).
- There are no specific Luxembourg legislation regarding Regulations (EC) Nos 1071/2019,1073/2009.

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
<b>Regulation 561/06/EC</b>	<b><u>Age Regulation of 16 June 2011</u></b>	Article 13, paragraph 1 and 4	Not respecting minimum ages for drivers' mates (article 5.2 of the EC Regulation)	Driver Undertaking	<b>Immobilisation of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years And/or a fine from EUR 251.- to EUR 25,000.-</b>
		Annex II, A 01	Not respecting the minimum age for conductors (article 5.1 of the EC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver Undertaking		<b>A fine of EUR 250.-</b>
	<b><u>Driving Time Regulation of</u></b>	Article 13, paragraph 1 and 4	Exceeding the daily and weekly driving time (article 6 of the EC	Driver	<b>Immobilisation of the vehicle</b>	<b>Imprisonment from 8 days to 5 years And/or a fine from</b>



**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
	<a href="#"><u>16 June 2011</u></a>		Regulation in general)	Undertaking	<b>until compliance with the provisions</b>	<b>EUR 251.- to EUR 25,000.-</b>
		Annex II, B 01	Exceeding the daily driving time of 9 h if possibilities to extend to 10h not allowed - 9h<...<10h (article 6.1 of the EC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver Undertaking		<b>A fine of EUR 145.-</b>
		Annex II, B 02	Exceeding the daily driving time of 9 h if possibilities to extend to 10h not allowed -	Driver Undertaking		<b>A fine of EUR 250.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			10h<...<11h (article 6.1 of the EC Regulation) <b>SI (Annex II of the Regulation of 12 August 2008)</b>			
		Article 13, paragraph 1	Exceeding the daily driving time of 9 h if possibilities to extend to 10h not allowed -11h<... (article 6.1 of the EC Regulation) (classified as VSI by Annex II of the Regulation of 12 August 2008)	Driver  Undertaking		<p><b>Imprisonment from 8 days to 5 years</b></p> <p><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>

Table LU 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Annex II, B 04	Exceeding the extended daily driving time of 10 h if extension allowed - 10h<...<11h (article 6.1 of the EC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 145.-</b>
		Annex II, B 05	Exceeding the extended daily driving time of 10 h if extension allowed - 11h<...<12h (article 6.1 of the EC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 250.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 13, paragraph 1	Exceeding the extended daily driving time of 10 h if extension allowed - 12h<... (article 6.1 of the EC Regulation)  classified as VSI by Annex II of the Regulation of 12 August 2008	Driver  Undertaking		<p><b>Imprisonment from 8 days to 5 years</b></p> <p><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>
		Annex II, B 07	Exceeding the weekly driving time - 56h<...<60h (article 6.2 of the EC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<p><b>A fine of EUR 145.-</b></p>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		Annex II, B 08	Exceeding the weekly driving time - 60h<...<70h (article 6.2 of the EC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 250.-</b>
		Article 13, paragraph	Exceeding the weekly driving time - 70h<... (article 6.2 of the EC Regulation)  classified as VSI by Annex II of the Regulation of 12 August 2008)	Driver  Undertaking		<b>Imprisonment from 8 days to 5 years</b>  <b>And/or a fine from EUR 251.- to EUR 25,000.-</b>
		Annex II, B	Exceeding accumulated			

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		10	driving time during 2 consecutive weeks - 90h<...<100h (article 6.3 of the EC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 145.-</b>
		Article 13, paragraph	Exceeding accumulated driving time during 2 consecutive weeks - 100h<...<112h30 (article 6.3 of the EC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 250.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		Article 13, paragraph 1	Exceeding accumulated driving time during 2 consecutive weeks - 112h30<... (article 6.3 of the EC Regulation)  classified as VSI by Annex II of the Regulation of 12 August 2008	Driver  Undertaking		<b>Imprisonment from 8 days to 5 years</b>  <b>And/or a fine from EUR 251.- to EUR 25,000.-</b>
	<a href="#"><u>Breaks</u></a>  <a href="#"><u>Regulation of 16 June 2011</u></a>	Article 13, paragraph 1 and 4	Infringements of break time rules (article 7 of the EC Regulation in general)	Driver  Undertaking	<b>Immobilisation of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years</b>  <b>And/or a fine from EUR 251.- to EUR 25,000.-</b>
		Annex II, C	Exceeding the			

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		01	uninterrupted driving time - 4h30<...<5h (article 7 of the EC Regulation  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 145.-</b>
		Annex II, C 02	Exceeding the uninterrupted driving time - 5h<...<6h (article 7 of the EC Regulation  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 250.-</b>



Table LU 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Annex II of the Regulation of 12 August 2008	Exceeding the uninterrupted driving time - 6h<... (article 7 of the EC Regulation classified as VSI by Annex II of the Regulation of 12	Driver Undertaking		<b>Imprisonment from 8 days to 5 years</b>  <b>And/or a fine from EUR 251.- to EUR 25,000</b>
	<a href="#">Rest Periods Regulation of 16 June 2011</a>	Article 13, paragraph 1 and 4	Not respecting the rules on daily and weekly rest period (article 8 of the EC Regulation in general)	Driver Undertaking	<b>Immobilisation of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years</b> <b>And/or a fine from EUR 251.- to EUR 25,000.-</b>
		Annex II, D 01	Insufficient daily rest period of less than 11h if reduced daily rest period	Driver		<b>A fine of EUR 145.-</b>

Table LU 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			not allowed - 10h<...<11h (article 8.2 of the EC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Undertaking		
		Annex II, D 02	Insufficient daily rest period of less than 11h if reduced daily rest period not allowed - 8h30<...<10h (article 8.2 of the EC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<p style="text-align: center;"><b>A fine of EUR 250.-</b></p>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		Article 13, paragraph 1	Insufficient daily rest period of less than 11h if reduced daily rest period not allowed - ...<8h30 (article 8.2 of the EC Regulation)  VSI (classified as VSI by Annex II of the Regulation of 12 August 2008)	Driver  Undertaking		<p style="text-align: center;"><b>Imprisonment from 8 days to 5 years</b></p> <p style="text-align: center;"><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>
		Annex II, D 04	Insufficient daily rest period less of than 9h if reduce is allowed - 8h<...<9h (article 8.2 of the EC Regulation)  <b>MI (Annex II of the</b>	Driver  Undertaking		<p style="text-align: center;"><b>A fine of EUR 145.-</b></p>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			<b>Regulation of 12 August 2008)</b>			
		Annex II, D 05	Insufficient daily rest period less than 9h if reduce is allowed - 7h<...<8h (article 8.2 of the EC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 250.-</b>
		Annex II of the Regulation of 12 August 2008	Insufficient daily rest period less than 9h if reduce is allowed - ...<7h (article 8.2 of the EC Regulation)  <b>VSI (Annex II of the</b>	Driver  Undertaking		

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			<b>Regulation of 12 August 2008)</b>			
		Annex II, D 07	Insufficient split daily rest period of less than 3h+9h - 3h+(8h<...<9h) (article 8.2 of the EC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 145.-</b>
		Article 13, paragraph 1	Insufficient split daily rest period into 2 or 3 periods and the longest of less than 8h - 7h<...<8h (article 8.2 of the AETR)  <b>MI (Annex II of the Regulation of 12 August</b>	Driver  Undertaking		<b>Imprisonment from 8 days to 5 years</b>  <b>And/or a fine from EUR 251.- to EUR 25,000.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			2008)			
		Annex II, D 08	Insufficient split daily rest period of less than 3h+9h - 3h+(7h<...<8h) (article 8.2 of the EC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 250.-</b>
		Annex II of the Regulation of 16 June 2011the	Insufficient split daily rest period into 2 or 3 periods and the longest of less than 8h - 6h<...<7h (article 8.21 of the EC	Driver  Undertaking		<b>A fine of EUR 250.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			Regulation) <b>SI (Annex II of the Regulation of 12 August 2008)</b>			
		Article 13, paragraph 1	Insufficient split daily rest period of less than 3h+9h - 3h+(...<7h) (article 8.2 of the EC Regulation) <b>VSI (Annex II of the Regulation of 12 August 2008)</b>	Driver Undertaking		<b>Imprisonment from 8 days to 5 years</b>  <b>And/or a fine from EUR 251.- to EUR 25,000</b>
		Article 13, paragraph 1	Insufficient split daily rest period into 2 or 3 periods and the longest of less than 8h - ...<8h (article 8.1 of the AETR)	Driver Undertaking		<b>Imprisonment from 8 days to 5 years</b>  <b>And/or a fine from EUR 251.- to EUR 25,000</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			<b>VSI (Annex II of the Regulation of 12 August 2008)</b>			
		Annex II, D 10	Insufficient daily rest period of less than 9h for multi-manning - 8h<...<9h (article 8.5 of the EC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 145.-</b>
		Annex II, D 10a	Insufficient daily rest period of less than 8h for multi-manning - 7h<...<8h (article 8.2 of the AETR)	Driver  Undertaking		<b>A fine of EUR 145.-</b>



**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			<b>MI (Annex II of the Regulation of 12 August 2008)</b>			
		Annex II, D 11	Insufficient daily rest period of less than 9h for multi-manning - 7h<...<8h (article 8.5 of the EC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 250.-</b>
		Annex II, D 11a	Insufficient daily rest period of less than 8h for multi-manning - 6h<...<7h (article 8.2 of the AETR)	Driver  Undertaking		<b>A fine of EUR 250.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			<b>SI (Annex II of the Regulation of 12 August 2008)</b>			
		Article 13, paragraph 1	Insufficient daily rest period of less than 9h for multi-manning - ... <7h (article 8.5 of the EC Regulation)  <b>VSI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>Imprisonment from 8 days to 5 years And/or a fine from EUR 251.- to EUR 25,000.-</b>
		Article 13, paragraph 1	Insufficient daily rest period of less than 8h for multi-manning - ... <6h (article 8.2 of the AETR)	Driver  Undertaking		<b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			<b>VSI (Annex II of the Regulation of 12 August 2008)</b>			
		Annex II, D 13	Insufficient reduced weekly resting period of less than 24h - 22h<...<24h (article 8.6 of the EC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 145.-</b>
		Annex II, D 13a	Insufficient reduced weekly resting period of less than 36h (taken at the place where the driver or vehicle is normally based) - 33h<...<36h	Driver  Undertaking		<b>A fine of EUR 145.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			(article 8.3 of the AETR)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>			
		Annex II, D 13b	Insufficient reduced weekly resting period of less than 24h (taken at any other place) - 22h<...<24h (article 8.3 of the AETR)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 145.-</b>
		Annex II, D 14	Insufficient reduced weekly resting period of less than 24h -	Driver		<b>A fine of EUR 250.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			20h<...<22h (article 8.6 of the EC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Undertaking		
		Annex II, D 14a	Insufficient reduced weekly resting period of less than 36h (taken at the place where the driver or vehicle is normally based) - 30h<...<33h (article 8.3 of the AETR)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<p style="text-align: center;"><b>A fine of EUR 250.-</b></p>
		Annex II, D	Insufficient reduced			

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		14b	weekly resting period of less than 24h (taken at any other place) - 20h<...<22h (article 8.3 of the AETR)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 250.-</b>
		Article 13, paragraph 1	Insufficient reduced weekly resting period of less than 24h - ...<20h (article 8.6 of the EC Regulation)  <b>VSI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>Imprisonment from 8 days to 5 years</b>  <b>And/or a fine from EUR 251.- to EUR 25,000.-</b>

Table LU 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 13, paragraph 1	Insufficient reduced weekly resting period of less than 36h (taken at the place where the driver or vehicle is normally based) - ... <30h (article 8.3 of the AETR)  <b>VSI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<p style="text-align: center;"><b>Imprisonment from 8 days to 5 years</b></p> <p style="text-align: center;"><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>
		Article 13, paragraph 1	Insufficient reduced weekly resting period of less than 24h (taken at any other place) - ... <20h (article 8.3 of the AETR)  VSI (Annex II of the	Driver  Undertaking		<p style="text-align: center;"><b>Imprisonment from 8 days to 5 years</b></p> <p style="text-align: center;"><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>

Table LU 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			Regulation of 12 August 2008)			
		Annex II, D 16	Insufficient weekly resting period of less than 45h if reduced weekly resting period not allowed - 42h<...<45h (article 8.6 of the EC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<b>A fine of EUR 145.-</b>
		Annex II, D 17	Insufficient weekly rest period of less than 45h if reduced weekly resting period not allowed - 36h<...<42h (article 8.6	Driver  Undertaking		<b>A fine of EUR 250.-</b>



**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			of the EC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>			
		Article 13, paragraph 1	Insufficient weekly rest period of less than 45h if reduced weekly resting period not allowed - ...<36h (article 8.6 of the EC Regulation)  <b>VSI (Annex II of the Regulation of 12 August 2008)</b>	Driver  Undertaking		<p style="text-align: center;"><b>Imprisonment from 8 days to 5 years</b></p> <p style="text-align: center;"><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>

Table LU 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">Transport undertaking's liability Regulation of 16 June 2011</a>	Article 13, paragraph 1 and 4	Inobservance of article 10 of Regulation No. 561/2006 1. Drivers payment that endanger road safety and/or encourages infringement of this EC Regulation; <b>VSI (Annex II of the Regulation of 12 August 2008)</b> 2. Organisation of the work of drivers in such way that the drivers are nit able to comply with Regulation (EEC) No 3821/85 and this (EC) Regulation 3. Infringements committed by drivers of the undertaking, even if the infringement was committed on the	Transport undertaking  And consignor, freight forwarder, <sup>226</sup> tour operator, principal contractor,	<b>Immobilisation of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years                      And/or a fine from EUR 251.- to EUR 25,000.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
	<a href="#"><u>Exceptions Regulation of 16 June 2011</u></a>	Article 13, paragraph 1 and 4	Not complying with exceptions to articles 6 to 9 of the EC Regulation concerning crews, driving times, breaks and rest periods	Driver	<b>Immobilisation of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years And/or a fine from EUR 251.- to EUR 25,000.-</b>
	<a href="#"><u>Control procedures and sanctions Regulation of 16 June 2011</u></a>	Article 13, paragraph 1 and 4	No draft /drawing of a service timetable and a duty roster	Transport undertaking	<b>Immobilisation of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years And/or a fine from EUR 251.- to EUR 25,000.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			No provision of sufficient information to each undertaking (where a driver is employed or at the disposal of more than one transport undertaking) to enable it to comply with Chapter II of this EC Regulation concerning crews, driving times, breaks and rest periods	Driver	<b>Immobilisation of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years And/or a fine from EUR 251.- to EUR 25,000.-</b>
<b>Directive 2002/15/EC</b>	<a href="#"><u>Working time and rest periods</u></a>  <a href="#"><u>Law of 21 December</u></a>	Article L.214-10§1 of the Luxemboug labour Code	Exceed of the maximum working time and not respecting the rules on working time calculation (“computation”) of article	Employer		<b>Imprisonment from 8 days to 6 months And/or a fine from EUR 251.- to EUR 20,000.-</b>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">2007</a>		<p>L. 214-3 of the Luxembourg labour Code</p> <hr/> <p>Not respecting the rules on breaks of article L. 214-4 of the Luxembourg labour Code , rest periods of article L. 214-5 of the Luxembourg labour Code and night work of article L. 214-6 of the Luxembourg labour Code</p> <hr/> <p>Not respecting the rules on record keeping and information of Article L. 214-7 of the Luxembourg</p>			

Table LU 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			labour Code			
		Article L. 214-10, paragraph 2 of the Luxembourg labour Code	Giving informed (“en connaissance de cause”) instructions leading to infringements to Article L. 214-10, paragraph 1 of the Luxembourg labour Code (working time and rest periods)	Consignor, contractor, charterer, agent, recipient, any other person who gives orders		<p><b>Imprisonment from 8 days to 6 months</b></p> <p><b>And/or a fine from EUR 251.- to EUR 20,000.-</b></p> <p><b><u>Recidivism</u> within 2 years: the maximum sanctions can be doubled</b></p>
	<a href="#">Law of 28 July 2011</a>	Article 9, paragraph 1	Exceed of the maximum working time and not respecting the rules on working time calculation (“computation”) of Article 3 of the Luxembourg law	Self-employed driver		<p><b>Imprisonment from 8 days to 6 months</b></p> <p><b>And/or a fine from EUR 251.- to EUR 20,000.-</b></p>

**Table LU 1**

**SOCIAL RULES ON ROAD TRANSPORT**

**Rules on Driving Times, Breaks and Rest Periods**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			Not respecting the rules on breaks of Article 4 of the Luxembourg law, and night work of Article 5			
			Not respecting the rules on record keeping and information of Article 6 of the Luxembourg law			
		Article 9, paragraph 2	Giving informed (“en connaissance de cause”)	Consignor, contractor,		<b>Imprisonment from 8 days to 6 months And/or a fine from EUR 251.- to EUR 20,000.-</b>

Table LU 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			instructions leading to infringements to Article 9, paragraph 1 of the Luxembourg law (working time and rest periods)	charterer, agent, recipient, any other person who gives orders		<b><u>Recidivism</u> within 2 years: the maximum sanctions can be doubled</b>



Table 2 LU

Cronotacograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<p><b>Regulation 3821/1985/EEC</b> (as amended by <b>Regulation EC No 561/2006</b>)</p>	<p><a href="#">Principles and scope: installation of recording equipment</a></p> <p><a href="#">Regulation of 16 June 2011</a></p>	<p>Article 13, paragraph 1 and 4</p>	<p>Not respecting the rules concerning recording equipment of this EEC Regulation as regards construction, installation, use and testing (Article 1 of the EEC Regulation)</p>	<p>Driver</p> <p>Owner</p> <p>Holder of the vehicle</p>	<p><b>Immobilization of the vehicle until compliance with the provisions</b></p>	<p><b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b></p>
			<p>Not recording equipment installed and used (Article 3.1 of the EEC Regulation)</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p>	<p>(Article 2 of the Luxembourg Regulation)</p>	<p><b>Immobilization of the vehicle until compliance with the provisions</b></p>	<p><b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b></p>

		Not respecting the rules of Annex I, IB (requirements for construction, testing, installation and inspection) and II (approval mark and certificate) of the EEC Regulation		<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b>
		Not installing and using recording equipment for determined vehicles in the case of national transport operations (Article 3.1 of the Regulation, Article 3.4 of the EEC Regulation)		<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b>
	<a href="#"><u>Installation and inspection Regulation of 16 June 2011</u></a>	Article 13, paragraph 1 and 4		Installation of record equipment by no approved fitters or workshops (Article 12.1 of the EEC Regulation)	<b>Immobilization of the vehicle until compliance</b>

			<p>No maintain of a register of the marks used and electronic security data (Article 12.2 of the EEC Regulation)</p> <p>No information between the competent authorities of the Member States of their lists of approved fitters or workshops and the cards issued to them and copies of the marks and necessary information relating to the electronic security data used (Article 12.3 of the EEC Regulation)</p> <p>No use of an installation plaque certifying that installation of recording equipment took place in accordance with the requirements of this EEC Regulation (Article 12.4 of the EEC Regulation)</p>		<p><b>with the provisions</b></p>	
--	--	--	--	--	-----------------------------------	--

<p><a href="#">Use of equipment (recording equipment, driver card, recording sheet)</a></p> <p><a href="#">Regulation of 16 June 2011</a></p>	<p>Article 13, paragraph 1 and 4</p>	<p>Recording equipment or driver card not correctly functioning or improperly used (Article 13 of the EEC Regulation)</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p>	<p>Employer</p> <p>Driver</p>	<p><b>Immobilization of the vehicle until compliance with the provisions</b></p>	<p><b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b></p>
	<p>Article 13, paragraph 1 and 4</p> <p>Annex II, G 03</p>	<p>Not carrying a sufficient number of record sheets (Article 14.1 of the EEC Regulation)</p> <p><b>SI (Annex II of the Regulation of 12 August 2008)</b></p>	<p>Employer</p>	<p><b>Immobilization of the vehicle until compliance with the provisions</b></p>	<p><b>A fine of EUR 250.-</b></p>

	Article 13, paragraph 1 and 4	Model of record sheet not approved (Article 14.1 of the EEC Regulation)	Employer	<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>A fine of EUR 250.-</b>
	Annex II, G 04	<b>SI (Annex II of the Regulation of 12 August 2008)</b>			
	Article 13, paragraph 1 and 4	Not carrying enough paper for printouts (Article 14.1 of the EEC Regulation)	Employer	<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>A fine of EUR 145.-</b>
	Annex II, G 05	<b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver		
	Article 13, paragraph 1 and 4	Not keeping record sheets, printouts and data recorded in appropriate forms	Undertaking	<b>Immobilization of the vehicle until</b>	<b>Imprisonment from 8 days to 5 years and/or a fine from</b>

		(chronological order and legible form) for one year after their use (Article 14.2 of the EEC Regulation)		<b>compliance with the provisions</b>	<b>EUR 251.- to EUR 25,000.-</b>
		<b>VSI (Annex II of the Regulation of 12 August 2008)</b>			
	Article 13, paragraph 1 and 4	Not issuing the driver card at the request of the driver (Article 14.3 of the EEC Regulation)	Competent authority of the issuing Member State (residence of the driver)	<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b>
	Article 13, paragraph 1 and 4	Not holding a driver card in the Member State residence (article 14.3 of the EEC Regulation)	Driver	<b>Immobilization of the vehicle until compliance with the</b>	<b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b>

					<b>provisions</b>	
	Article 13, paragraph 1 and 4	<ul style="list-style-type: none"> <li>- No personalisation of the driver card (and validity of 5 years),</li> <li>- Driver not holding a valid driver card,</li> <li>- Driver holding more than one valid driver card,</li> </ul> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p> <ul style="list-style-type: none"> <li>- Use of driver card which is not the driver's own valid card,</li> </ul> <p><b>VSI (Annex II of the Regulation of 12 August</b></p>	<p>Competent authority of the Member State</p> <p>Or</p> <p>Driver</p>	<p><b>Immobilization of the vehicle until compliance with the provisions</b></p>	<p><b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b></p>	

			<p><b>2008)</b></p> <p>- Use of defective or expired driver card,</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p> <p>- Not respecting the form of the new replaced driver card (issue number and index increased by one),</p> <p>- No record keeping of issued, stolen, lost or defective card,</p> <p>- Not supplying a replacement card, which has been damaged, malfunctions, lost or stolen within 5 working days of receiving a detailed request,</p>			
--	--	--	---	--	--	--



			<ul style="list-style-type: none"><li>- Not supplying a new card before the expiry date in the event of a valid request for the renewal of a card,</li> <li>- Issue of a driver card to an applicant not subject to Regulation EEC No 3820/85,</li> <li>- Withdrawal or suspension of a driver card for a non-authorized reason,</li> <li>- No mutual recognition of drivers cards by Member States,</li> <li>- No register of replacement or exchange of driver card,</li> <li>- No prevention for driver card falsification</li></ul>			
--	--	--	---	--	--	--

		(Article 14.4 of the EEC Regulation)			
	Article 13, paragraph 1 and 4	Recorded and stored data not available for at least 365 days (Article 14.5 of the EEC Regulation)  <b>VSI (Annex II of the Regulation of 12 August 2008)</b>		<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b>
	Article 13, paragraph 1 and 4	- Use dirty or damaged sheets or driver cards,  - Failure to apply for renewal of driver card within 15 working days before the expiry date,	Driver	<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b>

		- Failure to apply for replacement of damaged, malfunctioning, lost or stolen driver card within 7 calendar days  (Article 15.1 of the EEC Regulation)			
	Annex II, G 11	Use dirty or damaged sheets or driver cards and data legible (Article 15.1 of the EEC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver		<b>A fine of EUR 145.-</b>
	Article 13 paragraph 1	Use dirty or damaged sheets or driver cards and data not legible (Article 15.1 of the EEC Regulation)	Driver	<b>Immobilization of the vehicle until compliance with the</b>	<b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b>

		<b>VSI (Annex II of the Regulation of 12 August 2008)</b>		<b>provisions</b>	
	Annex II, G 13	Failure to apply for replacement of damaged, malfunctioning, lost or stolen driver card within 7 calendar days (Article 15.1 of the EEC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver		<b>A fine of EUR 250.-</b>
	Article 13, paragraph 1 and 4	- Incorrect use of record sheets or driver cards  <b>VSI (Annex II of the Regulation of 12 August</b>	Driver	<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b>

			<p><b>2008)</b></p> <ul style="list-style-type: none"><li>- Unauthorised withdrawal of sheets or driver card</li> <li>- Record sheet or driver card used to cover a period longer than for which is intended</li> <li>- Not using manual input when required to do so</li> <li>- Not using correct sheet or driver card not in the correct slot (multi-manning)</li></ul> <p>(Article 15.2 of the EEC Regulation)</p>			
--	--	--	---	--	--	--

	Article 13, paragraph 1	<p>Unauthorised withdrawal of sheets or driver card which has an impact on the record of relevant data (Article 15.2 of the EEC Regulation)</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p>	Driver		<p><b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b></p>
	Annex II, G 16	<p>Unauthorised withdrawal of sheets or driver card without any impact on data recorded (article 15.2 of the EEC Regulation)</p> <p><b>MI (Annex II of the Regulation of 12 August 2008)</b></p>	Driver		<p><b>A fine of EUR 145.-</b></p>
	Annex II, G 17				

		Record sheet or driver card used to cover a period longer than for which is intended but no data is lost (Article 15.2 of the EEC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver		<b>A fine of EUR 145.-</b>
	Article 13, paragraph 1	Record sheet or driver card used to cover a period longer than for which is intended and data is lost (Article 15.2 of the EEC Regulation)  <b>VSI (Annex II of the Regulation of 12 August 2008)</b>	Driver	<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b>
	Article 13, paragraph 1	Not using manual input when required to do so with an	Driver	<b>Immobilization of the vehicle until</b>	<b>Imprisonment from 8 days to 5 years</b>

		<p>impact on data recorded (Article 15.2 of the EEC Regulation)</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p>		<p><b>compliance with the provisions</b></p>	<p><b>and/or a fine from EUR 251.- to EUR 25,000.-</b></p>
	Annex II, G 19a	<p>Not using manual input when required to do so without any impact on data recorded (Article 15.2 of the EEC Regulation)</p> <p><b>MI (Annex II of the Regulation of 12 August 2008)</b></p>	Driver		<p><b>A fine of EUR 145.-</b></p>
	Article 13, paragraph 1	<p>Not using correct sheet or driver card not in the correct slot (multi-manning) (Article 15.2 of the EEC Regulation)</p>	Driver	<p><b>Immobilization of the vehicle until compliance with the</b></p>	<p><b>Imprisonment from 8 days to 5 years and/or a fine from EUR 251.- to EUR 25,000.-</b></p>



			<b>VSI (Annex II of the Regulation of 12 August 2008)</b>		<b>provisions</b>	
	Article 13, paragraph 1 and 4		<ul style="list-style-type: none"> <li>- Time recorded on the sheet does not agree with official time of country of registration of the vehicle,</li> <li>- Incorrect use of switch mechanism</li> </ul> (Article 15.3 of the EEC Regulation)	Driver		<b>A fine of EUR 250.-</b>
	Annex II, G 21		Time recorded on the sheet does not agree with official time of country of registration of the vehicle (Article 15.3 of the EEC Regulation)	Driver		<b>A fine of EUR 250.-</b>

		<b>SI (Annex II of the Regulation of 12 August 2008)</b>			
	Article 13, paragraph 1	<p>Incorrect use of switch mechanism with an impact on data recorded (Article 15.3 of the EEC Regulation)</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p>	Driver	<b>Immobilization of the vehicle until compliance with the provisions</b>	<p><b>Imprisonment from 8 days to 5 years</b></p> <p><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>
	Annex II, G 22a	<p>Incorrect use of switch mechanism without any impact on data recorded (Article 15.3 of the EEC Regulation)</p> <p><b>MI (Annex II of the Regulation of 12 August</b></p>	Driver		<b>A fine of EUR 145.-</b>

			2008)			
	<p><a href="#">Information to enter</a>  <a href="#">(“indications à saisir”)</a></p> <p><a href="#">Regulation of 16 June 2011</a></p>	<p>Article 13,  paragraph 1 and 4</p>	<p>- Surname and first name missing on record sheet,  (Article 15.5 of the EEC Regulation)</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p> <p>- Date and place of begin and end of use of the sheet missing,</p> <p>- Registration number missing on record sheet,</p> <p>- Odometer reading (start and end) missing on record sheet,</p>	<p>Crew member</p>	<p><b>Immobilization of the vehicle until compliance with the provisions</b></p>	<p><b>Imprisonment from 8 days to 5 years</b></p> <p><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>

		- Time of change of vehicle missing o record sheet  (Article 15.5 of the EEC Regulation)			
	Annex II, H 03	Date of begin or end of use missing (Article 15.5 of the EEC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Crew member		<b>A fine of EUR 250.-</b>
	Annex II, H 04	Place of begin or end of use missing (Article 15.5 of the EEC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Crew member		<b>A fine of EUR 145.-</b>
	Annex II, H 05				

		Registration number missing on record sheet (Article 15.5 of the EEC Regulation)	Crew member		<b>A fine of EUR 250.-</b>
		<b>SI (Annex II of the Regulation of 12 August 2008)</b>			
	Annex II, H 06	Odometer reading (start) missing on record sheet (Article 15.5 of the EEC Regulation)	Crew member		<b>A fine of EUR 250.-</b>
		<b>SI (Annex II of the Regulation of 12 August 2008)</b>			
	Annex II, H 07	Odometer reading (end) missing on record sheet (Article 15.5 of the EEC Regulation)	Crew member		<b>A fine of EUR 250.-</b>
		<b>SI (Annex II of the</b>			

		<b>Regulation of 12 August 2008)</b>			
	Annex II, H 08	Time of change of vehicle missing on record sheet (Article 15.5 of the EEC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Crew member		<b>A fine of EUR 145.-</b>
	Article 13, paragraph 1 and 4  Annex II, H 09	Symbol of country not entered in recording equipment (Article 15.5a of the EEC Regulation)  <b>MI (Annex II of the Regulation of 12 August 2008)</b>	Driver		<b>A fine of EUR 145.-</b>

		<p>Article 13, paragraph 1 and 4</p>	<p>- Design of the recording equipment so that it is not possible to read the recordings relating to the 9h preceding the time of the check without permanently deforming, damaging or soiling the sheet,</p> <p>- Design of the recording equipment so that it is not possible to verify that recording are being made without opening the case</p> <p>(Article 15.6 of the EEC Regulation)</p>	<p>Employer and Drivers</p>	<p><b>Immobilization of the vehicle until compliance with the provisions</b></p>	<p><b>Imprisonment from 8 days to 5 years</b></p> <p><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>
<p><a href="#"><u>Presentation of documents</u></a></p> <p><a href="#"><u>Regulation of 16 June 2011</u></a></p>		<p>Article 13, paragraph 1 and 4</p>	<p>Unable to produce records the record sheets for the current day and the previous 28 days, the driver card if the driver holds one, manual records and printouts made during the</p>	<p>Driver</p>	<p><b>Immobilization of the vehicle until compliance with the</b></p>	<p><b>Imprisonment from 8 days to 5 years</b></p> <p><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>

		current day and the previous 28 days (Article 15.7 of the EEC Regulation)		<b>provisions</b>	
	Annex II of the Regulation of 12 August 2008	Refused to be checked  <b>VSI (Annex II of the Regulation of 12 August 2008)</b>			
	Annex II of the Regulation of 12 August 2008	Unable to produce records of current day  <b>VSI (Annex II of the Regulation of 12 August 2008)</b>			
	Annex II of the Regulation of 12 August 2008	Unable to produce records of			



	August 2008	previous 28 days			
			<b>VSI (Annex II of the Regulation of 12 August 2008)</b>		
	Annex II of the Regulation of 12 August 2008	Unable to produce records of the driver card if the driver holds one	<b>VSI (Annex II of the Regulation of 12 August 2008)</b>		
Annex II of the Regulation of 12 August 2008	Unable to produce manual records and printouts made during the current day and the previous 28 days	<b>VSI (Annex II of the</b>			

			<b>Regulation of 12 August 2008)</b>			
	Annex II of the Regulation of 12 August 2008	Unable to produce driver card	<b>VSI (Annex II of the Regulation of 12 August 2008)</b>			
	Annex II of the Regulation of 12 August 2008	Unable to produce printouts made during the current day and the previous 28 days	<b>VSI (Annex II of the Regulation of 12 August 2008)</b>			

	<p><u>Fraud</u></p> <p><u>Regulation of 16 June 2011</u></p>	<p>Article 13, paragraph 1 and 4</p>	<p>- Falsify, suppress, destroy data recorded on record sheets, stored in the recording equipment or on the driver card or printouts from the recording equipment,</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p> <p>- Manipulation of recording equipment, record sheet or driver card which may result in data and/or printouts information being falsified, suppressed or destroyed,</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p> <p>- Manipulation device that</p>	<p>Driver or Transport operator</p>	<p><b>Immobilization of the vehicle until compliance with the provisions</b></p>	<p><b>Imprisonment from 8 days to 5 years</b></p> <p><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>
--	--	--	--	-------------------------------------	--	--

			<p>could be used to falsify data and/or printouts information present on vehicle</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p> <p>(Article 15.8 of the EEC Regulation)</p>			
	<p><a href="#"><u>Breakdown</u></a></p> <p><a href="#"><u>Regulation of 16 June 2011</u></a></p>	<p>Article 13, paragraph 1 and 4</p>	<p>- Equipment not repaired by an approved fitter or workshop,</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p> <p>- Equipment not repaired <i>en route</i></p>	<p>Undertakings</p>	<p><b>Immobilization of the vehicle until compliance with the provisions</b></p>	<p><b>Imprisonment from 8 days to 5 years</b></p> <p><b>And/or a fine from EUR 251.- to EUR 25,000.-</b></p>

		(Article 16.1 of the EEC Regulation)			
	Annex II, K 02	Equipment not repaired <i>en route</i> (Article 16.1 of the EEC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Undertakings	<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>A fine of EUR 250.-</b>
	<a href="#">Manual input on printouts</a>  <a href="#">Regulation of 16 June 2011</a>	Article 13, paragraph 1 and 4  - Driver not marking all information for the periods of time which are no longer recorded while recording equipment is unserviceable or malfunctioning,  <b>VSI (Annex II of the Regulation of 12 August 2008)</b>	Undertakings  Driver	<b>Immobilization of the vehicle until compliance with the provisions</b>	<b>Imprisonment from 8 days to 5 years</b>  <b>And/or a fine from EUR 251.- to EUR 25,000.-</b>

			<p>- Driver card number and/or name and/or driving licence number missing on temporary sheet,</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p> <p>- Signature missing on temporary sheet</p> <p>- Lost or theft of driver card not formally declared to the competent authorities of the Member State where the theft occurred</p> <p><b>VSI (Annex II of the Regulation of 12 August 2008)</b></p>			
--	--	--	---	--	--	--

		(Article 16.2 of the EEC Regulation)			
	Annex II, L 03	Signature missing on temporary sheet (Article 16.2 of the EEC Regulation)  <b>SI (Annex II of the Regulation of 12 August 2008)</b>	Driver		<b>A fine of EUR 250.-</b>
	<a href="#"><u>Damage, malfunction, lost, theft of the driver card</u></a>  <a href="#"><u>Regulation of 16 June 2011</u></a>	Article 13, paragraph 1 and 4	- Driver not returning the damaged or malfunctions driver card to the competent authority of the State where the theft occurred,  - Lost or theft of driver card not formally declared to the	Driver	<b>Immobilization of the vehicle until compliance with the provisions</b>

			<p>competent authorities of the State where the theft occurred,</p> <p>- Driving without a driver card after a period of 15 calendar days or the necessary period for the vehicle to return to its premises.</p> <p>(Article 16.3 of the EEC Regulation)</p>			
--	--	--	--	--	--	--



Table LU 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Regulation (EC) No. 1071-1073/2009	<a href="#">Regulation of 16 June 2011 which refers to an amended Regulation of 15 March 1993 implementing Regulation 881/92 on access to the market in the carriage of goods by road within the Community to or from the territory of a</a>	Annex III	Failing to provide a certified community licence, failing to provide a bilateral/multilateral authorisation for Luxembourg or an authorisation that has not duly been completed are sanctioned by.	Operator		Fine of EUR 250,00

Table LU 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<u>Member State or passing across the territory of one or more Member States.</u>					
<b>Regulation (EC) No. 1072/2009</b>	<u>The Luxembourg Regulation of 19 April 2012</u>	Article 7	Non-compliance with Articles 3, 4 paragraph 3 and 6, 5 paragraph 6, 8 and 9 of Regulation (EC) No. 1072/2009.	Undertaking	<b>In addition, when carriage takes place without a certified copy of the Community Licence together with the driver attestation, or if there is as infringement</b>	<b>Imprisonment from 8 days to 3 months; and/or a fine of between EUR 251.00 to 15,000.00.</b>

Table LU 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p><b>committed in violation to the rules of cabotage, the vehicle used for this carriage can be impounded</b></p>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
<b>Directive 2008/68</b>	<b><u>Transport of Dangerous goods</u></b> <b><u>Regulation of 31 January 2003</u></b>	Article 62, paragraph 1	Not respecting the rules on fuel transport prescriptions (Article 3bis of the Regulation)	Driver Undertaking		<b>Imprisonment from 8 days to 6 months</b> <b>And/or a fine from EUR 251.- to EUR 10,000.-</b>
		Article 62, paragraph 1	Not respecting the prescriptions number 1.10.1 and 1.10.2 of Annex A of the ADR (Article 6bis of the Regulation)	Carrier Shipper Any other person involved in transport of dangerous goods		<b>Imprisonment from 8 days to 6 months</b> <b>And/or a fine from EUR 251.- to EUR 10,000.-</b>
		Article 62, paragraph 1	Not adopting and implementing safety plans including at least one of the elements of	Carrier Shipper		<b>Imprisonment from 8 days to 6 months</b> <b>And/or a fine from EUR 251.- to EUR 10,000.-</b>

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			Article 6bis of the Regulation for the transport of dangerous goods of high risk as defined at number 1.10.5 of Annex A of the ADR (article 6bis of the Regulation)	Any other person involved in transport of dangerous goods		
		Article 62, paragraph 1	Vehicle with no device, equipment or protection system preventing their theft or the theft or their loads (Article 6ter of the Regulation)	Undertaking ?		<b>Imprisonment from 8 days to 6 months And/or a fine from EUR 251.- to EUR 10,000.-</b>
		Article 62, paragraph 1	- Transport of dangerous goods that are prohibited for transport, - Leakage of dangerous	Undertaking  Driver	<b>Driving ban (<i>interdiction à continuer de circuler</i>) until</b>	<b>Imprisonment from 8 days to 6 months And/or a fine from EUR 251.- to EUR 10,000.-</b>

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			substances, - Use of a prohibited or inappropriate mean of transport, - Carriage in bulk in a container which is structurally not in a good condition, - Transport in a vehicle with no agreement certificate, - Vehicle not consistent with certification standards and presenting an immediate threat, - Use of non-approved package, - Packaging not		<b>compliance with the provisions</b>  <b>Temporary immobilization of the vehicle</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			consistent with the applicable packaging requirements, - Not respecting the special provisions on combined packaging, - Not respecting the rules on stowing and attachment of loading, - Not respecting the rules on combined loading of packages, - Not respecting the authorised degrees of filling of tanks and packages, - Not respecting the provisions limiting the			

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			<ul style="list-style-type: none"> <li>quantities carried,</li> <li>- Transport of dangerous goods without any information concerning their presence,</li> <li>- Transport without placarding and marking on the vehicle,</li> <li>- No information concerning the substance transported to determine if there is a category I risk,</li> <li>- Driver not holding a valid training certificate,</li> <li>- Use of lamp or bulb “à nu”,</li> <li>- Not respecting the</li> </ul>			



**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			smoking prohibition, (Article 55, paragraph 1 of the Regulation) <b>Category of risks I of Annex II of the EC Directive 2004/112</b>			
		Article 62, paragraph 1	Obstacle to the reception or inspection of equipments	Driver Undertaking		<b>Imprisonment from 8 days to 6 months And/or a fine from EUR 251.- to EUR 10,000.-</b>
		Article 62, paragraph 2 Annex I, C of the Regulation of 26 August 1993	-Not respecting the rules on circulation and immobilisation, (Articles 35 to 41 of the Regulation) - Not respecting a	Driver	<b>EUR 145.- Withdrawal of penalty-points (1 to 6) Suspension or</b>	<b>Imprisonment from 8 days to 5 years And/or a fine from EUR 25.- to EUR 25,000 €.-</b>

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			minimum distance of 50 m (in town) and 100 m (otherwise) for drivers of transport units with orange panels from the vehicle in front of them - Transport of person (except the vehicle crew) in a vehicle transporting dangerous goods. - No application of the parking brake. - Immobilisation of transport units or detached trailers which transport dangerous goods or have transported dangerous		<b>withdrawal of the driving licence</b> <b>Driving ban</b> <i>(interdiction à continuer de circuler)</i> until compliance with the provisions <b>Interdiction to drive</b> <b>Special confiscation</b> <b>Immobilization of the vehicle</b> <b>Vehicle impound</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			<p>goods and has not been cleaned up on non-authorized parking places,</p> <ul style="list-style-type: none"> <li>- No use or misuse of upright warning signals of Article 53 of the Regulation when the driver was forced to immobilise his vehicle on a place where parking is forbidden, by night or poor visibility,</li> <li>- Not immediately alerting emergency services when there is a danger for other road-users, residents or</li> </ul>			

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			environment if the crew cannot control the hazard, - Not respecting the safety instructions, - Not respecting the prescriptions of Article 35 to 40 for all transports of dangerous goods and special provisions of chapter 8.5 of Annex B of the ADR for the different materials classes.			
			- Transport unit of more than one trailer or semi-trailer, - Vehicle not consistent	Driver  Undertaking	EUR 145.-  <b>Police officers and members of the</b>	<b>Imprisonment from 8 days to 5 years</b>  <b>And/or a fine from EUR 25.- to EUR 25,000.-</b>

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			with certification standards but not presenting an immediate threat, - No working fire extinguisher in the vehicle, - No required equipment prescribed by the ADR or written instruction - Test or inspection dates, duration of the use of packages, GRV and big damaged packaging or empty, unclean and damaged packaging not respected, - Transport of packaging		<b>Customs and Excise Administration may ask the driver to comply with the provision at the place of control if possible or at the end of transport operation</b> <b>Withdrawal of penalty-points (1 to 6)</b> <b>Suspension or withdrawal of the driving licence</b> <b>Driving ban (“interdiction à</b>	

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			containing packages, GRV and big damaged packaging or empty, unclean and damaged packaging - Transport of goods in a packaged form in a container which is not in a good condition, - Tanks not properly closed, - Transport of a combined packaging with an external packaging not properly closed, - Incorrect labelling, marking or placarding,		<b>continuer de circuler) until compliance with the provisions</b> <b>Interdiction to drive</b> <b>Special confiscation</b> <b>Immobilization of the vehicle</b> <b>Vehicle impound</b>	

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			- No written instruction consistent with the ADR or no pertinent written instructions for the transported goods, - Vehicle not properly monitored or parked. (Article 55, paragraph 2 of the Regulation) <b>Category of risks II of Annex II of the EC Directive 2004/112</b>			
			- The size of the signs or labels, or letters, numbers or symbols on signs or labels not complying with regulations,	Driver  Undertaking	EUR 74.-  Withdrawal of penalty-points (1 to 6)  Suspension or	Imprisonment from 8 days to 5 years  And/or a fine from EUR 25.- to EUR 25,000.-

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			<p>- Lack of certain information (other than information concerning the substance transported to determine if there is a Category I risk) in transport documents,</p> <p>- Training certificate not in the vehicle but other elements showing that the driver has it (Article 55, paragraph 3 of the Regulation).</p> <p><b>Category of risks III of Annex II of the EC Directive 2004/112</b></p>		<p><b>withdrawal of the driving licence</b></p> <p><b>Driving ban</b> <i>(interdiction à continuer de circuler)</i> until compliance with the provisions</p> <p><b>Interdiction to drive</b></p> <p><b>Special confiscation</b></p> <p><b>Immobilization of the vehicle</b></p> <p><b>Vehicle impound</b></p>	
<b>Directive 96/53/EC</b>	<a href="#">Law of 14 February 1955 as</a>	Article 2, paragraph 4 Article 15	Not respecting the rules	Anyone who has	<b>Confiscation of the</b>	<b>Imprisonment from 8 days to 1 year</b>



**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
	<u>amended</u>		on weights and dimensions provided for by Community Directives	imported or put on sale road vehicles or elements and components of road vehicles not complying with EU Directives	<b>vehicle (ordered by the judge)</b>  <b>Pecuniary administrative sanction: EUR 12.- to EUR 250.-</b>	<b>And/or a fine from EUR 251.- to EUR 5,000.-</b>
		Article 2bis, paragraph 2 Article 15	Exceeding the maximum weight of more than 10% of a vehicle or coupled combination of vehicles	Driver	<b>Withdrawal of 4 penalty-points</b>  <b>Pecuniary administrative sanction: EUR 12.- to EUR 250.-</b>	
		Article 2bis, paragraph	Tolerating the entry			

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		2 Article 15	into service of a vehicle driven by a third party and exceeding the maximum weight of more than 10%	Owner  Holder of the vehicle	<b>Withdrawal of 4 penalty-points</b>  <b>Pecuniary administrative sanction: EUR 12.- to EUR 250.-</b>	
		Article 7, paragraph 1 Article 15	Not respecting the rules on identification, registration, control and construction of vehicles, including their loads (“chargement”)  Not respecting the rules	Driver	<b>Pecuniary administrative sanction: EUR 12.- to EUR 250.-</b>	<b>A fine from EUR 25.- to EUR 250.-</b> <b><u>Recidivism</u>: the maximum applies</b>

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			<p>on transport of persons, driving licence and conditions that drivers and instructors have to satisfy</p> <p>Rules to be provided by an order in council (“règlement d’administration publique”) (Article 1 of the Law)</p>			
		<p>Article 7, paragraph 1</p> <p>Article 15</p>	<p>Not respecting the individual authorisation or special prescription increasing the maximum weights and dimensions of vehicles</p>	<p>Driver</p>	<p><b>Pecuniary administrative sanction: EUR 12.- to EUR 250.-</b></p>	<p><b>A fine from EUR 25.- to EUR 250.-</b></p> <p><b><u>Recidivism</u>: the maximum applies</b></p>

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			in exceptional cases			
		Article 8	Infringements to Article 7 of the Law	Driver		<b>In case of several contraventions, the person incur the penalty for each offence (Article 58 of the Criminal code)</b>
		Article 11 Article 15	Vehicle or coupled combination of vehicles exceeding of more than 10% the maximum weight authorised	Driver	<b>Restriction on the vehicle movement (“interdiction de circulation du véhicule”)  Pecuniary administrative sanction: EUR 12.- to EUR 250.-</b>	<b>Imprisonment from 8 days to 1 year  And/or a fine from EUR 251.- to EUR 5,000.-</b>

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		Article 11 Article 15	Tolerating the entry into service of a vehicle or coupled combination of vehicles exceeding of more than 10% the maximum weight authorised	Owner  Holder	<b>Restriction on the vehicle movement (“interdiction de circulation du véhicule”)</b>  <b>Pecuniary administrative sanction: EUR 12.- to EUR 250.-</b>	<b>Imprisonment from 8 days to 1 year</b>  <b>And/or a fine from EUR 251.- to EUR 5,000.-</b>
		Article 17, paragraph 1 and 2	Vehicle seriously defective, exceed of more than 10% of the maximum weight, technical defect seriously endangering	Driver	<b>Immobilisation of the vehicle</b>  <b>Vehicle impound</b>	

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			the traffic			
		Article 17, paragraph 1 and 2	Not respecting the rules on construction and load of vehicles, registration plate, identification number, board documents or non-payment of the traffic fine	Driver who does not live in Luxembourg	<b>Immobilisation of the vehicle</b>  <b>Vehicle impound</b>	
		Article 13	The judge may impose a period of interdiction to drive from 8 days to 1 year (minor offence) or 3 months to 15 years (major offence or serious crime) in the event of infringements to traffic regulations on			

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			all public roads or in the event of major offences or serious crimes committed in addition to these infringements			
	<a href="#"><u>Decree of 23 November 1955</u></a>	Article 174	Not respecting the rules on construction and loads of vehicles (e.g. dimensions and loads of vehicles, maximum weights authorised, trailers, tyres, fares), and board documents			<b>A fine from EUR 25.- to EUR 250.-</b>  <b><u>Recidivism</u>: the maximum applies</b>
	<a href="#"><u>Regulation of 26 August 1993</u></a>	Annex I, point A (Decree of 23 November 1955)	Exceeding the maximum width, length, height or weight of the vehicle		<b>EUR 74.-</b>	

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			Not respecting the conditions of the ministerial conditions increasing the maximum dimensions			
Directive 2009/40/EC	<a href="#">Regulation of 23 May 2012</a>	Article 174 of the Luxembourg Decree of 23 November 1955, regulating public road transport in particular	Failing to submit a valid roadworthiness test certificate to the authorized authorities			<p><b>A fine between EUR 25.- and EUR 250.- which can be doubled as of EUR 500.- in case of VSI or SI</b></p> <p><b>And a pecuniary administrative fine of EUR 24.-</b></p>
		Article 98 regarding roadworthiness test certificate and Article 70 regarding onboard documents)				



**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		Article 174 of the Luxembourg Decree of 23 November 1955, regulating public road transport in particular Article 98 regarding roadworthiness test certificate and Article 70 regarding onboard documents)	Using of a vehicle not covered by a valid roadworthiness test certificate,			<p><b>A fine between EUR 25.- and EUR 250.- which can be doubled as of EUR 500.- in case of VSI or SI</b></p> <p><b>And a pecuniary administrative fine of EUR 145.- and the revocation of two points on the driving license</b></p>
<b>Directive 2006/126/EC</b>	<a href="#"><u>Decree of 23 November 1955</u></a>	Article 174	Not respecting the rules on driving licences and	Driver		<b>A fine from EUR 25.- to EUR 250.-</b>

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			the conditions that the driver must satisfy (e.g. driving without a driving licence, holding more than one driving licence, not respecting medical conditions, not respecting the minimum requirements for driving tests)			<b><u>Recidivism</u>: the maximum applies</b>
	<a href="#">Regulation of 26 August 1993</a>	Annex I, point A	Not showing a valid driving licence or a valid apprenticeship certificate,	Driver	<b>EUR 24.-</b>	
		Annex I, point A	Release to the driver	Owner	<b>EUR 49.-</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			without the knowledge and skill requirements	Keeper of the vehicle		
		Annex I, point A	Drive or allow to drive a taxi, a rental car, a training vehicle: - during 9 h in 24 h period, - during 4 h before or 8 h after the “tour service” of the principle occupation - during a continuous period of more than 4h30	Driver  Owner/Keeper of the vehicle	<b>EUR 74.-</b>	
		Annex I, point A	Drive or allow to drive	Driver	<b>EUR 145.-</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			a taxi, a rental car, a training vehicle, a bus, a truck or a semi-trailer tractor by a person having drunk alcoholic beverages	Owner/Keeper of the vehicle		
		Annex I, point A	Driving a cycle, cycle with pedal assistance, electric cycle, a vehicle with an engine intended to be driven by a pedestrian or an animal and without the minimum age requirements	Owner	<b>EUR 49.-</b>	
		Annex I, point A				

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			Not returning the valid or expired driving licences when the new driving licence is delivered	Driver	<b>EUR 24.-</b>	
		Annex I, point A	Not showing an apprenticeship certificate during the practical training	Driver	<b>EUR 24.-</b>	
		Annex I, point A	No apprenticeship certificate during the practical training	Driver	<b>EUR 74.-</b>	
		Annex I, point A	Not validating his apprenticeship certificate for	Driver/Candidate	<b>EUR 24.-</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			accompanied driving			
		Annex I, point A	Driving or accompany a candidate between 11 pm and 6 am	Driver/candidate  Adult conductor (“accompagneur”)	<b>EUR 49.-</b>	
		Annex I, point A	Not using a category B licence driving vehicle for accompanied driving	Driver	<b>EUR 74.-</b>	
		Annex I, point A	Not seating in the front seat	Adult conductor	<b>EUR 49.-</b>	
		Annex I, point A	Not showing his legitimating card	Adult conductor	<b>EUR 24.-</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			("carte de légitimation")			
		Annex I, point A	No "L" letter during the accompanied driving	Driver Owner	<b>EUR 49.-</b>	
		Annex I, point A	Driving a vehicle with an expired driving licence	Driver	<b>EUR 49.-</b>	
		Annex I, point A	Not returning Luxembourg or foreign driving licence for the delivery of a driving licence	Driver	<b>EUR 49.-</b>	
		Annex I, point A	Not showing a	Driver	<b>EUR 24.-</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			“formulaire du carnet de stage” to the police officer in charge of road traffic			
		Annex I, point A	Not showing a probationary book during the probationary period	Driver	<b>EUR 49.-</b>	
		Annex I, point A	Not exchanging the driving licence delivered by a Member State of the EEA when extending the right to drive to another category or under a judicial or	Driver living in Luxembourg	<b>EUR 49.-</b>	



Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			administrative decision leading to an indication on the licence			
	<a href="#"><u>Law of 14 February 1955</u></a>	Article 2bis, paragraph 2, point 3	Driving a vehicle without driving licence for the right category of vehicle or in one of the cases of Article 13 point 13, paragraph 1 (prohibition, confiscation, suspension of the driving licence)	Driver	<b>Withdrawal of 4 penalty-points</b>	
		Article 7, paragraph 1  Article 15	Not respecting the rules on transport of persons,	Driver	<b>Pecuniary administrative</b>	<b>A fine from EUR 25.- to EUR 250.-</b>

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			<p>driving licences and conditions drivers and examiners must satisfy (Article 1 of the Law)</p> <p>Not respecting the rules on medical certificate for granting a driving licence, conditions of admission of certified examiners, content of the driving test, price of the examiners' lessons (Article 4 of the Law)</p> <p>Not respecting the rules on additional training</p>	Examiners	<b>sanction: EUR 12.- to EUR 250.-</b>	

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			to the preparatory driving test and the approval (“agreement”) of examiners (Article 4ter of the Law)			
		Article 7, paragraph 2  Article 2bis  Article 15	Major contravention ( <i>contravention grave</i> ):  - Dangerous speed depending on the situation  - Exceeding the speed limit of more than 15km/h in town, 20 km/h not in town, 25	Driver	<b>Withdrawal of 2 penalty-points</b>  <b>Pecuniary administrative sanction: EUR 12.- to EUR 250.-</b>	<b>A fine from EUR 25.- to EUR 500.-</b>  <b><u>Recidivism</u>: the maximum applies</b>

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			km/h on highway			
		Article 11bis Article 7 Article 13 Article 15	Dangerous speed depending on the situation or exceeding speed limit	Driver	<b>Pecuniary administrative sanction (if minor offence): EUR 12.- to EUR 250.-</b>  <b><u>Recidivism</u> (if major offence): interdiction to drive</b>	<b>A fine from EUR 25.- to EUR 500.-</b>
		Article 11bis Article 2bis Article 13	<u>Recidivism</u> : exceeding speed limit of more than 50% of the maximum speed authorised (speed of	Driver	<b>Withdrawal of 4 penalty-points</b>  <b>Interdiction to drive</b>	<b>Imprisonment from 8 days to 3 years</b>  <b>And/or a fine from</b>

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			more than 20 km/h) before 3 years of a previous over speeding which was a major contravention or a major offence			<b>EUR 500.- to EUR 10,000.-</b>
		Article 12, paragraph 1 and 5  Article 2bis  Article 17, paragraph 1	Lack of physical and minimum standards of physical and mental fitness required	Driver  Owner, Holder, Keeper of the vehicle	<b>Withdrawal of 4 penalty-points</b>  <b>Immobilisation of the vehicle</b>	<b>Imprisonment from 8 days to 3 years</b>  <b>And/or a fine from EUR 500.- to EUR 10,000.-</b>
		Article 12, paragraph 2 and 5	Blood alcohol levels when driving is over	Driver	<b>Withdrawal of 4 penalty-points</b>	<b>Imprisonment from 8 days to 3</b>

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 2bis Article 13 Article 14	1.2 g alcohol per liter of blood or 0.55 mg alcohol per liter of exhaled air	Owner, Holder, Keeper of the vehicle	<b>Interdiction to drive</b>  <b>Immediate confiscation of the driving licence</b>  <b><u>Recidivism</u> within 3 years: confiscation of the vehicle</b>	<b>years</b>  <b>And/or a fine from EUR 500.- to EUR 10,000.-</b>
		Article 12, paragraph 2 and 5 Article 2bis Article 13	Blood alcohol levels when driving is over 0.5 g alcohol per liter of blood and less than 1.2 g of alcohol per liter of blood or 0,25 mg alcohol per liter of	Driver  Owner, Holder, Keeper of the vehicle	<b>Withdrawal of 2 penalty-points</b>  <b><u>Recidivism</u>: interdiction to drive</b>	<b>A fine from EUR 25.- to EUR 250.-</b>  <b><u>Recidivism</u>: imprisonment from 8 days to 3 years and/or a fine from EUR 500.- to EUR 10,000.-</b>

Table LU 4

Standards of Vehicle, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			exhaled air and less than 0,55 mg of alcohol per liter of exhaled air			
		Article 12, paragraph 2 and 5 Article 2bis Article 13 Article 17, paragraph 1	Driving under clear signs of alcohol influence	Driver  Owner, Holder, Keeper of the vehicle	<b>Withdrawal of 2 penalty-points</b>  <b>Immobilisation of the vehicle</b>  <b><u>Recidivism:</u> interdiction to drive</b>	<b>A fine from EUR 25.- to EUR 250.-</b>  <b><u>Recidivism:</u> imprisonment from 8 days to 3 years and/or a fine from EUR 500.- to EUR 10,000.-</b>
		Article 12, paragraph 2	Blood alcohol levels	Driver	<b>Pecuniary</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			when driving is over 0.25 or 0.10 mg alcohol per liter of exhaled air and less than 0,35 mg of alcohol per liter of exhaled air		<b>administrative sanction of : EUR 12.- to EUR 250.145</b>  <b>Withdrawal of 2 penalty-points</b>	
		Article 12, paragraph 4 And 5  Article 2bis  Article 17, paragraph 1	Driving under clear signs of drug abuse	Driver  Owner, Holder, Keeper of the vehicle	<b>Withdrawal of 4 penalty-points</b>  <b>Immobilisation of the vehicle</b>	<b>Imprisonment from 8 days to 3 years</b>  <b>And/or a fine from EUR 500.- to EUR 10,000.-</b>
		Article 13	The judge may impose a period of interdiction			



**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			to drive from 8 days to 1 year (minor offence) or 3 months to 15 years (major offence or serious crime) in the event of infringements to traffic regulations on all public roads or in the event of major offences or serious crimes committed in addition to these infringements			
		Article 13, point 13	Driving without a valid driving licence	Driver Owner, holder		<b>Imprisonment from 8 days to 3 years</b>

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
						<b>And/or a fine from EUR 500.- to EUR 10,000.-</b>
		Article 13, point 13	Driving with an expired driving licence	Driver Owner, holder		<b>A fine from EUR 25.- to EUR 250.-</b>
		Article 13, point 14	Exceeding speed limit of more than 50% of the maximum speed authorised (speed of more than 40 km/h)	Driver	<b>Immediate confiscation of the driving licence</b>	
		Article 17, paragraph 1 and 2	Not showing a valid driving licence	Driver	<b>Immobilisation of the vehicle</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
					<b>Vehicle impound</b>	
	<a href="#"><u>Regulation of 26 August 1993</u></a>	Annex I, point H	Teaching how to drive without any agreement	Examiner	<b>EUR 74.-</b>	
		Annex I, point H	Not modifying or returning the agreement in the event of change of employer or termination of service	Examiner	<b>EUR 24.-</b>	
		Annex I, point H	Not monitoring the examiner's work	Examiner's boss	<b>EUR 74.-</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		Annex I, point H	Teaching how to drive without the examiner driving licence	Examiner	<b>EUR 74.-</b>	
		Annex I, point H	Teaching a theoretical instruction without the required equipments	Examiner's boss	<b>EUR 74.-</b>	
		Annex I, point H	Practical teaching without the required vehicles	Examiner's boss	<b>EUR 74.-</b>	
		Annex I, point H	Driving a second person on a motorcycle	Driver/candidate (category A)	<b>EUR 74.-</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		Annex I, point H	No required classroom instruction	Examiner's boss	<b>EUR 74.-</b>	
		Annex I, point H	Not wearing a required safety jacket	Driver/candidate (category A) Examiner	<b>EUR 74.-</b>	
		Annex I, point H	Practical teaching to 2 or more candidates at the same time	Examiner	<b>EUR 74.-</b>	
		Annex I, point H	Not certifying that the	Examiner	<b>EUR 24.-</b>	

**Table LU 4**

**Standards of Vehicle, Load and Necessary Licences**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			teaching was accomplished	Candidate		

The table below gathers the sanctions which are considered formally criminal in the Luxembourgish legal system. Please note that most of the infringements are punishable in Luxembourg with criminal sanctions, which in our view can be qualified as dissuasive.

<b>Table LU 5</b>		
<b>Infringements of commercial road transport legislation</b>		
<b>Type of infringement(s) and Article of reference in national legislation</b>	<b>Criminal sanction</b>	<b>Is it dissuasive?</b>
<b>Corresponding EU legislation</b>		
All the infringements of Regulation (EC) No. 561/2006	Imprisonment from 8 days to 5 years And/or a fine from EUR 251.- to EUR 25,000.	Yes
	Some infringements sanctioned with fines from 145 to 250 Euros	No
All the infringements of Directive 2002/15/EC	Imprisonment from 8 days to 6 months And/or a fine from EUR 251.- to EUR 20,000.-	Yes
Most of the infringements of Regulation (EC) No. 3821/1985	Imprisonment from 8 days to 6 months And/or a fine from EUR 251.- to EUR 20,000.	Yes
	Some infringements sanctioned with fines from 145 to 250 Euros	No
All the infringements of Regulation 1072/2009	Imprisonment from 8 days to 3 months; and/or a fine of between EUR 251.00 to 15,000.00.	Yes

**Table LU 5**

**Infringements of commercial road transport legislation**

<p><b>Type of infringement(s) and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Criminal sanction</b></p>	<p><b>Is it dissuasive?</b></p>
<p>All the infringements of Directive 2008/68</p>	<p>Imprisonment from 8 days to 6 months And/or a fine from EUR 251.- to EUR 10,000.- or Imprisonment from 8 days to 5 years And/or a fine from EUR 25.- to EUR 25,000 €.-</p>	<p>Yes</p>
<p>Most of the infringements of Directive 96/53/EC</p>	<p>Imprisonment from 8 days to 1 year And/or a fine from EUR 251.- to EUR 5,000.  Or Fine from EUR 25.- to EUR 250 A fine from EUR 25.- to EUR 500</p>	<p>Yes  No</p>
<p>Decree of 23 November 1955, Article 174 Not respecting the rules on driving licences and the conditions that the driver must satisfy (e.g. driving without a driving licence, holding more than one driving licence, not respecting medical conditions, not</p>	<p>A fine from EUR 25.- to EUR 250</p>	<p>No</p>



**Table LU 5**

**Infringements of commercial road transport legislation**

<b>Type of infringement(s) and Article of reference in national legislation</b>  <b>Corresponding EU legislation</b>	<b>Criminal sanction</b>	<b>Is it dissuasive?</b>
respecting the minimum requirements for driving tests)  Directive 2006/126/EC		
Law of 14 February 1955, Article 13 Driving without a valid driving licence  Directive 2006/126/EC	Imprisonment from 8 days to 3 years  And/or a fine from  EUR 500.- to EUR 10,000.-	Yes
Law of 14 February 1955, Driving with an expired driving licence  Directive 2006/126/EC	A fine from EUR 25.- to EUR 250.-	No

## **19.7 Sanctions which could be considered substantially criminal in the Luxembourg legal system**

Most of the infringements of EU rules on commercial road transport legislation are sanctioned with sanctions that are formally qualified as criminal in Luxembourg. In addition to criminal sanctions some infringements are also sanctioned with administrative sanctions such as immobilisation of the vehicle and driving bans.

However, there are no infringements of EU rules on commercial road transport sanctioned with administrative sanctions that should be qualified as substantially criminal.

**Table LU 6**

**Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR**

<b>Type of infringement and Article of reference in national legislation</b>  <b>Corresponding EU legislation</b>	<b>Administrative sanction that could be qualified as criminal sanction</b>	<b>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</b>	<b>Is it dissuasive?</b>
There are no sanctions imposed by the Luxembourg legislation implementing the EU directives and regulations on commercial road transport which are formally administrative but are substantively criminal.			

## 19.8 Effectiveness of the sanctions system

The Luxembourg system of sanctions for non-compliance with regulations applicable to commercial road transport suffers from a main difficulty as the legislation is scattered in various laws and regulations, which are not all coordinated.

According to the Ministry of Transport's report of activity for 2010<sup>35</sup>:

- The control on EU road transport authorization and the technical control of vehicles have been increased by the Luxembourg Department of Transport, the Custom and Excise Administration as well as the National Company for Technical control (*Société Nationale de Contrôle Technique*) in order to ensure fair competition between road transport companies.
- The administrative cooperation between the Custom and Excise Administration and the Ministry of Transport has been strengthened. Since 2010, the Ministry of Transport has transferred the control of the road transport sector to the Custom and Excise Administration.
- The reinforcement of the controls on a regular basis has triggered a decrease in infringements.

It is worth pointing out that based on the information available only 3 or 4 authorizations to carry out the profession of transport operators have been withdrawn due to serious infringements of the legislation on road transport in Luxembourg.

Imprisonment, though abstractly foreseen, is not concretely applied in connection to infringements of the rules on commercial road transport. It has been applied only in cases where other crimes had been committed at the same time.

That said the system has some flaws.

In first place financial penalties for certain infringements are not so dissuasive, as acknowledged by the Luxembourgish Government in its reply in the context of our Survey (Annex LUX.1).

From a quantitative standpoint we also note that the number of infringements of the social rules on road commercial transport is substantial.

---

<sup>35</sup> [Http://www.gouvernement.lu/publications/informations\\_gouvernementales/rapports\\_activite/rapports-activite-2010/06-mddi/RA\\_4\\_DTR\\_2010.pdf](http://www.gouvernement.lu/publications/informations_gouvernementales/rapports_activite/rapports-activite-2010/06-mddi/RA_4_DTR_2010.pdf).

The table below illustrates the infringements detected in 2011 in Luxembourg. An analysis of the figures shows that the infringements of the rules on driving times and rest period and of the rules on tachograph is above 1,500. Such number is substantial in consideration of the volume of the traffic in Luxembourg and of the numbers of checks carried out.

In the light of above, it could be argued that sanctions in Luxembourg are abstractly dissuasive, but concretely they might be not totally effective in preventing infringements. However, this conclusion is not final as from a qualitative standpoint the system might be considered proportionate.

<b>Table LU 7</b>	
<b><u>Offences detected in the period 01.01.2011 and 31.12.2011</u></b>	
<b><u>Types d'infraction</u></b> <b><u>(Types of offences)</u></b>	<b><u>Nombre d'infractions</u></b> <b><u>(Number of offences detected)</u></b>
<i>Dépassement de la largeur maximum autorisée</i> (Exceeding the maximum allowed breadth).	36
<i>Dépassement de la longueur maximale autorisée</i> (Exceeding the maximum allowed length)	447
<i>Dépassement de la hauteur maximum autorisée</i> (Exceeding the maximum allowed height)	152
<i>Inobservation des conditions de l'autorisation ministérielle augmentant les maximal des dimensions réglementaires</i> (Failure to comply with the conditions of the Ministerial authorisation extending the maximum allowed dimensions)	53
<i>Chargement pouvant constituer un danger pour les personnes, causer des dommages aux propriétés, traîner sur la voie publique ou y tomber</i> (Cargos which may endanger the safety of people, cause property damages or may	391

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p>lie or fall on the public highway)</p>	
<p><i>Dispositif non réglementaire servant à arrimer, à couvrir ou à protéger le chargement d'un véhicule routier</i> (Unlawful device serving to secure, cover or protect vehicle's cargo)</p>	<p>116</p>
<p><i>Défaut de signalisation ou signalisation non réglementaire d'un chargement dépassant l'extrémité arrière du véhicule de plus d'un mètre</i> (Lack of signs or use of non-regulatory signs for cargo exceeding by at least one meter the rear end of the vehicle)</p>	<p>5</p>
<p><i>Présence dans un véhicule d'un pare-brise ou d'un vitrage latéral non réglementaires</i> (Unlawful windscreen or side windows in the vehicle)</p>	<p>56</p>
<p><i>Défaut d'exhiber un permis de conduire valable</i> (Driving without a valid driving licence)</p>	<p>5</p>
<p><i>Défaut d'exhiber un certificat d'identification ou un document équivalent valable</i> (Driving without an identification certificate or other equivalent valid document)</p>	<p>3</p>
<p><i>Défaut d'exhiber un certificat de contrôle technique luxembourgeois valable</i> (Driving without a valid Luxembourgian roadworthiness certificate)</p>	<p>8</p>
<p><i>Défaut d'exhiber une attestation spéciale valable</i> (Driving without a valid special attestation)</p>	<p>336</p>
<p><i>Usage d'un véhicule routier non couvert par un certificat de contrôle technique luxembourgeois valable</i> (Using a road motor vehicle not covered by a Luxembourgian roadworthiness</p>	<p>22</p>

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p>certificate)</p>	
<p><i>Défaut pour le conducteur d'un véhicule automoteur immatriculé à l'étranger d'exhiber sur réquisition son permis de conduire étranger ou luxembourgeois valable</i> (Failure for the driver of an automotive vehicle registered abroad to present on request his valid foreign or Luxembourgian driving licence)</p>	<p>8</p>
<p><i>Défaut pour le conducteur d'un véhicule automoteur immatriculé à l'étranger d'exhiber sur réquisition une attestation d'assurance valable</i> (Failure from the driver of an automotive vehicle registered abroad to exhibit on request a valid certificate of insurance)</p>	<p>60</p>
<p><i>Défaut d'exhiber sur réquisition, une attestation d'assurance valable pour un cyclomoteur ou une remorque admise à la circulation à l'étranger</i> (Failure to present on request a valid certificate of insurance for moped or trailer authorised to circulate abroad)</p>	<p>6</p>
<p><i>Défaut de présenter, sur réquisition, les documents prescrits ainsi que le certificat d'immatriculation du pays d'origine ou le document en tenant lieu.</i> (Failure to present on request the required documents as well as the registration certificate from the country of origin or any other equivalent document)</p>	<p>8</p>
<p><i>Transport d'une personne à bord d'un véhicule chargé de marchandises dangereuses, hormis l'équipage du véhicule</i> (Transport of a person on a vehicle loaded with dangerous goods, with the exception of the vehicle's crew)</p>	<p>1</p>
<p><i>Défaut d'observer les dispositions particulières du chapitre 8.5 de l'Annexe B de l'ADR relative à la circulation d'une unité de transport chargée d'une matière</i></p>	<p>1</p>

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p><i>relevant d'une classe de danger déterminé</i></p> <p>(Failure to comply with the special provisions from Chapter 8.5 of Annex B of the ADR concerning the circulation of a transport unit loaded with a substance belonging to a given risk category)</p>	
<p><i>Défaut dans le véhicule des équipement prescrits dans l'ADR ou dans les consignes écrites</i></p> <p>(Vehicle missing equipment required from ADR or in the written instructions)</p>	<p>23</p>
<p><i>Durées de conduite:</i></p> <p><i>Dépassement de la durée de conduite journalière de 9 h en l'absence d'autorisation d'étendre cette durée à 10h- 9 h&lt;. &lt;10h</i></p> <p><i>-Règlement (CE) no 561/2006: Art. 6.1.</i></p> <p><i>-AETR: Art. 6.1.</i></p> <p>(Driving times: Exceeding the daily driving time of 9 hours by less than 1 hour without holding the authorisation for extending the daily driving time of 9 hours to 10 hours)</p>	<p>183</p>
<p><i>Durées de conduite:</i></p> <p><i>Dépassement de la durée de conduite journalière de 9 h en l'absence d'autorisation d'étendre cette durée à 10h- 10 h&lt;. &lt;11h</i></p> <p><i>-Règlement (CE) no 561/2006:art. 6.1.</i></p> <p><i>-AETR: Art. 6.1.</i></p> <p>(Driving times: Exceeding the daily driving time of 9 hours by at least 1 hour to 2 hours when an extension of the daily driving time of 9 hours to 10 hours is not authorised by an adequate authorisation)</p>	<p>78</p>



Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p><i>Durées de conduite:</i></p> <p><i>Dépassement de la durée de conduite journalière de 10 h en cas d'octroi de l'extension - 10h&lt;...&lt;11h</i></p> <p><i>-Règlement (CE) no 561/2006:art. 6.1.</i></p> <p><i>-AETR: Art. 6.1.</i></p> <p>(Driving times: Exceeding the daily driving time of 10 hours by less than one hour if the extension to 10 hours is authorised)</p>	<p>198</p>
<p><i>Durées de conduite :</i></p> <p><i>Dépassement de la durée de conduite journalière de 10 h en cas d'octroi de l'extension - 11h&lt;...&lt;12h</i></p> <p><i>-Règlement (CE) no 561/2006:Art. 6.1.</i></p> <p><i>-AETR: Art. 6.1.</i></p> <p>(Driving times: Exceeding the extended daily driving time of 10 hours by at least 1 hour to less than 2 hours if the extended daily driving time of 10 hours is authorised)</p>	<p>44</p>
<p><i>Durées de conduite:</i></p> <p><i>Dépassement de la durée de conduite hebdomadaire – 56h&lt;...&lt;60h</i></p> <p><i>-Règlement (CE) no 561/2006:Art. 6.2.</i></p> <p><i>-AETR: Art. 6.1.</i></p> <p>(Driving times: Exceeding the weekly driving time of 56 hours by less than 4 hours)</p>	<p>7</p>
<p><i>Durées de conduite:</i></p>	<p>1</p>

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p>Dépassement de la durée de conduite hebdomadaire – 60h&lt;...&lt;70h</p> <p>-Règlement (CE) no 561/2006:Art. 6.2.</p> <p>-AETR: Art. 6.1.</p> <p>(Driving times: Exceeding the weekly driving time of 56 hours by at least 4 hours to less than 14 hours)</p>	
<p>Durées de conduite:</p> <p>Dépassement du temps de conduite accumulé durant deux semaines consécutives – 90h&lt;...&lt;100h</p> <p>-Règlement (CE) no 561/2006:Art. 6.3.</p> <p>-AETR: Art. 6.2.</p> <p>(Driving times: Exceeding the driving time accumulated in two consecutive weeks by less than 10 hours)</p>	<p>117</p>
<p>Durées de conduite:</p> <p>Dépassement du temps de conduite accumulé durant deux semaines consécutives – 100h&lt;...&lt;112h30</p> <p>-Règlement (CE) no 561/2006:Art. 6.3.</p> <p>-AETR: Art. 6.2.</p> <p>(Driving times: Exceeding the driving time accumulated in two consecutive weeks by more than 20 hours and 30 minutes)</p>	<p>19</p>
<p>Pauses:</p>	<p>246</p>

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p><i>Dépassement de la durée de conduite ininterrompue – 4h30&lt;...&lt;5h</i></p> <p>-Règlement (CE) no 561/2006:Art.7</p> <p>-AETR: Art.7</p> <p>(Breaks: Exceeding the uninterrupted driving time by less than 30 minutes without taking a break as required in regulatory enactments)</p>	
<p><i>Pauses:</i></p> <p><i>Dépassement de la durée de conduite ininterrompue – 5h&lt;...&lt;6h</i></p> <p><i>Règlement (CE) no 561/2006:Art.7</i></p> <p>-AETR: Art.7</p> <p>(Breaks: Exceeding the uninterrupted driving time by at least 30 minutes up to 1 hour and 30 minutes without taking a break as required in regulatory enactments)</p>	<p>250</p>
<p><i>Temps de repos:</i></p> <p><i>Temps de repos journalier inférieur à 11h si réduction non accordée – 10h&lt;...&lt;11h</i></p> <p>-Règlement (CE) no 561/2006:Art.8.2</p> <p>-AETR: Art.8.1</p> <p>(Rest periods: Reducing the daily resting time by less than 11 hours when no authorization has been granted to reduce this daily resting time by less than 1 hour)</p>	<p>89</p>
<p><i>Temps de repos:</i></p> <p><i>Temps de repos journalier inférieur à 11h si réduction non accordée – 8h30&lt;...&lt;10h</i></p>	<p>296</p>

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p>-Règlement (CE) no 561/2006:Art.8.2 -AETR: Art.8.1 (Rest periods: Reducing the daily resting time by less than 11 hours when no authorization has been granted to reduce this daily resting time by at least 1 hour up to less than 2 hours 30 minutes)</p>	
<p><i>Temps de repos:</i> <i>Temps de repos journalier inférieur à 9h si réduction non accordée – 8h&lt;...&lt;9h</i> -Règlement (CE) no 561/2006:Art.8.2 -AETR: Art.8.1 (Rest periods: Reducing the daily resting time by less than 9 hours when no authorization has been granted to reduce this daily resting time by less than 1 hour)</p>	177
<p><i>Temps de repos:</i> <i>Temps de repos journalier inférieur à 9h si réduction non accordée – 7h&lt;...&lt;8h</i> -Règlement (CE) no 561/2006:Art.8.2 -AETR: Art.8.1 (Rest periods: Reducing the daily resting time by less than 9 hours when no authorization has been granted to reduce this daily resting time by at least 1 hour up to less than 2 hours)</p>	119
<p><i>Temps de repos:</i> <i>Temps de repos journalier inférieur à 9h en cas de double équipage – 8h&lt;...&lt;9h</i> -Règlement (CE) no 561/2006:Art.8.5</p>	1

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p>(Rest periods: Reducing the daily resting time by less than 9 hours when no authorization has been granted to reduce this daily resting time by less than 1 hour in case of double crew)</p>	
<p><i>Temps de repos:</i> <i>Temps de repos journalier inférieur à 9 h en cas de double équipage – 7h&lt;...&lt;8h</i> <i>-Règlement (CE) no 561/2006:Art.8.5</i></p> <p>(Rest periods: Reducing the daily resting time by less than 9 hours when no authorization has been granted to reduce this daily resting time by at least 1 hour up to less than 2 hours in case of double crew)</p>	<p>2</p>
<p><i>Temps de repos:</i> <i>Temps de repos hebdomadaire réduit de moins de 24 h – 22h&lt;...&lt;24h</i> <i>-Règlement (CE) no 561/2006:Art.8.6</i></p> <p>(Rest periods: Reducing the reduced weekly resting time by less than 24 hours when no authorization has been granted to reduce this reduced weekly resting time by less than 2 hours)</p>	<p>1</p>
<p><i>Temps de repos:</i> <i>Temps de repos hebdomadaire inférieur à 45 h si réduction non accordée – 42h&lt;...&lt;45h</i> <i>-Règlement (CE) no 561/2006:Art.8.6</i> <i>-AETR: Art.8.3</i></p> <p>(Rest periods: Reducing the weekly resting time by less than 45 hours when no authorization has</p>	<p>13</p>

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p>been granted to reduce this weekly resting time by less than 3 hours)</p>	
<p><i>Temps de repos:</i> <i>Temps de repos hebdomadaire inférieur à 45 h si réduction non accordée – 36h&lt;...&lt;42h</i> <i>-Règlement (CE) no 561/2006: Art.8.6</i> <i>-AETR: Art.8.3</i> (Rest periods: Reducing the weekly resting time by less than 45 hours when no authorization has been granted to reduce this weekly resting time by at least 3 hours to less than 9 hours)</p>	<p>75</p>
<p><i>Utilisation de l'appareil de contrôle, de la carte de conducteur ou de la feuille d'enregistrement:</i> <i>Nombre insuffisant de feuilles d'enregistrement à bord</i> <i>-Règlement (CE) no 3821/85: Art. 14.1.</i> <i>-AETR: Art.11.1.de l'annexe</i> (Use of the recording equipment, driver card or record sheets: Not carrying a sufficient number of record sheets on board)</p>	<p>1</p>
<p><i>Utilisation de l'appareil de contrôle, de la carte de conducteur ou de la feuille d'enregistrement:</i> <i>Pas suffisamment de papier à bord pour les sorties imprimées</i> <i>-Règlement (CE) no 3821/85: Art. 14.1.</i> <i>-AETR: Art.11.1.de l'annexe</i> (Use of the recording equipment, driver card or record sheets:</p>	<p>8</p>

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p>Not carrying enough papers for printouts on board)</p>	
<p><i>Utilisation de l'appareil de contrôle, de la carte de conducteur ou de la feuille d'enregistrement:</i></p> <p><i>Utilisation de feuilles ou de cartes de conducteur souillées ou endommagées</i></p> <p><i>-Règlement (CE) no 3821/85: Art. 15.1.</i></p> <p><i>-AETR: Art.12.1.de l'annexe</i></p> <p>(Use of the recording equipment, driver card or record sheets: Use of dirty or damaged record sheets or driver cards)</p>	<p>2</p>
<p><i>Utilisation de l'appareil de contrôle, de la carte de conducteur ou de la feuille d'enregistrement:</i></p> <p><i>Le remplacement de la carte de conducteur endommagée, fonctionnant mal, perdue ou volée n'a pas été demandé dans les 7 jours de calendrier.</i></p> <p><i>-Règlement (CE) no 3821/85: Art. 15.1.</i></p> <p><i>-AETR: Art.12.1.de l'annexe</i></p> <p>(Use of the recording equipment, driver card or record sheets: Failure to apply for the replacement of damaged, malfunctioning, lost or stolen driver card within 7 calendar days)</p>	<p>2</p>
<p><i>Utilisation de l'appareil de contrôle, de la carte de conducteur ou de la feuille d'enregistrement:</i></p> <p><i>Retrait non autorisé de feuilles ou de carte de conducteur sans effet sur les données enregistrées</i></p> <p><i>-Règlement (CE) no 3821/85: Art. 15.2.</i></p> <p><i>-AETR: Art.12.2.de l'annexe</i></p>	<p>4</p>

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p>(Use of the recording equipment, driver card or record sheets: Unauthorized withdrawal of recording sheets or driver card but which has no impact on the recorded data)</p>	
<p><i>Utilisation de l'appareil de contrôle, de la carte de conducteur ou de la feuille d'enregistrement:</i>  <i>Feuille d'enregistrement ou carte de conducteur utilisé pour couvrir une période plus longue que celle pour laquelle elle est conçue, mais sans perte de données</i>  <i>-Règlement (CE) no 3821/85: Art. 15.2.</i>  <i>-AETR: Art.12.2.de l'annexe</i></p> <p>(Use of the recording equipment, driver card or record sheets: Record sheet or driver card used to cover a period longer than the one for which it is intended but no data is lost)</p>	<p>6</p>
<p><i>Utilisation de l'appareil de contrôle, de la carte de conducteur ou de la feuille d'enregistrement:</i>  <i>Pas de saisie manuelle alors qu'elle est requise, sans effet sur les données enregistrées</i>  <i>-Règlement (CE) no 3821/85: art. 15.2.</i>  <i>-AETR: art.12.2.de l'annexe</i></p> <p>(Use of the recording equipment, driver card or record sheets: Not using manual input when it is required to do so, but there is no impact on the recorded data)</p>	<p>4</p>
<p><i>Utilisation de l'appareil de contrôle, de la carte de conducteur ou de la feuille d'enregistrement:</i>  <i>Le marquage horaire sur la feuille ne correspond pas à l'heure légale du pays</i></p>	<p>2</p>



Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p><i>d'immatriculation du véhicule</i></p> <p>-Règlement (CE) no 3821/85: art. 15.3.</p> <p>-AETR: art.12.3.de l'annexe</p> <p>(Use of the recording equipment, driver card or record sheets: The time recorded on the record sheet does not correspond with the legal time of the country of registration of the vehicle)</p>	
<p>Indication à saisir:</p> <p><i>Pas de date de début ou de fin d'utilisation de la feuille</i></p> <p>-Règlement (CE) no 3821/85: art. 15.5.</p> <p>-AETR: art.12.5.de l'annexe</p> <p>(Indications to fill in: The start or end date of the use of the record sheet is missing)</p>	<p>4</p>
<p>Indication à saisir:</p> <p><i>Pas de lieu de début ou de fin d'utilisation de la feuille</i></p> <p>-Règlement (CE) no 3821/85 : art. 15.5.</p> <p>-AETR: art.12.5.de l'annexe</p> <p>(Indications to fill in: The location of the start or end of the use of the record sheet is missing)</p>	<p>12</p>
<p>Indication à saisir:</p> <p><i>Pas de numéro d'immatriculation sur la feuille d'enregistrement</i></p> <p>-Règlement (CE) no 3821/85: art. 15.5.</p> <p>-AETR: art.12.5.de l'annexe</p>	<p>1</p>

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p>(Indications to fill in: The registration number of the vehicle is missing on the record sheet)</p>	
<p><i>Indication à saisir:</i> <i>Pas de relevé du compteur (début) sur la feuille d'enregistrement</i> <i>-Règlement (CE) no 3821/85: art. 15.5.</i> <i>-AETR: art.12.5.de l'annexe</i> (Indications to fill in: The odometer reading (start) is missing on the record sheet)</p>	<p>1</p>
<p><i>Indication à saisir:</i> <i>Pas de relevé du compteur (fin) sur la feuille d'enregistrement</i> <i>-Règlement (CE) no 3821/85: art. 15.5.</i> <i>-AETR: art.12.5.de l'annexe</i> (Indications to fill in: The odometer reading (end) is missing on the record sheet)</p>	<p>9</p>
<p><i>Panne:</i> <i>Pas réparée en cours de route</i> <i>-Règlement (CE) no 3821/85: art. 16.1.</i> <i>-AETR: art.13.1.de l'annexe</i> (Breakdown: Not repaired en route)</p>	<p>2</p>
<p><i>Saisie manuelle sur les sorties imprimées:</i> <i>Pas de signature sur la feuille provisoire</i></p>	<p>1</p>

Table LU 7

Offences detected in the period 01.01.2011 and 31.12.2011

<p><u>Types d'infraction</u> (Types of offences)</p>	<p><u>Nombre d'infractions</u> (Number of offences detected)</p>
<p>-Règlement (CE) no 3821/85: art. 16.2. -AETR: art.13.2.de l'annexe (Manual entry on printouts: Signature missing on the temporary record sheet)</p>	
<p><i>Défaut d'avoir une copie conforme de la licence communautaire valable à bord du véhicule</i> (Failure to have a valid certified copy of the Community licence on board of the vehicle)</p>	<p>17</p>
<p><i>Défaut de pouvoir présenter une autorisation bilatérale ou multilatérale valable pour le Grand-Duché de Luxembourg</i> (Failure to present a valid bilateral or multilateral authorization for driving in Grand Duchy of Luxembourg)</p>	<p>5</p>
<p><i>Défaut de pouvoir présenter une attestation de conducteur valable</i> (Failure to present a valid driver attestation)</p>	<p>2</p>
<p><i>Interdiction de fumer dans un autobus d'un service de transport public de personnes</i> (Smoking is prohibited on buses providing public passenger transport services)</p>	<p>1</p>

## 20 MALTA - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

### 20.1 Social rules on road transport

#### 20.1.1 Rules on Driving Times and Rest Periods

##### 20.1.1.1 Regulation (EC) No 561/2006

Regulation (EC) No 561/2006 has been implemented by means of the following legislative acts:

- (i) S.L. 65.19, Motor Vehicles (Carriage of Goods by Road) Regulations<sup>36</sup>;
  - (ii) S.L. 499.56, Passenger Transport Services Regulations<sup>37</sup>.
- 
- (i) S.L. 65.19, Motor Vehicles (Carriage of Goods by Road) Regulations

In terms of Regulation 5 of the Motor Vehicles (Carriage of Goods by Road) Regulations, no undertaking<sup>38</sup> may engage in the occupation of road haulage operator for hire or reward unless duly authorised by the Authority for Transport in Malta according to these Regulations.

The Eighth Schedule to the Motor Vehicles (Carriage of Goods by Road) Regulations, provides a guideline on the common range of infringements against Regulation (EC) No 561/2006 indicating the list of infringements and the level of seriousness for each (see Annex I).

---

<sup>36</sup> 1<sup>st</sup> May 2004, last amended by LN 395 of 2011.

<sup>37</sup> 19<sup>th</sup> May 2009, 19<sup>th</sup> November 2009, last amended by LN 396 of 2011.

<sup>38</sup> Defined in Regulation 2 as: “*any natural person, any legal person, whether profit-making or not, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such personality*”.

The sanction system related to the infringements of rules on working time and driving periods, breaks and daily and weekly rest periods envisaged in Regulation (EC) No 561/2006 is envisaged in Regulation 88(5) of the Motor Vehicles (Carriage of Goods by Road) Regulations. Regulation 88(5) provides that any person who contravenes the provisions of Regulations 27 (working time and driving periods); 28 (breaks); 29 (daily and weekly rest periods); and 31 (liability of transport undertakings), shall be guilty of an offence and shall, on conviction be liable to a fine (*ammenda*) of € 58.23<sup>39</sup>.

As to the persons against whom the above penalties apply, in terms of Regulation 88(5) of the Motor Vehicles (Carriage of Goods by Road) Regulations, any person who is by law subject to the provisions on working time and driving periods, breaks and daily and weekly rest periods in terms of the Motor Vehicles (Carriage of Goods by Road) Regulations, and who contravenes those provisions, may be subject to these penalties. This concerns a mobile worker<sup>40</sup>, a person performing mobile road transport activities<sup>41</sup>, and a self-employed driver<sup>42</sup>. Regulation 31(2) of the Motor

---

<sup>39</sup> Note however a slight inconsistency in this law in that Regulation 33(9) of this Regulation provides that a person who contravenes the provisions of regulations 27 to 29 and 33 (on information records), shall be guilty of an offence and shall be liable to a *minimum* fine (*ammenda*) of € 58.23.

<sup>40</sup> Defined in Regulation 2 of the Motor Vehicles (Carriage of Goods by Road) Regulations as: “*any worker forming part of the travelling staff, including trainees and apprentices, who is in the service of an undertaking which operates transport services of goods by road for hire or reward or on its own account and includes any driver who is not a self-employed driver*”.

<sup>41</sup> Defined in Regulation 2 of the Motor Vehicles (Carriage of Goods by Road) Regulations and include: “*driving, loading and unloading, cleaning and technical maintenance, and all other work intended to ensure the safety of the vehicle, its cargo or to fulfil the legal, or regulatory obligations directly linked to the specific transport operation under way, including dealing with administrative formalities with police, customs and immigration officers*”.

<sup>42</sup> Defined in Regulation 2 of the Motor Vehicles (Carriage of Goods by Road) Regulations as: “*anyone whose main occupation is to transport goods by road for hire or reward within the meaning of European Union legislation under cover of a licence issued in the European Union or any other professional authorisation to carry out the aforementioned transport, who is entitled to work for himself and who is not tied to an employer by an employment contract or by any other type of working hierarchical relationship, who is free to organise the relevant working activities, whose income depends directly on the profits made and who has the freedom, individually or*

Vehicles (Carriage of Goods by Road) Regulations further specifies that a transport undertaking shall also be held liable, unless proved otherwise, for infringements committed by a driver of the undertaking. Regulation 31(4) adds that undertakings, consignors, freight forwarders, principal contractors, subcontractors and driver employment agencies must ensure that contractually agreed transport time schedules comply with the provisions of these Regulations and hence may also be subject to the abovementioned penalties in case of an infringement.

(ii) S.L. 499.56, Passenger Transport Services Regulations

The Thirteenth Schedule to the Passenger Transport Services Regulations, provides a guideline on the common range of infringements against Regulation (EC) No 561/2006 indicating the list of infringements and the level of seriousness for each (see Annex II).

The sanction system related to the infringements of rules on working time and driving periods, breaks and daily and weekly rest periods envisaged in Regulation (EC) No 561/2006 is envisaged in Regulation 107(3) of the Passenger Transport Services Regulations. Regulation 107(3) provides that a person who commits a breach of any provision in these Regulations (including therefore the provisions on working time and driving periods, breaks and daily and weekly rest periods found in Regulations 73, 74 and 75 respectively), shall, on conviction, be liable to a fine not exceeding € 3,000. Furthermore, the Court will order the Authority for Transport in Malta to impose on such person one penalty point for every € 10 or part thereof imposed by way of a fine.

In addition to the above, Regulation 107(5) of the Passenger Transport Services Regulations provides that in the event of an infringement by a carrier<sup>43</sup> of any provision in Regulations 72 to 78 (including therefore the provisions on working time and driving periods, breaks and daily and weekly rest periods found in Regulations 73, 74 and 75 respectively), the Authority for Transport in Malta shall also have the power to issue warnings to such carrier. In the event of serious or repeated infringements, the

---

*through a cooperation between self-employed drivers, to have commercial relations with several customers”.*

<sup>43</sup> Defined in Regulation 2 of the Passenger Transport Services Regulations as: “any physical or legal person who is authorised under the laws of a Member State to engage in the carriage of passengers by road using passenger transport vehicles for hire or reward or on his own account”.

Authority for Transport in Malta, of its own motion or on the order of a Court of Criminal Jurisdiction, may furthermore impose on such carrier a temporary prohibition from carrying out transport operations in Malta. Any penalty may also extend to the withdrawal of authorisation to pursue the profession of road passenger transport operator.

As to the persons against whom the above penalties apply, in terms of Regulation 107(3) of the Passenger Transport Services Regulations, a person who is by law subject to the provisions on working time and driving periods, breaks and daily and weekly rest periods in terms of the Passenger Transport Services Regulations, and who contravenes those provisions, would be subject to these penalties. This would include a mobile worker<sup>44</sup>, a person performing mobile road transport activities<sup>45</sup>, and a self-employed driver<sup>46</sup>. Regulation 77(2) of the Passenger Transport Services Regulations further specifies that a carrier shall also be liable, unless proved otherwise, for infringements committed by drivers employed by it, even if the infringement is committed on the territory of another Member State or of a third country. Regulation 77(4) adds that carriers, tour operators, principal contractors, subcontractors and driver employment agencies must ensure that contractually agreed transport time schedules comply with the provisions of these Regulations and hence may also be subject to the abovementioned penalties in case of an infringement.

---

<sup>44</sup> Defined in Regulation 2 of the Passenger Transport Services Regulations as: “*any worker forming part of the travelling staff, including trainees and apprentices, who is in the service of an undertaking which operates transport services for passengers by road for hire or reward or on its own account and includes any driver who is not a self-employed driver*”.

<sup>45</sup> Defined in Regulation 2 of the Passenger Transport Services Regulations and include: “*driving, assisting passengers boarding and disembarking the vehicle, cleaning and technical maintenance, and all other work intended to ensure the safety of the vehicle, its passengers or to fulfil the legal, or regulatory obligations directly linked to the specific transport operations under way, including dealing with administrative formalities with police, customs and immigration officers*”.

<sup>46</sup> Defined in Regulation 2 of the Passenger Transport Services Regulations as: “*anyone whose main occupation is to transport passengers by road for hire or reward within the meaning of European Union legislation under cover of a Community licence or any other professional authorisation to carry out the aforementioned transport, who is entitled to work for himself and who is not tied to an employer by an employment contract or by any other type of working hierarchical relationship, who is free to organise the relevant working activities, whose income depends directly on the profits made and who has the freedom, individually or through a cooperation between self-employed drivers, to have commercial relations with several customers*”.

### Driving times

(i) Regulation 88(5) of the Motor Vehicles (Carriage of Goods by Road) Regulations

Regulation 88(5) provides that any person who contravenes any of the provisions on working time and driving periods, shall be guilty of an offence and shall, on conviction be liable to a fine (*ammenda*) of € 58.23.

(ii) Regulation 107 of the Passenger Transport Services Regulations:

Regulation 107(3) provides that a person who commits a breach of the provisions on working time and driving periods, shall, on conviction, be liable to a fine not exceeding € 3,000.

The Court will also order the Authority for Transport in Malta to impose on such person one penalty point for every € 10 or part thereof imposed by way of a fine. Moreover, in terms of Regulation 106 of the Passenger Transport Services Regulations, where an offence has been committed in breach of the provisions on working time and driving periods, breaks, daily and weekly rest periods, interruption of daily rest period, liability of the transport undertaking and on information records, which is of a kind that is clearly liable to endanger safety, an enforcement officer may clamp the passenger transport vehicle in or by which such breach was committed until such time as the cause of infringement has been rectified.

In addition, in terms of Regulation 107(5) of the Passenger Transport Services Regulations, in the event of an infringement by a carrier of the provisions on working time and driving periods, the Authority for Transport in Malta shall also have the power to issue warnings to such carrier. In the case of serious or repeated infringements, the Authority for Transport in Malta may impose on such carrier a temporary prohibition from carrying out transport operations in Malta. Any penalty may also extend to the withdrawal of authorisation to pursue the profession of road passenger transport operator.

In addition, in terms of Regulation 108(7) of the Passenger Transport Services Regulations, the Authority for Transport in Malta where an offence has been committed in breach of the provisions on working time and driving periods, breaks and daily and



weekly rest periods, shall also impose an administrative penalty of €350 and the corresponding penalty points<sup>47</sup> on the operator or driver, and request a deposit equal to such administrative penalty. The Authority for Transport must also order the enforcement officer to clamp the passenger transport vehicle by or in which such breach was committed until such deposit has been settled in full. The deposit is refunded in the event that an appeal is lodged by the person on whom it is imposed and the Administrative Review Tribunal<sup>48</sup> revokes the administrative penalty imposed. Where no appeal is lodged or an appeal is lodged and the Administrative Review Tribunal confirms the administrative penalty, the deposit will be set-off by the Authority for Transport against such administrative penalty.

Finally, in terms of Regulation 111 of the Passenger Transport Services Regulations, where an administrative penalty is imposed and the person on whom such penalty is imposed pays such penalty within 30 days from the date of receipt of intimation to pay, no criminal proceedings may be instituted against such person in relation to the relative breach.

#### Breaks

Same as above.

#### Rest periods

Same as above.

#### Recidivism

Regulation 109 of the Passenger Transport Services Regulations provides that where a person contravenes the same provision found in the said Regulations more than once within a period of 6 consecutive months, two penalty points for every € 10 shall be imposed upon him.

No similar provision is contained in the Motor Vehicles (Carriage of Goods by Road) Regulations insofar as carriage of goods is concerned.

---

<sup>47</sup> That is, one penalty point for every €10 or part thereof imposed on a person by way of an administrative penalty (Regulation 108(4), Passenger Transport Services Regulations).

<sup>48</sup> Established by Article 5 of the Administrative Review Tribunal (Chapter 490 of the Laws of Malta).

### Transport undertaking's liability

Both the Motor Vehicles (Carriage of Goods by Road) Regulations (Regulation 31) as well as the Passenger Transport Services Regulations (Regulation 77), contain provisions on the liability of transport undertakings.

In terms of these Regulations, a transport undertaking (in the case of the Motor Vehicles (Carriage of Goods by Road) Regulations) or the carrier (in the case of the Passenger Transport Services Regulations), must not give drivers it employs or who are put at its disposal any payment, even in the form of a bonus or wage supplement, related to distances travelled (or the amount of goods carried in the case of the Motor Vehicles (Carriage of Goods by Road) Regulations), if that payment is of such a kind as to endanger road safety and, or encourages infringement of these regulations.

A transport undertaking or carrier shall be liable, unless proved otherwise, for infringements committed by a driver of the undertaking or employed by the carrier, even if the infringement is committed on the territory of another Member State or of a third country. Provided that in the case of the Motor Vehicles (Carriage of Goods by Road) Regulations, the above will not apply if the contravention was due to an unavoidable delay in the completion of a journey arising out of circumstances which the undertaking could not reasonably have foreseen, or the contravention was due to the fact that the driver had for any particular period or periods driven or been on duty otherwise than in the employment of that undertaking.

Both Regulations provide that the transport undertakings or carrier shall ensure that:

- all data is downloaded from the vehicle's recording equipment at least every three months and from the driver card at least every twenty-eight days;
- all data downloaded from both the vehicle/passenger transport vehicle's recording equipment and from the driver card is kept for at least twelve months following recording and, should an inspecting officer request it, such data shall be accessible, either directly or remotely, from the premises of the undertaking (in the case of the Motor Vehicles (Carriage of Goods by Road) Regulations) or from the operating centre of the carrier (in the case of the Passenger Transport Services Regulations).

Regulation 31(4) of the Motor Vehicles (Carriage of Goods by Road) Regulations provides furthermore that undertakings, consignors, freight forwarders, principal contractors, subcontractors and driver employment agencies must ensure that contractually agreed transport time schedules comply with these Regulations. Similarly, Regulation 77(4) of the Passenger Transport Services Regulations provides that carrier, tour operators, principal contractors, subcontractors and driver employment agencies must ensure that contractually agreed transport time schedules comply with these Regulations.

Both Regulations fail to specify a different or particular sanction that will apply to transport undertakings or carriers. Therefore, the same sanctions mentioned above will also apply to a breach of the Regulations by the transport undertaking or carrier.

Therefore, in terms of Regulation 88(5) of the Motor Vehicles (Carriage of Goods by Road) Regulations, a transport undertaking who contravenes the provisions on working time and driving periods, breaks, daily and weekly rest periods, and the provisions on the liability of transport undertakings, will be guilty of an offence and shall, on conviction be liable to a fine (*ammenda*) of € 58.23.

In terms of Regulation 107(3) of the Passenger Transport Services Regulations, a carrier who commits a breach of the provisions on working time and driving periods, breaks and daily and weekly rest periods, and the provisions on liability of transport undertakings contained in Regulation 77, shall, on conviction, be liable to a fine not exceeding € 3,000. Furthermore, the Court will order the Authority for Transport in Malta to impose on the carrier one penalty point for every € 10 or part thereof imposed by way of a fine.

In addition to the above, Regulation 107(5) of the Passenger Transport Services Regulations provides that in the event of an infringement by a carrier<sup>49</sup> of any provision in Regulations 72 to 78 (including therefore the provisions on working time and driving periods, breaks and daily and weekly rest periods and the liability of a transport undertaking), the Authority for Transport in Malta shall also have the power to issue warnings to such carrier. In the event of serious or repeated infringements, the Authority for Transport, of its own motion or on the order of a Court of Criminal

---

<sup>49</sup> Defined in Regulation 2 of the Passenger Transport Services Regulations as: “any physical or legal person who is authorised under the laws of a Member State to engage in the carriage of passengers by road using passenger transport vehicles for hire or reward or on his own account”.

Jurisdiction, may furthermore impose on such carrier a temporary prohibition from carrying out transport operations in Malta. Any penalty may also extend to the withdrawal of authorisation to pursue the profession of road passenger transport operator.

In case of recidivism, the same rules stated above under the heading ‘Recidivism’ will also apply to a transport undertaking or carrier.

#### Foreign drivers

Regulation 61 of the Motor Vehicle (carriage of Goods by Road) Regulations and Regulation 96 of the Passenger Transport Services Regulations apply the rules regulating driving and resting times also to drivers carrying out cabotage operations in Malta.

No specific mention is made in the applicable Regulations to infringements of Regulation 561/2006 committed abroad.

#### **20.1.1.2 Directive 2006/22/EC (amended by Directive 2009/4/EC and Directive 2009/5/EC)**

Directive 2006/22/EC has been transposed by the following pieces of legislation:

- L.N. 223 of 2007 Motor Vehicles (Carriage of Passengers by Road) (Amendment) Regulations, 2007, now incorporated into the Passenger Transport Services Regulations;
- L.N. 225 of 2007, Motor Vehicles (Carriage of Goods by Road) (Amendment) Regulations, 2007, incorporated into the Motor Vehicles (Carriage of Goods by Road) Regulations;
- L.N. 74 of 2010, Motor Vehicles (Carriage of Goods by Road) (Amendment) Regulations, 2010 incorporated into the Motor Vehicles (Carriage of Goods by Road) Regulations;
- L.N. 75 of 2010, Passenger Transport Services (Amendment) Regulations, 2010, incorporated into the Passenger Transport Services Regulations.

(Hereinafter, in this Paragraph collectively referred to as “the Regulations”).

The Regulations address the checks required on drivers, transport companies and vehicles which fall under the scope of Regulation (EEC) No. 3821/85.

The Regulations contain several provisions regarding the check system, the number and the modalities of these controls, depending on whether they are carried out at the quayside, roadside or at the premises of the undertaking.

In terms of Regulation 102 of the Passenger Transport Services Regulations and Regulation 84 of the Motor Vehicles (Carriage of Goods by Road) Regulations, the Authority for Transport in Malta is designated as the competent authority granted the obligation to check on the compliance of the carrier carrying out international road passenger transport services or the international haulier through random checks carried out at the quayside, roadside or at the premises of the undertaking in particular for the purposes of and in accordance with Directive 2006/22/EC. These Regulations further specify that during the inspections for the purposes of the said Directive, authorised inspecting officers are to follow the guidelines on the seriousness of infringements provided for in the Schedules to these Regulations (reproduced in Annex I and Annex II of this Report).

Such checks are carried out by authorised inspecting officers<sup>50</sup> using:

- equipment capable of downloading data from the vehicle unit and driver card of the digital tachograph, reading data, and analysing data and, or transmitting findings to a central database for analysis;
- equipment to check the tachograph sheets, and
- specific analysis equipment, with appropriate software, to verify and confirm the digital signature attached to data, as well as specific analysis software to provide a detailed speed profile of vehicles prior to the inspection of their recording equipment.

In terms of Regulation 102(3) of the Passenger Transport Services Regulations and Regulation 84(3) of the Motor Vehicles (Carriage of Goods by Road) Regulations,

---

<sup>50</sup> In the case of the Passenger Transport Services Regulations, this is defined in Section 2 and means a Police officer, a local warden or an officer from the Authority for Transport in Malta. In the case of the Motor Vehicles (Carriage of Goods by Road) Regulations, this is also defined in Section 2 and means an officer appointed by the Authority for Transport in Malta to carry out inspections under these Regulations, an officer from the Customs Department, or a Police Officer or a local warden.

the Malta Authority for Transport is to introduce a risk rating system for undertakings for the purposes of Article 9 of Directive 2006/22/EC. A transport undertaking with a high risk rating under the said risk rating system introduced by the Authority for Transport may make representations to the Authority regarding its rating. The Authority must then consider the representations and notify the undertaking of its conclusions.

More specifically, in terms of Regulation 103 of the Passenger Transport Services Regulations, quayside or roadside checks cover the following:

- daily and weekly driving times, breaks and daily and weekly rest periods, as well as the preceding days' record sheets which have to be carried on board of the passenger transport vehicle and, or the data stored for the same period on the driver card and, or in the memory of the recording equipment and, or on printouts;
- any cases where the passenger transport vehicle's authorised speed of 100 km per hour has been exceeded during the current week, and in any case for the last day of the previous week on which the driver has driven the vehicle;
- where appropriate, momentary speeds attained by the passenger transport vehicle as recorded by the recording equipment in no more than the previous twenty-four hours' use of the passenger transport vehicle;
- the correct functioning of the recording equipment, thus determining the possible misuse of the equipment and, or the driver card, and, or record sheets;
- where appropriate, and with due regard to safety considerations, a verification of the recording equipment installed in vehicles in order to detect the installation and, or use of any device, or devices, intended to destroy, suppress, manipulate or alter any data, or which is intended to interfere with any part of the electronic data exchange between the component parts of recording equipment, or which inhibits or alters the data in such ways prior to encryption;
- technical requirements of the regulations regulating weights, dimensions and equipment for the passenger transport vehicles.

In terms of Regulation 85 of the Motor Vehicles (Carriage of Goods by Road) Regulations, quayside or roadside checks cover the following:

- daily and weekly driving times, breaks and daily and weekly rest periods, as well as the preceding days' record sheets which have to be carried on board the vehicle and, or the data stored for the same period on the driver card and, or in the memory of the recording equipment and, or on printouts;

- any cases where the vehicle's authorised speed of 90 km per hour has been exceeded during the current week, and in any case for the last day of the previous week on which the driver has driven the vehicle;
- where appropriate, momentary speeds attained by the vehicle as recorded by the recording equipment in no more than the previous twenty-four hours' use of the vehicle;
- the correct functioning of the recording equipment, thus determining the possible misuse of the equipment and, or the driver card, and, or record sheets;
- where appropriate, and with due regard to safety considerations, a verification of the recording equipment installed in vehicles in order to detect the installation and, or use of any device, or devices, intended to destroy, suppress, manipulate or alter any data, or which is intended to interfere with any part of the electronic data exchange between the component parts of recording equipment, or which inhibits or alters the data in such ways prior to encryption;
- technical requirements of the regulations regulating weights, dimensions and equipments for motor vehicles.

Insofar as information records are concerned, Regulation 78 of the Passenger Transport Services Regulations and Regulation 33 of the Motor Vehicles (Carriage of Goods by Road) Regulations both provide that an employer or transport undertaking as the case may be, shall:

- organise the work of mobile workers in such a way that mobile workers are able to comply with the relevant provisions of the Regulations and any other relevant legislation;
- notify every driver or any other mobile worker in his employment of the provisions on working time and driving periods, breaks, daily and weekly rest periods, and interruption of daily rest periods, the internal rules of the transport undertaking, where applicable, and the provisions of any collective or any other agreement applicable to the said worker reached on the basis of these regulations;
- keep a record of any time worked by each mobile worker in his employment. The working time may be recorded by any recording equipment available for the use of the mobile workers, or in a log book issued by the Authority for Transport for the purposes of recording working time; and

- provide, at the request of a mobile worker, a copy of the record of hours worked by that mobile worker.

These records must be kept by the employer for a period of two years after the end of the period covered by the said records.

Furthermore, in terms of these Regulations, a mobile worker must, on the request of his employer, notify to his employer any time worked for another employer for inclusion in the calculation of the mobile worker's working time.

Employers are required to make periodic checks to ensure that all legal requirements have been complied with and if breaches are found to have occurred, the employer is to take appropriate steps to prevent their repetition.

A self-employed driver must also keep a record of any working time by the use of any recording equipment available or in a log book issued by the Authority for Transport for such purposes and shall keep such records in his possession at all times during working time.

The Authority for Transport may request both the self-employed driver and the employer of mobile workers to provide copies of the records kept for inspection by the Authority.

Regulation 33(9) of the Motor Vehicles (Carriage of Goods by Road) Regulations includes a penalty for failure to abide by the rules on information records referred to above. It states that any person who contravenes or fails to comply with these provisions shall be guilty of an offence and shall be liable to a minimum fine (*ammenda*) of € 58.23.

Note that no similar provision is contained in the Passenger Transport Services Regulations insofar as passenger transport is concerned.

#### *Guidelines on Infringements against Regulation (EC) No. 561/2006*

The most interesting aspect of the Regulations is the Eighth Schedule to the Motor Vehicles (Carriage of Goods by Road) Regulations and the Thirteenth Schedule to the Passenger Transport Services Regulations, which have both been reproduced in this report as Annex I and II, respectively. These schedules, inserted in compliance with Article 9, paragraph 3, of Directive 2006/22/EC, contain guidelines on a common range of infringements against Regulation 561/2006 and the corresponding level of seriousness. However, it merely replicated the content of the corresponding Annex III



to the Directive and did not add anything to the Directive. The classification of the infringement could have an effect on the determination of the penalty when this is set by law as a minimum or maximum (such as is the case with the Passenger Transport Services Directive). It is argued that this classification will not have an effect when the law sets, as it does in the Motor Vehicles (Carriage of Goods by Road) Regulations a pre-determined and established fine.

### **20.1.1.3 Directive 2002/15/EC**

EC Directive 2002/15/EC has been transposed into Maltese law by means of the following legislative acts:

- L.N. 146 of 2003, Motor Vehicles (Carriage of Goods by Road) Regulations, 2003<sup>51</sup>;
- L.N. 134 of 2006, Motor Vehicles (Carriage of Goods by Road) (Amendment) Regulations, 2006<sup>52</sup>;
- L.N. 395 of 2011, Motor Vehicles (Carriage of Goods by Road) (Amendment) Regulations, 2011<sup>53</sup>;

All three legal notices have been incorporated into the Motor Vehicles (Carriage of Goods by Road) Regulations.

- L.N. 160 of 2003, Motor Vehicles (Carriage of Passengers by Road) Regulations, 2003<sup>54</sup>;
- L.N. 133 of 2006, Motor Vehicles (Carriage of Passengers by Road) (Amendment) Regulations, 2006<sup>55</sup>;
- L.N. 396 of 2011, Passenger Transport Services (Amendment) (No. 3), Regulations, 2011<sup>56</sup>.

All three legal notices have been incorporated into the Passenger Transport Services Regulations.

---

<sup>51</sup> Malta Government Gazette No. 17439, 04 July 2003 B1707.

<sup>52</sup> Malta Government Gazette No. 17933, p. 02471.

<sup>53</sup> Malta Government Gazette No. 18812, p. 4863.

<sup>54</sup> Malta Government Gazette, B1921.

<sup>55</sup> Malta Government Gazette No. 17931, p. 02423.

<sup>56</sup> Malta Government Gazette No. 18812, p. 4881.

### Working Time and Driving Periods

Regulation 27(1) of the Motor Vehicles (Carriage of Goods by Road) Regulations and Regulation 73 of the Passenger Transport Services Regulations provide that the average weekly working time period, including overtime, for a mobile worker and self-employed driver cannot exceed 48 hours, and that in any case the maximum amount has to be of 60 hours if over a period of 17 consecutive weeks, the average limit of 48 hours is not exceeded.

The said period may be extended in relation to mobile workers and self-employed drivers for objective or technical reasons or reasons concerning the organisation of work, by a collective agreement, agreement between social partners or any other agreement entered into between the employer and mobile workers employed by him in compliance with national legislation, from a period of 17 weeks to a period not exceeding 26 weeks.

Where night work is performed, the daily working time of a mobile worker and self-employed driver should not exceed 10 hours in each 24 hour period provided that the period of 10 hours may be extended in relation to mobile workers and self-employed drivers for objective or technical reasons or for reasons concerning the organisation of work, by a collective agreement, agreement between the social partners or any other agreement entered into between the employer and mobile workers employed by him in compliance with national legislation.

The times of breaks, rests and periods of availability are not included in the calculation of working time.

The daily driving time, including all driving times on the territory of the European Union or of a third country, should not exceed 9 hours, but it may be extended up to twice in any week to not more than 10 hours. A driver must, after no more than six daily driving periods, take a weekly rest period. The weekly rest period may be postpone until the end of the twelfth day if the total driving times over the 12 days does not exceed the maximum corresponding to 12 daily driving periods.

The weekly driving time, including all driving times on the territory of the European Union or of a third country, must not exceed 56 hours. The total period of driving in any period of two consecutive weeks must not exceed 90 hours.

For the sanctions for the infringement of the above Regulation, please refer to the sanctions specified above.

### Breaks

In terms of Regulation 28 of the Motor Vehicles (Carriage of Goods by Road) Regulations, and Regulation 74 of the Passenger Transport Services Regulations, a person performing mobile road transport activities must work for no more than 6 consecutive hours without a break. Where the working time of a person performing mobile road transport activities exceeds 6 hours but does not exceed 9 hours, working time must be interrupted by a break of at least 30 minutes. Where the working time of a person performing mobile road transport activities exceeds 9 hours, working time must be interrupted by a break of at least 45 minutes.

A driver is to take an uninterrupted break of not less than 45 minutes after a driving period of 4 and-a-half-hours, unless he takes a rest period. This break may be replaced by a break of at least 15 minutes followed by a break of at least 30 minutes.

For the sanctions for the infringement of the above Regulation, please refer to the sanctions specified above.

### Daily and Weekly Rest Periods

In terms of Regulation 29 of the Motor Vehicles (Carriage of Goods by Road) Regulations, and Regulation 75 of the Passenger Transport Services Regulations, a mobile worker must take a daily rest period of 11 hours within each period of 24 hours after the end of the previous daily rest period or weekly rest period. However the daily rest period may be reduced to at least 9 hours no more than 3 times between any 2 weekly rest periods.

Notwithstanding the above, a mobile worker engaged in multi-manning must, within 30 hours from the end of a daily or weekly rest period, take a new daily rest period of at least 9 hours.

In any 2 consecutive weeks a mobile worker should take at least:

- two regular weekly rest periods; or
- one regular weekly rest period and one reduced weekly rest period of at least 24 hours.

Provided that the reduction is then compensated by an equivalent period of rest taken en bloc before the end of the third week following the week in question.

For the sanctions for the infringement of the above Regulation, please refer to the sanctions specified in Section 1.1.1.1 above.

## 20.1.2 Tachograph

### 20.1.2.1 Regulation (EEC) No 3821/85

Regulation (EEC) No 3821/85 has been transposed into Maltese law by means of the following legislative acts:

- S.L. 65.19, Motor Vehicles (Carriage of Goods by Road) Regulations<sup>57</sup>;
- S.L. 65.18, Motor Vehicles (Driving Licences) Regulations<sup>58</sup>;
- S.L. 65.21, Motor Vehicles (Weights, Dimensions and Equipment) Regulations<sup>59</sup>;
- S.L. 499.56, Passenger Transport Services Regulations<sup>60</sup>.

The requirement for the installation and use of recording equipment (tachographs) and the sanctions for infringements against Regulation (EEC) 3821/85 are contained in Part IV and VIII of the Motor Vehicles (Weights, Dimensions and Equipment) Regulations.

#### Tachograph

Regulation 29 of the Motor Vehicles (Weights, Dimensions and Equipment) Regulations provides that, motor vehicles that are in categories M2, M3, N2 and N3 and are registered in a Member State and are circulating on the public highway in Malta or are registered in Malta for international operations, must be fitted with recording equipment installed in accordance with Council Regulation (EEC) 3821/85.

---

<sup>57</sup> 1<sup>st</sup> May 2004, last amended by LN 395 of 2011.

<sup>58</sup> 2<sup>nd</sup> January 2004, 29<sup>th</sup> March 2004, last amended by LN 97 of 2012.

<sup>59</sup> 11<sup>th</sup> July 2003, 1<sup>st</sup> May 2004, last amended by LN 261 of 2011.

<sup>60</sup> 19<sup>th</sup> May 2009, 19<sup>th</sup> November 2009, last amended by LN 396 of 2011.

Regulation 73 of the Motor Vehicles (Weights, Dimensions and Equipment)

Regulations provides that where a person:

- falsifies, suppresses or destroys data recorded on the record sheet, stored in the equipment or on print-outs from the equipment and, in the case of recording equipment, on a driver card;
- effects any manipulation of the equipment, record sheet or driver card which may result in data and, or printed information being falsified, suppressed or destroyed;
- carries any device which could be used to this effect on the vehicle;
- falsifies any record or entry on a record sheet with the intent to deceive, alter or cause or permit to be altered any such record or entry;
- tampers with any recording equipment installed in accordance with these regulations or any guidelines provided by the Authority for Transport unless duly authorised by the Authority to do so.

The Authority may impose upon any person who commits the offences referred to above a fine (*ammenda*) of € 58.23.

Moreover, any person who in any other way fails to comply with these Regulations (such as, for instance, by failing to install or use a tachograph, or the device is malfunctioning, or it lacks of record sheets or of driver's card, or, when it exists, it is not used properly), shall be liable to a fine (*ammenda*) of € 58.23. Where the offence or failure to comply with these Regulations results in, or could be the possible cause of an offence prosecutable by the Court of Magistrates (Malta) or (Gozo) in its criminal jurisdiction or by the Criminal Court, the fine in question will be classified as a civil debt collectable by the Authority for Transport upon conclusion of the criminal proceedings.

Speed control equipment

What has been stated above in Section 1 "Tachograph" will also apply for the failure to properly install or equip a vehicle with a speed control device.

Thus, in terms of Regulation 73 of the Motor Vehicles (Weights, Dimensions and Equipment) Regulations, where a person:

- falsifies, suppresses or destroys data recorded on the record sheet, stored in the equipment or on print-outs from the equipment and, in the case of recording equipment, on a driver card;

- effects any manipulation of the equipment, record sheet or driver card which may result in data and, or printed information being falsified, suppressed or destroyed;
- carries any device which could be used to this effect on the vehicle;
- falsifies any record or entry on a record sheet with the intent to deceive, alter or cause or permit to be altered any such record or entry;
- tampers with any recording equipment installed in accordance with these regulations or any guidelines provided by the Authority for Transport unless duly authorised by the Authority to do so.

The Authority may impose upon any person who commits the offences referred to above a fine (*ammenda*) of € 58.23.

Moreover, any person who in any other way fails to comply with these Regulations (such as, for instance, by failing to install a speed control device or the device is not properly installed), shall be liable to a fine (*ammenda*) of € 58.23. Where this offence results in, or could be the possible cause of an offence prosecutable by the Court of Magistrates (Malta) or (Gozo) in its criminal jurisdiction or by the Criminal Court, the fine in question will be classified as a civil debt collectable by the Authority for Transport upon conclusion of the criminal proceedings.

#### *Liability of the transport undertaking*

In terms of Regulation 35 of the Motor Vehicles (Weights, Dimensions and Equipment) Regulations, the transport undertaking or the owner or lessee of the vehicle shall:

- ensure that recording equipment is installed, used and fully functional at all times in the manner laid down in guidelines to be provided by the Authority for Transport;
- issue a sufficient number of record sheets to drivers of vehicles fitted with recording equipment, taking into consideration:
  - the fact that such sheets are personal in character;
  - the length of the period of service; and
  - the possible obligation to replace sheets which are damaged, or have been retained by an authorised inspecting officer;

- only issue to drivers, sheets of an approved model suitable for use in the equipment installed in the vehicle;
- keep the record sheets and print-outs, whenever printouts have been made, in chronological order and in a legible form for a period of one year after their use and shall give copies to the drivers concerned requesting them. The undertaking shall also give copies of downloaded data from the driver cards to the drivers concerned requesting them and the printed papers of these copies. The record sheets, print-outs and downloaded data shall be produced or handed over at the request of any authorised inspecting officer;
- arrange for periodic checks or inspections to take place in accordance with the Motor Vehicles (Carriage of Goods by Road) Regulations and the Motor Vehicles (Carriage of Passengers by Road) Regulations<sup>61</sup>.

What has been stated above in Section 1 “Tachograph” insofar as sanctions imposed are concerned, will also apply to a transport undertaking, owner or lessee who fails to abide by the obligations imposed in Regulation 35, stated above.

#### *Duty to ensure correct functions*

In terms of Regulation 47 of the Motor Vehicles (Weights, Dimensions and Equipment) Regulations, where a driver is required to drive a vehicle fitted with new advanced recording equipment, the employer and drivers must ensure:

- the correct functioning and proper use of the recording equipment and any driver card;
- that data recorded and stored by recording equipment can be made available for at least 365 days after the date of their recording and that they can be made available under conditions that guarantee the security and accuracy of the data.

The failure to comply with these Regulations will expose the drivers and Employer to a fine (*ammenda*) of € 58.23.

#### *Competent Authority*

---

<sup>61</sup> Note that the law here refers to the Motor Vehicles (Carriage of Passengers by Road) Regulations (S.L. 65.20) which have since been repealed and have been replaced by the Passenger Transport Services Regulations (S.L. 499.56).

The Motor Vehicles (Weights, Dimensions and Equipment) Regulations, designates the Authority for Transport in Malta as the competent authority to impose the penalties against a person committing a breach of these Regulations.

### Foreign drivers

Regulation 61 of the Motor Vehicle (carriage of Goods by Road) Regulations and Regulation 96 of the Passenger Transport Services Regulations apply the rules regulating weights, dimensions and equipment of motor vehicles also to drivers carrying out cabotage operations in Malta.

## **20.2 Road package**

### **20.2.1 Regulation (EC) No 1071/2009**

The implementation of Regulation (EC) No 1071/2009 has been envisaged in Part II (on the admission to the occupation of Road Passenger or Road Haulage Operator), of the following pieces of legislation:

- (i) S.L. 65.19, Motor Vehicles (Carriage of Goods by Road) Regulations<sup>62</sup>.
- (ii) S.L. 499.56, Passenger Transport Services Regulations<sup>63</sup>.

#### (i) Motor Vehicles (Carriage of Goods By Road) Regulations

Regulation 16 of the Motor Vehicles (Carriage of Goods by Road) Regulations provides that in the event of death or physical or legal incapacity of the natural person engaged in the profession of road haulage operator, the Authority for Transport may permit the carrying on of the business of a road haulage operator on a temporary basis for a maximum period of one year, with extension for a maximum period of six months.

The Authority may, by way of exception and in certain special cases, definitively authorise a person not fulfilling the requirement of professional competence

---

<sup>62</sup> 1<sup>st</sup> May 2004, last amended by LN 395 of 2011.

<sup>63</sup> 19<sup>th</sup> May 2009, 19<sup>th</sup> November 2009, last amended by LN 396 of 2011.



to operate the undertaking provided that such person possesses at least three years' practical experience in the day-to-day management of the undertaking.

In terms of Regulation 14(4) of the Motor Vehicles (Carriage of Goods by Road) Regulations, the Authority will require the haulier to submit evidence at least once every five years, or at the Authority's discretion, that he continues to fulfil the requirements contained in the Regulations.

Regulation 15 of the Motor Vehicles (Carriage of Goods by Road) Regulations provides that the Authority may withdraw an authorisation on the following grounds:

- where the holder no longer satisfies the conditions laid down in the Regulations for obtaining a licence; or
- where the holder has supplied incorrect information to the Authority in relation to the issue or renewal of the authorisation; or
- where the holder has breached any of the conditions of his authorisation and has not remedied such breach in spite of his having been given written notice of the breach and a reasonable time in which to do so;
- in the event of serious infringements of these Regulations, the Authority may suspend the authorisation. Such suspension shall be imposed having regard to the seriousness of the infringement and shall be subject to appeal the Administrative Review Tribunal established in terms of article 5 of the Administrative Justice Act, and the provision of this Act shall apply to such an appeal.

Regulation 88(2) of the Motor Vehicles (Carriage of Goods by Road) Regulations provides that any person who for the purpose of obtaining for himself or for another person, the grant or renewal of a haulier operator's licence, makes a declaration which he knows to be false, will be liable to criminal action.

#### (ii) Passenger Transport Services Regulations

Regulation 16 of the Passenger Transport Services Regulations foresees that in the event of death or physical or legal incapacity of the natural person in whose name

the operator's licence is granted, or of the designated person<sup>64</sup>, the Authority for Transport may permit the carrying on of passenger transport operations on a temporary basis for a maximum period of nine months. There appears to be no obligation to inform the Authority of the death or physical or legal incapacity of the operator or of the designated person.

In terms of Regulation 14 of the Passenger Transport Services Regulations, the Authority for Transport has the power to carry out random checks, whenever it deems necessary, in order to verify that an operator continues to fulfill the requirements set out in the Regulations for obtaining an operator's licence. Such compliance checks should be carried out at least once every five years. For this purpose, the Authority may require the operator or any official or employee of the same to attend before it, to answer questions and provide information and documentation with respect to the road transport operation of the operator. Such persons must comply forthwith, and in no case later than twenty four hours, with any request or order made by the Authority in terms of this regulation. An operator's licence may be suspended or withdrawn on any of the following grounds:

- where the holder no longer satisfies the conditions laid down in the Regulations for obtaining an operator's licence; or
- where the holder has supplied incorrect information to the Authority in relation to the issue of a licence; or
- where the holder has breached any of the conditions of the licence and has not remedied such breach in spite of his having been given written notice of the breach and a reasonable time in which to do so.

Such suspension or revocation may be effected by the Authority of its own motion or by order of a court of criminal jurisdiction.

The Passenger Transport Services Regulations do not impose an obligation on the operator to inform the Authority of a loss of good repute, financial standing or professional standing and accordingly no specific sanction is imposed for this.

However, Regulation 107 (2) provides that a person who, for the purpose of obtaining, whether for himself or another, the grant or renewal of any licence or permit

---

<sup>64</sup> Defined in Regulation 2 as: "*a natural person, designated to the Authority [for Transport] by an operator or an applicant for an operator's licence, as the person who continuously and effectively manages the road passenger transport operations.*"

in terms of these regulations, makes a declaration required by these regulations which he knows to be false, shall be guilty of a crime and shall, on conviction, be liable to imprisonment for a maximum period of six months or to a fine (*multa*) not exceeding € 12,000, or to both such fine and imprisonment. Furthermore, the Court shall order the immediate revocation of the licence in relation to which the false declaration was made as well as any other licence and/or permit held in terms of these regulations by the person found guilty of such crime.

The Maltese sanction system does not foresee a specific sanction system for those infringements that are qualified as most serious infringements described in Annex IV of Regulation No. 1071/2009.

Regulation 15 of the Motor Vehicles (Carriage of Goods by Road) Regulations refers to “serious infringements of these Regulations”, without specifying that the serious infringements are those referred to in Annex IV of Regulation 1071/2009. What is relevant therefore is that a serious infringement of the Regulations is committed. Now the Regulations do impose obligations that constitute a serious infringement in the meaning of Annex IV of Regulation 1071/2009 (*e.g.* breaching the rules on driving time), however not all the infringements listed in Annex IV are referred to in these Regulations so that it would appear that the “serious infringements” referred to in Regulation 15 differ and include some but not all the most serious infringements listed in Annex IV of Regulation 1071/2009.

### **20.2.2 Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009**

EC Regulations 1072/2009 and 1073/2009 have been implemented into Maltese law by means of the following legislative instruments:

- (i) S.L. 65.19, Motor Vehicles (Carriage of Goods by Road) Regulations;
- (ii) S.L. 499.56, Passenger Transport Services Regulations.

Regulation 38 of the Motor Vehicles (Carriage of Goods by Road) Regulations and Regulation 86 of the Passenger Transport Services Regulations foresee that the Community licence for the international transport of freight is issued for a period of 5 years and shall be renewable.

Regulation 62 of the Motor Vehicles (Carriage of Goods by Road) Regulations and Regulation 79(3) of the Passenger Transport Services Regulations specify that the Community authorisation or a certified copy thereof must be kept on board the vehicle and shall be produced when requested by an authorised inspecting officer.

A person that contravenes this requirement contained in the Motor Vehicles (Carriage of Goods by Road) Regulations will be guilty of an offence and shall, on conviction, be liable to a fine (*ammenda*) of € 58.23; while a person that contravenes this requirement as contained in the Passenger Transport Services Regulations, shall on conviction be liable to a fine not exceeding € 3,000. The Court will also order the Authority for Transport to impose on such person one penalty point for every € 10 or part thereof imposed by way of a fine.

### Foreign drivers

Regulation 61 of the Motor Vehicles (Carriage of Goods by Road) Regulations apply the provisions on this Regulation equally to resident and non-resident hauliers established in the Member States. The Passenger Transport Services Regulations fail to distinguish between EU drivers and drivers of a third state. Accordingly, provided the Regulations will still apply to the vehicle in question, foreign drivers would arguably also be subject to the sanction system provided for EU drivers. A clear indication of the application of the Regulations to foreign drivers would, however, be welcome.

## **20.3 Standards of vehicles and load and necessary licences**

### **20.3.1 Directive 2008/68/EC**

EC Directive 2008/68 has been implemented by means of L.N. 212 of 2009, Motor Vehicles (Carriage of Dangerous Goods by Road) (Amendment) Regulations, 2009<sup>65</sup>.

The transport of dangerous goods, according to Article 3 of the same piece of legislation, may be authorised by the Maltese competent Authority under certain

---

<sup>65</sup> Malta Government Gazette No. 18458, p. 2681.

conditions. When these conditions are infringed, the Regulations provide for the possibility of immobilising the vehicle either on-the-spot or at any designated place, without prejudice to other penalties which may be imposed.

These Regulations fail to specify the type of penalty that will be imposed although Regulation 5 specifies that the ADR shall form an integral part of these regulations and are to be applied to any transport of dangerous goods by road in Malta.

#### Foreign drivers

Regulation 61 of the Motor Vehicle (carriage of Goods by Road) Regulations and Regulation 96 of the Passenger Transport Services Regulations also apply the rules regulating the carriage of dangerous goods to drivers carrying out cabotage operations in Malta.

### **20.3.2 Directive 96/53/EC**

The Directive 96/53/EC, laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic, has been implemented by Part II of S.L. 65.21, Motor Vehicles (Weights, Dimensions and Equipment) Regulations<sup>66</sup>.

In terms of these Regulations, when the transport concerns a load that exceeds the legal size and/or weight limits imposed by the Regulations, this may be allowed only when permission is granted by the Commissioner of Police in consultation with the Authority for Transport acting on a case-by-case basis.

The sanctions related to the infringements of this Regulation are contained in Regulation 73(3) which provides that a person who fails to comply with these Regulations shall be liable to a fine (*ammenda*) of € 58,23.

#### Foreign drivers

Regulation 61 of the Motor Vehicle (carriage of Goods by Road) Regulations and Regulation 96 of the Passenger Transport Services Regulations apply the rules

---

<sup>66</sup> 11<sup>th</sup> July 2003, 1<sup>st</sup> May 2004, last amended by LN 261 of 2011.

regulating the weights and dimensions of road vehicles also to drivers carrying out cabotage operations in Malta.

### 20.3.3 Directive 2009/40/EC

Directive 2009/40/EC has been transposed into Maltese law by means of S.L. 65.15, Motor Vehicle Roadworthiness Test Regulations<sup>67</sup>.

Regulation 7 of these Regulations states that circulation licence shall be issued or renewed by the Authority for Transport under the provisions of the Registration and Licensing of Motor Vehicles Regulations, unless the applicant produces the passed test result to prove that the vehicle has undergone and passed the roadworthiness test according to the provisions of these regulations within ninety days prior to the issue of the licence. In terms of Regulation 7A, no person shall keep or operate a vehicle roadworthiness testing station without an authorisation from the Authority.

Article 15 of the Traffic Regulation Ordinance (Chapter 65 of the Laws of Malta) in turn provides that any person who:

- drives a motor vehicle or other vehicle without a licence or an unlicensed motor vehicle or other vehicle, or in a reckless, negligent or dangerous manner, provided that no licence shall be required in relation to a bicycle; or
- causes, suffers or permits his car to be driven by a person not duly licenced to drive a motor vehicle or other vehicle,

shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding € 232.94 or to imprisonment not exceeding three months.

In terms of sanctions, Regulation 21 of the Motor Vehicle Roadworthiness Test Regulations provides that an operator who fails to comply with the conditions set out for operators under these regulations and a tester who fails to comply with the conditions set out for testers would be in breach of the said conditions and shall be liable to the penalty points and administrative fines laid down in the Twelfth Schedule (reproduced together with the Malta Note as Annex III).

---

<sup>67</sup> 8<sup>th</sup> Mat 1998, 1<sup>st</sup> October 1999, last amended by LN 87 of 2012.

Where the number of penalty points on an operator's entry reaches a minimum of 250 points on five consecutive breaches, that number of penalty points shall automatically be increased by another 1,000 points and the operator shall be charged an administrative fine for each additional penalty point up to a maximum amount not exceeding € 11,600.

The administrative fine is set at € 11 for each penalty point endorsed on the operator's entry.

The failure to settle, within the prescribed period, the fines referred to above will cause the suspension of the operator's authorisation and additional daily administrative fine of € 11 until the fine is paid.

These Regulations do not cater specifically for a sanction system imposed on a person who fails to undergo a roadworthiness test.

#### Foreign drivers

The Motor Vehicle Roadworthiness Test Regulations fail to distinguish between EU drivers and drivers of a third state.

### **20.3.4 Directive 2006/126/EC**

Directive 2006/126/EC has been transposed into Maltese law by means of L.N. 172 of 2011, Motor Vehicles (Driving Licences) (Amendment) Regulations 2011<sup>68</sup>.

Regulation 44(5) of these Regulations provides that where a person does not renew his driving licence after twelve months from the expiry date of the said licence, that person shall only be entitled to obtain his or her driving licence once that person pays the arrears due and a late renewal fee of € 12.

Driving with a fake driving licence constitutes a criminal offence, that is to say forgery and is subject to Title V of the Criminal Code (Chapter 9 of the Laws of Malta), which provides for nine months to three years' imprisonment (if forgery is committed by a public officer (Article 185(1)), and seven months to two years' imprisonment if committed by any other person (Article 185(2)). Forgery of a public certificate by a

---

<sup>68</sup> Malta Government Gazette No. 18747, p. 2239.

public officer is, on the other hand, governed by Article 179 and is subject to imprisonment of two to four years.

## **20.4 Notion of criminal sanction and of administrative sanction in the Maltese legal system**

Criminal sanctions are the consequences of criminal offences. The punishments that may be awarded for crimes are:

- imprisonment;
- solitary confinement;
- interdiction;
- fine (in Maltese *multa*).

The punishments that may be awarded for contraventions are:

- detention;
- fine (in Maltese *ammenda*);
- reprimand or admonition.

Criminal sanctions can be distinguished in custodial sanctions (imprisonment and arrest) and in pecuniary sanctions (fines).

Custodial sanctions affect the freedom of the offender, fines affect his patrimony. Criminal sanctions can only be imposed to physical persons and not to legal persons such as corporations or other entities. Their administrators would indeed be liable for actions committed by corporations that are qualified as criminal offences in terms of Article 13 of the Interpretation Act (Chapter 249 of the Laws of Malta) which provides as follows: “*Where any offence under or against any provision contained in any act, whether passed before or after this Act, is committed by a body or other association of persons, be it corporate or unincorporate, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such body or association, or was purporting to act in any such capacity, shall be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence*”.



Both criminal and administrative offences are those actions that violate a rule that protect a public interest. However, Maltese law does not foresee a criterion to distinguish criminal offences from administrative offences. Maltese Legislation does not differentiate between administrative sanctions and criminal sanctions but only distinguishes between criminal offences and civil damages.

It could be argued that the difference is formal, meaning that if the law foresees a criminal sanction for an offence, then such offence would be criminal. Administrative sanctions are generally imposed on persons that occupy a public office or are in other ways regulated by a supervisory authority such as the Malta Financial Services Authority (MFSA).

Criminal and administrative sanctions are similar in that they both consist in the limitation of a right of the person that has violated a rule.

Despite the lack of a proper distinction in Maltese law between criminal and administrative sanctions, one could set out a number of differences that would normally apply between a criminal and administrative sanction as follows:

- administrative penalties do not generally affect the personal freedom of the offender; on the contrary criminal sanctions may, and often do;
- the different rules applicable with respect to the level of proof required. Criminal sanctions can be applied only after the alleged offender is proven guilty beyond reasonable doubt. In case of administrative sanctions, which are normally relevant in the context of civil proceedings, can be imposed was the relevant person is found responsible, based on a balance of probabilities.

Administrative sanctions will generally consist in pecuniary sanctions, that is, the payment of a fine, but they can also consist of measures which affect the person's office or occupation, such as disciplinary sanctions (suspension) or prohibitive measures (prohibition to carry out an activity).

#### *Concurrence between several sanctions*

Pursuant to Malta law each sanction applies for the different infringements, i.e. there is no limit to the applicable sanctions in case more infringements are detected at the same time.

In case the same behaviour infringes more rules, Article 17 of the Criminal Code (Chapter 9 of the Laws of Malta) will apply. It regulates the manner in which

criminal sanctions are applied for the case of concurrent offences, that is, where the same act constitutes more than one offence. In this case, the following provisions apply:

- a person guilty of more than one crime liable to punishments restrictive of personal liberty, one of which is for life, shall be sentenced to this punishment with the addition of solitary confinement;
- a person guilty of more than one crime liable to temporary punishments restrictive of personal liberty, shall be sentenced to the punishment for the graver crime with an increase varying from one-third to one-half of the aggregate duration of the other punishments, provided the period to be awarded shall not exceed thirty-five years;
- a person guilty of more than one contravention shall be sentenced to the punishment established for each contravention: provided that if the accused is sentenced to detention, the aggregate duration of the punishment to be awarded shall in no case exceed the period of three months;
- a person guilty of one or more crimes and of one or more contraventions, shall only be sentenced to the punishment established for the crime or to the punishment to which the offender may be liable for the commission of more crimes according to the rules laid down in the preceding paragraphs, if the punishment to be inflicted for the crimes is not less than three months' imprisonment. Where the punishment to be inflicted for the crimes is less than three months' imprisonment, the punishment established for the contravention or the punishment to which the offender may be liable for the commission of more contraventions according to the rules laid down in the preceding paragraph, shall also be applied;
- where the law prescribes the punishment of temporary interdiction, that which is of the longest duration shall be applied with an increase varying from one-third to one-half of the aggregate duration of the others: Provided that the term awarded shall in no case exceed twenty years;
- a person found guilty of more than one offence liable to pecuniary punishments shall be sentenced to the punishment of the higher or highest fine (*multa* or *ammenda*), as the case may be, in addition to one-half of each of the other fines (*multa* or *ammenda*);
- in the case of conversion of more than one pecuniary punishment into a punishment restrictive of personal liberty, the duration of this punishment shall not exceed three years, in the case of a fine (*multa*), or six months in the case of a fine (*ammenda*);

and if both fines (*multa* and *ammenda*) have been awarded, the conversion shall be made into detention or imprisonment as the court shall direct;

- when several offences, which taken together do not constitute an aggravated crime, are designed for the commission of another offence, whether aggravated or simple, the punishment for the graver offence shall be applied.

#### *Concurrence between administrative and criminal sanctions*

The application of civil law remedies is without prejudice to any criminal action that may be taken against the person. In terms of Article 2 of the Criminal Code (Chapter 9 of the Laws of Malta), every offence gives rise to a criminal and a civil action.

### **20.5 Scope of application of Maltese criminal law**

Maltese Criminal Law divides offences into crimes and contraventions as stated in Article 2 of the Criminal Code, Chapter 9 of the Laws of Malta. Every offence gives rise to a criminal action and a civil action. The criminal action is prosecuted before the courts of criminal jurisdiction, and the punishment of the offender is thereby demanded. The civil action is prosecuted before the courts of civil jurisdiction and compensation for the damage caused by the offence is demanded. The civil action and the criminal action are, however, prosecuted independently of one another (Article 6 of the Criminal Code).

In terms of Article 4 of the Criminal Code, a criminal action is a public one and is thus prosecuted in the name of the Republic of Malta.

The rules on the scope of application of Maltese criminal law are laid down in Article 5 of the Criminal Code. Article 5 lists the instances whereby criminal action may be prosecuted in Malta, which are the following:

- against any person who commits an offence in Malta, on the sea or in any place within the territorial jurisdiction of Malta;
- against any person who commits an offence on the sea belonging to Malta;
- against any person who commits an offence on board any aircraft while it is within the airspace of Malta;

- against any citizen of Malta or any permanent resident in Malta on board any ship or vessel, wherever it may be who shall have become guilty of committing a crime of genocide, crime against humanity or a war crime; a crime against the safety of the Government of Malta; of disclosing official secrets; of committing torture or other inhuman or degrading treatment or punishment; of endangering life or body by explosion; of death or grievous bodily harm caused by the explosion; unlawful making or possession of explosives; discharging of a lethal device; setting fire or arson endangering life; and destruction by springing of a mine, when these are committed or are directed against or on a state or government facility, an infrastructure facility, a public place or a place accessible to the public, a public transportation system, or of forgery of Government debentures or of any other offence against the person of a citizen of Malta or of any permanent resident in Malta;
- against any person who being in Malta commits any of the crimes listed below, when committed or directed on or against the person of a protected person or to the prejudice or injury of such person or likely to endanger the life or to cause serious injury to the property, life or health of such a person, or in connection with an attack on any relevant premises or on any vehicle ordinarily used by a protected person or when a protected person is on or in the premises or vehicle, even if the offences referred to below shall have been committed outside Malta:
  - threatens to kill, injure, detain an arrested person with the object of compelling a State, an international governmental organisation or person to do or to abstain from doing an act;
  - have carnal knowledge, abducts, and commits wilful homicide or bodily harm, be it grievous or slight.
  - threatens or blackmails by means of violence, exerts private violence;
  - endangers property or causes death and grievous bodily harm as a result of an explosion;
  - discharge of a lethal device;
  - possession of nuclear material; or
  - arson endangering life and causing danger to any building, shed, or other place.

A “protected person” means any of the following:

- (a) a person who at the time of the alleged offence is a Head of State, a member of a body which performs the functions of Head of State under the constitution of the State, a Head of Government or a Minister for Foreign Affairs and is outside the territory of the State in which he holds office;
- (b) a person who at the time of the alleged offence is a representative or an official of a State or an official or agent of an international organisation of an intergovernmental character, is entitled under international law to special protection from attack on his person, freedom or dignity and does not fall within the preceding paragraph;
- (c) a person who at the time of the alleged offence is a member of the family of another person mentioned in either of the preceding paragraphs and:
  - (i) if the other person is mentioned in paragraph (a) above, is accompanying him;
  - (ii) if the other person is mentioned in paragraph (b) above, is a member of his household.

The same will apply if a person has committed any act which if committed in Malta would constitute an offence and such act involved the use of a bomb, grenade, rocket, automatic firearm, letter bomb or parcel bomb which endangered persons, even if such offence shall have been committed outside Malta.

- commits an offence in premises or in a building outside Malta having diplomatic immunity due to the fact that it is being used as an embassy, a residence or for such other purpose connected with the diplomatic service of Malta; or commits an offence in a place outside Malta when such person enjoys diplomatic immunity by virtue of such service;
- against any person who is a principal or an accomplice to crimes mentioned in point 5, above, or conspires with one or more persons for the purpose of committing any of the said crimes, although the crimes shall have been committed outside Malta;
- against any person in respect of whom a request for extradition from his country has not been issued or has not been allowed; and
- against any person who commits an offence which, by express provision of law, constitutes an offence even when committed outside Malta.

## **20.6 Summary tables**

In the Maltese legal system the role of the competent authorities is the following:

- the Authority for Transport in Malta imposes fines, issues warnings and revokes licence or authorisations when applicable;
- the Judiciary executes fines;
- the Administrative Review Tribunal revokes administrative penalties when an appeal is lodged and accepted.

The table below provides an overview of the administrative and criminal sanctions foreseen in the Maltese legal system for the infringements of EU commercial road transport legislation.

Please note that according to Maltese law, transport undertakings are jointly liable with the drivers for infringements committed by a driver of the undertaking, even if the infringement is committed on the territory of another EU Member State or of a third country (Regulation 31(2) of the Motor Vehicles (Carriage of Goods By Road) Regulations and Regulation 77(2) of the Passenger Transport Services Regulations.

Therefore a transport undertaking may be punished in Malta for infringements committed in other countries, arguably, in accordance with the sanctions imposed by Maltese law. This extraterritoriality effect appears to apply only to transport undertakings and does not seem to extend also to drivers.

Please note that the following abbreviations have been used in the said table:

ADR - European Agreement concerning the International Carriage of Dangerous Goods by Road;

CCR - Motor Vehicles (Carriage of Goods By Road) Regulations (S.L. 65.19 of the Laws of Malta);

PTR - Passenger Transport Services Regulations (S.L. 499.56 of the Laws of Malta).

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Regulation 561/06/EC	<u>Age</u>	Regulation 107 PTR Regulation 88 CCR	Not respecting minimum age for conductors	Driver Undertaking	<b>PTR - Fine not exceeding 3,000 €</b>	<b>CCR – € 58.23</b>
	<u>Driving Times</u>	Regulation 107 PTR Regulation 88 CCR	Exceeding the daily driving time	-Drivers -Crew Members	<b>PTR - Fine not exceeding € 3,000 + One penalty point for every € 10 or part thereof imposed by</b>	<b>CCR – € 58.23</b>

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					way of fine + Penalty of 350€ and corresponding penalty points.	
		Same as above	Exceeding the daily driving time of more than the 10%	Same as above	Same as above	Same as above
		Same as above	Exceeding the daily driving time from 10 % up to 20%	Same as above	Same as above	Same as above



Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Same as above	Exceeding the daily driving time of more than 20%	Same as above	Same as above	Same as above
		Regulation 107 PTR Regulation 88 CCR	Exceeding the weekly driving time by 10%	-Drivers Crew Members	<b>PTR - Fine not exceeding 3,000 € + One penalty point for every 10€ or part thereof imposed by way of fine +</b>	<b>CCR – € 58.23</b>

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<b>Penalty of € 350 and corresponding penalty points.</b>	
		Same as above	Exceeding the weekly driving time from 10 % up to 20%	Same as above	<b>Same as above</b>	<b>Same as above</b>
		Same as above	Exceeding the weekly driving time of more than 20%	Same as above	<b>Same as above</b>	<b>Same as above</b>
		Same as above	Exceeding the biweekly driving time up to 10%	Same as above	<b>Same as above</b>	<b>Same as above</b>

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Same as above	Exceeding the biweekly driving time from 10 % up to 20%	Same as above	Same as above	Same as above
		Same as above	Exceeding the biweekly driving time of more than 20%	Same as above	Same as above	Same as above
	<a href="#">Rest Periods</a>	Regulation 107 PTR Regulation 88 CCR	Not respecting the rules on daily rest period up to 10%	-Drivers -Crew Members	<b>PTR - Fine not exceeding € 3,000 + One penalty point for every € 10 or part thereof</b>	<b>CCR – € 58.23</b>

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					imposed by way of fine + Penalty of € 350 and corresponding penalty points.	
		Same as above	Not respecting the rules on daily rest period from 10% to 20 %	Same as above	Same as above	Same as above
		Same as above	Not respecting the rules on daily rest period of more than 20%	Same as above	Same as above	Same as above

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Same as above	Not respecting the rules on weekly rest period over 10%	Same as above	<b>Same as above</b>	<b>Same as above</b>
		Same as above	Not respecting the rules on the weekly rest period from 10% to 20 %	Same as above	<b>Same as above</b>	<b>Same as above</b>
		Same as above	Not respecting the rules on the weekly rest period of more than 20%	Same as above	<b>Same as above</b>	<b>Same as above</b>
	<u>Breaks</u>	Same as above	Infringements of break time rules	Same as above	<b>Same as above</b>	<b>Same as above</b>

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">Recidivism</a>	Regulation 109 PTR	Recurrence of the same provision found in the PTR more than once within a period of 6 consecutive months	-Drivers -Crew Members	PTR - Fine not exceeding € 3,000 + One penalty point for every € 10 or part thereof imposed by way of fine + Two penalty points for every € 10	/

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					No similar provision is found in the CCR.	
	<a href="#">Transport undertaking's liability</a>	Regulation 77 PTR Regulation 31 CCR	<ul style="list-style-type: none"> <li>- Non-observance of Regulation No. 561/2006</li> <li>- Failure to maintain documents required to be maintained by law;</li> <li>- Expiration,</li> </ul>	Transport undertaking	<b>PTR - Fine not exceeding € 3,000</b> + <b>One penalty point for every € 10 or part thereof imposed by</b>	<b>CCR – € 58.23</b>

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Periods**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			incompleteness or alteration of the documents  - Infringements committed by a driver of the undertaking or employed by the carrier.		<b>way of fine + Penalty of € 350 and corresponding penalty points.</b>	
<b>Directive 2006/22/EC (amended by Directive 2009/4/EC)</b>	<b><u>Driver's absence from work</u></b>	Regulation 33(9) CCR	Failure to keep proper records of any time worked by each mobile worker.	Transport Undertaking		<b>CCR – Minimum € 58.23</b>
		Regulation 33(9)	Non maintenance of the drivers' documents for	Transport Undertaking		<b>CCR – Minimum € 58.23</b>



Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			the prescribed period (2 years)			
<b>Directive 2002/15/EC</b>	<u>Working time and rest periods</u>	Regulation 107 PTR Regulation 88 CCR	Exceed of the average (48 h) and maximum (60 h) weekly working time	-Drivers -Crew Members	<b>PTR - Fine not exceeding € 3,000 + One penalty point for every € 10 or part thereof imposed by way of fine + Penalty of €</b>	<b>CCR – € 58.23</b>

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Periods**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<b>350 and corresponding penalty points.</b>	
		Same as above	Exceed of the average (48 h) and maximum (60 h) weekly working time for more than 10 %	Same as above	<b>Same as above</b>	<b>Same as above</b>
		Same as above	No breaks after six consecutive hours	Same as above	<b>Same as above</b>	<b>Same as above</b>
		Same as above	Rest periods	Same as above	<b>Same as above</b>	<b>Same as above</b>
		Same as above	In case of night work, the day work has been	Same as above	<b>Same as above</b>	<b>Same as above</b>

Table MT 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			more than 10 hours in the 24 h			
		Same as above	Information and record of the drivers' working time	Same as above	<b>Same as above</b>	<b>Same as above</b>

Table MT 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<p><b>Regulation 3821/1985/EEC</b></p>	<p><u>Motor Vehicles (Weights, Dimensions, and Equipment) Regulations</u></p>	Regulation 73	<p>Tachograph:</p> <ul style="list-style-type: none"> <li>- not installed or used,</li> <li>- non responding to the standards,</li> <li>- malfunctioning.</li> </ul> <p>Non-insertion of:</p> <ul style="list-style-type: none"> <li>- record sheets, or</li> <li>- the driver's card.</li> </ul>	Driver		<p><b>Fine € 58.23</b></p>
		Regulation 73	<ul style="list-style-type: none"> <li>- Alteration, or</li> <li>-Aamage to the seals of the tachograph</li> </ul>	Driver		<p><b>Fine € 58.23</b></p>
		Regulation 73	Speed control equipment:	Driver		<p><b>Fine € 58.23</b></p>

Table MT 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			- not installed, - non responding to the standards, or - malfunctioning			
		Regulation 73	- Lack of speed control equipment - Lack of a cronotachograph or related record sheets - Malfunctioning or manumission of speed control equipment or cronotachograph	Transport undertaking  (Where the driver, the transport undertaking and employer are the same person, the sanctions are	/	<b>Fine € 58.23</b>

Table MT 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			- Use of the recording equipment or cronotachograph non complying with Regulation's requirements.	imposed only once).		
		/	Non regularization of the equipment after that the police agent who has inflicted the sanction cautions the driver to regularise it within 10 days.	No similar provision contained in the relevant law		
<b>Regulation No. 1463/70</b>	<u>Motor Vehicles (Weights, Dimensions, and</u>	Regulation 73	- Use of record sheets non complying with standards - Non- fill in of record	Driver or transport operator		<b>Fine € 58.23</b>

Table MT 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<u>Equipment Regulations</u>		sheets - Use of dirty, damaged or non-recordable record sheets; - Impossibility to show record sheets of the running week or of the last day of the previous working week.			

Table MT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<b>Regulation No. 1071/2009/EC</b>  <b>Authorisation released by the Driver and Vehicle Licensing Agency of the Ministry of Transport (Article 9 )</b>	<a href="#"><u>PTR &amp; CCR</u></a>	No such specific infringement exists in Maltese law	Non communication to the competent Authority, within 30 days, of the prosecution of the transport activity management, due to death, physical incapacity, disappearance and diminishing of the legal capacity of the person entitled of the running of the transport activity.	No such specific infringement exists in Maltese law	<b>No such specific infringement exists in Maltese law</b>	<b>No such specific infringement exists in Maltese law</b>
		No such specific infringement exists in	Non communication of the loss of good repute	No such specific infringement exists in	<b>No such specific infringement exists in</b>	<b>No such specific infringement exists in Maltese law</b>



**Table MT 3**

**Road Package**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		Maltese law		Maltese law	<b>Maltese law</b>	
		No such specific infringement exists in Maltese law	Non communication of the loss of financial standing	No such specific infringement exists in Maltese law	<b>No such specific infringement exists in Maltese law</b>	<b>No such specific infringement exists in Maltese law</b>
		No such specific infringement exists in Maltese law	Non communication of the loss of professional competence	No such infringement exists in Maltese law	<b>No such specific infringement exists in Maltese law</b>	<b>No such specific infringement exists in Maltese law</b>
		Regulation 107(2) PTR  Regulation	False declaration required by these Regulations – applies to any person that makes the false			<b>PTR – maximum € 12,000 and/or maximum 6 months imprisonment.</b>  <b>CCR – liable to criminal action, but no specific</b>

Table MT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		88(2) CCR  Article 185(2) Criminal Code	declaration (driver, crew, transport undertaking, etc).			<b>sanction is mentioned. Subject therefore to the ordinary rules found in the criminal code on the making of false declarations: Imprisonment from 7 months to 2 years.</b>
<b>Regulation No. 1071/2009/EC</b>	<a href="#">PTR &amp; CCR</a>	Article 88	Breach of the conditions of authorisation	Transport Operator	<b>Withdrawal of authorisation</b>	/
<b>Regulation No. 1072/2009/EC</b>	<a href="#">PTR &amp; CCR</a>	Article 88	Breach of the conditions of authorisation	Transport operator	<b>Withdrawal of authorisation</b>	/
<b>Regulation No.</b>	<a href="#">PTR &amp; CCR</a>	Same as above	Abusive transport	Transport operator	<b>Same as above</b>	

Table MT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
1072/2009/EC						
	<a href="#">PTR &amp; CCR</a>	Regulation 107 PTR Regulation 88 CCR	Infringement of the rules on cabotage (obligation to carry copy of the Community licence, or evidence required by Article 8 of Regulation No 1072/2009)	Transport operation	<b>PTR - Fine not exceeding € 3,000 + One penalty point for every € 10 or part thereof imposed by way of fine + Penalty of € 350 and corresponding</b>	<b>CCR – € 58.23</b>

Table MT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					penalty points.	
<b>Regulation No. 1072/2009/EC</b>	<u><a href="#">PTR, CCR &amp; Criminal Code</a></u>	Regulation 107(2) PTR  Regulation 88(2) CCR  Article 185(2) Criminal Code	False declaration required by these Regulations – applies to any person that makes the false declaration (driver, crew, transport undertaking, etc).		/	<b>PTR – maximum € 12,000 and/or maximum 6 months imprisonment.</b>  <b>CCR – liable to criminal action, but no specific sanction is mentioned. Subject therefore to the ordinary rules found in the criminal code on the making of false declarations: Imprisonment from 7 months to 2 years.</b>
<b>Regulation No. 1073/2009/EC</b>		No specific sanctions apply	No specific sanctions apply	No specific sanctions apply	<b>No specific sanctions apply</b>	<b>No specific sanctions apply</b>

Table MT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">PTR and CCR</a>	No specific sanctions apply	Abusive transport	No specific sanctions apply	<b>No specific sanctions apply</b>	<b>No specific sanctions apply</b>
	<a href="#">PTR &amp; CCR</a>	Article 88	Transport not carried out in compliance with authorisation	Transport operator	<b>Withdrawal of authorisation</b>	/
	<a href="#">PTR and CCR</a>	Regulation 107 PTR Regulation 88 CCR	Transport carried out by drivers not regularly employed	Transport operator	<b>PTR - Fine not exceeding € 3,000 + One penalty point for every € 10 or part thereof</b>	<b>CCR – € 58.23</b>

**Table MT 3**

**Road Package**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
					<b>imposed by way of fine</b>	

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Directive 2008/68/EC	<u>Transport of Dangerous goods</u>	Article 3 Motor Vehicles (Carriage of Dangerous Goods by Road) Regulations	<ul style="list-style-type: none"> <li>- Transport of dangerous goods without the necessary authorization, or</li> <li>- when the authorization exists, infringing the conditions prescribed therein;</li> </ul>	<ul style="list-style-type: none"> <li>Driver</li> <li>Transport operator</li> <li>Owner of the vehicle</li> </ul>	<p><b>Immobilising of vehicles subject to any other penalties that may be imposed (however such penalties are not specified in law)</b></p> <p><b>ADR forms an integral part of these Regulations so any penalties therein contained will apply.</b></p>	

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		No specific sanctions apply	Infringements of the provisions concerning: <ul style="list-style-type: none"> <li>- the technical requirements of the, vehicles, tankers and containers transporting the dangerous substances;</li> <li>- the lack or the incorrect placement of the warning signals and labels of danger on the vehicles, tankers and containers;</li> </ul>	No specific sanctions apply	<p style="text-align: center;"><b>No specific sanctions apply, but ADR forms an integral part of these Regulations so any penalties therein contained will apply.</b></p>	



Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			<ul style="list-style-type: none"> <li>- the modalities of bay;</li> <li>- the loading and transport operations.</li> </ul>			
		No specific sanctions apply	<ul style="list-style-type: none"> <li>- Non-compliance with the equipment requirements necessary to ensure the safety of the driver and or the crew (such as lifejackets or protective breathing equipment);</li> <li>- no draft and or correct maintenance of the</li> </ul>	No specific sanctions apply	<p style="text-align: center;"><b>No specific sanctions apply but ADR forms an integral part of these Regulations so any penalties therein contained will apply.</b></p>	

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			transport documents;  - non-compliance with the security instructions.			
		No specific sanctions apply	Non-compliance with: - packaging and labelling requirements; - other transport requirements different from the technical requirements of the vehicles, tankers and containers transporting the dangerous substances.	No specific sanctions apply	<p style="text-align: center;"><b>No specific sanctions apply but ADR forms an integral part of these Regulations so any penalties therein contained will apply.</b></p>	

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Directive 96/53/EC	<u>Motor Vehicles (Weights, Dimensions and Equipment) Regulations</u>	Regulation 73	- Driving without the prescribed authorisation;  - exceeding the maximum vehicles weights or authorised dimensions contained in the same authorisation.	Driver  Client		<p style="text-align: center;"><b>Fine 58.23€</b></p>
		Same as above	Non-compliance of the transport modalities with the ones agreed for the circulation.	Driver  Client		<p style="text-align: center;"><b>Same as above</b></p>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Same as above	Non exhibition of the authorisation	Driver Client		Same as above
		Same as above – no specific sanction contemplated	Transport of goods different from the ones authorised	Driver Client		Same as above – no specific sanction contemplated
		Same as above – no specific sanction contemplated	Exceeding of the maximum authorised weight		/	Same as above – no specific sanction contemplated
		Same as above – no specific sanction contemplated	Non-compliance with the prescribed conditions foreseen or the modalities envisaged in the	Driver Client		Same as above – no specific sanction contemplated

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			relevant regulation on technical escort			
		Same as above – no specific sanction contemplated	Exceeding of the maximum authorised weight, outside the aforementioned foreseen circumstances	Client		<b>Same as above – no specific sanction contemplated</b>
		Same as above – no specific sanction contemplated	Exceeding of the maximum authorised size	Driver Client		<b>Same as above – no specific sanction contemplated</b>
<b>Directive 2009/40/EC</b>	<u>Traffic Regulation Ordinance</u>	Article 15	Vehicle not subject to the roadworthiness tests	Driver		<b>Fine € 232.94 or imprisonment not exceeding 3 months</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		No specific sanction contemplated	Circulation during the roadworthiness test	Driver	<b>No specific sanction contemplated</b>	/
		No specific sanction contemplated	Submission of a false roadworthiness certificate	Driver	/	<b>Subject to the ordinary rules found in the criminal code on the making of false declarations: Imprisonment from 7 months to 2 years.</b>
	<u>Criminal Code</u>	Articles 185(1) (forgery committed by a public officer), 185(2) (forgery committed by	Alteration of the roadworthiness certificate	the author of the alteration (“whoever”)	/	<p><b>Article 185(1) – nine months to three years’ imprisonment</b></p> <p><b>Article 185(2)</b> <b>Seven months to 2 years’ imprisonment</b></p> <p><b>Article 179 – two to four years’ imprisonment</b></p>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		a private),179 (forgery of public certificate by public officer)				
Directive 2006/126/EC	<u>Motor Vehicles (Driving Licences) Regulations</u>  <u>Traffic Regulation Ordinance</u>	No specific sanction contemplated	Lack of physical and minimum standards of physical and mental fitness required.  Lack of the minimum age to drive: - quadricycles and mopeds - motor vehicles and Agricultural or	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			forestry tractor - vehicles for the transport of goods - vehicles for the transport of persons  Exceeding the limit to drive: - vehicle transporting goods - vehicle transporting passengers			
		No specific sanction contemplated	17 years old taking driving lessons: - without the adult conductor	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>



Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			- without driving school			
		Article 15 Traffic Regulation Ordinance	Minor of 18 years with licence A:  - driving a motorcycles having cylinder capacity of more than 125 cc and maximum power of 11 KW,  - transporting another person.	Driver	/	<b>Fine € 232.94 or imprisonment not exceeding 3 months</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		No specific sanction contemplated	Consigning the vehicle to someone without: <ul style="list-style-type: none"> <li>- driving licence,</li> <li>- the certificate of physical and mental fitness required, or</li> <li>- professional certificate</li> </ul>	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		No specific sanction contemplated	<ul style="list-style-type: none"> <li>- Minor of 21 years old driving of vehicle of category KA or KB or used for emergency</li> </ul>	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			service; - driving of vehicle requiring drivers' qualification card.			
		Article `15 Traffic Regulation Ordinance	Driving: - without a driving licence - or with a driving licence: - not renewed, or revoked.	Driver	/	<b>Fine € 232.94 or imprisonment not exceeding 3 months</b>
		No specific sanction contemplated	Driving with a fake driving licence	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>Subject to the ordinary rules found in the criminal code on the making of false declarations: Imprisonment from 7 months to 2</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
						years.
		No specific sanction contemplated	Consigning the vehicle to someone without: <ul style="list-style-type: none"> <li>- driving licence,</li> <li>- the certificate of physical and mental fitness required, or</li> <li>- professional certificate</li> </ul>	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		Article 15 Traffic Regulation	Driving mopeds without the licence and being:	Driver	/	<b>Fine € 232.94 or imprisonment not exceeding 3 months</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Ordinance	<ul style="list-style-type: none"> <li>- minor of 14 years old;</li> <li>- not having the driving licence of B type or it has been suspended</li> </ul>			
		No specific sanction contemplated	Drive without the professional certificate o driver’s card	Driver	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		No specific sanction contemplated	Lack of professional certificate for: <ul style="list-style-type: none"> <li>- circulation with a rented vehicle for transport person;</li> <li>- disabled people;</li> <li>- transport of</li> </ul>	Driver	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			goods with vehicle with category C1 or C, or C1E or CE; - transport of persons (D1, D1E, D and DE).			
		Regulation 40 Motor Vehicles (Driving Licences) Regulations Second Schedule to	Driving motorcycles trespassing the driving conditions and the speed limits	Driver (category B)	<b>Subject to 3-6 penalty points and up to 15 kilometres per hour over the limit € 34.94 over 15 kilometres per</b>	/

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Traffic Regulation Ordinance			<b>hour over the limit € 69.88</b>	
		No specific sanction contemplated	Consigning the vehicle to someone without: <ul style="list-style-type: none"> <li>- driving licence,</li> <li>- the certificate of physical and mental fitness required, or</li> <li>- professional certificate</li> </ul>	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		Article `15 Traffic Regulation	Driving trolleybuses without: <ul style="list-style-type: none"> <li>- licence,</li> </ul>	Driver	/	<b>Fine € 232.94 or imprisonment not exceeding 3 months</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Ordinance	<ul style="list-style-type: none"> <li>- professional certificate,</li> <li>- certificate attesting the minimum standards of physical and mental fitness.</li> </ul>			
		No specific sanction contemplated	Driving trolleybuses without the certificate attesting the minimum standards of physical and mental fitness.	Driver	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		Article 15 Traffic Regulation	Release to the driver without the moral requirements of:	Driver and Vehicle Licensing	/	<b>Fine € 232.94 or imprisonment not exceeding 3 months</b>



Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Ordinance	<ul style="list-style-type: none"> <li>- driving licence,</li> <li>- the certificate of physical and mental fitness required, or</li> <li>- professional certificate</li> </ul>	Agency		
		Article 15 Traffic Regulation Ordinance	Driving Agricultural or forestry tractor without the prescribed: <ul style="list-style-type: none"> <li>- driving licence,</li> <li>- the certificate of physical and mental fitness</li> </ul>	Driver	/	<b>Fine € 232.94 or imprisonment not exceeding 3 months</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			required, or - -professional certificate.			
		No specific sanction contemplated	Giving an agricultural or forestry tractor to someone without the prescribed: - driving licence, - the certificate of physical and mental fitness required, or - professional certificate.	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 15 Traffic Regulation Ordinance	Drivers holding a category A licence driving vehicles without the prescribed driving licence	Driver	/	<b>Fine € 232.94 or imprisonment not exceeding 3 months</b>
		Same as above	Drivers holding a category A, B, C, D licence driving vehicles without the prescribed driving licence  Disable holding a category A or B driving vehicles without the prescribed	Driver	<b>Same as above</b>	<b>Same as above</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			driving licence			
		Same as above	Driving with a licence or a circulation card which is expired	Driver	<b>Same as above</b>	<b>Same as above</b>
		Same as above	Circulation in lack of the revision of the licence or a circulation card which are expired.	Driver	<b>Same as above</b>	<b>Same as above</b>
		Same as above (apart from the infringement of Customs	Circulation with an imported vehicle, motor vehicle or trailer no complying	Driver	<b>Same as above</b>	<b>Same as above</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulations)	with custom duties.			
		No specific sanction contemplated	Circulation with an imported vehicle, motor vehicle or trailer without the distinguishing sign of the Member State issuing the licence	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		No specific sanction contemplated	Circulation with an imported vehicle, motor vehicle or trailer when the related provisional circulation card is	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			expired.			
		No specific sanction contemplated	Driving with a non - EU licence or permission without the related translation	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		No specific sanction contemplated	Driving with a non - EU driving licence without - the certificate of physical and mental fitness required, or - professional certificate	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		No specific sanction contemplated	Driving without international permission	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		No specific sanction contemplated	International permission non complying with the international rules.	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		No specific sanction contemplated	Driving with a non EU licence but without: <ul style="list-style-type: none"> <li>- the certificate of physical and mental fitness required, or</li> <li>- professional certificate</li> </ul>	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		No specific sanction contemplated	Resident in Italy since one year driving with a non EU licence which has expired	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		No specific sanction contemplated	Resident in Italy since one year driving with a valid non EU licence but with an expired professional certificate	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		No specific sanction contemplated	Resident in Italy since one year driving with a non EU licence which has expired	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		No specific sanction contemplated	Resident in Italy since one year driving with a valid non EU licence	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>



Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			but with an expired professional certificate			
		No specific sanction contemplated	<ul style="list-style-type: none"> <li>- Resident in Italy since less than one year driving with an expired non EU licence or other relevant professional certificate;</li> <li>- Resident in Italy for more than one year driving with valid non EU licence or</li> </ul>	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>

Table MT 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	<u>Relevant National Legislation for infringement</u>	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			other relevant professional certificate.			
		No specific sanction contemplated	Driving without a professional certificate	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>
		Article 15 Traffic Regulation Ordinance	Circulation with a suspended driving licence.	Driver		<b>€ Fine 232.94 or imprisonment not exceeding 3 months</b>
		No specific sanction contemplated	Circulation with a military driving licence (or belonging to the Police, Fireman and so on) on a civil vehicle.	No specific sanction contemplated	<b>No specific sanction contemplated</b>	<b>No specific sanction contemplated</b>

Most infringements of the rules on commercial road transport (particularly those committed against the Motor Vehicles (Carriage of Goods by Road) Regulations, are sanctioned with criminal sanctions in Malta. However, these criminal sanctions imposed under the Motor Vehicles (Carriage of Goods by Road) Regulations concern mainly the imposition of a fine of just € 58.23 (for instance for the breach of the rules on driving times, breaks and rest periods, as well as the rules on cabotage, and failure to keep proper records). Therefore, in our opinion, it may not be said to be particularly dissuasive. The same applies for a breach of the rules contained in the Motor Vehicles (Weights, Dimensions and Equipment) Regulations which are also sanctioned by a fine of just € 58.23. On the contrary, criminal sanctions imposed for more serious infringements such as for example, the making of a false declaration, or those sanctions imposed under the Traffic Regulation Ordinance are generally more dissuasive. For *e.g.* the making of a false declaration under the Passenger Transport Services Regulations is punishable with a fine of € 12,000 and/or a maximum of 6 months' imprisonment.

**Table MT 5**

**Infringements of commercial road transport legislation**

<b>Type of infringement(s) and article of reference in national legislation</b>  <b>Corresponding eu legislation</b>	<b>Criminal sanction</b>	<b>Is it dissuasive?</b>
<p>Please note that pursuant to Maltese law most of the infringements on commercial road transport are sanctioned with criminal sanctions, but there are few exceptions (see table above).</p>		

## ***20.7 Sanctions which could be considered substantially criminal in the Maltese legal system***

Infringements of road transport regulations are primarily penalised by criminal sanctions. According to Maltese legal experts, there is no particular threshold by virtue of which administrative sanctions may be deemed to be criminal in nature. In any event, we are of the opinion that given that the pecuniary sanctions imposed are rather low, they would not be considered high enough in light of the Menarini ruling, to be considered criminal in nature. As to those sanctions that contemplate the withdrawal of a licence for breach of the conditions of the authorisation, these constitute the direct result of the failure to abide by the conditions imposed for the authorisation, and are often considered to be criminal in nature. In addition, sanctions that contemplate the confiscation of property are generally derived from an offence, and when enforced by way of sanction (and therefore not by way of enforcement of a debt), would often be deemed to be criminal in nature and executed by the Police (as contemplated in Article 23B of the Criminal Code, Chapter 9 Laws of Malta).

In the light of all above, we consider that the following infringements are sanctioned with administrative sanctions that are criminal in nature:

**Table MT 6**

**Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR**

<p><b>Type of infringement and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Administrative sanction that could be qualified as criminal sanction</b></p>	<p><b>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</b></p>	<p><b>Is it dissuasive?</b></p>
<p>PTR &amp; CCR, Article 88, Breach of the conditions of authorisation</p> <p>Regulation No. 1071/2009/EC</p>	<p>Withdrawal of authorisation</p>	<p>It affect seriously the economic interest of the offender</p>	<p>Yes</p>
<p>PTR &amp; CCR, Article 88 Breach of the conditions of authorisation</p> <p>Regulation No. 1072/2009/EC</p>	<p>Withdrawal of authorisation</p>	<p>It affect seriously the economic interest of the offender</p>	<p>Yes</p>
<p>PTR &amp; CCR Same as above</p> <p>Abusive transport</p> <p>Regulation No. 1072/2009/EC</p>	<p>Withdrawal of authorisation</p>	<p>It affect seriously the economic interest of the offender</p>	<p>Yes</p>

## **20.8 Effectiveness of the sanctions system**

It may be argued that the Maltese sanction system is not, in terms of its obligations imposed by EU law, proportionate and effective.

Such conclusion is based on the following grounds:

- The system fails to properly distinguish between serious and not so serious infringements. The sanctions imposed by law do not set different penalties depending on whether the infringement is serious or not, instead, it is left at the discretion of the competent authority to determine the sanction to be imposed.
- Moreover, the sanction system does not properly cater for the gravity of the particular infringement in that a breach of the rules on, for example, breaks, is punished in the same manner and with the same penalty as a breach of say the minimum age, or weekly rest periods, with no distinction being made on whether 10% - 20% - or more – of the minimum rest periods has been exceeded, being made. This, in our opinion, does not provide an appropriate deterrent effect for some of the graver infringements.
- In addition, the penalties imposed by Maltese law for road transport, in particular those imposed by the Motor Vehicles (Carriage of Goods by Road) Regulations, which sets as a standard penalty for almost all infringements of these Regulations, to the sum of € 58.23, are too small an amount to act as a proper deterrent for the commission of these infringements. This conclusion is shared by the Maltese Transport Authority which believes that sanctions should be harsher (see Annex MT. 1).
- Finally, the sanctions do not differentiate between the size of the undertaking concerned and the level of infringements, meaning that an undertaking with a high turnover is punished in the same way as an undertaking with a lower turnover. This may be viewed as a flaw in the system.

That said we have received also some information concerning the Maltese system.

The following tables contain figures on the numbers of checks carried out and on offences detected. The low number indicated for 2011 is due to a) the exercise Transport Malta is currently undergoing to put companies on track as far as Regulation 561/2006 is concerned and b) the country's small size and subsequent low number of vehicles operating overland and hence turnout.

<b>Table MT 7</b>				
<b>Year 2011</b>				
<b>Working Days checked:</b>	<b>Local</b>		<b>Other EU</b>	<b>Non EU</b>
	<b>Roadside insp.</b>	<b>Company</b>	<b>Member States</b>	<b>Member States</b>
<b>Good carrying vehicles</b>	84	90	140	-

<b>Vehicles checked:</b>	<b>Local</b>		<b>Other EU</b>	<b>Non EU</b>
	<b>Roadside insp.</b>	<b>Company</b>	<b>Member States</b>	<b>Member States</b>
<b>Good carrying vehicles</b>	3	2	4 (1x double manned)	-

<b>Table MT 8</b>										
<b>Year 2011</b>										
<b>Types of Infringement:</b>			<b>Passengers</b>				<b>Goods</b>			
			<b>Local</b>		<b>EU</b>	<b>Non EU member s</b>	<b>Local</b>		<b>EU</b>	<b>Non EU member s</b>
			<b>RSC</b>	<b>Compa ny</b>			<b>RSC</b>	<b>Compa ny</b>		
<b>Driving periods (56 hours may be exceeded up to 58 hours pending start of week)</b>	<b>Daily (9-10 hours)</b>	<b>B1, B2, B3</b>	-	-	-	-	-	1 (B1)	-	-
	<b>Weekly (max 56 hours)</b>	<b>B7, B8, B9</b>	-	-	-	-	-	-	-	-
	<b>Fortnight (max 90 hours)</b>	<b>B10, B11, B12</b>	-	-	-	-	-	-	-	-
<b>Breaks</b>	<b>45 min breaks / 4.5 hrs</b>	<b>C1, C2, C3</b>	-	-	-	-	1	2 (C3, )	-	-
<b>Rest periods</b>	<b>Daily (11</b>		-	-	-	-	-	-	-	-



	hours) Split (12 hours)	D1, D2, D3  D7, D8, D9								
	Weekly(4 5 hours*) Reduced (24 hrs)	D16, D17, D18	-	-	-	-	-	-	-	-
	Compens ation*	RELATI VE TO ABOVE	-	-	-	-	-	1(MI)	-	-
No: Service timetable / duty roster / Leave documentation			-	-	-	-	-	-	-	-
Tachograph chart	Written details	I5	-	-	-	-	-	1 (VSI)	1 (VSI)	-
	Tamperin g evidence	J1, J2, J3	-	-	-	-	-	-	-	-
	Lack of charts	G3 G10	-	-	-	-	2 (SI)	1(VSI)	2 (SI)	-
	Exceedin g 24 hrs	G16, G17	-	-	-	-	-	-	-	-
Equipment	Seals	G1	-	-	-	-	-	-	-	-
	Working order	F1, K1, K2	-	-	-	-	-	-	-	-
	Tamperin g evidence	J1 , J2, J3	-	-	-	-	-	-	-	-
	Calibrati on	G1	-	-	-	-	-	-	-	-
	Use of Mode switch	G22	-	-	-	-	-	-	-	-
Digital	Driving w/o card	G15	-	-	-	-	-	-	-	-

Based on the information available, during the undertaking of company checks by the Authority for Transport in Malta, it has been found that most of the companies concerned are not in line with Regulation 561/2006. When applying the amended Regulation, a substantial number of infringements were detected. This fact is also being encountered during this year's ongoing company checks.

The Maltese Transport Authority refers also that sanctions such as the withdrawal of a driver's driving licence or of a Community licence are never applied.

## 21 THE NETHERLANDS - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

### 21.1 Social rules on road transport

#### 21.1.1 Rules on driving time, breaks and rest periods

##### 21.1.1.1 Regulation (EC) No 561/2006

Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 has been implemented in the '*Arbeidstijdenbesluit vervoer*' of 14 February 1998 (Working Hours (Transport) Decree), hereinafter referred to as the "Atb-v". The Atb-v is based on the '*Arbeidstijdenwet*' (Working Hours Act), hereinafter referred to as the "Atw", which contains general rules with respect to working hours. The Atb-v has a broader scope of applicability than Regulation (EC) No 561/2006 since it also includes categories of (lighter) transport, which fall outside the area of application of the Regulation.

##### Sanction system (administrative versus criminal sanctions)

The sanction system related to infringements of rules on driving times, breaks and rest periods is included in article 8:1 of the Atb-v. Paragraph 1 labels non compliance with the different provisions of the Atb-v as '*overtreding*' (offence). Subsequently, the Atw provides for two sanction systems in case of non-compliance with the provisions under or pursuant to this primary legislation (including therefore violation of the Atb-v).

Starting point of the Atw is enforcement under administrative law with administrative fines (so-called: *bestuurlijke boetes*). However, in the case that an

infringement also qualifies as criminal offence, it is not possible to impose an administrative fine. In that case Article 10:6 of the Atw prescribes that criminal enforcement is the line to go. Therefore, the so-called *una via-principle* applies.

The elaboration of the administrative enforcement is included in the '*Algemene wet bestuursrecht*' (General Administrative Law Act), hereinafter: "Awb". The criminal enforcement is worked out in the '*Wet Economische Delicten*' (Economic Offences Act), hereinafter: "WED".

The Atw and - following on this law – the Atb-v specify precisely which infringements are subject to administrative sanctioning. Furthermore, Article 11:3 Atw sets out the circumstances under which those infringements also qualify as criminal offences. There are two bases:

First of all, Article 11:3 paragraph 1 Atw prescribes that infringement of the provisions listed in article 10:1 Atw (this also includes infringement of the provisions of the Atb-v which are based on the Atw) qualifies as a criminal offence, in case two times within a period of 48 months before the day of discovery of a (third) finable offence, with respective intervening periods of maximum 24 months, a finable offence existing of an infringement of a similar statutory obligation has become irrevocably established.

The second ground for qualification as a criminal offence is based on road safety. Administrative offences become criminal offences in case road safety has been seriously endangered, at least in case it can reasonably be presumed that this has been the case.

### Author

As to the author of the subject sanction provisions, Article 8:1 paragraph 2 Atb-v prescribes that – subject to exceptions - the employer of the driver is deemed to have violated the provision in case the driver is an employee. In that case the employer (*i.e.* the transport undertaking) is the "driver" mentioned in the subject provisions.

Article 8:1 paragraph 3 Atb-v prescribes that the abovementioned second paragraph does not apply in case the employer proves that he gave the proper orders,

took the necessary measures, provided the necessary means and carried out the supervision that can reasonably be required from an employer to assure the compliance with the subject provision.

The notions “employer” and “employee” are defined in the Atw (Article 1:1 paragraphs 1 and 2 Atw). Following on this the Awb further defines the meaning of the notion ‘offender’ in Dutch administrative law (Article 5:1 Awb). The “offender” is the person who commits or is a co-perpetrator of an administrative offence. This can be a natural person as well as a legal entity.

Article 51 paragraphs 2 and 3 of the Dutch Criminal Code applies by analogy. This means in the essence that in case the offender is a legal person, the natural person(s) who gave instructions to or actually directed the punishable conduct, can be addressed as well. This of course relates to offences which qualify as criminal offences and are enforced under criminal law in the specific case.

#### Administrative sanctions (general)

Article 10:7, paragraph 1 Atw contains general rules relating to the extent of the administrative fines. The maximum administrative fine is:

- € 11,250,- for natural persons; and
- € 45,000,- for legal entities.

#### Recidivism

The administrative fine is increased with 50%, in case a repetition of an offence is discovered within 24 months after the infringement of a similar statutory provision has been observed and the fine imposed for that infringement has become irrevocable (Article 10:7, paragraph 2 Atw). As noted above, on the basis of Article 11:3 paragraph 1 Atw an administrative offence qualifies as a criminal offence in case of a third repetition of the same offence within a period of 48 months with respective maximum intervening periods of 24 months (“repeated recidivism”). Thus, under administrative

law a recidivism within 24 months gives rise to a 50% increase of the amount of the administrative fine, while a ‘third’ recidivism of the same offence within 48 months changes ‘the colour’ of the offence from administrative to criminal.

### Amount of the fines

Article 10:7 paragraph 3 Atw prescribes that the Minister sets policy rules with respect to the amount of the fines. In this respect the *‘Beleidsregel boeteoplegging Arbeidstijdenwet en Arbeidstijdenbesluit (wegvervoer)’* (Policy regulation imposition of fines Working Hours Act and Working Hours (Transport) Decree (road transport)) (hereinafter: “Policy regulation Atw and Atb-v” or “Policy Regulation”) should be mentioned. The Policy regulation has recently been amended (as per 9 May 2012).

The Policy regulation only pertains to offences for which the *‘Inspectie Leefomgeving en Transport’* (Human Environment and Transport Inspectorate), hereinafter “ILT” of the Ministry of Infrastructure and Environment can impose a fine itself. The drawing up of an official report in case of criminal offences is not taken into consideration in the Policy regulation Atw and Atb-v. The Public Prosecutor’s Service deals with these cases.

The Policy regulation Atw and Atb-v provides for a division into two categories, namely - on the one hand - the offences which immediately result in the imposition of a fine upon discovery and - on the other hand - the offences for which the supervising authorities first give an administrative warning and only impose a fine after a similar offence has been discovered (Article 1, paragraph 3, sub a and b Policy regulation Atw and Atb-v). This has been worked out in Schedule 2 to the Policy regulation. This appendix provides for a list of the offences for which an administrative fine is imposed without the preventive enforcement policy of prior warning(s). These offences are:

- all offences relating to working hours, driving time and rest periods;
- the offences with respect to recording equipment:
  - the absence of recording equipment;
  - the incorrect use of the same;
  - the misuse of the same;

- not noting down ‘important information’ on recording equipment, which means the information which can afterwards easily be altered.

During a business inspection all offences which fall within the category very serious infringements (VSI) are being fined. The supervising authority gives a warning for all other offences. During a repeated (second inspection) all offences which fall within the categories ‘VSI’ and ‘serious infringements’ (SI) are being fined. As from the third inspection also minor infringements (MI) are sanctioned. With respect to the business inspections the methodology with respect to the immediate imposition of fines for offences has been amended as a result of the implementation of Commission Directive 2009/5 (EC).

The Policy regulation Atw and Atb-v provides for a list of tariffs with standard amounts for administrative fines in the field of road transport. These standard amounts serve as a starting point for the calculation of the administrative fines. The standard amounts have been further specified in detail per offence in Schedule 1 to the Policy regulation. This is the so-called ‘*Boetecatalogus*’ (Fine catalogue), which can be downloaded from the website of the Ministry of Infrastructure and Environment ([www.ilent.nl](http://www.ilent.nl)). We have attached a copy of the Policy Regulation Atw and Atb-v and accompanying schedules to the report (in Dutch )(enclosure 1).

In conformity with Commission Directive 2009/5 (EC) the offences have been classified in minor infringements (fine € 0,- → € 199,-), serious infringements (fine € 200,- → € 549,-) and very serious infringements ( $\geq$  € 550,-).

We have worked this out for the various provisions in the summary table below. This is a translation in English of Schedule 1 to the Fine Catalogue.

#### Penalties under criminal law

As we said, non-compliance in the transport sector with registration obligations and driving and rest periods as a consequence of which (it can reasonably be presumed that) road safety has seriously been endangered, constitutes a criminal offence. The same goes for a “repeated recidivism” (third time in 48 months, with maximum intervening periods of 24 months). In that case criminal enforcement has priority over administrative enforcement (Article 10:6 Atw).

The subject infringements are minor offences under criminal law (Article 11:3 paragraph 4 Atw in conjunction with Article 1 paragraph 3° and Article 2 paragraph 3 of the WED).

Infringements of provisions under or pursuant to the Atw are punishable under the Economic Offences Act (Article 1 paragraph 3° WED). Article 6 paragraph 1 sub 4° WED gives the maximum sentences. This is 6 months imprisonment, community punishment or a fine of the fourth category. This matches € 19,500,- (Article 23 paragraph 4 of the Dutch Criminal Code). In case of a legal person it is theoretically possible to move to the next (fifth) fine category in case the fourth category does not allow an appropriate punishment. The fifth category equals a maximum fine of € 78,000,-.

#### Guidelines for prosecution

The Dutch '*Openbaar Ministerie*' (Public Prosecutor's Service) has published '*Richtlijnen voor strafvordering arbeidstijdenwet*' (Guidelines for Prosecution Working Hours Act). The most recent version of these guidelines, on which suspects can rely in court, has entered into force on 1 January 2012 and is valid for four years. Below we will discuss the outlines of the guidelines.

The guidelines state first that administrative enforcement with administrative fines has the primacy over criminal enforcement. Only a few offences mentioned in the Atw have been criminalized. Apart from the possibility of an out-of-court settlement offered by the Public Prosecutor's Service, the guidelines give the following rules for prosecution of the criminal offence mentioned in Article 11:3 paragraph 1 Atw. This provision criminalizes the non-compliance with different provisions of the Atw listed in Article 10:1 Atw in case of a repeated recidivism. That means that within a period of 48 months of the day of discovery of an offence, administrative fines have been imposed for two similar statutory offences committed within maximum intervening periods of 24 months, which in the meantime have become irrevocable. The following diagram clarifies the prosecution policy:



Table NL 1 Offences ex Article 11:3 paragraph 1 Atw				
Category	Transaction (out-of-court settlement proposal)	Prosecution at the trial	First recidivism *	Second recidivism *
Employer	Amount of the underlying administrative sanctions	Transaction amount		
	+ 100%	+ 20 %	+ 50 %	+ 100 %

\* please note, that this criminal offence itself is a 'repeated recidivism'. These 'first' and 'second' recidivism of the criminal offence are in essence the fourth and fifth breach of the same offence, which is the first and second time settled under administrative law.

### Authorities

In the Netherlands supervision and investigation are separated in the Atw. This follows *inter alia* from the fact that the authorities have to be appointed separately. The appointment of supervising authorities takes place on the basis of the Atw. Investigating officials are appointed on the basis of the WED and the Dutch Code of Criminal Procedures.

### Foreign drivers

Paragraph 10.6 of the Atw (Articles 10:14 up to and including 10:18 Atw) contains special provisions with respect to drivers of motor vehicles without a known address of residence or business in the Netherlands (so-called 'foreign drivers'). This paragraph can be applied:

1) in case the offence took place with a vehicle and it is plausible that the holder of the licence number or the driver has no known address in the Netherlands; or

2) in case an offence has been discovered in the Netherlands, committed by a driver of a vehicle without a known address in the Netherlands or by order of an employer who is not established in the Netherlands provided that Regulation (EC) 561/2006 applies to the subject transport.

The regulatory authorities can demand prompt payment of the administrative fine (10:17 Atw). Furthermore, they are authorized to bring the vehicle to another place and put it in custody or prevent the vehicle from driving away with mechanical means, by way of provisional order (Article 10:18 Atw).

### Extraterritorial application

Article 2:8 of the Atw prescribes that this act and the provisions based on it (including Atb-v), also apply to labour, which is carried out by persons, employed in or on motor vehicles, outside or partially outside the Dutch territory for an employer who is established in the Netherlands. The Atw has therefore extraterritorial effect.

In respect of the extraterritorial application of the Dutch Criminal Code, we refer to Article 11:1 of the Atw. In particular, paragraph 2 of this provision is relevant. It prescribes that the Dutch criminal statutes also apply to the driver of a motor vehicle who has no known address in the Netherlands as well as to the employer who is not established in the Netherlands, and commits an infringement outside the Netherlands, in case it concerns a transport to which Regulation (EC) No. 561/2006 (or the AETR-Convention) applies and in case the offence, which qualifies as an economic offence under the WED, has been discovered in the Netherlands.

### Notes with respect to the specific infringements

#### *Driving time*

Article 2.5:3 of the Atb-v prescribes that the driver acts in accordance with Article 6 paragraphs 1-3 of Regulation (EC) 561/2006 and therefore complies with the rules relating to daily, weekly and biweekly driving times. Non-compliance is an

offence under administrative law (Article 8:1 Atb-v) and in case of repeated recidivism also a criminal offence.

The Policy Regulation Atw and Atb-v and the fine catalogue introduce different thresholds of penalties for infringements of the rules on driving times (see summary table).

#### *(Uninterrupted) driving time / breaks*

Article 2.5:6 paragraph 2 of the Atb-v prescribes that the driver acts in accordance with Article 7 of Regulation (EC) 561/2006 and therefore complies with the rules regarding breaks.

Furthermore Article 2.5:6 paragraph 3 of the Atb-v imposes obligations on the employer with respect to the organisation of the work in case the work includes other activities than driving in so far as the employee carries out transport to which Regulation (EC) No. 561/2006 applies.

Non-compliance is an offence under administrative law (article 8:1 Atb-v) and in case of a repeated recidivism also a criminal offence.

The Policy Regulation Atw and Atb-v and accompanying fine catalogue introduce different thresholds of administrative sanctions in case of infringements of the rules on uninterrupted driving time and breaks.

#### *Rest periods*

Article 2.5:1 paragraph 2 of the Atb-v implements the Articles 8 and 9 of Regulation (EC) 561/2006. Non-compliance constitutes an offence under administrative law (Article 8:1 Atb-v) and again in case of repeated recidivism a criminal offence (art. 11:3 paragraph 3 Atw).

The Policy Regulation Atw and Atb-v and the fine catalogue introduce different thresholds of administrative sanctions in case of infringements of the rules on daily and weekly rest periods.

#### *Liability of transport undertakings*

The obligations to which transport undertakings are subject in Article 10 of Regulation (EC) 561/2006 have been implemented in article 2.7:1 paragraph 1 and 2 Atb-v. The employer is not allowed to act contrary to Article 10 paragraph 1 of the Regulation (2.7:1 paragraph 1 Atb-v). Paragraph 2 of the subject provision prescribes that the employer acts in accordance with Article 10 paragraphs 2 and 5 of the Regulation. Infringements constitute an offence under administrative law (Art. 8:1 Atb-v).

#### *Evidence concerning penalties*

The obligations Article 20 Regulation (EC) 561/2006 imposes on the driver with respect to evidence concerning penalties are implemented in Article 2.7:1 paragraph 3 of the Atb-v.

#### **21.1.1.2 Directive 2006/22/EC (amended by Directive 2009/4/EC and Directive 2009/5/EC)**

On 8 June 2007 the director Legal Affairs of the – then - Ministry of Transport and Water Management (now: Ministry of Infrastructure and Environment) has made an announcement on behalf the Minister with respect to Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on the minimum conditions for the implementation of Council Regulations (EEC) No. 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC as amended by Directive 2009/4/EC and Directive 2009/5/EC. What it comes down to is that the Minister announced that no new legislation has to be effected for the implementation of the Directive. In accordance

with the rules accomplished pursuant to Article 8:1 paragraph 3 of the Atw, the supervising officials of the Transport and Water Management Inspectorate are authorized to implement the Directive. The Inspectorate has been appointed as the authority to implement article 7 of the Directive. Furthermore, the Inspectorate has been assigned to implement, respectively act in accordance with the sections 2 up to and including 6, 8,9 11 and 14 of the Directive.

### **21.1.1.3 Directive 2002/15/EC**

Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile and road transport activities, has been implemented in the Atb-v, which is in its turn based on the Atw. For more information we refer to the explanation we have given above with respect to (the methodology of) the Atw and Atb-v.

## **21.1.2 Cronotacograph**

### **21.1.2.1 Regulation (EEC) No 3821/85**

Council Regulation (EEC) No 3821/1985 of 20 December 1985 on recording equipment in road transport has been included in the Atb-v as well. The Atb-v is in its turn based on the Atw (see above). The Atb-v has a broader scope of applicability than Regulation (EC) No 561/2006 and Regulation (EEC) No 3821/85 since it also includes categories of (lighter) transport which fall outside the area of application of the subject regulations. In the foregoing we discussed the Atw and Atb-v in detail.

Article 2.4:1 paragraph 1 Atb-v requires the employer to save the record sheets meant in Regulation (EEC) No 3821/85 for at least 104 weeks. Paragraph 2 of that Article requires the employer to act in accordance with Article 14 paragraph 2 of Regulation No 3821/85.

Article 2.4:4 Atb-v prohibits the employer, employee and self-employed person *inter alia* to:

- make incorrect notes in or on means of control;
- make changes in or on means of control or make data illegible;
- cause means of control to be lost or destroy or hide those;
- make use of a means of control on or in which incorrect notes or changes have been made or in case data has been made illegible;
- make use of a driver, workshop or company card which is not made out in his name, with the exception of a company card of an employer used by an employee;
- have equipment present in the vehicle which can be used for misuse of means of control as indicated above.

Starting point in the Atb-v is that in case of infringement of a provision directed to the 'driver', the employer is considered to have breached the subject provision in case the driver is an employee. However, there are exemptions to this rule. The abovementioned infringements are an example of that. The employer, self-employed person as well as the employee are obliged to comply with these rules.

On the basis of the Atb-v the Minister of Infrastructure and Environment has delegated power to lay down further rules with respect to tachograph cards. This is the '*Regeling tachograafkaarten*' (Regulation Tacograph cards). Furthermore the Atb-v forms the basis for the '*Regeling controleapparaten 2005*' (Regulation recording equipment 2005).

Article 2.4:8 Atb-v requires every truck or bus to be fitted with recording equipment as meant in Annex IB to Regulation (EEC) No 3821/85. A valid driver card must be used in accordance with Article 15 paragraph 2 of the Regulation, except in the event of loss, theft, damage or a defect of the driver card or the recording equipment which has to be worked with the drivers card.

The Regulation recording equipment 2005 sets out the requirements for approval and use of recording equipment as well as the recognition of qualified installers and fitters. The regulation is based on Annex 1 and 2 of Regulation (EC) No

3821/85. The Regulation Tachograph cards contains rules with respect to the provision and use of the tachograph cards as meant in the Regulation.

The sanction system related to the various infringements of rules on tacograph cards and recording equipment is included in Article 8:1 Atb-v. Paragraph 1 labels the different provisions of the Atb-v as '*overtreding*' (offence). Subsequently, the Atw provides for two sanction systems in case of non-compliance with the provisions under or pursuant to this primary legislation (including therefore breaking the Atb-v).

Starting point of the Atw is – again - enforcement under administrative law with administrative fines. Enforcement under criminal law tails the administrative sanction system. In the case an infringement also qualifies as criminal offence, it is not possible to impose an administrative fine. Then, criminal enforcement is the line to go. Again, the amended Policy regulation Atw and Atb-v and enclosed Fine catalogue play an important role. The details with respect to the specific infringements have been worked out in this Fine catalogue. To avoid unnecessary repetition we refer to the foregoing and to the summary table below.

#### *Extraterritorial application of the criminal statutes*

In accordance with Article 11:1 of the Atw, the Dutch criminal statutes apply to every driver of a motor vehicle regardless his permanent or temporary address as well as every employer irrespective of the place of establishment, who commits a violation of the rules which arise from the provisions based on Article 4:3 par 2-4 Atw, as far as these rules refer to work performed in or on a vehicle and the infringement qualifies as an economic offence under the WED. The latter Article 4:3 par 2-4 Atw contains the rules regarding the proper registration of working hours and rest periods, means of registration and the duty to save data and documentation regarding the registration obligation laid down in this provision.

## **21.2 Road package**

### **21.2.1 Regulation (EC) No 1071/2009, Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009**

The bill *‘Wijziging van de Wet personenvervoer 2000 en enige andere wetten ter uitvoering van de verordeningen 1071/2009/EC, 1072/2009/EC and 1073/2009/EC inzake toegang tot het beroep en de toegang tot de markt van het personenvervoer en het goederenvervoer over de weg’* (‘Amendment of the Passenger Transport Act 2000 and other acts implementing the Regulations (EC) 1071/2009, 1072/2009 and 1073/2009 concerning the access to the occupation and the access to the market of passenger transport and road haulage’) is pending in the Dutch House of Representatives.

The legislative proposal aims to implement the abovementioned Regulations. The Explanatory Memorandum to the act mentions that the time limit for national implementing measures has expired on 4 December 2011. As from that date to the date of entering into effect of the legislative proposal, the Regulations can not be administered entirely. In this respect the Explanatory Memorandum points out that licences for road passenger transport services and road haulage can still be granted, withdrawn or suspended on the basis of the existing statutory powers. The same goes for the examination whether the criteria for the access to the occupation have been met. Sanctions can be imposed in case of an infringement of the prohibition to carry out transports without a valid licence, without a certified copy or without a driver attestation.

In this area the relevant Dutch statutes are the *‘Wet personenvervoer 2000’* (Passenger Transport Act 2000) (hereinafter “Wp2000”) and the *‘Wet wegvervoer goederen’* (Road Transport Goods Act) (hereinafter “Wwg”). Whilst the Wp2000 and the Wwg refer in the prohibitory provisions to Regulations which have already been repealed, the Regulations 1072/2009 and 1073/2009 prescribe in the articles 18 respectively 30 that references to the repealed Regulations and Directive shall be construed as references to the new Regulations and read in accordance with the subject correlation tables.

The Explanatory Memorandum furthermore explains that some provisions, such as the declaration of unfitness of the transport manager (Article 14 Regulation 1071/2009) and the imposition of sanctions in case of infringement of the rules regarding cabotage can only be implemented after the new act has entered into force.



The Memorandum also contains a table of concordance which sets out clearly whether the provisions of the Regulations 1071/2009, 1072/2009 and 1073/2009 require implementation and if so where those provisions will be implemented in the Wp2000 respectively the Wwg. In view of Article 22 of Regulation 1071/2009 which prescribes that Member States shall lay down rules on penalties applicable to infringements of the provisions of the Regulation, new paragraphs will be added to article 3:2 Wwg. These provisions pertain a.o. to the power of the ‘*Stichting Nationale en Internationale Wegvervoer Organisatie*’ (National and International Road Transport Organization) (NIWO) to deny the granting of a community licence or a driver attestation in case the transport company does not meet the requirements for the practice of the profession, to suspend the community licence or driver attestation and to declare the transport manager unfit.

The Wwg has been worked out in greater detail in the ‘*Regeling wegvervoer goederen*’ (Regulation road transport goods). The Wwg and this regulation contain several prohibitory provisions. These are enforced under criminal law via the Economic Offences Act (Art. 1, sub 3 WED). Article 5:3 Wwg prescribes that the Dutch criminal statutes also apply to the carrier established in the Netherlands who commits a violation of the Wwg (or delegated regulation) outside the Netherlands.

Again the Public Prosecutor’s Service has published a guideline for prosecution: “*Richtlijn voor strafvordering Wet wegvervoer goederen*” (Guideline for prosecution Road Transport Goods Act). Point of departure is an out-of –court settlement proposal, irrespective the degree of recidivism. There is a recidivism in case of a repetition within 5 years after payment of an out-of-court settlement or irrevocable conviction. In case of infringement of the load prescriptions a different recidivist scheme applies on the basis of the Guidelines for prosecution loading of vehicles.

The Guideline for prosecution Road Transport Goods Act applies the following percentage increase relative to the basic rate of the number of points:

<b>Table NL2</b>		
	<b>Employees/drivers</b>	<b>Employers/self-employed persons</b>
First recidivism	+ 10 %	+ 50 %
Second recidivism	+ 20 %	+ 100 %

A tariff list is enclosed to the guideline. The penalty points system applied in this tariff list is based on the '*Aanwijzing Kader voor Strafvordering*' (Direction Framework for Prosecution). This Direction has been drafted in view of an unambiguous prosecution policy. It is beyond the scope of this explanation to discuss the Direction Framework for Prosecution in detail. The essence is that within the guidelines for prosecution the Public Prosecutor's Service works with a point system (so-called "Polaris"-points), which values offences via a calculation. So-called 'penalty points' relate to the seriousness of the offence (predicate offence and aggravated circumstances added to that). "Sanction points" determine the punishment the guideline indicates (taking into account the declining benefit of the punishment). One sanction point represents a fixed amount of money (€ 34,-), number of hours community service punishment (2 hours) or number of days prison sentence (one day) *et cetera*. The point system is only a starting point. The actual demand depends strongly on the circumstances of the case. For the same reason, we do not consider it advisable to provide the number of penalty points included in the Guideline for prosecution Road Transport Goods Act for the predicate offences. That would only give an overall picture and might erroneously create the impression that the conversion of the number of points of a specific offence to a concrete fine amount is a simple calculation.

As mentioned above, since the national implementing measures have not yet entered into force and are still pending, some new provisions of the Regulations can not yet be carried out. We advise to have an update made as soon as the new legislation has entered into force.

## **21.3 Standards of vehicles and load and necessary licenses**

### **21.3.1 Directive 2008/68/EC**

For the road transport sector Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods has been implemented by the following national regulatory framework:

- ‘*Wet vervoer gevaarlijke stoffen*’ (Carriage of Dangerous Goods Act) (Wvgs);
- ‘*Besluit vervoer gevaarlijke stoffen*’ (Carriage of Dangerous Goods Decree) (Bvgs);
- ‘*Regeling vervoer over land van gevaarlijke stoffen*’ (Carriage of Dangerous Goods by Land Regulations) (Rvgs)

Directive 2008/68 prescribes that the ADR applies to inland transport of dangerous goods on the territory of the EU. For the Netherlands this did not constitute a new situation because the ADR applies to carriage of dangerous goods on Dutch territory. Also with respect to the additional prescriptions as included in enclosure 2 of the Rvgs the Directive did not bring significant changes. After all, the Directive prescribes that member states are entitled to apply stricter rules to domestic carriage carried out with means of transportation registered in or brought onto the market on its territory.

Article 2 of the Wvgs provides for a list of acts which fall under the scope of the act. This *inter alia* includes carriage of dangerous goods with a means of transportation per land, railways, inland waterways, the presenting or accepting of such goods for carriage, the packaging of such goods in view of the transport *et cetera*.

Article 3 of the Wvgs prescribes that by or pursuant to a governmental decree dangerous goods or categories of dangerous goods will be appointed in respect of which the activities included in Article 2 and the carrying out of such activities with means of transportation appointed in or pursuant to a governmental decree are either:

- a. not permitted;
- b. only permitted in case the prescriptions/conditions have been observed.

Article 4 of the Wvgs prohibits to carry out the acts included in article 2 with respects of dangerous goods and with means of transportation which have been appointed in accordance with Article 3, sub a Wvgs. Article 5 prohibits to act contrary to Article 3, sub b Wvgs. The Wvgs provides for other prohibitory provisions, such as the prohibition to act in violation of a restriction included in an exemption.

Chapter IV of the Wvgs ‘Enforcement’ prescribes that the Minister of Infrastructure and Environment appoints the civil servants of that Ministry who are responsible for the supervision of the enforcement of the law. However, the investigation of offences (which fall under criminal law) is the responsibility of the Public Prosecutor’s Service.

The prohibitory provisions included in the Articles 4, 5, 10, 11, 21, 24, 27, 29, 31 en 33 WVGS have been qualified as economic offence in the Economic Offences Act (Art. 1a sub 1 WED). As far as these offences have been committed wilfully, these are serious offences (*‘misdrijven’*). In case there is no intent, the offences are minor offences (Art. 2 paragraph 1 WED) (*‘overtredingen’*). In accordance with Article 6 WED the maximum penalty for offences included in Article 1a, sub 1 WED, which qualify as serious offence, is six years imprisonment, community punishment or a fine of the fifth category (€ 78.000). For minor offences (again, no intent) the maximum penalty for offences included in Article 1a, sub 1 WED is an imprisonment of one year, community punishment or a fine of the fourth category (€ 19.500,-).

Non compliance with the obligations included in the Articles 47 and 48 of the Wvgs (not reporting an incident with respect to the transport of dangerous goods which causes danger for public safety *et cetera*) constitutes an economic offence as meant in Article 1a, sub 3 WED; these are minor offences under criminal law. The maximum punishment in accordance with Article 6 WED is six months custody, community service or a fine of the fourth category.

In furtherance of the uniformity of the prosecution policy the Public Prosecutor’s Service has laid down and published the *‘Richtlijn voor strafvordering Wet vervoer gevaarlijke stoffen ten aanzien van vervoer over de weg’* (Guideline for Prosecution Carriage of Dangerous Goods Act with respect to transport by road). The tariffs laid down in this guideline serve as a starting point for the amount of the transaction (proposal), punishment order issued by the public prosecutor or the demand of the public prosecutor in criminal proceedings.

The guideline contains the tariffs corresponding to the most frequently occurring offences regarding the rules set in or pursuant to the Carriage of Dangerous Goods Act as far as road transport is concerned.

Point of departure of the guideline is that only the violation of a so-called core provision qualifies for settlement by a criminal court. Whether an offence is a core provision, depends on the risk category that has been given to the subject provision. This is based on Directive 2004/12/EC, enclosure II. Offences which fall within the risk categories I and II are core provisions. The specific circumstances of the case need to be taken into account. Subject to these circumstances it is possible to deviate from the risk categories. On the basis of the risk category it is decided whether corrective measures need to be taken or whether criminal enforcement is indicated.

- *Risk category I (core provision)*: high risk of fatality, serious injuries or significant environmental degradation. Corrective actions immediately necessary.
- *Risk category II (core provision)*: risk of injuries or degradation of the environment. If possible corrective measurements on the scene; if not, at the latest after completion of the transport.
- *Risk category III (non-core provision)*: low risk of injuries or degradation of the environment. Corrective actions can be taken later.

In view of the ‘chain liability’ more persons can be held liable under criminal law at the same time for violation of the Wvgs/ADR. The starting point is however that the carrier (the legal entity) is considered the suspect.

The Guideline for prosecution Carriage of Dangerous Goods Act with respect to transport by road uses the penalty points system as described in the ‘*Aanwijzing Kader voor Strafvoeding*’ (Direction Framework for Prosecution). Of course the guideline contributes significantly to a uniform policy of the Public Prosecutor’s Service. However, the fact that the methodology is a point system with penalty points, sanction points and room for aggravating circumstances, it is only possible to describe the system, not the predict the actual outcome of the calculation (see also above).

With respect to the methodology the guideline *inter alia* describes that:

- in court the amounts calculated on the basis of the sanction points are increased with 20%;

- in case of cumulation of offences the penalty points are calculated separately and subsequently added up;
- in case the offence qualifies as ‘serious offence’ (intent), a 25% percentage increase is applied.

The points in the tariff list apply to first offenders. The number of points is increased in case of recidivism.

Natural persons

In case the suspect is a natural person, there is only a recidivism in case the offence is committed within two years after payment of a transaction, a punishment order issued by a public prosecutor or conviction which has become irrevocable for violation of the Wvgs/ADR.

Table NL 3	
First recidivism	+ 10%
Second recidivism	+ 20 %
> 2	Writ of summons

Legal entities

In case the suspect is a legal entity, there is only a recidivism in case the offence is committed within five years after payment of an out-of-court settlement or a punishment order issued by a public prosecutor or conviction which has become irrevocable for violation of the Wvgs/ADR.

Table NL 4	
First recidivism	+ 50%
Second recidivism	+ 100 %
> 2	Writ of summons

Hazardous negligence results in a 25% increase of the number of points.

In case it appears that only the driver has violated the rules, it is possible to deviate from the starting point that the carrier is held liable under criminal and to

address the driver himself instead. In that case the number of points will normally be divided into halves.

In case of a very serious breach, the tariff list included in the guideline indicates that a writ of summons has to be issued immediately. Then the tariff list does not mention the number of basic points, as the height of the fine needs to be determined taken into account the circumstances of the case. Starting point is however a minimum of 115 Polaris points.

### **21.3.2 Directive 96/53/EC**

Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic has been implemented in the '*Regeling Voertuigen*' (Vehicle Regulations) (Rv) and the '*Wet wegvervoer goederen*' (Road Transport Goods Act) (Wwg). The Wwg also contains the criminalization and sanctions. Violation of the Wwg falls under the Economic Offences Act (WED). With this, overloading is a criminal offence.

Overloading not only carries high fines. The police can also decide that the goods vehicle can not drive further or that the cargo has to be transferred to another vehicle.

The investigation and prosecution policy of the Public Prosecutor's Service has been laid down in de '*Aanwijzing Wet wegvervoer goederen*' (Instruction Road Transport Goods Act). This instruction includes a list which indicates per provision from the Rv which excess percentage results in the drawing up of an official report and or the transshipment order.

With respect to the cumulation of load prescriptions (exceeding the axle load, total sum of axle load, maximum mass) the policy is that (only) the most serious offence (in terms of sanction points) is settled out of court or prosecuted. In case other

infringements of the Wwg are discovered at the same time, those are included in the official report.

The Public Prosecutor’s Services has published a separate “*Richtlijn voor strafvordering belading van voertuigen*” (Guideline for prosecution loading of vehicles). This guideline contains a recidivist scheme as well a system of mounting sanction points for the predicate offences determined on the basis of the percentage with which the maximum mass or the sum of the axle loads respectively the axle loads are exceeded (for example: [...], 10 to 14 %, 15 to 19 %, 20 % to 24 %, [...], 50 % and more). As said before, the outcome depends on the circumstances of the case.

Furthermore, the Ministry of Safety and Justice has published the so-called “*Tekstenbundel voor misdrijven, overtredingen en Mulder-gedragingen*” (latest version January 2012). In this document the Ministry has laid down target amounts. The target amounts indicate which sanction the police or the Public Prosecutor’s Service will impose in first instance with respect to offences for which an out-of-court settlement can be offered by the police respectively the Public Prosecutor’s Service. Please note that despite the fact that such settlement is offered out-of-court, the nature of the sanction is criminal and not an administrative fine. In special circumstances other amounts can be applied. Furthermore, in court the trial court judge can also decide otherwise. Section E. ‘Special acts’ contains a few target amounts for fines for offences included in the Wwg and the ‘*Regeling voertuigen*’ (Vehicle Regulation) (Rv) regarding the maximum mass and axle load. We have included the relevant ones in the scheme below:

Table NL5					
Load prescriptions	Law / article	Description	Author	Target amount	Sanction
	2.6 Wwg, 18 Rwg i.c.w. 5.18.17d and e, par 1 RV	Carrying out transport for own account or road haulage for reward (or having that carried out) while the maximum load of an/the axle(s) mentioned in the Dutch vehicle registration certificate or the vehicle registration register is exceeded	Everyone	€ 340,-	criminal



		<ul style="list-style-type: none"> <li>- with 10 – 15 %</li> <li>- 15 – 20 %</li> <li>- 20 – 25 %</li> <li>- &gt; 25 %</li> </ul>		<p>€ 500,-</p> <p>€ 700,-</p> <p>not specified</p>	
	<p>2.6 Wwg, 18 Rwg i.c.w. 5.18.17d par 2, 3 and e par 2 RV</p>	<p>Carrying out transport for own account or road haulage for reward (or having that carried out) while no value is mentioned on the vehicle registration certificate or in the vehicle registration register or the vehicle is not registered in Netherlands and the load of a/the axle(s) exceeds the value mentioned in the articles</p> <ul style="list-style-type: none"> <li>- with 10 – 15 %</li> <li>- 15 – 20 %</li> <li>- 20 – 25</li> <li>- %&gt; 25 %</li> </ul>	<p>Everyone</p>	<p>€ 340,-</p> <p>€ 500,-</p> <p>€ 700,-</p> <p>not specified</p>	<p>criminal</p>
	<p>2.6 Wwg, 18 Rwg i.c.w. 5.18.17a and b par 1 RV</p>	<p>Carrying out transport for own account or road haulage for reward (or having that carried out) while the maximum mass allowed in the Dutch vehicle registration certificate or the vehicle registration register is exceeded or the sum of the axle loads in loaded condition is more than the allowed maximum mass mentioned</p> <ul style="list-style-type: none"> <li>- with 10 – 15 %</li> <li>- 15 – 20 %</li> <li>- 20 – 25 %</li> <li>- &gt; 25 %</li> </ul>	<p>Everyone</p>	<p>€ 340,-</p> <p>€ 500,-</p> <p>€ 700,-</p> <p>not specified</p>	<p>criminal</p>

### 21.3.3 Directive 2009/40/EC

Directive 2009/40/EC of the European Parliament and of the Council of 6 May 2009 on roadworthiness tests for motor vehicles and their trailers imposes the obligation to all member states to conduct regular safety checks on vehicles. The '*Algemene Periodieke Keuring*' (APK) is the Dutch implementation of the periodic vehicle inspection required by the law in furtherance of road safety and for the protection of the environment.

#### Legal framework

The statutorily required inspection requirement is included in the '*Wegenverkeerswet 1994*' (Road Traffic Act 1994) (WvW 1994) and delegated rules, in particular in chapter V, titled 'the use of vehicles on the road'. Article 72 WvW 1994 prescribes that a test certificate has to be issued for every motor vehicle and trailer for which a licence plate number has been registered or should have been registered. This test certificate has to meet the requirements of the '*Rijksdienst voor het Wegverkeer*' ('Road Transport Directorate') (RDW), has to be valid and properly legible.

In case of violation the owner or holder of the vehicle/trailer is liable for this offence; in case the vehicle/trailer is 'on the road' the driver as well.

Article 74 prohibits to intentionally make use of a (false) test certificate not issued for the subject vehicle, as if that certificate was issued for the vehicle. The Road Traffic Act 1994 provides for settlement under criminal law with respect to offences that have been qualified as criminal offence.

The maximum penalty for violation of Article 74 WvW 1994 is a prison sentence of 3 months or a fine of the third category (€ 7.800,-) (article 167 paragraph 3 WvW 1994). Article 179 paragraph 2 WvW provides for the possibility to disqualify a person from driving for a maximum period of two years in case of violation of article 74 WvW.

Violation of article 72 paragraph 1 (no test certificate) and paragraph 2 (test certificate does not meet the requirements) WvW 1994 also qualifies as criminal

offence. The maximum penalty is two months custody or a fine of the second fine category (Article 177 paragraph 1 WvW 1994) (€ 3.900,-).

Those are the maximum penalties carried by the offences. However, the Ministry of Safety and Justice has published the so-called “*Tekstenbundel voor misdrijven, overtredingen en Mulder-gedragingen*” (latest version January 2012). In this document the Ministry has laid down target amounts. The target amounts indicate which sanction the police or the Public Prosecutor’s Service will impose in first instance with respect to offences for which an out-of-court settlement can be offered by the police respectively the Public Prosecutor’s Service. Please note that despite the fact that such settlement is offered out-of-court, the nature of the sanction is criminal and not an administrative fine. In special circumstances other amounts can be applied. Furthermore, in court the trial court judge can also decide otherwise. Section A. ‘Traffic on land’ in particular contains target amounts for traffic fines on the basis of the WvW 1994 and the ‘*Regeling voertuigen*’ (Vehicle Regulation) (Rv).

With respect to the violation of Article 72 paragraphs 1 and 2 of the WvW the following target amounts have been published for motor vehicles/trailers of > 3.500 kilos:

Table NL 6						
Periodic vehicle inspection	Law	Article	Description	Author	Target amount	Sanction
	WvW 1994	Art. 72 par. 1 WvW	No test certificate has been issued	Owner/holder, Driver	€ 390,-	criminal (Art. 177 WvW)
	WvW 1994	Art. 72 par. 2 WvW	The test certificate has lost its validity	Owner/holder, driver	€ 390,-	criminal (Art. 177 WvW)

### 21.3.4 Directive 2006/126/EC

Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences has not yet been implemented in Dutch law. In this respect the Amendment act of 26 January 2012 in amendment of the Road Traffic Act 1994 and the Driving Instruction (Motor Vehicle) Act 1993 is pending. The amendment act will enter into force per 19 January 2013.

However, the driver's licence requirement is included in the '*Wegenverkeerswet 1994*' (Road Traffic Act 1994) (WvW 1994). Article 107 paragraph 1 WvW 1994 prescribes that a driver's licence needs to be issued to the driver of a motor vehicle on the road by the competent authorities in order to drive motor vehicles of the category to which the motor vehicle belongs. Paragraph 2 prescribes that this driver's licence needs to meet the requirements set by ministerial regulation, has to be valid and properly legible.

In case of violation the offender is liable for this offence. The Road Traffic Act 1994 provides for settlement under criminal law with respect to offences that have been qualified as criminal offence.

Violation of Article 107 paragraph 1 (no licence) and paragraph 2 (licence does not meet requirements, has lost validity, is not properly legible) WvW 1994 also qualifies as criminal offence. The maximum penalty is two months custody or a fine of the second fine category (Article 177 paragraph 1 WvW 1994) (€ 3.900,-).

Those are the maximum penalties carried by the offences. However, the Ministry of Safety and Justice has published the so-called "*Tekstenbundel voor misdrijven, overtredingen en Mulder-gedragingen*" (latest version January 2012). In this document the Ministry has laid down target amounts. The target amounts indicate which sanction the police or the Public Prosecutor's Service will impose in first instance with respect to offences for which an out-of-court settlement can be offered by the police respectively the Public Prosecutor's Service. Please note that despite the fact that such settlement is offered out-of-court, the nature of the sanction is criminal and not an administrative fine. In special circumstances other amounts can be applied. Furthermore, in court the trial court judge can also decide otherwise.

Section A. 'Traffic on land' in particular contains target amounts for traffic fines on the basis of the WvW 1994 and the '*Regeling voertuigen*' (Vehicle Regulation) (Rv).

With respect to the violation of article 107 paragraphs 1 and 2 of the WvW the following target amounts have been published:

**Table NL7**

<b>Periodic vehicle inspection</b>	<b>Law</b>	<b>Article</b>	<b>Description</b>	<b>Author</b>	<b>Target amount</b>	<b>Sanction</b>
	WvW 1994	Art. 107 par. 1 WvW	Driving without driver's licence for the category to which the motor vehicle belongs	Driver	€ 330,-	criminal (art. 177 WvW)
	WvW 1994	Art. 107 par. 2 sub a WvW	Driver's licence does not meet requirements	Driver	€ 40,-	criminal (art. 177 WvW)
	WvW 1994	Art. 107 par. 2 sub b WvW	Driver's licence has lost validity (< 1 year)	Driver	€ 85,-	criminal (art. 177 WvW)
	WvW 1994	Art. 107 par. 2 sub b WvW	Driver's licence has lost validity (> 1 year)	Driver	€ 330,-	criminal (art. 177 WvW)
	WvW 1994	Art. 107 par. 2 sub c WvW	Driver's licence not properly legible	Driver	€ 85,-	criminal (art. 177 WvW)

	WvW 1994	Art. 107 par. 2 sub b WvW	Driver's licence has lost validity (limited period of validity)	Driver	€ 330,-	criminal  (art. 177 WvW)
--	-------------	---------------------------------	--	--------	---------	-----------------------------------

#### **21.4 Notion of criminal sanction and of administrative sanction in the Dutch legal system and brief notes on extraterritorial application of criminal law**

The general rules with respect to criminal sanctions have been laid down in Title II of Book 1 of the Dutch Criminal Code ('DCC'), titles '*Straffen*' (Sanctions), articles 9 – 36 DCC. Title IIA contains the criminal '*Maatregelen*' (Measures). Dogmatically, the distinction between criminal sanctions and measures, such as withdrawal from circulation and the confiscation order, is that sanctions can only be imposed in case the offence is considered to be legally proved and the accused has been declared subject to punishment for that. With respect to the sanctions Dutch criminal law distinguishes between principal and additional penalties (art. 9 DCC).

The principal sentences are:

1. Prison sentence ('*gevangenisstraf*');
2. (Short term) imprisonment ('*hechtenis*');
3. Community punishment ('*taakstraf*'); and
4. Fine ('*geldboete*');

Criminal sanctions have to be distinguished in custodial sanctions (prison sentence and short term imprisonment) and in pecuniary sanctions (fines). Custodial sanctions affect the freedom of the offender, fines affect his capital. As said, Dutch criminal law provides for general minimum sentences and specific maximum sentences for each criminal offence.

The possible additional sentences are:

1. Deprivation of certain rights (*'ontzetting van bepaalde rechten'*);
2. Confiscation (*'verbeurdverklaring'*);
3. Publication of the court decision (*'openbaarmaking van de rechterlijke uitspraak'*)

Criminal offences can be committed – and criminal sanctions can be imposed - to natural persons as well as to legal entities (Art. 51 DCC). In case it has been considered proved that the legal entity has committed the offence, also the natural persons who actually directed the punishable conduct can be prosecuted. Only pecuniary sentences can be imposed on legal entities.

Criminal sanctions are subject to the principle of legality. Indeed pursuant to Article 1 of the DCC: “No act is punishable unless it has so been defined by the law previously”. This principle of legality contains the *'lex certa'*-principle, the requirement that criminal law has to be in writing (*lex scripta*) and the ban of the interpretation by analogy and retrospective effect.

The statutory basis for enforcement under administrative law and administrative sanctions is the *'Algemene Wet Bestuursrecht'* (General Administrative Law Act). Chapter 5 of the *'Awb'* deals with enforcement and consists of four parts: general provisions (title 5.1), supervision of the compliance (title 5.2), remedial sanctions (order subject to administrative enforcement, the order subject to a penalty for non-compliance) (title 5.3) and the administrative fine (title 5.4). Administrative fines are the consequence of an administrative offence.

In respect of the delineation between the administrative and criminal sanction system, it has to be noted that the *'una via'*-principle applies. In some areas a choice has been made between administrative or criminal enforcement only. However, in many areas there is a dual enforcement: administrative sanctions for the less serious offences and criminal enforcement for the more serious infringements. Sometimes dualism is considered opportune in order to switch to criminal enforcement in case of recidivism. In that case the criminal sanction system tails the administrative enforcement. The *Awb* does not apply to the investigation, prosecution and execution of criminal offences. The criteria for the choice between the administrative and criminal sanction system have been laid down in a government memorandum of 2008. The effectiveness of the enforcement is starting point in the assessment framework. In broad



lines preference is given to an administrative sanction system in case of enforcement of specific norms which create specific legal relations between persons having rights and the administrative body ('closed context'). In case of the enforcement of general norms without a specific legal relationship ('open context') a criminal sanction system is point of departure. Contraindications can result in a different decision.

Both criminal and administrative offences are those actions that violate a rule that protects a public interest. Furthermore, in itself there is no fundamental criterion to distinguish between administrative offences and criminal offences<sup>69</sup>. It could be argued that the difference is formal, meaning that if an offence is enforced under administrative law it is an administrative offence and in case the offence is punishable under criminal law it is a criminal offence. However, criminal law is as a rule of course used for general offences and the more serious offences in the regulatory legislation, where it is used as *ultimum remedium*.

Criminal and administrative punitive sanctions have similarities as they both consist in the limitation of the rights of the offender, have a dissuasive effect, a punitive character and have to be proportional.

Article 5:2 paragraph 1 under a Awb contains the definition of the administrative sanction. An administrative sanction is an obligation or denied right imposed by an administrative authority for an offence. The Awb distinguishes between remedial and punitive sanctions such as the administrative fine. The principle of legality has also been laid down in the Awb. Other elements of legal protection in case of punitive administrative sanctions are the requirement of culpability and the right to remain silence and the fact that a caution has to be given in case a person is questioned in view of a punitive sanction to be imposed on him. After all, a punitive administrative sanction is considered a 'criminal charge'.

---

<sup>69</sup> Apart from the administrative punitive fine and the fine under criminal law, Dutch law makes provision for a 'intermediate form', the so-called '*strafbeschikking*'. We will not take this punishment order issued by a municipality's by the public prosecutor or another administrative body without court intervention, into consideration. The '*strafbeschikking*' comes under criminal law.

## **21.5 Scope of application of Dutch criminal law**

The general rules on the scope of application of Dutch criminal code have been laid down in the Articles 2-7 DCC. These provisions specify in which cases the Netherlands has established jurisdiction. Article 2 contains the principle of territoriality. The Dutch criminal statutes apply to any person who commits a criminal offence in the Netherlands. Article 3 prescribes that Dutch criminal law applies to any person who commits a criminal offence on board of a Dutch airplane or vessel outside Dutch territory. Article 3 DCC refers to a large number of criminal offences. Basis for jurisdiction of the Netherlands has to be found in the universality principle and/or obligations under international law. Article 4 DCC pertains to secondary jurisdiction. Article 5 DCC creates jurisdiction with respect to a large number of criminal offences when committed by Dutch nationals outside Dutch territory (active nationality principle). Article 5a DCC applies the active personality principle to foreign nationals with a permanent address in the Netherlands for crimes committed outside the Dutch territory. Article 6 and 7 DCC refer to serious offences involving abuse of office respectively maritime offences.

These are the general rules with respect to (extraterritorial) jurisdiction. Apart from that the sections concerning criminalization of a number of regulatory acts specifically provide for an extraterritorial effect of the Dutch criminal statutes. Article 11:1 of the Atw is an example of that (Working Hours Act).

## 21.6 Summary table

Below we provide an overview of the administrative sanctions foreseen in the Dutch legal system for the infringements of Regulation (EC) No 561/2006 and Regulation (EEC) No 3821/85. The information originates from and is based on:

- *‘Bijlage 1. Tarieflijst Boetenormbedragen Bestuurlijke Boete Wegvervoer (Boetecatalogus)’* (Schedule 1. Tariff list Standard amounts Administrative Fines Road Transport (*Fine catalogue*)).

Again, this schedule is an appendix to the recently amended *‘Beleidsregel bestuurlijke boeteoplegging Arbeidstijdenwet en Arbeidstijdenbesluit vervoer (wegvervoer)’* (Policy Regulation Atw and Atb-v). We have added a copy of this amended Policy regulation Atw and Atb-v and Schedules to this Dutch report in Dutch (enclosure 1).

We have translated the information in the Fine catalogue (Schedule 1). Some parts refer to the national legislation and the AETR-Convention. We have a.o. left out the second section about taxi’s which does not seem relevant for the subject study. The Fine catalogue relates to:

- \* Regulation (EC) No. 561/06;
- \* Regulation (EEC) No. 3821/85.

The sanctions have been included in the Atb-v which is based on the Atw. We have not added a final column about the criminal sanction system, which tails (and does not overlap) the administrative sanction system. Information about the criminal sanction system is provided above. We refer to this explanation. We have however translated the Articles 10: 1 of the Atw and 11:3 paragraph 1 of the Atw. This makes it easy to check whether a specific provision from the Atw or delegated rules based on that provision has/have been qualified as administrative offence in case of a ‘repeated recidivism’:

**Chapter 10. ‘Administrative enforcement’, paragraph 10.1 ‘Offences’, section ‘designation offences’, Article 10:1 Atw reads:**

*“As offence is considered non-compliance with the articles 3:2, first and fourth paragraph, 3:3, second paragraph, 3:4, 3:5 first paragraph, 4:1 sixth paragraph, 4:3 first paragraph, 4:6, 5:3 first and second paragraph, 5:4 first paragraph, 5:5 first and second paragraph, 5:7 first and second paragraph, 5:8 first up to and including fifth, seventh and, ninth paragraph, 5:9 first up to and including seventh paragraph, 5:14 third paragraph, 5:15 seventh paragraph, 5:16, first paragraph insofar non-compliance with this paragraph constitutes an offence, 8:6, second paragraph, as well as – as far as designated as offences – the rules pursuant to the articles 2:7 paragraph 1, 4:3 second up to and including fourth paragraph, 5:12, first and second paragraph, 8:1 fifth paragraph and 9:2, first paragraph, with respect to the use of means for the installing, inspecting or repairing of equipment as meant in article 9:1, paragraph 1.”*

**Chapter 11. ‘Criminalization and provision connected to that’, section ‘penal provisions’, Article 11:3 paragraph 1 of the Atw reads as follows:**

*“Non-compliance of a provision, mentioned in article 10:1 is considered a criminal offence in case two times within a preceding period of 48 months, with maximum intervening periods of 24 months, before the day of the observance of the finable offence an administrative fine has been imposed for a finable offence existing of non-compliance of a similar obligation which has become final and conclusive, except as provided for by order in council”.*

Schedule 1: Tariff list standard amounts of fines road transport (Fine catalogue)

Fine catalogue

version 2012

[...]

MI = Minor offence € 0 - € 199

SI = Serious Infringement € 200 - € 549

VSI = Very Serious Infringement  $\geq$  € 550

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>1. DUTY TO RETAIN</b>									
<b>A 4.3 (1)</b>	Atw	4:3 par. 1		Not keeping a proper registration by the employer or person meant in art. 2:7 par 1 with respect to working and rest hours which makes supervision of compliance with the act and delegated regulations possible	No weekly statement, record sheet, duty roster, print-out, download data discovered in administration Per driver, per day	Employer / self-employed person	€ 4.400,-	No	Yes
<b>B 2.4:1 (1)</b>	Atb-v	2.4:1 par. 1	Art. 4:3 Atw	Not keeping an original proper registration for at least 104 weeks (such as workbook, duty roster, data board computer taxi)	Per driver, per day	Employer / self-employed person	€ 4.400,-	No	Yes
<b>B 2.4:1 (1a)</b>	Atb-v	2.4:1 par. 2	Art. 14 par 2 Reg. (EEC) No. 3821/85	Not keeping an original proper registration for at least 52 weeks (tachograph)	Per driver, per day	Employer / self-employed person	€ 4.400,-	No	Yes
<b>B 2.4:1 (1b)</b>	Atb-v	2.4:1 par. 2	Art. 14 par 2 Reg. (EEC) No. 3821/85	The record sheets, print-outs, and transferred data have not been submitted or handed over upon	Per driver, per day	Employer / self-employed person	€ 4.400,-	No	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
				request of the control officer (art. 14 par. 2 Reg. (EEC) No. 3821/85					
<b>B 2.4:1 (2)</b>	Atb-v	2.4:1 par. 3	Art. 6 par 5 Reg. (EC) No. 561/2006	Other work has not been registered		Employer / self-employed person	€ 550,-	Yes	Yes
<b>B 2.4:1 (2a)</b>	Atb-v	2.4:1 par 4	Art. 10 par 5 Reg. (EC) No. 561/2006	Employer or self-employed person have not kept the original data downloaded from the vehicle unit and/or driver card during 12 months	Per driver, per day	Employer / self-employed person	€ 4.400,-	No	Yes
<b>B 2.4:1 (2b)</b>	Atb-v	2.4:1 par 5		Employee has not kept the registration data and documents (with respect to art. 4:3 Atw) during his work until the time of handing over to the employer		Employer / self-employed person	€ 550,-	No	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
B 2.4:1 (4)	Atb-v	2.4:1 par 6	Art. 11 par 2 Regulation tachograph cards	Employer / self-employed person have not transferred the data on the driver card to the work place every 3 weeks	Downloading driver card	Employer / self-employed person	€ 1.100,-	No	Yes
2.4:1 (5)	Atb-v	2.4:1 par 6	Art. 11 par 1 Regulation tachograph cards	Employer / self-employed person have not transferred the data from the vehicle unit to the work place every 3 months	Download vehicle unit	Employer / self-employed person	€ 2.200,-	No	Yes
<b>2. TAXI</b>									
<i>Not translated (not relevant)</i>									
<b>3. DUTY ROSTER</b>									
B 2.4:3 (1)	Atb-v	2:4:3 par 1	Art. 4 par 1 Regulation duty roster Art. 16 par 2 Reg. (EC) No. 561/2006	Not having drawn up a duty roster		Employer / self-employed person	€ 4.400,-	Yes	Yes
B 2.4:3 (2)	Atb-v	2.4:3 par 3	Art. 4 par 1 Regulation duty	Non-compliance prescriptions duty roster	Not containing name, work	Employer / self-employed	€ 200,-	Yes	Yes



Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
			roster Art. 16 par 2 Reg. (EC) No. 561/2006		location and drawn up roster	person			
<b>B 2.4:3 (3)</b>	Atb-v	2.4:3 par 3	Art. 4 par 1 Regulation duty roster Art. 16 par 3a Reg. (EC) No. 561/2006	Non-compliance prescriptions duty roster	Duty roster does not contain the information as meant in art. 16 par 3a of the Reg. (EC) No. 561/2006 and the data of the present day	Employer / self-employed person	€ 200,-	Yes	Yes
<b>B.2:3 (4)</b>	Atb-v	2.4:3 par 3	Art. 4 par 1 Regulation duty roster Art. 16 par 3b Reg. (EC) No. 561/2006	Non-compliance prescriptions duty roster	Duty roster is not signed by the head of the undertaking or his authorized representative	Employer / self-employed person	€ 200,-	No	No

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
B 2.4:3 (6)	Atb-v	2.4:3 par 3	Art. 4 par 1 Regulation duty roster Art. 16 par 2 Reg. (EC) No. 561/2006	Non-compliance prescriptions duty roster	Not having a duty roster / service time table	Employer / self-employed person	€ 550,-	Yes	No
B 2.4:3 (7)	Atb-v	2.4:3 par 3	Art. 4 par 1 Regulation duty roster Art. 16 par 3c Reg. (EC) No. 561/2006 and considering also art. 4.3 Atw	Not keeping a duty roster after the expiry of the subject period of one year		Employer / self-employed person	€ 4.400,-	No	Yes
<b>4. MISUSE RECORDING EQUIPMENT</b>									
B 2.4:4 (1)	Atb-v	2.4:4 sub a		Recording equipment making incorrect data or incorrect notes in or on having such incorrect data or notes made or allowing those to be		Employer / self-employed employee	€ 1.300,- € 550,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
				made					
<b>B 2.4:4 (2)</b>	Atb-v	2.4:4 sub b		Recording equipment making changes in or on having those made or allowing those to be made in previous data or notes making those illegible or having those made illegible or allowing those to be made illegible		Employer / self-employed employee	€ 1.300,- € 550,-	Yes	Yes
<b>B 2.4:4 (3)</b>	Atb-v	2.4:4 sub c		Recording equipment causing to be lost wholly or in part or making recording equipments faulty, having those made faulty, hiding recording equipments or having those hide or allowing that those are being lost made faulty, destroyed or hidden		Employer / self-employed employee	€ 1.300,- € 550,-	Yes	Yes
<b>B 2.4:4 (4)</b>	Atb-v	2.4:4 sub d		Making use of recording equipment on or in which incorrect data have been made, changes have been		Employer / self-employed employee	€ 1.300,- € 550,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
				made in the notes or on or in which data have been made illegible					
<b>B 2.4:4 (9)</b>	Atb-v	2.4:4 sub e		Using a driver card, workshop card, or company card which is not in his name, with the exemption of a company card of an employer which is used by an employee		Employer / self-employed employee	€ 1.300,- € 550,-	Yes	Yes
<b>B 2.4:4 (11)</b>	Atb-v	2.4:4 sub f		Having an equipment present in the vehicle which can be applied for the use as meant in the sections a up to and including e (of art. 2.4:4)		Employer / self-employed employee	€ 1.300,- € 550,-	Yes	Yes
<b>B 2.4:4 10b)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 14 par 4 Reg. (EEC) No. 3281/85/AETR	Making use of another driver card than the valid driver card of the driver		Employer / self-employed employee	€ 1.300,- € 550,-	Yes	Yes
<b>B 2.4:5 (38)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 8 Reg. (EEC) No. 3281/85/AETR	Falsifying, leaving out or destroying data which is registered on the record sheets and saved in the recording equipment or on the		Employer / self-employed employee	€ 1.300,- € 550,-	Yes	No

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
				driver card or print-outs of the recording equipment					
<b>B 2.4:5 (39)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 8 Reg. (EEC) No. 3281/85/AETR	Manipulation of the recording equipment, the record sheet or the driver card which can have as effect that the data and/or print-outs are falsified		Employer / self-employed employee	€ 1.300,- € 550,-	Yes	No
<b>B 2.4:5 (40)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 8 Reg. (EEC) No. 3281/85/AETR	Having the means for manipulation present in the vehicle (switch/wire etc.) which can be used to falsify data and/or information on print-outs		Employer / self-employed person / employee	€ 1.300,- € 550,-	Yes	No
<b>5. INSTALLATION AND USE TACHOGRAPH</b>									
<b>B 2.4:5 (1)</b>	Atb-v	2.4:13 par 1	Art. 45 Regulation recording equipment 2005	Recording equipment	Not taking care of the fact that the recording equipment is equipped with seals	Employer / self-employed person	€ 2.200,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
					(re: 1 <sup>st</sup> installation)				
<b>B 2.4:5 (1a)</b>	Atb-v	2.4:13 par 1	Art. 45 Regulation recording equipment 2005	Recording equipment	Not taking care of the fact that the recording equipment is equipment wit an installation plate (re: 1 <sup>st</sup> installation)	Employer / self-employed person	€ 200,-	Yes	Yes
<b>B 2.4:5 (2)</b>	Atb-v	2.4:13 par 1	Art. 45 Regulation recording equipment 2005	Recording equipment	Not taking care of the fact that recording equipment has been installed	Employer / self-employed person	€ 2.200,-	Yes	Yes
<b>B 2.4:5 (3)</b>	Atb-v	2.4:13 par 1	Art. 46 Regulation recording equipment 2005	Recording equipment	Not taking care of the fact that the recording equipment is inspected within 2 years or that has	Employer / self-employed person	€ 200,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
					been equipped with an installation plate after inspection				
<b>B 2.4:5 (3a)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 1 Reg. (EEC) No. 3281/85 i.c.w. enclosure 1 chapter 6 under 3b or art. 10 AETR i.c.w. Enclosure - Appendix 1 chapter VI under 3b	Recording equipment (analog)	Not taking care of the fact that the recording equipment is inspected within 6 years	Employer / self-employed person	€ 200,-	Yes	No
<b>B 2.4:5 (3b)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 1 Reg. (EEC) No. 3821/85 i.c.w. enclosure 1B chapter VI under 4	Recording equipment (digital)	Not taking care of the fact that the recording equipment is inspected within 2 years or is	Employer / self-employed person	€ 200,-	Yes	No

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
					provided with an installation plate after inspection				
<b>B 2.4:5 (4)</b>	Atb-v	2.4:13 par 1	Art. 46 Regulation recording equipment 2005	Recording equipment	Not taking care of the fact that the seals stay unaltered and intact or that after the breaking of the seals the tachograph is inspected	Employer / self-employed person	€ 2.200,-	Yes	Yes
<b>B 2.4:5 (4a)</b>	Atb-v	2.4:13 par 1	Art. 46 under b Regulation recording equipment 2005	Recording equipment	Not taking care of the fact that the recording equipment is inspected after changes to the motor vehicle as a consequence of	Employer / self-employed person	€ 200,-	Yes	Yes



Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
					which the kilometre pulsecount and the circumference of the tyres have been affected.				
<b>B 2.4:5 (6)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 1 and 13 Reg. (EEC) No. 3821/85/AETR	Correct working and use recording equipment and driver card		Employer / self-employed person	€ 2.200,-	Yes	Yes
<b>B 2.4:5 (7a)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 13 Reg. (EEC) No. 3821/85/AETR	The recording equipment does not function correctly. The settings are not correct, but the registration of driving and rest times is correct		Employer / self-employed person	€ 200,-	Yes	Yes
<b>B 2.4:5 (7)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 14 par 1 Reg. (EEC) No. 3821/85/AETR	Not having issued a sufficient number of record sheets		Employer / self-employed person	€ 200,-	Yes	No
<b>B 2.4:5 (8)</b>	Atb-v	2.4:13	Art. 14 par 1	The model of the record sheet is		Employer /	€ 200,-	No	No

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
		par 2 or par 5	Reg. (EEC) No. 3821/85/AETR	not approved		self-employed person			
<b>B 2.4:5 (9)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 14 par 1 Reg. (EEC) No. 3821/85/AETR	Not enough paper for print-outs		Employer / self-employed person	€ 200,-	Yes	No
<b>B 2.4:5 (10)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 14 par 4 Reg. (EEC) No. 3821/85/AETR	The driver has more than one valid driver card		Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (11)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 14 par 4 Reg. (EEC) No. 3821/85/AETR	Use of a defect or expired driver card		Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (11a)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 1 Reg. (EEC) No. 3821/85/AETR	Use of dirty or damaged record sheets or driver cards with legible data		Driver	€ 100,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>B 2.4:5 (11b)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 1 Reg. (EEC) No. 3821/85/AETR	Use of dirty or damaged registrations sheets or driver cards with illegible data		Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (11c)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 1 Reg. (EEC) No. 3821/85/AETR	Not requested for a replacement of a damaged, dysfunctional, lost or stolen driver card within 7 calendar days		Driver	€ 200,-	Yes	Yes
<b>B 2.4:5 (12)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 2 Reg. (EEC) No. 3281/85 or art. 10 AETR i.c.w. chapter III, art. 12 par 2 of the Enclosure	Use record sheet	Not making use of a record sheet	Driver	€ 1.100,-	Yes	Yes
<b>B 2.4:5 (12a)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 2 Reg. (EEC) No. 3281/85 or art. 10 AETR i.c.w.	Use a driver card	Not making use of a driver card. A driver card is provided	Driver	€ 1.100,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
			chapter III, art. 12 par 2 of the Enclosure						
<b>B 2.4:5 (13)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 2 Reg. (EEC) No. 3821/85/AETR	Incorrect use of record sheets / driver cards		Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (14)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 2 Reg. (EEC) No. 3821/85/AETR	Unauthorized withdrawal of record sheets or driver cards with consequences for the data registered	Record sheet or driver card has been withdrawn unauthorized before the end of the daily working period from the tachograph	Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (15)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 2 Reg. (EEC) No. 3821/85/AETR	Unauthorized removal of registration sheets or driver cards without consequences for the registered data	Registration sheet or driver card has been withdrawn unauthorized	Driver	€ 100,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
					before the end of the daily working period from the tachograph				
<b>B 2.4:5 (16)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 2 Reg. (EEC) No. 3821/85/AETR	The record sheet is used during a longer time than for which it is designated (no data lost)		Driver	€ 100,-	Yes	Yes
<b>B 2.4:5 (17)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 2 Reg. (EEC) No. 3821/85/AETR	The record sheet is used during a longer period than for which it is designated (data has been lost)		Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (18)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 2 Reg. (EEC) No. 3821/85/AETR	No manual input when this is required		Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (19)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 2 Reg. (EEC) No.	The sheet or driver card have not been used in the correct slot (multi-manning)		Driver	€ 1.100,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
			3821/85/AETR						
<b>B 2.4:5 (20)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 3 Reg. (EEC) No. 3821/85/AETR	The time indication on the sheet does not match the official time of the country of registration of the vehicle		Driver	€ 200,-	Yes	Yes
<b>B 2.4:5 (21)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 3 Reg. (EEC) No. 3821/85/AETR	Incorrect use of switch mechanisms		Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (22)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 5 Reg. (EEC) No. 3821/85/AETR	Family name is missing on the record sheet		Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (23)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 5 Reg. (EEC) No. 3821/85/AETR	Surname is missing on the record sheet		Driver	€ 550,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
B 2.4:5 (24)	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 5 Reg. (EEC) No. 3821/85/AETR	Date at the beginning or the end of the use of the sheet is missing		Driver	€ 200,-	Yes	Yes
B 2.4:5 (25)	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 5 Reg. (EEC) No. 3821/85/AETR	The place at the beginning or the end of the use of the sheet is missing		Driver	€ 100,-	Yes	Yes
B 2.4:5 (26)	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 5 Reg. (EEC) No. 3821/85/AETR	Number plate is missing on the record sheet		Driver	€ 100,-	Yes	Yes
B 2.4:5 (27)	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 5 Reg. (EEC) No. 3821/85/AETR	The odometer reading (for the first drive which is registered on the record sheet) is missing on the record sheet		Driver	€ 200,-	Yes	
B 2.4:5 (28)	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 5 Reg. (EEC) No.	The odometer reading (at the end of the last drive which is registered on the record sheet) is missing on		Driver	€ 100,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
			3821/85/AETR	the record sheet					
<b>B 2.4:5 (29)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 5 Reg. (EEC) No. 3821/85/AETR	The time on which the vehicle has been changed has been missing on the record sheet		Driver	€ 100,-	Yes	Yes
<b>B 2.4:5 (30)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 5 bis Reg. (EEC) No. 3821/85/AETR	The country symbol (country of beginning or country of destination) has not been entered into the recording equipment		Driver	€ 100,-	Yes	Yes
<b>6. THE PRESENTATION OF INFORMATION</b>									
<b>B 2.4:5 (32)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 15 par 7 Reg. (EEC) No. 3821/85/AETR	Not being capable to present the record sheets, print-outs, manual registration data, data driver card of the day itself and the preceding 28 days		Driver	€ 550,-	Yes	Yes
<b>7. DEFECT</b>									
<b>B 2.4:5 (41)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 16 par 1 Reg. (EEC) No.	Not repaired by an approved fitter or workshop		Employer / self-employed person	€ 2.200,-	Yes	Yes



Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
			3821/85/AETR						
<b>B 2.4:5 (42)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 16 par 1 Reg. (EEC) No. 3821/85/AETR	Not repaired en route		Employer / self-employed person	€ 200,-	Yes	Yes
<b>8. MANUAL INPUT ON PRINT-OUTS</b>									
<b>B 2.4:5 (43)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 16 par 2 Reg. (EEC) No. 3821/85/AETR	The driver has not marked all information for the various periods of time which is not recorded correctly by the equipment		Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (44)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 16 par 2 Reg. (EEC) No. 3821/85/AETR	The number of the driver card and/or name of the driver and/or the number of the driver's licence are missing on the temporary sheet		Driver	€ 550,-	Yes	Yes
<b>B 2.4:5 (45)</b>	Atb-v	2.4:13 par 2 or par 5	Art. 16 par 2 Reg. (EEC) No. 3821/85/AETR	The signature is missing on the temporary sheet		Driver	€ 200,-	Yes	Yes
<b>B 2.4:5</b>	Atb-v	2.4:13	Art. 16 par 3	The loss or theft of the driver card		Driver	€ 550,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
(46)		par 2 or par 5	Reg. (EEC) No. 3821/85/AETR	has not formally been reported to the competent authorities					
<b>B 2.4:8 (1)</b>	Atb-v	2.4:8		Use driver card	Not making use of a driver card in case no driver card has been provided to the driver	Employer / self-employed person	€ 2.200,-	Yes	Yes
<b>B 2.4:9 (1)</b>	Atb-v	2.4:9		Use workplace card	Improper use workplace card	Employer / self-employed person/ approval holder	€ 1.100,-	Yes	Yes
<b>B 2.4:10 (1)</b>	Atb-v	2.4:10		Use company card	Improper use company card	Employer / self-employed person	€ 550,-	Yes	Yes
<b>B 2.4:11 (1)</b>	Atb-v	2.4:11 par 3		Replacement tachograph card	Not reporting loss or theft of tachograph card	Employer / self-employed person	€ 200,-	No	No
<b>9. REGULATION TACHOGRAPH CARDS</b>									

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
B 2.4:13 (1)	Atb-v	2.4:13 par 1 or par 5	Art. 10 par 1 Regulation tachograph cards or art. 10 AETR i.c.w. chapter III, art. 13 par 2 of the Enclosure	In case of loss, theft or defect driver card no additional information on print-out		Driver	€ 550,-	Yes	Yes
B 2.4:13 (2)	Atb-v	2.4:13 par 1 or par 5	Art. 10 par 2 Regulation tachograph cards or art. 10 AETR i.c.w. chapter III, art. 12 par 2 of the Enclosure	Not taking care of manual entry on the driver card		Driver	€ 550,-	Yes	Yes
B 2.4:13 (3)	Atb-v	2.4:13 par 1 or par 5	Art. 10 par 3 Regulation tachograph cards or art. 10 AETR i.c.w. chapter III,	Not taking care of manual notes on the print-outs in case of loss, theft or a defect driver card		Driver	€ 550,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
			art. 13 par 2 of the Enclosure						
<b>B 2.4:13 (4)</b>	Atb-v	2.4:13 par 1	Art. 10 par 4 Regulation tachograph cards	Not taking care of the fact that the driver card is put in the correct slot		Driver	€ 1.100,-	Yes	Yes
<b>10. REGULATION 2135/98</b>									
B 2.4:13 (5)	Atb-v	2.4:13 par 4	Art. 2 par 1 Reg. (EEC) No. 2135/98	Fitted with recording equipment of Annex IB		Employer / self-employed person	120€ 2.200,-	Yes	Yes
B 2.4:13 (6)	Atb-v	2.4:13 par 4	Art. 2 par 1 Reg. (EEC) No. 2135/98	Replacement by a recording equipment of Annex 1B		Employer / self-employed person	€ 2.200,-	Yes	Yes
<b>11. REGULATION RECORDING EQUIPMENT 2005</b>									
<i>Not translated (not relevant)</i>									
<b>12. DRIVING TIMES AND REST PERIODS</b>									
<b>INSUFFICIENT DAILY REST PERIOD OF LESS THAN 11 HOURS, IN CASE A REDUCTION OF THE DAILY REST PERIOD IS NOT ALLOWED</b>									
<b>B 2.5:1 (1)</b>	Atb-v	2.5:1 par 2	Art. 8 par 2 Reg. (EC) No.	Insufficient daily rest period of less than 11 hours, in case a reduction of the daily rest period is not	Less than 11 hours	Employer / self-employed person	€ 100,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
			561/2006/AETR	allowed					
<b>B 2.5:1 (2)</b>	Atb-v	2.5:1 par 2	Art. 8 par 2 Reg. (EC) No. 561/2006/AETR	Insufficient daily rest period of less than 11 hours, in case a reduction of the daily period time is not allowed	Less than 10 hours	Employer / self-employed person	€ 200,-	Yes	Yes
<b>B 2.5:1 (3)</b>	Atb-v	2.5:1 par 2	Art. 8 par 2 Reg. (EC) No. 561/2006/AETR	Insufficient daily rest period of less than 11 hours, in case a reduction of the daily rest period is not allowed	Less than 8 hours 30	Employer / self-employed person	€ 550,- + € 100,- for each additional missing hour	Yes	Yes
<b>INSUFFICIENT DAILY REST PERIOD OF LESS THAN 9 HOURS, IN CASE A REDUCTION IS ALLOWED</b>									
<b>B 2.5:1 (4)</b>	Atb-v	2.5:1 par 2	Art. 8 par 2 Reg. (EC) No. 561/2006/AETR	Insufficient daily rest period of less than 9 hours, in case a reduction is allowed	Less than 9 hours	Employer / self-employed person	€ 100,-	Yes	Yes
<b>B 2.5:1 (5)</b>	Atb-v	2.5:1 par 2	Art. 8 par 2 Reg. (EC) No. 561/2006/AETR	Insufficient daily rest period of less than 9 hours, in case a reduction is allowed	Less than 8 hours	Employer / self-employed person	€ 200,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>B 2.5:1 (6)</b>	Atb-v	2.5:1 par 2	Art. 8 par 2 Reg. (EC) No. 561/2006/AETR	Insufficient daily rest time of less than 9 hours, in case a reduction is allowed	Less than 7 hours	Employer / self-employed person	€ 550,- + € 100,- for each additional hour	Yes	Yes
<b>INSUFFICIENT DAILY REST PERIOD OF LESS THAN 9 HOURS (MULTI-MANNING)</b>									
<b>B 2.5:1 (10)</b>	Atb-v	2.5:1 par 2	Art. 8 par 5 Reg. (EC) No. 561/2006/AETR	Insufficient daily rest period of less than 9 hours (multi-manning)	Less than 9 hours	Employer / self-employed person	€ 100,-	Yes	Yes
<b>B 2.5:1 (11)</b>	Atb-v	2.5:1 par 2	Art. 8 par 5 Reg. (EC) No. 561/2006/AETR	Insufficient daily rest period of less than 9 hours (multi-manning)	Less than 8 hours	Employer / self-employed person	€ 200,-	Yes	Yes
<b>B 2.5:1 (12)</b>	Atb-v	2.5:1 par 2	Art. 8 par 5 Reg. (EC) No. 561/2006/AETR	Insufficient daily rest period of less than 9 hours (multi-manning)	Less than 7 hours	Employer / self-employed person	€ 550,- + € 100,- for each additional hour	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>INSUFFICIENT REDUCED WEEKLY REST PERIOD OF LESS THAN 24 HOURS</b>									
<b>B 2.5:1 (13)</b>	Atb-v	2.5:1 par 2	Art. 8 par 6 Reg. (EC) No. 561/2006/AETR	Insufficient reduced weekly rest period of less than 24 hours	Less than 24 hours	Employer / self-employed person	€ 100,-	Yes	Yes
<b>B 2.5:1 (14)</b>	Atb-v	2.5:1 par 2	Art. 8 par 6 Reg. (EC) No. 561/2006/AETR	Insufficient reduced weekly rest period of less than 24 hours	Less than 22 hours	Employer / self-employed person	€ 200,-	Yes	Yes
<b>B 2.5:1 (15)</b>	Atb-v	2.5:1 par 2	Art. 8 par 6 Reg. (EC) No. 561/2006/AETR	Insufficient reduced weekly rest period of less than 24 hours	Less than 20 hours	Employer / self-employed person	€ 550,- + € 100,- for each additional hour with a maximum of € 1.000,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>INSUFFICIENT WEEKLY REST PERIOD OF 45 HOURS , IN CASE A REDUCTION OF THE WEEKLY REST PERIOD IS NOT ALLOWED</b>									
<b>B 2.5:1 (16)</b>	Atb-v	2.5:1 par 2	Art. 8 par 6 Reg. (EC) No. 561/2006/AETR	Insufficient weekly rest period of less than 45 hours, in case a reduction of the weekly rest period is not allowed	Less than 45 hours	Employer / self-employed person	€ 100,-	Yes	Yes
<b>B 2.5:1 (17)</b>	Atb-v	2.5:1 par 2	Art. 8 par 6 Reg. (EC) No. 561/2006/AETR	Insufficient weekly rest period of less than 45 hours, in case a reduction of the weekly rest period is not allowed	Less than 42 hours	Employer / self-employed person	€ 200,-	Yes	Yes
<b>B 2.5:1 (18)</b>	Atb-v	2.5:1 par 2	Art. 8 par 6 Reg. (EC) No. 561/2006/AETR	Insufficient weekly rest period of less than 45 hours, in case a reduction of the weekly rest period is not allowed	Less than 36 hours	Employer / self-employed person	€ 550,- + € 100,- for each additional hour with a maximum of € 1.000,-	Yes	Yes
<b>MORE THAN 6 TIMES 24 HOURS BETWEEN WEEKLY REST PERIODS</b>									
<b>B 2.5:1 (19)</b>	Atb-v	2.5:1 par 2	Art. 8 par 6 Reg. (EC)	More than 6 times 24 hours between weekly rest periods	Up to + 12 hours	Employer / self-employed	€ 100,-	Yes	Yes



Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
			No. 561/2006/AETR			person			
<b>B 2.5:1 (20)</b>	Atb-v	2.5:1 par 2	Art. 8 par 6 Reg. (EC) No. 561/2006/AETR	More than 6 times 24 hours between weekly rest periods	Up to + 24 hours	Employer / self-employed person	€ 200,-	Yes	Yes
<b>B 2.5:1 (21)</b>	Atb-v	2.5:1 par 2	Art. 8 par 6 Reg. (EC) No. 561/2006/AETR	More than 6 times 24 hours between weekly rest periods	More than 24 hours	Employer / self-employed person	€ 550,- + € 100,- for each additional hour with a maximum of € 1.000,-	Yes	Yes
<b>EXCEEDING THE DAILY DRIVING TIME OF 9 HOURS, IN CASE AN EXTENSION UP TO 10 HOURS IS NOT ALLOWED</b>									
<b>B 2.5:3 (1)</b>	Atb-v	2.5:3	Art. 6 par 1 Reg. (EC) No. 561/2006/AETR	Exceeding the daily driving time of 9 hours, in case an extension to 10 hours is not allowed	More than 9 hours	Employer / self-employed person	€ 100,-	Yes	Yes

**Table NL8**

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>B 2.5:3 (2)</b>	Atb-v	2.5:3	Art. 6 par 1 Reg. (EC) No. 561/2006/AETR	Exceeding the daily driving time of 9 hours, in case an extension to 10 hours is not allowed	More than 10 hours	Employer / self-employed person	€ 200,-	Yes	Yes
<b>B 2.5:3 (3)</b>	Atb-v	2.5:3	Art. 6 par 1 Reg. (EC) No. 561/2006/AETR	Exceeding the daily driving time of 9 hours, in case an extension to 10 hours is not allowed	More than 11 hours	Employer / self-employed person	€ 550,- + € 100,- for each additional hour with a maximum of € 1.350,-	Yes	Yes
<b>EXCEEDING THE DAILY DRIVING TIME OF 10 HOURS, IN CASE AN EXTENSION IS ALLOWED</b>									
<b>B 2.5:3 (4)</b>	Atb-v	2.5:3	Art. 6 par 1 Reg. (EC) No. 561/2006/AETR	Exceeding the daily driving time of 10 hours, in case an extension is allowed	More than 10 hours	Employer / self-employed person	€ 100,-	Yes	Yes
<b>B 2.5:3 (5)</b>	Atb-v	2.5:3	Art. 6 par 1 Reg. (EC) No.	Exceeding the daily driving time of 10 hours, in case an extension is allowed	More than 11 hours	Employer / self-employed person	€ 200,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
			561/2006/AETR						
<b>B 2.5:3 (6)</b>	Atb-v	2.5:3	Art. 6 par 1 Reg. (EC) No. 561/2006/AETR	Exceeding the daily driving time of 10 hours, in case an extension is allowed	More than 12 hours	Employer / self-employed person	€ 550,- + € 100,- for each additional hour with a maximum of € 1.350,-	Yes	Yes
<b>EXCEEDING THE WEEKLY DRIVING TIME</b>									
<b>B 2.5:3 (7)</b>	Atb-v	2.5:3	Art. 6 par 2 Reg. (EC) No. 561/2006/AETR	Exceeding the weekly driving time	More than 56 hours	Employer / self-employed person	€ 100,-	Yes	Yes
<b>B 2.5:3 (8)</b>	Atb-v	2.5:3	Art. 6 par 2 Reg. (EC) No. 561/2006/AETR	Exceeding the weekly driving time	More than 60 hours	Employer / self-employed person	€ 200,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>B 2.5:3 (9)</b>	Atb-v	2.5:3	Art. 6 par 2 Reg. (EC) No. 561/2006/AETR	Exceeding the weekly driving time	More than 70 hours	Employer / self-employed person	€ 550,-	Yes	Yes
<b>EXCEEDING THE BI-WEEKLY DRIVING</b>									
<b>B 2.5:3 (10)</b>	Atb-v	2.5:3	Art. 6 par 3 Reg. (EC) No. 561/2006/AETR	Exceeding the bi-weekly driving time	More than 90 hours	Employer / self-employed person	€ 100,-	Yes	Yes
<b>B 2.5:3 (11)</b>	Atb-v	2.5:3	Art. 6 par 3 Reg. (EC) No. 561/2006/AETR	Exceeding the bi-weekly driving time	More than 100 hours	Employer / self-employed person	€ 200,-	Yes	Yes
<b>B 2.5:3 (12)</b>	Atb-v	2.5:3	Art. 6 par 3 Reg. (EC) No. 561/2006/AETR	Exceeding the bi-weekly driving time	More than 112 hours 30	Employer / self-employed person	€ 550,-	Yes	Yes
<b>EXCEEDING THE UNINTERRUPTED DRIVING TIME</b>									
<b>2.5:6 (1)</b>	Atb-v	2.5:6 par	Art. 7	Exceeding the uninterrupted	More than 4 hours	Employer /	€ 100,-	Yes	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
		2	Reg. (EC) No. 561/2006/AETR	driving time	30	self-employed person			
<b>2.5:6 (2)</b>	Atb-v	2.5:6 par 2	Art. 7 Reg. (EC) No. 561/2006/AETR	Exceeding the uninterrupted driving time	More than 5 hours	Employer / self-employed person	€ 200,-	Yes	Yes
<b>2.5:6 (3)</b>	Atb-v	2.5:6 par 2	Art. 7 Reg. (EC) No. 561/2006/AETR	Exceeding the uninterrupted driving time	More than 6 hours	Employer / self-employed person	€ 550,- + € 100,- for each additional hour with a maximum of € 1.950,-	Yes	Yes
<b>13. BREAKS</b>									
<b>B 2.5:6 (7)</b>	Atb-v	2.5:6 par 1	Art. 5 :4 par 2 and 3 Atw	Break	Organisation work	Employer / self-employed person	€ 100,-	No	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>B 2.5:6 (8)</b>	Atb-v	2.5:6 par 3a	Reg. (EC) No. 561/2006 + other activities	Longer than 6 hours without break	Organisation work	Employer / self-employed person	€ 100,-	No	Yes
<b>B 2.5:6 (9)</b>	Atb-v	2.5:6 par 3b	Reg. (EC) No. 561/2006 + other activities	No 30 minutes (or 2x 15 minutes break) during 6 up to and including 9 hours work	Organisation work	Employer / self-employed person	€ 100,-	No	Yes
<b>B 2.5:6 (10)</b>	Atb-v	2.5:6 par 3c	Reg. (EC) No. 561/2006 + other activities	No 45 minutes (or 3x 15 minutes break) during more than 9 hours work	Break	Employer / self-employed person	€ 100,-	No	Yes
<b>14. NIGHT WORK</b>									
<b>B. 2.5:4 (1)</b>	Atb-v	2.5:4 par 2a and 2b		Performing more than 43 times in 16 weeks night work or performing more than 38 hours night work in each period of 2 weeks	Per more duty or per hour	Employer / self-employed person	€ 100,- with a maximum of € 1.100,-	No	Yes
<b>B 2.5:4a (1)</b>	Atb-v	2.5:4a par 5	When Reg. (EC) No. 561/2006 applies	Performing more than 12 hours daily working time in each period of 24 consecutive hours	Per hour	Employer / self-employed person	€ 100,- with a maximum of € 1.100,-	No	Yes

**Table NL8**

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>B 2.5:5 (1)</b>	Atb-v	2.5:5 par 3a and 3b		Performing more than 52 times in 16 weeks and 140 times in 52 weeks night work or performing more than 38 hours on night duty every period of 2 weeks	Per more duty	Employer / self-employed person	€ 100,- with a maximum of € 1.100,-	No	Yes
<b>15. WORKING TIME</b>									
<b>B 2.5:7 (1)</b>	Atb-v	2.5:7 par 5	Reg. (EC) No. 561/2006 not applicable	Average working time of 48 hours per week	Organisation work	Employer / self-employed person	€ 100,-	No	Yes
<b>B 2.5:8 (1)</b>	Atb-v	2.5:8 par 5	Reg. (EC) No. 561/2006 applies	Working time of more than 60 hours per week	Organisation work	Employer / self-employed person	€ 100,-	No	Yes

Table NL8

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>16. MODES OF PAYMENT AND PROVISION OF INFORMATION</b>									
<b>B 2.7:1 (1)</b>	Atb-v	2.7:1 par 1	Art. 10 par 1 Reg. (EC) No. 561/2006/AETR	Linking wages to the distance travelled and/or the amount of carried goods	In case it is proved that this payment has endangered road safety or has encouraged infringements	Employer / self-employed person	€ 1.100,-	No	Yes
<b>B 2.7:1 (2)</b>	Atb-v	2.7:1 par 2	Art. 10 par 1 Reg. (EC) No. 561/2006/AETR	Employer acts in conformity with art. 10 par 2 and par 5 of Reg. (EC) No. 561/2006		Employer / self-employed person	€ 550,-	No	Yes
<b>B 2.7:1 (3)</b>	Atb-v	2.7:1 par 3	Art. 20 Reg. (EC) No. 561/2006	Drivers acts in conformity with art. 20 of Reg. (EC) No. 561/2006	Not carrying evidence of previous sanctions and/or proceedings	Employer / self-employed person	€ 100,-	No	No
<b>B 2.7:1 (4)</b>	Atb-v	2.7:1 par 3	Art. 2.7 :1 having regard to art. 20 par 3 Reg. (EC) No. 561/2006	The driver provides information to the company		Employer / self-employed person	€ 200,-	No	Yes



**Table NL8**

Fact code	Law	Article	Reference to	Description article	Particulars	Author	Fine amount	Immediate finable	
								Road check	Business inspection
<b>B 2.7:4 (1)</b>	Atb-v	2.7:4 par 1		Performing work as co-driver by a young employee outside the Netherlands		Employer / self-employed person	€ 100,-	No	No
<b>B 2.7:4 (2)</b>	Atb-v	2.7:4 par 2		Not supervising the possession of a statement issued by the Foundation Vocational Education, Transport and Logistics, which proves that a young employee who performs work as a co-driver is registered as student		Employer / self-employed person	€ 100,-	No	No

The Fine catalogue can be downloaded from the website of the Human Environment and Transport Inspectorate: [www.ilent.nl](http://www.ilent.nl).

**Table NL 9**

**Infringements of commercial road transport legislation**

<b>Type of infringement(s) and Article of reference in national legislation</b>  <b>Corresponding EU legislation</b>	<b>Criminal sanction</b>	<b>Is it dissuasive?</b>
<p>Please note that the provisions of Reg 561/2006 and 3821/85 (driving time, rest periods, working time, registration) are in principle enforced under administrative law via the Atw and Atb-v. As soon as the offence becomes criminal (repeated recidivism) enforcement under criminal law is the line to go and has primacy over administrative enforcement. This is the same for all offences included in the Fine Catalogue which I have translated in and attached to the report. Repeated recidivism changes the colour of all offences of the Atw/Atb-v.</p> <p>On the contrary the infringements of the rules on transport of dangerous goods, on mass of weight, on roadworthiness, on driving licences and of the road package) are enforced under criminal law.</p>		

## 21.1 Sanctions which could be considered substantially criminal in the Dutch legal system

Table NL 10			
Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR			
Type of infringement and Article of reference in national legislation  Corresponding EU legislation	Administrative sanction that could be qualified as criminal sanction	Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?	Is it dissuasive?
<p>Please note that all infringements of eu legislation on commercial road transport sanctioned with administrative sanctions can be possibly sanctioned with criminal sanction in case of recidivism.</p> <p>Administrative fines on the other hands cannot be qualified as substantially criminal sanction</p>			

## **21.2 Effectiveness of the sanction system**

In our opinion in respect of the Regulations EC 561/2006 and EEC 3821/85 the Dutch sanctions system seems to be effective, proportional and balanced, also as a result of the recent amendment of the Policy regulation imposition of fines Atw and Atb-v (road transport) and Fine catalogue enclosed to that.

Such conclusion is based on the following grounds:

- The administrative sanction system distinguishes clearly between very serious, serious and minor infringements. The level of seriousness is expressed in standard fine amounts with different ranges.
- There is a clear policy with respect to the infringements which immediately result in the imposition of a fine when observed during transport as well as business inspections. The supervising authority pursues a prior warning policy with respect to less serious infringements; with respect to other infringements there is a firm line of immediate imposition of fines.
- Within the framework of the administrative sanction system recidivism leads to 50% increment.
- The administrative and criminal sanction systems do not overlap; administrative enforcement is the starting point. However, in case an infringement also constitutes a criminal offence, criminal enforcement takes precedence. This way, the two systems link up with each other. Enforcement under criminal law goes beyond the administrative sanction system: the criminal sanction system enters the scene in case of 'repeated recidivism'.
- Dutch criminal law follows a system of general minimum penalties for all offences and specific maximum penalties per offence. The range can be considerable. However, this is theory. In legal practice criminal enforcement is fairly predictable and proportionate as well as a result of the publication of a large number of guidelines for prosecution by the Public Prosecutor's Service, also in the field of the (road) transport sector. Such guidelines have for example been published in the area of the Atw and the Wwg.

➤ In the Netherlands under criminal law there is in theory the possibility to move to the next fine category in case the applicable category does not allow an appropriate punishment for legal entities.

Please note that the Dutch Authority didn't provide us with figures, therefore our opinion cannot be supported by recent quantitative data. However, it seems that the way the sanction system is conceived allows to tailor sanctions to the profile of the offenders and to sanction more severely operators and drivers that constitute a risk for road safety and whose behaviour can be qualified as an unfair from a competition standpoint.

## **22 NORTHERN IRELAND ("NI") - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR**

### ***22.1 Social rules on road transport***

#### **22.1.1 Rules on Driving Times and Rest Periods**

##### **22.1.1.1 Regulation (EC) No 561/2006**

Regulation (EC) No 561/2006 has been implemented into the NI legal system through The Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations (Northern Ireland) 2010. The sanction system related to the infringements of rules on driving time, breaks and rest periods envisaged in Regulation (EC) No 561/2006 is envisaged in Article 81 of the Road Traffic (Northern Ireland) Order 1981.

As to the subject to whom the penalties are applicable, Article 81 of the Road Traffic (Northern Ireland) Order 1981 specifies that the sanctions apply to the offender and any other person (being the offender's employer or a person to whose orders the offender was subject) who caused or permitted the contravention. Under this stand-alone offence clause in relation to the contravention of applicable Community rules as to periods of driving, or distance driven, or periods on or off duty, it is also an offence for any person who contravenes any requirement as to books, records or documents of the applicable Community rules or any person who makes or causes to be made any entry in a book, record or document kept for the purposes of the applicable Community rules which he knows to be false or, with intent to deceive, alters or causes to be altered any such entry.

Administrative sanctions by way of Fixed Penalty Offences are envisaged by Article 81 of the Road Traffic (Northern Ireland) Order 1981 and are set out, in relation to driving times, rest periods and breaks, in the summary table herein. These Fixed Penalty Offences in relation to contravention of Regulation (EC) No 561/2006 have

been set out in the Road Traffic (Fixed Penalty)(Amendment) Order (Northern Ireland) 2011.

In NI, any contravention of Regulation (EC) No 561/2006 in respect of driving time, breaks and rest periods by either drivers, transport undertakings and any other person to whose orders the offender was subject, shall be liable to a criminal sanction – on summary conviction to a fine up to £2,500 in addition to any fixed penalty offence applicable to the offence.

*Extraterritoriality/Commercial road transport rules relating to foreign vehicles*

It must be noted from the beginning of this paper that all of the applicable sanctions listed in the summary table herein are applicable to foreign drivers, drivers from another Member State and drivers with a non-EU licence.

Legislation does allow for specific powers in relation to foreign vehicles, notably Articles 84-89 of the Road Traffic (Northern Ireland) Order 1981, whereby, by way of example, a foreign goods vehicle or foreign public service vehicle, may be detained if not carrying the required documentation imposed by the regulations.

Sections 76-79 of the Crime (International Co-operation) Act 2003 provides for recognition in Great Britain of disqualifications imposed in NI. Similarly, the Mutual Recognition of Driving Disqualifications (Great Britain and Ireland) Regulations 2008, in conjunction with the Crime (International Co-operation) Act 2003, provides for mutual recognition of driving disqualifications between Member States of the European Union. S.54 and 55 deal with road traffic offences committed in the UK by an individual normally resident in a Member State. Sections 56 – 58 set out similar powers as sections 54-55 in respect of the conviction and disqualification in another Member State of an individual normally registered in the Member State.

Where an offender is stopped by an authorised police officer or DVA enforcement officer in NI, and a satisfactory UK address is not supplied, the officer may require the offender to pay a deposit which will act as a guarantee against the payment of a fixed penalty or as a surety against a subsequent court fine.

Under Part VII of the Road Traffic (Northern Ireland) Order 1981, authorised officers are given the powers to prohibit the driving of the vehicle on a road, either absolutely or for a specified purpose, and either for a specified period or without any

limitation of time. Where an authorised officer prohibits the driving of a vehicle under this Article, he may also direct the driver to remove the vehicle (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction. The prohibition shall not apply to the removal of the vehicle in accordance with that direction.

#### **22.1.1.2 Directive 2006/22/EC**

Annex III of Directive 2006/22/EC contains some guidelines on the most common kinds of infringements of Regulation 561/2006 and the related seriousness. Directive 2006/22/EC has been transposed into the NI legal system by The Road Transport (Working Time) Regulations (Northern Ireland) 2005. These infringements are dealt with in NI as fixed penalty offences and penalties are available on a sliding scale in accordance with the seriousness of the offence (refer to summary table herein).

#### **22.1.1.3 Directive 2002/15/EC**

The Directive 2002/15/EC has been implemented by The Road Transport (Working Time) Regulations (Northern Ireland) 2005. These Regulations implement the provisions of Council Directive 2002/15/EC concerning the organisation of the working time of persons performing mobile road transport activities. The Regulations prescribe the maximum weekly working time and maximum average weekly working time of mobile workers who, in the course of their work, drive or travel in goods or passenger vehicles which are covered by the Community Drivers' Hours Regulation (Council Regulation (EEC) No. 3820/85) and they prescribe the reference periods over which such time is to be calculated. They also regulate periods of availability, breaks, rest periods and night work. They require employers to keep records of the time worked and to provide copies. They make it an offence to fail to comply with their requirements and provide for enforcement.



Regulation 4 envisages that the average weekly working time period cannot exceed the 48 hours, and that in any case the maximum amount, including overtime, has to be of 60 hours.

Regulation 17, together with paragraphs 3 & 4 of Schedule 2, set forth the existing sanctions for the infringement of the provisions concerning the maximum amount of working time allowed, rest period and breaks. Under Regulation 17, whereby a prohibition or improvement notice is not complied with, a person guilty of an offence shall be liable upon summary conviction to a fine not exceeding £5,000 or upon conviction on indictment to a term of imprisonment not exceeding 2 years, or a fine, or both.

Regulation 7 provides that drivers cannot work more than 6 hours in a row without a break. The working time has to be interrupted by a break of at least 15 minutes for a working time varying from 6 up to 9 hours of work, or at least of 45 minutes if the working time exceeds 9 hours.

As to the rest periods, Regulation 8 implements into the NI legal system and recalls Regulation 561/06.

Concerning the night work, Regulation 9 provides that, in the case where the driver has carried out the night work, the daily working time cannot exceed 10 hours for each period of 24 hours.

Regulations 10 – 13 foresee that the working time of drivers has to be recorded. Furthermore, the employers have to be held responsible for the record of the working time of their employees.

The sanctions for breach of each of the above listed Regulations are identical – these are set out by Regulation 17, together with Paragraphs 3 & 4 of Schedule 2, of the Road Transport (Working Time) Regulations (Northern Ireland) 2005.

*Extraterritoriality/Commercial road transport rules relating to foreign vehicles*

See above.

## **22.1.2 Tachograph**

### **22.1.2.1 Regulation (EEC) No 3821/1985**

Implemented by the Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card) Regulations (Northern Ireland) 2007 and the Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996, as amended by, amongst others, the Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations (Northern Ireland) 2010.

Administrative sanctions by way of Fixed Penalty Offences are envisaged by Article 81 and Regulations 6A and 7(3) of the Passenger and Goods Vehicles (Recording Equipment) Regulation (NI) 1996. These Fixed Penalty Offences are implemented by the Road Traffic (Fixed Penalty)(Amendment) Order Northern Ireland 2011.

As stated previously, drivers found to be non - compliant with legislative requirements may be offered a fixed penalty in lieu of prosecution in court, however there may also be an applicable criminal sanction which applies to the offence, and either sanction may be applied relating to the severity of the offence.

Regulation 3 of the Passenger and Goods Vehicles (Recording Equipment) Regulations 1996 provides that, in the cases foreseen by Regulation (EEC) No. 3821/85 vehicles have to be equipped with a tacograph having the same characteristics and the same instructions foreseen in the Regulation.

When the tacograph is not installed or used in accordance with Articles 13-15 of Regulation (EEC) No. 3821/1985/EC, the maximum fine on summary conviction shall be £5,000; on conviction on indictment the maximum fine shall be at the court's discretion; or a fixed penalty may be offered, as stipulated in the summary table herein.

*Extraterritoriality/Commercial road transport rules relating to foreign vehicles*

See above.

## **22.2 Road Package**

### **22.2.1 Regulation (EC) No 1071/2009**

The transposition into NI legislation of Regulation (EC) No 1071/2009 has been delivered through The Road Transport (Qualifications of Operators) (Amendment) Regulations (Northern Ireland) 2003, which amends the Transport (Northern Ireland) Act 1967. The sanctions arising from breach of Regulation (EC) No 1071/2009 are set out in the Transport (Northern Ireland) Act 1967 as amended, and also through the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010.

Please note that the NI sanction system does not foresee a specific sanction system for those infringements that are qualified as most serious infringements described in Annex IV of Regulation No 1071/2009. While fixed penalty offences are laid down for some infringements of Regulation No 1071/2009, the most serious offence in terms of criminal punishment would be forgery of documents, the only offence identified in summary table at paragraph 1.7 in respect of Regulation No. 1071/2009 which is punishable by up to 2 years' imprisonment on conviction on indictment.

There are no provisions specifying how and if the loss of good repute is lost in case of commission if most serious infringements of EU legislation as listed in the Annex IV.

*Extraterritoriality/Commercial road transport rules relating to foreign vehicles*

\_See above.

### **22.2.2 Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009**

Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 have been implemented in part by each of the Road Transport (Qualification of Operators) (Amendment) Regulations (Northern Ireland) 2003, the Goods Vehicles (Licensing of Operations) Act (NI) 2010, the European Communities (International Passenger Services) Regulations (NI) 1987 and the Road Service Licensing (Community

Licences) Regulations (NI) 1992. Each above mentioned piece of legislation transposes parts of Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009. Those parts which have been transposed into NI law are identified in the summary table herein.

Sanctions for breach of the above mentioned legislations are set out through primary legislation in the form of the Transport Act (Northern Ireland) 1967, but also through a fixed penalty scheme implemented by the Road Traffic (Fixed Penalty)(Amendment) Order (Northern Ireland) 2011 whereby fines are imposed for the breach of a number of provisions outlined in Regulation Nos. 1072/2009/EC and 1073/2009/EC. These sanctions are set out in the summary table herein.

*Extraterritoriality/Commercial road transport rules relating to foreign vehicles*

See above.

## **22.3 Standards of vehicles and load and necessary licenses**

### **22.3.1 Directive 2008/68/EC**

The transposition into NI legislation of Regulation No. 2008/68/EC has been delivered in part through the Carriage of Explosives Regulations (Northern Ireland) 2010 and the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010. These Regulations impose requirements and prohibitions in relation to the carriage of certain dangerous goods by road and by rail and, in so far as they relate to safety advisers, by inland waterway. Schedule 1 of the Carriage of Explosives Regulations (Northern Ireland) 2010 sets down obligations to be complied with in relation to placards, marks and plate markings for national carriage.

Regulation 15 of the Carriage of Explosives Regulations (Northern Ireland) 2010 importantly sets down a general offence whereby equipment does not comply with the standards of Directive 2008/68/EC.

In respect of the application of ADR/RID Part 2 of the Carriage of Explosives Regulations (Northern Ireland) 2010 provides for prohibitions and requirements to apply in relation to the carriage of dangerous goods. Regulation 5 prohibits carriage other than in accordance with ADR and RID. Regulation 6 imposes, by reference to Schedule 1, different placarding requirements to those in ADR and RID in respect of national carriage by certain vehicles. Regulation 7 deems a requirement relating to access to goods to be a requirement of ADR and RID for the purposes of regulation 5.

Importantly, Regulation 8 allows the Health and Safety Executive for Northern Ireland to exempt carriage where such an exemption is permitted as a derogation or a transitional provision under the Dangerous Goods Directive or where the exemption provides for carriage consistent with a derogation or transitional provision.

Regulation 9 provides that, in certain circumstances, the Health and Safety Executive for Northern Ireland and the Department of the Environment for Northern Ireland may issue authorizations permitting carriage which would otherwise contravene Part 2 of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010.

Sanctions are generally set down by Article 31 of the Health & Safety at Work (NI) Order 1978, as amended.

*Extraterritoriality/Commercial road transport rules relating to foreign vehicles*

See above.

### **22.3.2 Directive 96/53/EC**

Directive 96/53/EC, laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic, has been implemented by the Motor Vehicles (Authorised Weights) Regulations (NI) 1999.

The Schedules to the Motor Vehicles (Authorised Weights) Regulations (NI) 1999 respectively lay down the maximum authorised weights for individual vehicles (Schedule 1), for vehicle combinations (Schedule 2) and for axle weights (Schedule 3),

thereby transposing the requirements laid down by Directive No. 96/53/EC, and prohibits the use of a vehicle on a road if any of these weights are exceeded.

Sanctions are set out in the Road Traffic Act 1988 Road Traffic Order (Northern Ireland) 1995 however offences are envisaged through a fixed penalty offence scheme laid down through the Road Traffic Order (Northern Ireland) 1995, the Motor Vehicles (Authorised Weights) Regulations (NI) 1999 and the Road Vehicles (Construction and Use) Regulations (NI) 1999. As the summary table sets out, such fixed penalties are graduated and therefore stipulate varying penalties in respect of varying seriousness of offence.

*Extraterritoriality/Commercial road transport rules relating to foreign vehicles*

See above.

### **22.3.3 Directive 2009/40/EC**

On 14 November 2011, the Department of the Environment began a consultation on changes that will affect the motor vehicle test (MOT test), the goods vehicle test and the public service vehicle test and are intended to update standards and methods of testing to reflect technical progress in car manufacture. Directive 2009/40/EC and Commission Directive 2010/48/EU cover a number of new items which will have to be introduced and tested in United Kingdom and NI roadworthiness tests. Directive 2009/40/EC has not yet been transposed into NI law

Currently, the sanctions on roadworthiness tests are set down by the Road Traffic (Northern Ireland) Order 1995 and the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 in relation to goods vehicles. Offences included within national legislation have been included in the summary table herein.

*Extraterritoriality/Commercial road transport rules relating to foreign vehicles*

See above.

### **22.3.4 Directive 2006/126/EC**

The transposition into NI legislation of Directive 2006/126/EC has been delivered through the Motor Vehicles (Driving Licences) (Amendment) Regulations (Northern Ireland) 2012.

The Motor Vehicles (Driving Licences) (Amendment) Regulations (Northern Ireland) 2012 amend the Road Traffic (Northern Ireland) Order 1981 and the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 in order to implement Directive 2006/126/EC of the European Parliament and of the Council of 20th December 2006 on driving licences.

Regulation 2 (2) amends the Road Traffic (Northern Ireland) Order 1981 to provide that a person who is subject to a current disqualification under the law of another EEA State and who was the holder of a driving licence from that State, is not eligible to be granted a driving licence.

Regulation 3 amends the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 to make provision in relation to the introduction of new licensing categories and sub-categories of vehicles and also inserts new definitions for the purposes of licensing categories. A licence for vehicles in category B96 (comprising category B vehicles combined with a trailer having a maximum authorised mass exceeding 750 kilograms) is only granted if a person holds, or held a community licence to drive such vehicles (paragraphs (4) (in part), (10) (in part) and (27)(in part)).

The use of vehicles by those who are disabled and the competency of such persons to drive are set out in paragraphs (5)(a) and (11)(b)) of Regulation 3. The minimum ages for holding a licence to drive vehicles in the new categories and sub-categories and, regarding motor bicycles sub-categories A and A2 imposes requirements as to experience and provides that the minimum age for holding a licence to drive an ambulance in sub-category D1 is 21 years and makes provision regarding the minimum ages for holding a licence to drive vehicles in category C, C+E, D and D+E and sub-category C1+E (paragraph (6)).

The Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 relate to CPC Testings, and the sanctions for breach of such are set down within that legislation.

Extraterritoriality/Commercial road transport rules relating to foreign vehicles

See above.

## **22.4 Notion of criminal sanction and of administrative sanction in the Northern Irish legal system**

Administrative sanctions in Northern Ireland are the following:

- fines;
- revocation of licences;
- limitation of certain rights;
- penalty points

It should be noted from the outset, that from February 2011, Driver Vehicle Agency (DVA), the competent authority in Northern Ireland for vehicle and licensing matters, enforcement officers and police officers in Northern Ireland (NI) commenced offering fixed penalties for certain driver and vehicle related commercial road transport offences. Depending on the nature of the offence, drivers found to be non - compliant with legislative requirements may be offered a fixed penalty in lieu of prosecution in court. Administrative sanctions are dealt with through fixed penalties (described as “deposits”), together with revocation of respective licences, disqualification, immobilisation of the vehicle or the issue of Improvement or Prohibition Orders by enforcing officers.

Depending on the nature of the offence, some of these offences may also attract penalty points. However, in cases where an offender has committed an offence that will take them over the mandatory limit of penalty points (i.e. where they may be disqualified from driving) a Fixed Penalty cannot be offered. In these cases offenders will be prosecuted in court.

Initially, the level of Fixed Penalties for the applicable offences were £30 for nonendorsable offences and £60 for endorsable offences. However, a number of offences are now graduated fixed penalty offences, meaning that offenders are penalised in accordance with the severity of the offence. In time, it is envisaged that further legislative powers will be put in place enabling the graduation of offences i.e.



offenders will be penalised according to the type and severity of the offence. Fixed penalties are issued to all drivers, irrespective of nationality.

Under the Road Traffic (Fixed Penalty) (Amendment) Order (Northern Ireland) 2011, fixed penalties (listed in the summary table herein) were introduced in relation to contravention of the AETR, Authorised Weights Regulations, the Community Recording Equipment Regulation, the Construction and Use Regulations, the Drivers' Hours Regulation and Regulation 561/2006/EC. In respect of any contravention of the above listed Regulations, where Article 56(1) or 81 of the Road Traffic (Northern Ireland) Order 1981 OR Articles 56-58 of the Road Traffic (Northern Ireland) Order 1995 are contravened, fixed penalties increase in accordance with the seriousness of the offence (i.e. graduated fixed penalty offences) and these are laid down through the Road Traffic (Fixed Penalty) (Amendment) Order (Northern Ireland) 2011.

*Criminal Sanctions in respect of commercial road transport rules in the Northern Irish legal system*

Criminal sanctions in the NI legal system are distinguished between those offences under which one may be convicted on summary offence (where a trial by jury is not required) or an indictable offence. Summary offences encompass the most minor criminal offences in the NI legal system. An indictable offence is more serious and exposes the offender to the most severe punishments in the criminal system. When prosecuted by indictment, one is entitled to a trial by jury for most offences.

Many offences can be prosecuted either by summary conviction or indictment. These offences, whereby the Crown uses its discretion in each case to choose the mode of prosecution depending upon the perceived seriousness of the offence - are known as 'hybrid' offences. The majority of criminal offences set down in the summary table in this report are hybrid offences, and the Crown uses its discretion under which mode of prosecution the offender shall be subject to.

Criminal sanctions are the following:

- imprisonment;
- fines up to 5,000 €.

There is not a substantial criterion to distinguish criminal sanctions and administrative sanctions with the exception of those sanctions such as imprisonment that affect the freedom of the offender. Sanctions such as fines can be criminal or administrative depending on the qualification foreseen in the law.

#### *Concurrence between several sanctions*

Where a court imposes concurrent indeterminate sentences for two or more offences with concurrent minimum terms and, in the absence of those indeterminate sentences, would have passed consecutive determinate sentences, the totality of the offending should be reflected by either:

- a) imposing the same notional term for all offences; or
- b) taking the most serious offence and imposing a notional term that reflects the totality of the offending.

#### *Concurrence between administrative and criminal sanctions*

Further, it should be noted that, in reference to offences detailed in the summary table herein, where both administrative and criminal sanctions are identified, it is discretionary as to whether either type of sanction, or both, are applied, depending upon the seriousness of the offence.

## **22.5 Scope of application of Northern Ireland criminal law**

Northern Ireland criminal law applies in general to offences committed in the territory of Northern Ireland.

Some exceptions apply in connection with some crimes. The only circumstances in which NI criminal law will apply outside NI will be in relation to sexual offences.

As to infringements of road transport legislation, Northern Ireland sanctions will apply if the infringement is detected in the territory of Northern Ireland despite the fact that the infringement was committed abroad.

If a national from another EEA State is subject to a driving disqualification from another state, he/she will not be eligible for a driving licence in NI.

## **22.6 Summary Tables**

In the NI legal system the role of the competent authorities are the following:

- the Police Service of Northern Ireland and DVA Enforcement Officers impose administrative fixed penalties;
- the Northern Ireland Courts and Tribunal Service execute fines;
- the Department of the Environment NI and the Health & Safety Executive NI (for the purposes of Directive 2008/68/EC) revoke authorisation when applicable.

The table below provides an overview of the administrative and criminal sanctions, where applicable, foreseen in the NI legal system for infringements of the EU commercial road transport Regulations and Directives.

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Regulation 561/06/EC	<p style="text-align: center;"><a href="#"><u>Driving Time</u></a></p> <p style="text-align: center;"><a href="#"><u>Rest Periods</u></a></p> <p style="text-align: center;"><a href="#"><u>Breaks</u></a></p> <p style="text-align: center;"><a href="#"><u>Road Traffic (Northern Ireland) Order 1981</u></a></p>	Article 81	<p style="text-align: center;"><u>Any</u> contravention of Regulation 561/2006/EC in respect of driving time, breaks and rest periods</p>	<ul style="list-style-type: none"> <li>-the offender;</li> <li>-the crew member;</li> <li>-the offender's employer; and</li> <li>-any other person to whose orders the offender was subject.</li> </ul>	<b>The applicable fixed penalty as set out below</b>	<b>On summary conviction a fine up to <u>£2500 in addition to any of the Fixed Penalty Offences identified below</u></b>
		Article 81	Failure to use etc compliant recording	<ul style="list-style-type: none"> <li>-the offender;</li> <li>-the crew member;</li> <li>-the offender's</li> </ul>	<b>Fixed Penalty Offence: Graduated Fine</b>	<b>On summary conviction a fine up to <u>£2500</u></b>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			equipment (drivers' hours)	employer; and -any other person to whose orders the offender was subject.	<b>of between £30-£200</b>	
		Article 81(1B)	Contravention of requirement imposed by Article 10(4) of Regulation No	Transport Undertaking		<b>On summary conviction a fine up to £2500</b>

Table NI 1

SOCIAL RULES ON ROAD TRANSPORT  
Rules on Driving Times, Breaks and Rest Period

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			561/2006 (undertakings etc. to ensure that contractually agreed transport time schedules respect that Regulation).			
		Article 81	Daily driving – exceeding 9 hours (no	-the offender; -the crew member; -the offender's	<b>Fixed Penalty Offence - Fine of: 9 hours+ - £60</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			extensions left)	employer; and -any other person to whose orders the offender was subject.	<b>10 hours+ - £120</b>  <b>11 hours+ - £200</b>	
		Article 81	Daily driving – exceeding 10 hours	-the offender; -the crew member; -the offender’s employer; and -any other person to whose orders the	<b>Fixed Penalty Offence - Fine of:</b> <b>10 hours+ - £60</b>  <b>11 hours+ - £120</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
				offender was subject.	<b>12 hours+ - £200</b>	
		Article 81	Weekly driving – exceeding 56 hours	-the offender; -the crew member; -the offender’s employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence - Fine of:</b> <b>56 hours+ - £60</b> <b>58 hours+ - £120</b> <b>59 hours+ - £200</b>	<b>On summary conviction a fine up to £2500</b>



Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 81	Bi-Weekly driving – exceeding 90 hours	-the offender; -the crew member; -the offender’s employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence - Fine of:</b> <b>90 hours+ - £60</b>  <b>93 hours+ - £120</b>  <b>94 hours+ - £200</b>	<b>On summary conviction a fine up to £2500</b>
		Article 81	Breaks from driving – exceeding 4.5	-the offender; -the crew member; -the offender’s	<b>Fixed Penalty Offence - Fine of:</b> <b>4.5 hours+ - £60</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			hours without a break	employer; and -any other person to whose orders the offender was subject.	<b>5.5 hours+ - £120</b>  <b>6.5 hours+ - £200</b>	
		Article 81	Regular daily rest – less than 11 hours (no reductions left)	-the offender; -the crew member; -the offender’s employer; and -any other person to whose orders the	<b>Fixed Penalty Offence - Fine of:</b>  <b>Less than 11 hours - £60</b>  <b>Less than 10</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
				offender was subject.	<p><b>hours - £120</b></p> <p><b>Less than 9 hours - £200</b></p>	
		Article 81	Regular daily rest – less than 9 hours	<p>-the offender;</p> <p>-the crew member;</p> <p>-the offender’s employer; and</p> <p>-any other person to whose orders the offender was subject.</p>	<p><b>Fixed Penalty Offence - Fine of:</b></p> <p><b>Less than 9 hours - £60</b></p> <p><b>Less than 8 hours - £120</b></p>	<p><b>On summary conviction a fine up to £2500</b></p>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p><b>Less than 7 hours</b>  <b>- £200</b></p>	
		Article 81	Split daily rest – less than 12 hours in total	<p>-the offender;                      -the crew member;                      -the offender’s employer; and                      -any other person to whose orders the offender was subject.</p>	<p><b>Fixed Penalty Offence - Fine of:</b></p> <p><b>Less than 12 hours - £60</b></p> <p><b>Less than 11 hours - £120</b></p> <p><b>Less than 10</b></p>	<p><b>On summary conviction a fine up to £2500</b></p>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					hours - £200	
		Article 81	Split daily rest – first rest less than 3 hours in total	-the offender; -the crew member; -the offender’s employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence - Fine of:</b> <b>Less than 3 hours - £60</b> <b>Less than 2 hours - £120</b> <b>Less than 1 hour</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					- £200	
		Article 81	Split daily rest – second rest less than 9 hours in total	-the offender; -the crew member; -the offender’s employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence - Fine of:</b> <b>Less than 9 hours - £60</b> <b>Less than 8 hours - £120</b> <b>Less than 7 hours</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					- £200	
		Article 81	Multi-manning daily rest – less than 9 hours in 30 hour period	-the offender; -the crew member; -the offender’s employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence - Fine of:</b> <b>Less than 9 hours - £60</b> <b>Less than 8 hours - £120</b> <b>Less than 7 hours</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					- £200	
		Article 81	Regular weekly rest – less than 45 hours (not able to reduce)	-the offender; -the crew member; -the offender’s employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence - Fine of:</b>  <b>Less than 45 hours - £60</b>  <b>Less than 43 hours - £120</b>  <b>Less than 42</b>	<b>On summary conviction a fine up to £2500</b>



Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					hours - £200	
		Article 81	Regular weekly rest – less than 24 hours	-the offender; -the crew member; -the offender’s employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence - Fine of:</b>  <b>Less than 24 hours - £60</b>  <b>Less than 22 hours - £120</b>  <b>Less than 21</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					hours - £200	
		Article 81	Weekly rest compensation – less than equivalent	-the offender; -the crew member; -the offender’s employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence - Fine of:</b>  <b>Up to 3 hours less than required - £60</b>  <b>Up to 4 hours less than required - £120</b>	

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					More than 4 hours less than required - £200	
Directive 2002/15/EC	<a href="#"><u>Working time and rest periods for mobile workers</u></a>  <a href="#"><u>The Road Transport (Working Time) Regulations (Northern Ireland) 2005</u></a>	Regulation 17 & Schedule 2 Paragraph 3&4	Exceed of the average (48 h) and maximum (60 h) weekly working time	Worker  Employer	Where an Inspector feels legislation not being complied with, an Improvement Notice will be served requiring the accused to remedy the	Where accused does not comply with either a Prohibition Notice or an Improvement Notice, on summary conviction to imprisonment not exceeding 3 months or a fine not exceeding £5000;  on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at the

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p>contravention.</p> <p>Where Inspector is of opinion that activities contravening legislation pose a serious risk of injury a Prohibition Notice will be served prohibiting accused from</p>	<p>Judge's discretion or both</p>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					taking part in activity.	
		Regulation 17 & Schedule 2 Paragraph 3&4	No breaks after six consecutive hours	Worker  Employer	Where an Inspector feels legislation not being complied with, an Improvement Notice will be served requiring the accused to remedy the contravention.	Where accused does not comply with either a Prohibition Notice or an Improvement Notice, on summary conviction to imprisonment not exceeding 3 months or a fine not exceeding £5000;  on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at the Judge's discretion or both

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p>Where Inspector is of opinion that activities contravening legislation pose a serious risk of injury a Prohibition Notice will be served prohibiting accused from taking part in</p>	

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		<p>Clause 17 &amp; Schedule 2 Paragraph 3&amp;4</p>	<p>Rest periods</p>	<p>Worker  Employer</p>	<p>activity.  Where an Inspector feels legislation not being complied with, an Improvement Notice will be served requiring the accused to remedy the contravention.</p>	<p>Where accused does not comply with either a Prohibition Notice or an Improvement Notice, on summary conviction to imprisonment not exceeding 3 months or a fine not exceeding £5000;  on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at the Judge's discretion or both</p>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p>Where Inspector is of opinion that activities contravening legislation pose a serious risk of injury a Prohibition Notice will be served prohibiting accused from taking part in activity.</p>	



Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		<p>Clause 17                      &amp;                      Schedule 2                      Paragraph 3&amp;4</p>	<p>Working time of a mobile worker who performs night work in any period of 24 hours shall not exceed 10 hours during that period – this arrangement may be extended by a workforce agreement or collective</p>	<p>Worker                       Employer</p>	<p><b>Where an Inspector feels legislation not being complied with, an Improvement Notice will be served requiring the accused to remedy the contravention.</b></p> <p><b>Where Inspector is of opinion that</b></p>	<p><b>Where accused does not comply with either a Prohibition Notice or an Improvement Notice, on summary conviction to imprisonment not exceeding 3 months or a fine not exceeding £5000;</b></p> <p><b>on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at the Judge's discretion or both</b></p>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			agreement		<p>activities contravening legislation pose a serious risk of injury a Prohibition Notice will be served prohibiting accused from taking part in activity.</p>	
		Clause 17	Information and record of the	Worker	Where an Inspector feels	Where accused does not comply with either a Prohibition Notice or an

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		<p style="text-align: center;">&amp; Schedule 2 Paragraph 3&amp;4</p>	<p style="text-align: center;">drivers' working time</p>	<p style="text-align: center;">Employer</p>	<p>legislation not being complied with, an Improvement Notice will be served requiring the accused to remedy the contravention.</p> <p>Where Inspector is of opinion that activities contravening</p>	<p>Improvement Notice, on summary conviction to imprisonment not exceeding 3 months or a fine not exceeding £5000;</p> <p>on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at the Judge's discretion or both</p>

Table NI 1

**SOCIAL RULES ON ROAD TRANSPORT**  
**Rules on Driving Times, Breaks and Rest Period**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					legislation pose a serious risk of injury a Prohibition Notice will be served prohibiting accused from taking part in activity.	

Table NI 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Regulation 3821/1985/EEC	<a href="#">Road Traffic (Northern Ireland) Order 1981</a>	Article 81	Failure to use etc compliant recording equipment	-the offender; -the crew member; -the offender's employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence: Graduated Fine of between £30-£200</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 81	Contravention of any requirement as to books etc of the applicable Community rules	-the offender; -the crew member; -the offender's employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence:                      Graduated Fine of between £30-£200</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<a href="#"><u>Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996 as amended</u></a>	Regulations 6A and 7(3) and Article 81 of the Road Traffic (Northern Ireland) Order 1981	Failure to comply with requirements relating to inspection of records or obstructing an officer	-the offender; -the crew member; -the offender's employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence: Graduated Fine of between £30-£200</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulations 6A and 7(3) and Article 81 of the Road Traffic (Northern Ireland) Order 1981	Failure to comply with requirements relating to inspection of recording equipment or obstructing an officer	-the offender; -the crew member; -the offender's employer; and -any other person to whose orders the offender was subject.	<b>Fixed Penalty Offence:                      Graduated Fine of between £30-£200</b>	<b>On summary conviction a fine up to £2500</b>



Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 3	Tachograph:  - non-compliance with Annexes 1&2 of Regulation 3821/1985/EEC or not being used in accordance with Articles 13-15 of that Regulation	-Any person		<b>Fine not exceeding £2,500</b>

Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 3	Tachograph: - Failure to ensure recording equipment installed;proper use of the driver card;using driver card which	-Any person	<b>Fixed Penalty Offence of £200</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			doesn't belong to driver; failure to use record sheets or driver card			
		Regulation 3	Tachograph: - Failure to ensure correct functioning of recording equipment or	-Any person	<b>Fixed Penalty Offence of £60</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			driver card; to ensure printing can be carried out in event of inspection; using defective card.			
		Regulation 3	Tachograph: - Failure to ensure proper use of recording	-Any person	<b>Fixed Penalty Offence of £120</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			equipment; failure at start/end of journey to print out information; unauthorised withdrawal of record sheet or driver card.			
		Regulation 3	Tachograph:  - Failure to ensure	-Any person	<b>Fixed Penalty Offence of £200</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			the proper use of the driver card			
		Regulation 3	Tachograph: - Failure to ensure that printing can be carried out correctly in the event of an inspection	-Any person	<b>Fixed Penalty Offence of £120</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 3	Tachograph:  - Using driver card of which the driver is not the holder	-Any person	<b>Fixed Penalty Offence of £200</b>	<b>On summary conviction a fine up to £2500</b>

Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 3	Tachograph: - Using defective driver card	-Any person	<b>Fixed Penalty Offence of £60</b>	<b>On summary conviction a fine up to £2500</b>
		Regulation 4	Failure to deliver documents or failure to ensure driver of a transport undertaking complies with	-Driver's employer -Driver		<b>Fine not exceeding level 4 (£2,500)</b>



Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			obligation to deliver documents			
		Regulation 5	Forgery of seals	-Any person		<b>On summary conviction to a fine not exceeding £5000 or on indictment to a term of imprisonment not exceeding 2 years or a fine or both.</b>
		Regulation 6	Failure by transport undertaking to download data from a vehicle	Transport undertaking		<b>Fine not exceeding £5,000</b>

Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			unit			
		Regulation 6	Failure by transport undertaking to download data from a driver card	Transport undertaking		<b>Fine not exceeding £5,000</b>
		Regulation 6	Refusal, following order from a vehicle examiner to do	Transport undertaking		<b>Fine not exceeding £5,000</b>

Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			so, to download data from a vehicle unit or driver card or refusal to allow examiner to access, inspect or copy the data			
		Regulation 6(E)	Non maintenance of the drivers' documents for the prescribed period	Transport Undertaking		<b>Fine of up to £5000</b>

Table NI 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 7	Failure to permit vehicle examiner to inspect recording equipment and record sheets	Any person	<p><b>Fixed Penalty Offence:</b></p> <p><b>Graduated Fine of between £30-£200</b></p> <p><b>Detention of vehicle</b></p>	<p><b>On summary conviction a fine up to £1000</b></p>

Table NI 2

**SOCIAL RULES ON ROAD TRANSPORT**

**Tachograph**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		Regulation 7	False entries on/altering of record sheets with intent to deceive	Any person		<b>On summary conviction to a fine not exceeding £5000 or on conviction on indictment to imprisonment for a term not exceeding 2 years or both</b>

Table NI 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<p><b>Regulation No. 1071/2009/EC</b></p>	<p><u><a href="#">The Transport Act (Northern Ireland) 1967 as amended by The Road Transport (Qualifications of Operators)(Amendment) Regulations (Northern Ireland) 2003</a></u></p>	<p>Section 7</p>	<p>Non communication to the competent Authority, within 28 days, of the prosecution of the transport activity management, due to death, physical incapacity, disappearance and diminishing</p>	<p>Relevant licence holder</p>		<p><b>On summary conviction a fine up to £1000</b></p>

Table NI 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			of the legal capacity of the person entitled of the running of the transport activity.			
		Section 7	Non communication of the loss of good repute	Relevant licence holder	<b>Road service licence may be revoked or suspended by the Ministry on the ground that any condition subject to</b>	<b>On summary conviction a fine up to £1000</b>

Table NI 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p>which the licence was granted has not been complied with</p>	
		<p>Section 7</p>	<p>Non communication of the loss of financial standing</p>	<p>Relevant licence holder</p>	<p>Road service licence may be revoked or suspended by the Ministry on the ground that any condition subject to</p>	<p>On summary conviction a fine up to £1000</p>



**Table NI 3**

**Road Package**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
					<b>which the licence was granted has not been complied with</b>	
		Section 7	Non communication of the loss of professional competence	Relevant licence holder	<b>Road service licence may be revoked or suspended by the Ministry on the ground that any condition subject to</b>	<b>On summary conviction a fine up to £1000</b>

**Table NI 3**

**Road Package**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
					<b>which the licence was granted has not been complied with</b>	
		Section 34	Forgery and Misuse of documents	Relevant licence holder		<p><b>On summary conviction a fine not exceeding £1000 or imprisonment up to 6 months</b></p> <p><b>On conviction on indictment to imprisonment for a term not exceeding 2 years or both</b></p>

Table NI 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<p><u>Goods Vehicles</u> <u>(Licensing of Operators)</u> <u>Act (Northern Ireland)</u> <u>2010</u></p>	<p>Section 1</p>	<p>Contravention of obligation to hold an operator's licence</p>	<p>Person using a goods vehicle on a road for the carriage of goods— (a)for hire or reward, or (b)for or in connection with any trade or business carried on by him</p>		<p><b>On summary conviction liable to a fine not exceeding £5000</b></p>

Table NI 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">Transport Act (NI) 1967</a>	Section 4	Using public service vehicle without operator's licence	Relevant licence holder	<b>Fixed Penalty Offence - £200</b>	<b>Liable on summary conviction to a fine not exceeding level £5000</b>
<b>Regulation No. 1072/2009/EC</b>	<a href="#">The Transport Act (Northern Ireland) 1967</a>	Section 34	Forgery and Misuse of documents	Relevant licence holder		<p><b>On summary conviction a fine not exceeding £1000 or imprisonment up to 6 months</b></p> <p><b>On conviction on indictment to imprisonment for a term not exceeding 2 years or both</b></p>
		Section 17	Failing to hold a road freight vehicle licence	Any person in contravention	<b>Fixed Penalty Offence - £200</b>	<b>Liable on summary conviction to a fine not exceeding £5000</b>

Table NI 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<b>Regulation No. 1073/2009/EC</b>	<a href="#"><u>The Transport Act (Northern Ireland) 1967</u></a>	Section34	Forgery and Misuse of documents	Relevant licence holder	<b>On summary conviction a fine not exceeding £1000 or imprisonment up to 6 months</b>	<b>On conviction on indictment to imprisonment for a term not exceeding 2 years or both</b>
	<a href="#"><u>European Communities (International Passenger Services) Regulations (NI) 1987</u></a>	Regulation 19	Using vehicle without passenger waybill		<b>Fixed Penalty Offence - £30</b>	<b>Liable on summary conviction to a fine not exceeding £1000</b>

**Table NI 3**

**Road Package**

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
		Regulation 19	Using vehicle for Community related carriage of passengers otherwise than in accordance with authorisation or certificate		<b>Fixed Penalty Offence - £30</b>	<b>Liable on summary conviction to a fine not exceeding £1000</b>
	<a href="#"><u>Road Service Licensing (Community Licences) Regulations (NI) 1992</u></a>	Regulation 2	Using vehicle for UK cabotage operations without Community		<b>Fixed Penalty Offence - £30</b>	<b>On summary conviction to a fine not exceeding £2500</b>

Table NI 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			licence			
		Regulation 3	Using vehicle for UK cabotage operations without control document		<b>Fixed Penalty Offence - £30</b>	<b>On summary conviction to a fine not exceeding £2500</b>
		Regulation 6	Failing to produce Community licence or control document when requested		<b>Fixed Penalty Offence - £30</b>	<b>On summary conviction to a fine not exceeding £2500</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Directive 2008/68/EC	<p><a href="#">Transport of Dangerous goods</a></p> <p><a href="#">The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010</a></p>	<p>Regulation 5 sets down obligation – Article 31 of the Health &amp; Safety at Work (NI) Order generally sets down sanction</p>	<p>Carriage of dangerous goods, or causing or permitting dangerous goods to be carried, where carriage is prohibited by ADR or RID, including where carriage doesn't comply with ADR or RID requirements.</p>	<p>Manufacturers</p> <p>Importers</p> <p>Distributors</p> <p>Owners</p> <p>Operators</p>		<p><b>On summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</b></p>



Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 15 sets down obligation – Article 31 of the Health & Safety at Work (NI) Order generally sets down sanction	Equipment not meeting standards of Directive 2008/68/EC (including storage and transportation requirements) and conformity assessment procedures of Regulation 1999/36/EC	Manufacturers  Importers  Distributors  Owners		<b>On summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			(including marking requirements) and required maintenance of technical documentation and records of non-compliance under Directive 2008/68/EC;  Non-compliance of manufacturers, importers,	Operators		

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			distributors, owners, operators with obligation to inform competent authority and relevant parties when each has reason to believe that equipment it made available on the market does not comply with Directives;			

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">Carriage of Explosives Regulations (Northern Ireland) 2010</a>	Regulation 10 sets down obligation – Article 31 of the Health & Safety at Work (NI) Order generally sets down sanction	Non-compliance with ADR and exceeding the maximum authorized weight when carriage by private individuals	Manufacturers  Importers  Distributors  Owners  Operators		<p><b>On summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</b></p>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 14 sets down obligation – Article 31 of the Health & Safety at Work (NI) Order generally sets down sanction	Non-compliance with obligations relating to old pressure receptacles used for carriage	Manufacturers  Importers  Distributors  Owners  Operators		<b>On summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 10 sets down obligation – Article 31 of the Health & Safety at Work (NI) Order generally sets down sanction	Non-compliance with reference temperatures and standards set by competent authority	Manufacturers  Importers  Distributors  Owners  Operators		<b>On summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 20 sets down obligation – Article 31 of the Health & Safety at Work (NI) Order generally sets down sanction	Non-compliance with radiological emergencies procedure	Manufacturers  Importers  Distributors  Owners  Operators		<b>On summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 5 sets down obligation – Article 31 of the Health & Safety at Work (NI) Order generally sets down sanction	Carriage of dangerous goods, or causing or permitting dangerous goods to be carried, where carriage is prohibited by ADR or RID, including where carriage doesn't comply with ADR or RID requirements.	Manufacturers  Importers  Distributors  Owners  Operators		<b>On summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</b>



Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 6 sets down obligation – Article 31 of the Health & Safety at Work (NI) Order generally sets down sanction	Consignment of dangerous goods without appropriate classification	Manufacturers  Importers  Distributors  Owners  Operators		<b>On summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 8 sets down obligation – Article 31 of the Health & Safety at Work (NI) Order generally sets down sanction	Infringements of the provisions concerning:  - the requirements of the, vehicles, tankers and containers transporting the dangerous substances not to be removed from vehicle unless in qualifying	Manufacturers  Importers  Distributors  Owners  Operators		<b>On summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			premises;  -unloading requirements			
<b>Directive 96/53/EC</b>	<a href="#"><u>Road Traffic Order (Northern Ireland) 1995</u></a>	Article 57 & Regulation 4 of the Motor Vehicles (Authorised Weights) Regulations (NI) 1999	Breach of maximum authorised weight restriction	Owner of vehicle	<b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b>  <b>Fixed Penalty</b>	<b>On summary conviction to a fine not exceeding £5000.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p><b>Offence:</b></p> <ul style="list-style-type: none"> <li>-Exceeded by up to 10% = £60</li> <li>-Exceeded between 10-15% = £120</li> <li>-Exceeded by more than 15% = £200</li> </ul>	

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 57& Regulation 4 of the Motor Vehicles (Authorised Weights) Regulations (NI) 1999	Combination maximum authorised weight exceeded	Owner of vehicle	<p><b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b></p> <p><b>Fixed Penalty Offence:</b></p> <p><b>-Exceeded by up to 10% = £60</b></p> <p><b>-Exceeded</b></p>	<p><b>On summary conviction to a fine not exceeding £5000.</b></p>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p>between 10-15% = £120</p> <p>-Exceeded by more than 15% = £200</p>	
		<p>Article 57&amp; Regulation 4 of the Motor Vehicles (Authorised Weights) Regulations (NI) 1999</p>	<p>Axle maximum authorised weight exceeded</p>	<p>Owner of vehicle</p>	<p>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</p>	<p>On summary conviction to a fine not exceeding £5000.</p>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p><b>Fixed Penalty Offence:</b></p> <ul style="list-style-type: none"> <li><b>-Exceeded by up to 10% = £60</b></li> <li><b>-Exceeded between 10- 15% = £120</b></li> <li><b>-Exceeded by more than 15% = £200</b></li> </ul>	

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 57 & Regulation 87 of the Road Vehicles (Construction and Use) Regulations (NI) 1999	Trailer maximum permitted laden weight exceeded	Owner of vehicle	<p><b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b></p> <p><b>Fixed Penalty Offence:</b></p> <p><b>-Exceeded by up to 10% = £60</b></p> <p><b>-Exceeded</b></p>	<p><b>On summary conviction to a fine not exceeding £5000.</b></p>



Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p>between 10-15% = £120</p> <p>-Exceeded by more than 15% = £200</p>	
		<p>Article 57 &amp; Regulation 87 &amp; Parts 1,2 of Schedule 13 of the Road Vehicles (Construction and Use) Regulations (NI) 1999</p>	<p>Vehicle maximum permitted laden weight exceeded</p>	<p>Owner of vehicle</p>	<p><b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b></p>	<p><b>On summary conviction to a fine not exceeding £5000.</b></p>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p><b>Fixed Penalty Offence:</b></p> <ul style="list-style-type: none"> <li><b>-Exceeded by up to 10% = £60</b></li> <li><b>-Exceeded between 10- 15% = £120</b></li> <li><b>-Exceeded by more than 15% = £200</b></li> </ul>	

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 57 & Regulation 88 of the Road Vehicles (Construction and Use) Regulations (NI) 1999	Vehicle and trailer, other than an articulated vehicle, maximum permitted laden weight exceeded	Owner of vehicle	<p><b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b></p> <p><b>Fixed Penalty Offence:</b></p> <p><b>-Exceeded by up to 10% = £60</b></p> <p><b>-Exceeded</b></p>	<p><b>On summary conviction to a fine not exceeding £5000.</b></p>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p>between 10-15% = £120</p> <p>-Exceeded by more than 15% = £200</p>	
		<p>Article 57 &amp; Regulation 79 of the Road Vehicles (Construction and Use) Regulations (NI) 1999</p>	<p>Exceeding any weights shown on a plate fitted</p>	<p>Owner of vehicle</p>	<p>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</p>	<p>On summary conviction to a fine not exceeding £5000.</p>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p><b>Fixed Penalty Offence:</b></p> <ul style="list-style-type: none"> <li><b>-Exceeded by up to 10% = £60</b></li> <li><b>-Exceeded between 10- 15% = £120</b></li> <li><b>-Exceeded by more than 15% = £200</b></li> </ul>	

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 57 & Regulation 93 of the Road Vehicles (Construction and Use) Regulations (NI) 1999	Agricultural trailer appliance maximum gross weight exceeded	Owner of vehicle	<p><b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b></p> <p><b>Fixed Penalty Offence:</b></p> <p><b>-Exceeded by up to 10% = £60</b></p> <p><b>-Exceeded</b></p>	<p><b>On summary conviction to a fine not exceeding £5000.</b></p>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p>between 10-15% = £120</p> <p>-Exceeded by more than 15% = £200</p>	
		Article 57 & Regulation 93 of the Road Vehicles (Construction and Use) Regulations (NI) 1999	Sum of weights of compensating axles exceeded	Owner of vehicle	<p>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</p>	<p>On summary conviction to a fine not exceeding £5000.</p>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p><b>Fixed Penalty Offence:</b></p> <ul style="list-style-type: none"> <li><b>-Exceeded by up to 10% = £60</b></li> <li><b>-Exceeded between 10- 15% = £120</b></li> <li><b>-Exceeded by more than 15% = £200</b></li> </ul>	



Table NI 4

**STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 58 & Regulation 6 of the Road Vehicles (Construction and Use) Regulations (NI) 1999	Vehicle exceeded permitted length	Owner of vehicle	<p><b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b></p> <p><b>Fixed Penalty Offence - £30</b></p>	<p><b>On summary conviction to (i) a fine not exceeding level £2500 if committed in respect of a goods vehicle or a vehicle adapted to carry more than 8 passengers or (ii) in any other case to a fine not exceeding £1000.</b></p>

Table NI 4

**STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 58 & Regulation 7 of the Road Vehicles (Construction and Use) Regulations (NI) 1999	Vehicle exceeded permitted width	Owner of vehicle	<p><b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b></p> <p><b>Fixed Penalty Offence - £30</b></p>	<p><b>On summary conviction to (i) a fine not exceeding level £2500 if committed in respect of a goods vehicle or a vehicle adapted to carry more than 8 passengers or (ii) in any other case to a fine not exceeding £1000.</b></p>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 58 & Regulation 13 of the Road Vehicles (Construction and Use) Regulations (NI) 1999	Vehicle exceeded permitted overhang	Owner of vehicle	<p><b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b></p> <p><b>Fixed Penalty Offence - £30</b></p>	<p><b>On summary conviction to (i) a fine not exceeding level £2500 if committed in respect of a goods vehicle or a vehicle adapted to carry more than 8 passengers or</b></p> <p><b>(ii) in any other case to a fine not exceeding £1000.</b></p>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 70	Using goods vehicle with unauthorised weights as well as authorised weights marked on it	Owner of vehicle		<b>On summary conviction a fine not exceeding £1000.</b>
<b>Directive 2009/40/EC</b>	<a href="#"><u>Road Traffic (Northern Ireland) Order 1995</u></a>	Under current vehicle requirements obligation set down in Article 63	Using, etc., vehicle without required test certificate being in force.	Any person	<b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment)</b>	<b>On summary conviction to (i) a fine not exceeding level £2500 if committed in respect of a goods vehicle or a vehicle adapted to carry more than 8 passengers or</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					Order (NI) 2011  Fixed Penalty - £60	(ii) in any other case to a fine not exceeding £1000.
		Under current vehicle requirements obligation set down in Article 69(2)	No goods vehicle test certificate  Using, etc., goods vehicle without required goods vehicle test certificate being in force.	Any person	Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011  Fixed Penalty -	On summary conviction to a fine not exceeding £2500.

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					£30	
	<a href="#">Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010</a>	Section 36	Alteration or forgery of the roadworthiness certificate	The author		<p><b>On summary conviction to a fine not exceeding £5000</b></p> <p><b>On indictment to imprisonment for a term up to 2 years OR to a fine not exceeding £5000 or both</b></p>
<b>Directive 2006/126/EC</b>	<a href="#">Road Traffic Order (Northern Ireland) 1981</a>	Article 9	Lack of and minimum standards of physical fitness	Driver		<b>On summary conviction to a fine not exceeding £2500.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			required.			
		Article 11	Failure to notify Department of prospective disability	Driver		<b>On summary conviction to a fine not exceeding £1000.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 11	False declaration of ability to drive	Driver	<b>Discretionary disqualification</b>	<b>On summary conviction to a fine not exceeding £2500.</b>
		Article 3	Driving vehicle otherwise than in accordance with the required licence	Driver	<b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b>  <b>Fixed Penalty - £60 &amp; 3-6</b>	<b>On summary conviction to a fine not exceeding £1000.</b>



Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					penalty points  (Discretionary disqualification)	
		Article 17	Lack of the minimum age to drive: - quadricycles and mopeds - motor vehicles and Agricultural or forestry tractor - vehicles for the	Driver	Per Art.17(1) of the 1981 Order:  Disqualification (otherwise than on conviction) from holding or obtaining licence	

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			transport of goods - vehicles for the transport of persons -small vehicle -medium sized goods vehicle -any other motor vehicle			
		Article 3	Driving: without a driving	Driver	<b>Fixed penalties are set out in the Road</b>	<b>On summary conviction to a fine not exceeding £1000.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			licence		<p><b>Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b></p> <p><b>Fixed Penalty - £60 &amp; 3-6 penalty points</b></p> <p><b>(Discretionary disqualification)</b></p>	

Table NI 4

**STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES**

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 11A	Driving: - with a driving licence that has been revoked or where a grant of licence has been refused. -		3-6 penalty points  (Discretionary disqualification)	On summary conviction to imprisonment of up to 6 months or a fine not exceeding £5000 or both.
		Article 174	Forgery, etc. of licences, test certificates, certificates of insurance and other documents	Author		On summary conviction to a fine not exceeding £5000

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			and things			
	<a href="#"><u>The Vehicle Drivers (Certificates of Professional Competence) Regulations 2007</u></a>	Regulation 10	Driving without having taken and passed CPC test	Any person		<b>On summary conviction to a Fine not exceeding £1000</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Regulation 11	Breach of requirement to carry and produce evidence of CPC or of training exemption in vehicle	Any person		<b>On summary conviction to a Fine not exceeding £1000</b>
		Regulation 12	Forgery or alteration of document authorising a person to drive within a Member State OR	Any person		<b>On summary conviction to a fine not exceeding £5000 and/or imprisonment for a term not exceeding 3 months. On conviction on indictment to a fine not exceeding £5000 and/or imprisonment for a term not exceeding 2 years.</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			knowingly making a false statement for purpose of obtaining issue of driver qualification card			
		Regulation 11	Failing to produce evidence of a certificate of professional competence (or of training exemption)	Any person	<b>Fixed penalties are set out in the Road Traffic (Fixed Penalty) (Amendment) Order (NI) 2011</b>	<b>On summary conviction to a fine not exceeding £1000</b>

Table NI 4

STANDARDS OF VEHICLES, LOAD AND NECESSARY LICENCES

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p><b>Fixed Penalty Offence - £30</b></p>	



Most infringements of the rules on commercial road transport are sanctioned with criminal sanctions in Northern Ireland. Sanctions do not seem dissuasive as they are mostly fines, and the maximum amount abstractly prescribed is not high. Also please consider that the administrative fines that can be paid in order to avoid the criminal prosecution are of a small amount.

**Table NI 5**

**Infringements of commercial road transport legislation**

<b>Type of infringement(s) and Article of reference in national legislation</b>  <b>Corresponding EU legislation</b>	<b>Criminal sanction</b>	<b>Is it dissuasive?</b>
--	--------------------------	--------------------------

Please note that pursuant to Irish law most of the infringements on commercial road transport are sanctioned with criminal sanctions, but there are few exceptions (see table above).

**22.7 Sanctions which could be considered substantially criminal in the Northern Ireland legal system**

<b>Table NI 6</b>			
<b>Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR</b>			
<b>Type of infringement and Article of reference in national legislation</b>	<b>Administrative sanction that could be qualified as criminal sanction</b>	<b>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</b>	<b>Is it dissuasive?</b>
<b>Corresponding EU legislation</b>			<b>Yes or not</b>
Please note that pursuant to Irish law most of the infringements on commercial road transport are sanctioned with criminal sanctions, but there are few exceptions (see table above).			

## 22.8 Effectiveness of the sanctions system

The Northern Ireland's system has the following features.

It can be considered proportionate as sanctions of the rules on driving times and rest period are tailored to the seriousness of the infringements.

The same is true as far as the infringements of the rules on tacograph are concerned.

It could be argued however that sanctions for the above infringements are not dissuasive to the extent that they are applicable to transport undertakings.

On the contrary sanctions for infringements of the rules on the transport of dangerous goods might be deemed to have a more significant deterrent effect.

The same applies to the sanctions for infringements of the Regulation (EC) Nos 1071, 1072 and 1073/ 2009.

As to the infringements of Directive 2009/40/EC, Directive 96/53/EC and Directive 2006/126/EC we notice that the maximum amount of the fines abstractly prescribed is not dissuasive.

We received also some figures concerning the offences detected in Northern Ireland in the last years.

The table below contain figures that cover the period 1 April 2012 to 30 June 2012 (Annex NI.1).

<b>Table NI 7</b>		
<b>Regulation (EC) No 561/2006 &amp; Regulation (EEC) No 3821/85 (Tables 1 &amp; 2 – covering the period 01/04/12-30/06/12)</b>	<b>Number of Infringements</b>	<b>Comments</b>
Daily Driving > 50%	1	
Daily Driving >= 2 hrs	3	
Daily Driving >= 1 hr	4	

Daily Driving < 1hr	11	
Weekly Driving>25%	0	
Weekly Driving>= 4 hrs	0	
Weekly Driving< 4hrs	0	
Fortnightly Driving>25%	0	
Fortnightly Driving>=10 hrs	0	
Fortnightly Driving<10hrs	0	
Daily Rest <8.5 or 7 hrs	11	
Daily Rest <10 or 8 hrs	6	
Daily Rest <11 or 9 hrs	15	
Weekly Rest <20 or 36 hrs	22	
Weekly Rest <22 or 42 hrs	45	
Weekly Rest <24 or 45 hrs	5	
Breaks >=1.5 hrs	18	
Breaks >=0.5 hrs	8	
Breaks <=0.5 hrs	67	
Centre Field - Name Missing	3	
Centre Field - Date Missing	4	
Centre Field - Start Odometer	1	
Place Missing	27	
Centre Field - Registration Number Missing	2	
Centre Field - End Odometer	9	

Centre Field - Time Missing	0	
Centre Field - Country	0	
Wage Link	0	
Recording Equipment - None Fitted	1	
Recording Equipment - Type Approved	0	
Recording Equipment - Fitter	1	
Recording Equipment - En Route	1	
Use of Equipment – Fraud Device	0	
Use of Equipment – Falsifying Data	1	
Use of Equipment – Driver Card	0	
Use of Equipment – Not Card Holder	2	
Use of Equipment – False/Forged	0	
Use of Equipment - Defective	6	
Use of Equipment – Improper Use	8	
Use of Equipment – Data Illegible	0	
Use of Equipment – Incorrect Use	52	
Use of Equipment – No manual Record	0	
Use of Equipment – Data Lost	1	
Use of Equipment – Driver ID Missing	19	
Use of Equipment – Incorrect Time	2	
Use of Equipment – Fail to Apply	0	
Use of Equipment – Signature Missing	0	

Use of Equipment – Damaged Card	2	
Use of Equipment - > 24 hrs	1	
Use of Equipment – No Data Lost	0	
Production – Fail to Produce	27	
Production - Refuse to be Checked	0	
Production – Fail to Keep	26	
Production – Not Reported	0	
Production – No Blank Sheets	0	
Production – Incorrect Type	0	
Production – Insufficient Paper	2	
<b>Regulation (EC) No. 1072/2009, Directive 2009/40/EC &amp; Directive 2006/126/EC (Tables 5, 7 and 8 – covering the period 01/04/12-30/06/12)</b>	<b>Number of Infringements</b>	<b>Comments</b>
No Vocational Driving Licence (MSI)	12	
No Valid PSV/Vehicle Licence (MSI)	14	
No Valid Roadworthiness Certificate- Prime Mover (MSI)	11	
No Valid Roadworthiness Certificate- Trailer (MSI)	10	
Failure to produce Community Authorisation (MSI)	4	
Failure to produce Waybill (MSI)	1	
<b>Regulation (EC) No. 1073/2009</b>	<b>Number of</b>	<b>Comments</b>

<b>(Table 6)</b>	<b>Infringements</b>	
Number of Buses contravening Article 3 of the Regulation	14	
Number of Buses contravening Article 4 of the Regulation	0	
<b>Most serious infringements of EU rules foreseen in Annex IV of Regulation (EC) No. 1071/2009 that might imply loss of good repute and therefore lead to the withdrawal of the licence of the transport undertaking</b>  <b>(Table 11 – covering the period 01/04/12-30/06/12)</b>	<b>Number of Infringements</b>	<b>Comments</b>
Tachograph & Drivers Hours (MSI)	<b>5</b>	
Licensing (MSI)	<b>25</b>	
Roadworthiness (MSI)	<b>163</b>	
Vehicle Weight (MSI)	<b>9</b>	

The tables below provide an overview of the controls carried out in 2011-2012.

<b>Vehicles checked</b>	<b>Outturn 2011-12</b>
Goods Vehicles	1,946
Trailers	1,066
Taxis	2,177
Buses	831



Cars	268
------	-----

<b>Tachograph Charts Examined</b>	<b>Outturn 2011-12</b>
Operators Premises	10,573
Roadside	37,202
TOTAL	47,775

The tables below provide an overview of the offences detected in 2011-2012. The number of offences is broken down into categories.

<b>Goods Vehicles - Offences</b>	<b>Outturn 2011-2012</b>
Overweight	305
Defective	851
Drivers Hours	324
Fixed Penalty Notices	210
Overall offences actioned <sup>70</sup>	1,064

<b>Taxis Offences</b>	<b>Outturn 2011-2012</b>
Defective	603
Vehicle/ Driver Licensing	227
Compliance with Taxi specifications	766
Fixed Penalty Notices	257
Overall offences actioned <sup>71</sup>	780

<b>Buses - Offences</b>	<b>Outturn 2011-2012</b>
Defective	238
Licensing	57
Fixed Penalty Notices	16
Overall offences actioned <sup>72</sup>	270

The tables below provide an overview of the controls carried out in 2010-2011.

<sup>70</sup> Serious offences dealt by way of prosecution, prohibition or defect notice issued.

<sup>71</sup> Serious offences dealt by way of prosecution, prohibition or defect notice issued.

<sup>72</sup> Serious offences dealt by way of prosecution, prohibition or defect notice issued.

<b>Vehicles checked</b>	<b>Outturn 2010-11</b>
Goods Vehicles	2,480
Trailers	1,355
Taxis	1,520
Buses	501
Cars	230

<b>Tachograph Charts Examined</b>	<b>Outturn 2010-11</b>
Operators Premises	7,659
Roadside	32,952
TOTAL	40,611

The tables below provide an overview of the offences detected in 2011-2012. The number of offences is broken down into categories.

<b>Goods Vehicles - Offences</b>	<b>Outturn 2010-2011</b>
Overweight	514
Defective	1,028
Drivers Hours	463
Overall offences actioned <sup>73</sup>	1,432

<b>Taxis Offences</b>	<b>Outturn 2010-2011</b>
Defective	374
Vehicle/ Driver Licensing	183
Compliance with Taxi specifications	532
Overall offences actioned <sup>74</sup>	547

<b>Buses - Offences</b>	<b>Outturn 2010-2011</b>
Defective	142
Licensing	70
Overall offences actioned <sup>75</sup>	184

<sup>73</sup> Serious offences dealt by way of prosecution, prohibition or defect notice issued.

<sup>74</sup> Serious offences dealt by way of prosecution, prohibition or defect notice issued.

<sup>75</sup> Serious offences dealt by way of prosecution, prohibition or defect notice issued.

In conclusion, it is posited in agreement that the sanctions' system might not be effective in preventing the commission of infringements of EU rules on commercial road transport.

## **23 POLAND - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR**

### **23.1 Social rules on road transport**

#### **23.1.1 Rules on Driving Times and Rest Periods**

##### **23.1.1.1 Regulation (EC) No 561/2006**

Regulation (EC) No 561/2006 was implemented by virtue of the Act on working time of drivers of 16 April 2004<sup>76</sup> (hereinafter, referred to as the “Act on working time of drivers”) and by virtue of the Act on road transport of 6 September 2001<sup>77</sup> (hereinafter, referred to as the “Act on road transport”). The regulation concerning sanctions for infringements of different rules regarding driving time, obligatory breaks and rest periods defined in Regulation (EC) No 561/2006 is contained in Chapter 11 of the Act on road transport and in the Attachments No. 1-3 thereto.

Article 92 section 1 and 3 and Article 92a section 1 of the Act on road transport regulate the scope of applying the sanctions. Different sanctions apply to drivers, managers of the undertaking or managers of transport in the undertaking or persons performing road transport activities and to the entities performing road transport activities or other activities connected with road transport.

Additionally, pursuant to Article 92 section 6 of the Act on road transport, appropriate sanctions may be imposed on drivers and managers of the undertaking or managers of transport in the undertaking and persons performing road transport activities regardless of the fact that the infringement was committed abroad, unless the liable party proves that a sanction has already been imposed for that specific infringement.

---

<sup>76</sup> Act on work time of drivers of 16 April 2004 (Journal of Laws of 2004 No. 92, item 879).

<sup>77</sup> Act on road transport of 6 September 2001 (Journal of Laws of 2007 No. 125, item 874).

Managers of the undertaking and managers of transport in the undertaking and persons performing road transport activities are hereinafter jointly referred to as the “Managers”.

*Fines imposed on drivers*

The detailed sanctions which may be imposed on drivers for exceeding the maximum driving time have been stipulated in Attachment No. 1 to the Act on road transport. Moreover, Article 92 section 1 of the Act on road transport provides for the maximum fine that may be imposed on drivers of PLN 2,000.00.

In case of exceeding the daily driving limits, the value of the fine imposed on the driver is as follows:

- PLN 100.00 – for exceeding the daily driving limit by 1 hour (point 4.1. of Attachment No.1);
- PLN 100.00 – for each subsequent commenced hour (point 4.1. of Attachment No.1).

In case of exceeding the non-stop driving time limits, the value of the fine imposed on the driver is as follows:

- PLN 150.00 – for exceeding the non-stop driving time limit by over 15 minutes and up to 30 minutes (point 4.2. of Attachment No.1)
- PLN 150.00 – for each subsequent commenced 30 minutes (point 4.2. of Attachment No.1).

In case of shortening the daily rest period, the value of the fine imposed on the driver is as follows:

- PLN 100.00 – for shortening the daily rest period by over 15 minutes up to 1 hour (point 4.3. of Attachment No.1)
- PLN 100.00 – for each subsequent commenced hour (point 4.3. of Attachment No.1)

In case of shortening the weekly rest period, the value of the fine imposed on the driver is as follows:

- PLN 50.00 – for shortening the weekly rest period by up to 1 hour (point 4.4. of Attachment No.1).

- PLN 50.00 – for each subsequent commenced hour (point 4.4. of Attachment No.1)

In case of exceeding the weekly driving time, the value of the fine imposed on the driver is as follows:

- PLN 50.00 – for exceeding the weekly driving time by over 30 minutes up to 2 hours (point 4.5. of Attachment No.1).
- PLN 50.00 – for each subsequent commenced hour (point 4.5. of Attachment No.1).

In addition, the fines imposed on the drivers described hereinabove have a nature of criminal sanctions.

The amounts of the fines that may be imposed on the drivers in connection with the above mentioned infringements are further specified in Table C to the Regulation of the Prime Minister of 24 November 2003 on fines for selected type of petty offences<sup>78</sup> (hereinafter, referred to as the “Regulation on fines”). The amount of the fines specified in Table C to the aforementioned Regulation that may be imposed on drivers for the infringement of the provisions regarding the driving time, obligatory breaks and rest periods varies between PLN 100.00 and PLN 500.00.

#### *Fines imposed on Managers*

The criminal sanctions which may be imposed on Managers are described in details in Attachment No. 2 to the Act on road transport. Pursuant to Article 92 section 3 of the said Act, the maximum fine that may be imposed on Managers amounts to PLN 2,000.00. The infringement may be negligently committed by Managers.

Managers may also be held liable regarding the provisions on driving time, obligatory breaks and rest periods of drivers. In case of allowing infringements of the provisions regarding the driving time, obligatory breaks and rest periods, the fine of PLN 2,000.00 may be imposed on Managers. The fine may be imposed in Poland, even if the infringement took place abroad, unless the Managers prove that the fine for that

---

<sup>78</sup> Regulation of the Prime Minister of 24 November 2003 on fines for selected type of petty offences (Journal of Laws of 2003 No. 208, item 2023).

infringement has already been imposed.

#### *Liability of transport undertakings*

Unlike in the case of Managers and drivers, the penalties which may be imposed on the transport undertakings for infringing the rules on the driving time, obligatory breaks and rest periods are of an administrative nature. According to Article 92 section 1 of the Act on road transport, the amount of the penalty that may be imposed on entities performing road transport activities or other activities connected with road transport varies between PLN 50.00 and PLN 10.000,00 for each committed infringement. However, the total amount of penalties that may be imposed during one road control shall not exceed PLN 10.000,00. The maximum amount of the penalties that may be imposed during a single control in the undertaking varies between PLN 15.000,00 and PLN 40.000,00 (depending on the number of drivers that were employed in the undertaking during 6 months preceding the commencement of the control, Article 92a section 3 of the Act on road transport).

The sanctions that may be imposed on drivers, Managers and undertakings are independent of each other. Therefore, the sanctions may be imposed on each of them for the same infringement.

Additionally, the same administrative sanctions as in case of the transport undertakings may be imposed on other entities performing road transport activities, especially on forwarding agents, senders, receivers, loaders, trip organisers, transport organisers and public collective transport operators. Their liability may arise under the condition that proofs and circumstances of the case show that these entities had affected or agreed to the occurrence of the infringement. The maximum amount of the penalties that may be imposed during a single control in the aforementioned entities amounts to PLN 40,000.00.

The rates of the administrative penalties that may be imposed on transport undertakings and other entities mentioned above for specific infringements are contained in Attachment No. 3 to the Act on road transport.

The rates of the penalties are as follows:

- For the infringement of the maximum daily driving times:
  - by over 15 minutes up to 1 hour – PLN 100.00 (point 5.1.1. of Attachment No.3);
  - for each subsequent commenced hour – PLN 200.00 (point 5.1.2. of Attachment No.3).
- For the infringement of the maximum non-stop driving times:
  - by over 15 minutes up to 30 minutes – PLN 150.00 (point 5.2.1. of Attachment No.3);
  - for each subsequent commenced 30 minutes – PLN 200.00 (point 5.2.2. of Attachment No.3).
- For shortening the daily rest periods:
  - by over 15 minutes up to 30 minutes – PLN 100.00 (point 5.3.1. of Attachment No.3);
  - for each subsequent commenced hour – PLN 200.00 (point 5.3.2. of Attachment No.3).
- For shortening the weekly rest periods:
  - by up to 1 hour – PLN 50.00 (point 5.4.1. of Attachment No.3);
  - for each subsequent commenced hour – PLN 100.00 (point 5.4.2. of Attachment No.3).
- For exceeding the weekly driving times:
  - by over 30 minutes up to 2 hours - PLN 50.00 (point 5.5.1. of Attachment No.3);
  - for each subsequent commenced hour – PLN 100.00 (point 5.5.2. of Attachment No.3).
- For exceeding the total biweekly driving times:
  - by over 1 hour up to 4 hours – PLN 100.00 (point 5.6.1. of Attachment No.3);
  - for each subsequent commenced hour – PLN 150.00 (point 5.6.2. of Attachment No.3).

If a particular infringement is committed by a foreign entity with its registered office in a country which have not signed with Poland an agreement or a settlement on co-operation in mutual debt collection or when the possibility to enforce debts does not



follow from the international regulations or laws of that country, a controller may collect a deposit from the given foreign entity in the amount equal to the expected pecuniary penalty. If the controller does not collect the aforementioned deposit, he may retain documents of a vehicle and remove or direct the vehicle to the closest guarded parking.

Nevertheless, the penalties for the infringement of the driving times, obligatory breaks and rest periods will not be imposed if the infringement occurred even though the entity performing the road transport activities guaranteed a proper organisation and discipline of labour generally required for performance of the road transport activities (Article 92b section 1 of the Act on road transport).

#### *Foreign drivers*

Pursuant to the Regulation on fines, the infringements of the drivers regarding the driving times, obligatory breaks and rest periods are qualified as petty offences under the Polish legal system and the provisions of the Code of Petty Offences of 20 May 1971<sup>79</sup> (hereinafter referred to as the “Code of Petty Offences”) shall apply.

Therefore, pursuant to Article 3 of the Code of Petty Offences, the foreign drivers shall be held liable for the above mentioned infringements under the same conditions as the Polish drivers. The issue of nationality is irrelevant.

#### **23.1.1.2 Directive 2002/15/EC**

Directive 2002/15/EC has been implemented into the Polish legal system by virtue of the Act on working time of drivers and amendments to the Polish Labour Code of 26 June 1974<sup>80</sup> (hereinafter referred to as the “Labour Code”).

Pursuant to Article 12 section 1 of the Act on working time of drivers, a weekly working time of a driver (including overtime) shall not exceed 48 hours in the accounting period of not more than 4 months. The maximum working time within a week shall amount to 60 hours if the average of 48 hours per week is not exceeded

---

<sup>79</sup> Code of Petty Offences of 20 May 1971 (Journal of Laws of 2010 No. 46, item 275).

<sup>80</sup> Polish Labour Code of 26 June 1974 (Journal of Laws of 1998 No. 21, item 94).

within the 4-month accounting period (Article 12 section 2 of the Act on working time of drivers). The abovementioned limits apply to a driver irrespective of whether he/she is employed by one or more employers.

After 6 hours of consecutive work, a driver has the right to a 30-minute break. If the driver has been working for more than 9 hours, the break should be 45-minute long. Pursuant to Article 13 of the Act on working time of drivers, the breaks may be separated into shorter periods of 15 minutes each.

According to Article 14 of the Act on working time of driver, a driver is entitled to 11 hours of non-stop rest per day. In addition, the driver is also entitled to 35 hours of non-stop rest per week. In case the driver is working overtime and in case of change of shift, the minimum period of the non-stop rest per week amounts 24 hours.

Moreover, Article 15 of the Act on working time of drivers allows to apply the equivalent working time system, in which the maximum daily time of work amounts up to 12 hours. In the equivalent working time system, longer time of work per one day is balanced by shorter time of work on other days or by free days.

On the other hand, Article 16 of the Act on working time of drivers allows, in particularly justified cases, to apply towards the drivers interrupted working time system. In such situation, one break during a working day of maximum length of 5 hours may be established. If the driver performs carriages regularly, the maximum length of one break during a working day amounts to 6 hours. Furthermore, pursuant to Article 17 of the Act on working time of drivers, in cases justified by a type of carriages or their organisation, the task working time system shall apply towards the drivers.

The provisions on sanctions for infringements of the abovementioned rules have been stipulated in Article 281 of the Labour Code. Pursuant to Polish law, infringements of the rules regarding the working time, obligatory breaks and rest periods, which are applicable towards the drivers are qualified as petty offences against the rights of employees. Therefore, the sanctions for these infringements are of a criminal nature. According to Article 281 point 5, either an employer or a person acting on his behalf may be held liable for the infringement of the provisions on the working time. The amount of fine that may be imposed for this kind of infringements varies between PLN 1,000.00 and PLN 30,000.00. The infringement may be committed either voluntarily or involuntarily.

It is worth mentioning that Article 3 of the Polish Labour Code provides for a definition of employer according to which: “*the employer is an organisational unit, even if it has legal personality, as well as an individual, if he/she employs the employees*”. Therefore, the liability for the infringements against the Act on working time of drivers may be held by the employers in the meaning described above and by the persons acting on their behalf.

## **23.1.2 Tachograph**

### **23.1.2.1 Regulation (EEC) No 3821/85**

The sanctions for the infringements of Regulation (EEC) No 3821/85 are contained in Chapter 11 and in Attachments No. 1-3 to the Act on road transport. The general rules regarding liability for these infringements are the same as in the case of the infringements regarding the driving times, obligatory breaks and rest periods, referred to above.

The following individuals and entities may be held liable for the infringements of Regulation (EEC) No 3821/85:

- drivers;
- managers of the undertakings;
- managers of transport in the undertakings;
- persons performing road transport activities;
- transport undertakings.

#### *Liability of the drivers*

Liability of the drivers for the infringements of Regulation (EEC) No 3821/85 is of a criminal nature. Pursuant to Article 92 section 1 of the Act on road transport, a fine of up to PLN 2,000.00 may be imposed on drivers. A driver may be found liable for the infringement in Poland even if it was committed abroad unless the driver proves that the fine has already been imposed for that particular infringement. The detailed rates of the

finances which may be imposed on drivers for specific infringements are contained in point 13 of Attachment No. 1 to the Act on road transport.

The rates of the fines that may be imposed on drivers for different infringements against usage of registration devices in road transport are as follows:

- for performance of the road transport activities with a vehicle equipped with a registration device or digital registration device to which an additional unauthorised device was connected and which had influenced the inappropriate functioning of the registration device – PLN 2,000.00 (point 13.1. of Attachment No.1);
- for failure to register speed of a vehicle, activity of a driver or distance travelled with use of the registration device, digital registration device on a record sheet or driver's card – PLN 2,000.00 (point 13.2. of Attachment No.1);
- for improper use of a switch of a registration device or of a digital registration device, allowing change of the driver's activity – for each day of the improper use – from PLN 100.00 to PLN 1,000.00 (point 13.3. of Attachment No.1);
- for performance of the road transport activities with non-functioning or malfunctioning registration device or digital registration device after the lapse of period of the permissible driving time – PLN 1,000.00 (point 13.4. of Attachment No.1);
- for performance of the road transport activities without a valid driver's card or with a damaged driver's card after the lapse of the permissible driving time – PLN 500.00 (point 13.5. of Attachment No.1);
- for performance of the road transport activities with a vehicle with disconnected registration device or disconnected digital registration device – PLN 2,000.00 (point 13.6. of Attachment No.1);
- for unauthorised interference with operation of the registration device or digital registration device installed in the vehicle, as a result of which a change of device's readings of the vehicle's speed, driver's activity or distance travelled appeared – PLN 2,000.00 (point 13.7. of Attachment No.1);
- for unjustified use of a couple of register sheets during 24-hours period instead of one – PLN 100.00 for each day (point 13.8 of Attachment No.1);
- for use of a register sheet exceeding a period for which it is designated – from

PLN 100.00 to PLN 1,000.00 (point 13.9 of Attachment No.1);

- for use of a register sheet of not certified type or of a type which is not suitable for a particular type of registration device – PLN 200.00 (point 13.10 of Attachment No.1);
- for presenting during a control a dirty register sheet or damaged in a way which makes reading of a data impossible – PLN 200.00 (point 13.11 of Attachment No.1);
- for presenting during a control a register sheet or a driver's card, which does not contain all of the required data regarding driver's activity, entered either manually or automatically – PLN 100.00 for each day (point 13.12 of Attachment No.1);
- for use of the same register sheet or driver's card by a few drivers – PLN 2,000.00 (point 13.13 of Attachment No.1);
- for simultaneous use of a few register sheets or driver's cards – PLN 2,000.00 (point 13.14 of Attachment No.1);
- for presenting a register sheet which does not contain the required entry – PLN 50.00 for lack of each entry (point 13.15 of Attachment No.1);
- for discrepancy between a time on the register sheet and official time in the country of the vehicle's registration – from PLN 100.00 to PLN 1,000.00 (point 13.16 of Attachment No.1);
- for performance of road transport activities by a driver without a required print-out from the tachograph in case of lack of a driver's card, its damage or failure – from PLN 200.00 to PLN 1,000.00 (point 13.17 of Attachment No.1).

The amount of fines that may be imposed on drivers for the above mentioned infringements connected with registration obligation is further specified in Table C to the Regulation of the Prime Minister on fines for selected type of petty offences. The fines that may be imposed on the drivers for different infringements connected to the use of tachograph varies between PLN 200.00 and PLN 500.00. The fines for different infringements in relation with the registration card varies between PLN 50.00 and PLN 500.00, whereas the performance of the road transport activities in violation of the provisions on the use of the digital tachograph is punishable with a fine varying between PLN 50.00 and PLN 500.00.

### Liability of Managers

The managers of the undertaking, managers of transport in the undertaking and other persons performing activities connected with road transport may be held liable for the infringements of Regulation (EEC) No 3821/85 and a criminal sanction in the form of a fine may be imposed on them. Specific provision regarding the liability for the infringements of the rules on the use of the register devices in the road transport is contained in point 16 of Attachment No. 2 to the Act on road transport. Pursuant to the aforementioned point, Managers shall pay the fine of PLN 2,000.00 for allowing infringements of the provisions on the use of devices automatically registering the driving speed, driving times, rest times and driver's activity. The manager may be found liable even if he/she negligently allowed for the aforementioned infringements. The manager may be held liability in Poland even if the infringement took place abroad, unless the fine for this infringement has already been imposed.

### Liability of transport undertakings

Transport undertakings may be held liable for infringements of Regulation (EEC) No 3821/85. However, their liability is of an administrative nature. The transport undertakings may be obliged to pay a pecuniary penalty, the maximum value of which for one control varies between PLN 15,000.00 and PLN 40,000.00 (depending on the number of drivers employed by the undertaking during the period of 6 months preceding the control). The rules of liability of the transport undertakings also apply to different entities performing the road transport activity such as forwarding agents, senders, receivers, loaders, trip organisers, transport organisers and public collective transport operators. In these cases, the maximum amount of the penalties that may be imposed during one control amounts to PLN 40,000.00.

If a particular infringement is committed by a foreign entity with its registered office in a country which has not signed with Poland an agreement or a settlement on co-operation in mutual debt collection or when a possibility of debts' enforcement does not follow from the international regulations or laws of that country, a controller may collect a deposit from the given foreign entity in the amount equal to the expected pecuniary penalty. If the controller does not collect the aforementioned deposit, he may

retain the documents of a vehicle and remove or direct the vehicle to the closest guarded parking (Article 94 and 95 of the Act on road transport).

A detailed description of the penalties that may be imposed on the transport undertakings for infringements of the rules on registration devices in road transport is contained in point 6 of Attachment No. 3 to the Act on road transport.

The rates of the penalties are as follows:

- for performance of the road transport activities by a vehicle without a registration device or digital registration device – PLN 3,000.00 (point 6.1.1. of Attachment No. 3);
- for performance of the road transport activities by a vehicle with a registration device or digital registration device, which does not register all the necessary elements – PLN 2,000.00 (point 6.1.2. of Attachment No. 3);
- for performance of the road transport activities by a vehicle with a registration device or digital registration device, which does not simultaneously register the data on periods of drivers' activity – PLN 1,000.00 (point 6.1.3. of Attachment No. 3);
- for register of the road transport activities by a vehicle with a registration device or digital registration device without required period check, control test or calibration – PLN 1,000.00 (point 6.1.4. of Attachment No. 3);
- for allowing performance of the road transport activities by a vehicle equipped with a registration device by a driver without his own valid driver's card – PLN 1,000.00 (point 6.1.5. of Attachment No. 3);
- for performance of the road transport activities by a driver without required print-out from the tachograph in case of lack of a driver's card, its damage or failure – PLN 100.00 for each lacking print-out (point 6.1.6. of Attachment No. 3);
- for failure to register the speed of the of vehicle, driver's activity or road travelled on a register sheet or driver's card with use of the registration device or digital registration device – PLN 5,000.00 (point 6.2.1. of Attachment No. 3);
- for unjustified use of a few register sheets during the same 24-hours period – PLN 200.00 for each day - up to PLN 2,000.00 (point 6.3.1. of Attachment No. 3);

- for use of a register sheet of not certified type or of a type which is not suitable for a particular type of registration device – PLN 100.00 for each register sheet - up to PLN 2,000.00 (point 6.3.2. of Attachment No. 3);
- for presenting during a control a dirty register sheet or damaged in a way which makes reading of the data impossible – PLN 300.00 (point 6.3.3. of Attachment No. 3);
- for use of the same register sheet or driver's card by a few drivers – PLN 3,000.00 (point 6.3.4. of Attachment No. 3);
- for simultaneous use of a few register sheets or driver's cards - PLN 1,000.00 (point 6.3.5. of Attachment No. 3);
- for lack of the required entries in the presented register sheet – PLN 50.00 for each lacking entry (point 6.3.6. of Attachment No. 3);
- for failure to present a register sheet, data from a driver's card, data from a digital tachograph or a document confirming non-driving of a vehicle during a control in the undertaking – PLN 500.00 for each day (point 6.3.7. of Attachment No. 3);
- for presenting a register sheet, which does not contain all data regarding driver's activity, during a control in the undertaking – PLN 300.00 for each register sheet (point 6.3.8. of Attachment No. 3);
- for providing incomplete data on the driver's activity, during a control in the undertaking – PLN 300.00 for each day (point 6.3.9. of Attachment No. 3);
- for presenting a register sheet with impermissible entries of speed, activity or road travelled during a control in the undertaking – PLN 1,000.00 for each register sheet, up to PLN 5,000.00 (point 6.3.10. of Attachment No. 3);
- for breach of duties regarding loading of data from a driver's card – PLN 500.00 for each driver (point 6.3.11. of Attachment No. 3);
- for breach of duties regarding loading of data from a registration device – PLN 500.00 for each vehicle (point 6.3.12. of Attachment No. 3);
- for not disclosing the data loaded into a digital tachograph and driver's card, kept in the undertaking, during a control in the undertaking – PLN 300.00 for each day (point 6.3.13. of Attachment No. 3);
- for unauthorised interference with a data saved on a digital register device, on a



driver's card or on the undertaking's card – PLN 5,000.00 (point 6.3.14. of Attachment No. 3).

### Foreign drivers

Due to the fact that pursuant to Polish law infringements committed by the drivers regarding the use of the registration devices in road transport are qualified as petty offences, the provisions of the Polish Code of Petty Offences shall apply to this kind of infringements. Therefore, pursuant to Article 3 of the Code of Petty Offences, the foreign drivers may be held liable in Poland for infringement of Regulation (EEC) No. 3821/1985 under the same conditions as the Polish drivers.

## **23.2 Road package**

### **23.2.1 Regulation (EC) No 1071/2009**

Regulation (EC) No 1071/2009 was implemented into Polish law through the Act on road transport.

The specific rules on liability of the transport undertakings and other entities performing the road transport activities for infringement of Regulation (EC) No 1071/2009 are contained in Article 15 of Attachment No. 3 to the aforementioned Act. The sanctions that may be imposed on the transport operators are of an administrative nature.

According to Article 15 section 1 point 2) letter a) a licence obtained by the transport operator shall be revoked if he/she failed to meet the requirements for performance of the road transport activity (this includes the requirements defined in Regulation (EC) No 1071/2009).

Pursuant to Article 15 section point 2) letter b) on the other hand, a licence for performance of the road transport activities shall be revoked in case of gross violation of conditions of the licence or other terms of business covered by the licence specified by the law.

Before revocation of the licence, the transport operator receives a written warning stating that in a case of committing the same violation again, administrative proceedings on revocation of the licence will be instituted. The licence is being directly revoked if a member of the management board, manager of the entity or an individual leading business activity has already been convicted by a final judgment for intentional offenses such as: criminal tax offences, offences against road traffic safety, property, business transactions, the reliability of the documents, the environment or working conditions and wages or other rules of conduct of the profession. Being convicted for one of the aforementioned offences is tantamount with lack of good reputation.

The licence may be revoked also in case of failure to provide an appropriate authority on time with information and documents necessary to obtain the licence (Article 15 section 3 point 1 of the Act on road transport).

#### *Pecuniary sanctions*

Moreover, according to point 1.1. of Attachment No. 3 that the transport undertakings and other entities may be imposed with the pecuniary penalty of PLN 8,000.00 for performance of the road transport activities without the required licence.

In addition an entity or a person that performs the road transport activities for its own needs may be imposed with the fine of PLN 8,000.00 if it does not have the required certificate.

Due to the failure to notify the authority that issued the licence of a change of the data of the transport operator in a written form, the transport operator may be imposed with the penalty of PLN 800.00 (point 1.4. of Attachment No. 3).

Additionally, pursuant to Article 95a of the Act on road transport, the pecuniary penalty of PLN 1,000.00 may be imposed on an entrepreneur in case of failure to notify the appropriate authority of a change of the data and in case of failure to return a licence or excerpts thereof to the appropriate authority, if the licence was revoked within 14 days from the date when a decision on the revocation became final.

No criminal sanctions have been provided, and all the infringements are punished either by way of revocation of the licence for the road transport or the pecuniary sanctions. However, submission of fake documents may be punished by the criminal sanction if the action fulfils all the criteria to be qualified as a forgery.

Please note that the Polish sanction system does not foresee any additional specific sanction system for those infringements that are qualified as most serious infringements described in Annex IV of Regulation (EC) No 1071/2009.

Notably, the Act on road transport of September 6, 2001 does not contain any provisions referring to loss of good repute in case of committing the most serious infringements, described in Annex IV to Regulation No 1071/2009. Therefore, Polish law does not add anything to what is foreseen in EU law in that matter. The only provision of the Act on road transport which concerns the matter of loss of good repute is Article 5 section 3 point 1 of the Act. The aforementioned Article states that a requirement of good repute has to be fulfilled by members of the management bodies of the legal entities, managers in general and limited partnerships, and in case of other entrepreneurs – by persons leading business activity.

The requirement of good repute is not fulfilled by the aforementioned persons if:

- they have been convicted under a final and binding court judgment for following willful offenses: fiscal crimes, against road traffic safety, against property, against business transactions, against reliability of documents, against environment or against working conditions and wages or other rules of conducting the profession;
- final and binding ruling on a ban to run a business activity in the field of road transport passed towards these persons.

### **23.2.2 Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009**

Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 have been implemented into the Polish legal system by virtue of the Act on road transport. Therefore, the general rules of liability of individuals and entities described above in the first paragraph of this Chapter apply also to liability resulting from infringements against the aforementioned Regulations.

The details of the liability for the infringement of Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009 are contained in Attachment No. 1-3 of

the Act on road transport.

*Liability of the transport undertakings*

Attachment No. 3 specifies the rules of liability of transport undertakings. Administrative sanctions in the form of pecuniary penalty may be imposed on them for committing the infringements.

The rates of the penalties for specific infringements are as follows:

- for performance of international road transport activities without possessing a required permit in a vehicle – PLN 10,000,00 (point No. 3.1. of Attachment No.3);
- for failure to apply for or to apply improperly for a permit required in the international road transport – PLN 8,000.00 (point No. 3.2. of Attachment No.3);
- for performance of international road transport activities against the rules defined in the permit – PLN 8,000.00 (point No. 3.3. of Attachment No.3);
- for performance of the cabotage transport in the territory of Poland without the required permit – PLN 10,000.00 (point No. 3.5. of Attachment No.3);
- for performance of the cabotage transport against the rules of its performance – PLN 10,000.00 (point No. 3.6. of Attachment No.3);
- for assignment of international road transport activities to a foreign entity without the required permit for the cabotage transport – PLN 10,000.00 (point No. 3.7. of Attachment No.3);
- for assignment of international road transport activities by a non-normative vehicle to entity without the required permit – PLN 8,000.00 (point No. 3.8. of Attachment No.3).

Moreover, the transport undertakings may be held liable for performance of the road transport activities without the required licence. The amount of the penalty which may be imposed on them amounts to PLN 8,000.00 (point No. 1.4. of Attachment No. 3).

When it comes to the system of sanctions referring to Regulation (EC) 1073/2009, the following rates of the penalties that may be imposed on the transport undertakings are as follows:

- for performance of the regular transportation without the required permit – PLN 8,000.00 (point No. 2.1. of Attachment No. 3);
- for performance of regular transportation in violation of the conditions of the permit (especially days of transportation, times of departure and arrival, fixed routes or designated stops) - from PLN 500.00 to PLN 3,000.00 (point No. 2.2. of Attachment No. 3);
- for performance of regular transportation without a timetable – PLN 2,000.00 (point No. 2.3. of Attachment No. 3);
- for failure to deliver the required confirmation of payment of a transport fee to the passenger prior to commencement of the course – PLN 2,000.00 (point No. 2.7. of Attachment No. 3).

If a particular infringement is committed by a foreign entity with its registered office in a country that has not signed with Poland an agreement or a settlement on co-operation in mutual debt collection or when a possibility of debts' enforcement does not follow from the international regulations or laws of that country, a controller may collect a deposit from the given foreign entity in the amount equal to the expected pecuniary penalty. If the controller does not collect the aforementioned deposit, he/she may retain the documents of a vehicle and remove or direct the vehicle to the closest guarded parking.

#### *Liability of Managers*

Criminal sanctions in the form of the fines may be imposed on Managers for particular infringements of Regulation (EC) No. 1072/2009 and Regulation (EC) 1073/2009.

The rates of the fines for specific infringements are as follows:

- for failure to provide a driver with an excerpt from a licence, permit or a certificate on performance transportation for own needs – PLN 2,000.00 (point No. 1.1. of Attachment No. 2);
- for failure to provide a driver with a driver's certificate – PLN 1,000.00 (point No. 1.2. of Attachment No. 2);
- for failure to provide a driver with other necessary documents – PLN 500.00

(point No. 1.3. of Attachment No. 2).

As it has already been mentioned, Managers may be held liable for the infringements in Poland even though they were committed abroad. In such situation, the Manager will be released from the liability, if he/she proves that a sanction for a particular infringement has already been imposed.

#### *Liability of a driver*

A driver may be held liable for failure to present an excerpt from a licence, a permit or other document necessary in the road transport. The fine that may be imposed for such infringement amounts to PLN 500.00 (point No. 1 of Attachment No. 1). The fine that may be imposed on the driver is a criminal sanction in nature. The driver may be held liable in Poland, even if the infringement was committed abroad, unless the driver proves that the fine has already been imposed.

#### *Foreign drivers*

Due to the fact that pursuant to Polish law the infringements of Regulation (EC) No 1072/2009 and Regulation (EC) 1073/2009 committed by drivers are qualified as petty offences, the provisions of the Polish Code of Petty Offences shall apply. Therefore, pursuant to Article 3 of the Code of Petty Offences, the foreign drivers may be held liable in Poland for this kind of infringements under the same conditions as the Polish drivers.

### **23.3 Standards of vehicles, load and necessary licences**

#### **23.3.1 Directive 2008/68/EC**

The main act implementing Directive 2008/68/EC on the road transport of

dangerous goods is the Act on transport of dangerous goods of 19 August 2011<sup>81</sup> (hereinafter referred to as the “Act on transport of dangerous goods”).

The Act on transport of dangerous goods applies to the national and international road or inland navigation transport of dangerous goods. The provisions are consistent with the ADR, RID and ADN<sup>82</sup> and specify the requirements for the transport of dangerous goods, describe the participants of the transport, the prescribed means of transport and oblige the relevant authority to maintain surveillance over the transport. With respect to the technical requirements (i.e. documentations, courses and exams, as well as the inland navigation ships transporting dangerous goods) as stipulated in Directive 2008/68/EC, there are numerous ministerial regulations.

Chapter 9 of the Act on transport of dangerous goods sets out the sanctions for non-compliance with its provisions. Pursuant to Article 107 of the said act, in case of the infringement, the participant of the transport is subjected to a pecuniary fine imposed by way of an administrative decision. In the area of road transport of dangerous goods, the administrative procedure is subject to the provisions of the Act on road transport. In case the given infringement concurrently constitutes an offence (pursuant to the Code of Petty Offences), the provisions of the Act on dangerous goods shall apply.

A detailed list of the infringements is contained in Attachment No. 1 to the Act on dangerous goods, where the sanctions vary as follows:

- Infringements with respect to the documentation requirements - from PLN 250.00 to PLN 6,000;
- Infringements with respect to the method of transportation - from PLN 1,000 to PLN 6,000;
- Noncompliance with the means of transport and transport units requirements - from PLN 500.00 to PLN 3,000; PLN 200.00 for every missing element in the

---

<sup>81</sup> Act on transport of dangerous goods of 19 August 2011 (Journal of Laws of 2011 No. 227, item 1367).

<sup>82</sup> ADR - European Agreement concerning the International Carriage of Dangerous Goods by Road, RID - Regulations concerning the International Carriage of Dangerous Goods by Rail, ADN - European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways.

equipment;

- Non-compliance with the packaging requirements - from PLN 800.00 to PLN 3,000;
- Other infringements - from PLN 200.00 to PLN 10,000.

Article 108 provides the sanction of PLN 300.00 for the non-compliance with the provisions regarding respective ADR and ADN courses (Article 53 of the Act on dangerous goods) for the entity responsible for arranging the course.

Furthermore, Article 111 imposes a fine, enforced under the Code of Petty Offences Proceedings of 24 August 2001<sup>83</sup> (hereinafter referred to as the “Code of Petty Offences Proceedings”), on:

- a driver;
- a member of the staff;
- any other natural person performing actions in the course of transport of dangerous goods;

infringing the obligations and conditions of the transport of dangerous goods.

Article 112 of the Act regulates the non-compliance with the requirements regarding the transport of pressure devices and imposes fines amounting to PLN 10,000 on:

- anyone who launches the device on the market;
- anyone who places a Π mark on transportable pressure device;
- anyone who places a mark similar to Π which may be misleading;
- anyone who launches the device on the market without placing on them the Π mark.

These sanctions are executed under the Code of Petty Offences Proceedings.

### Foreign drivers

Pursuant to Article 28 of the Code of Administrative Proceedings of 14 June

---

<sup>83</sup> Code of Petty Offences Proceedings of 24 August 2001 (Journal of Laws of 2008 No. 133, item 848).



1960<sup>84</sup> (hereinafter referred to as the “Code of Administrative Proceedings”), the party is anyone whose legal interest or obligation is concerned in the proceedings or anyone who demands the administrative authority to take a legal action in relation to its legal interest or obligation.

Therefore, unless the material provisions of an act do not stipulate otherwise, the Polish regulations shall be applicable towards the foreign drivers.

### **23.3.2 Directive 96/53/EC**

Directive No. 96/53/EC stipulating certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic, has been implemented above all by the Road Traffic Act of 20 June 1997<sup>85</sup> (hereinafter referred to as the “Road Traffic Act”) as well as numerous ministerial regulations.

The current provisions of the Act on Public Roads of 21 March 1985<sup>86</sup> (hereinafter referred to as the “Act on public roads”) specify the standard requirements for vehicles in relation to dimensions and weights. Attachment No. 2 to this Act enumerates the sanctions that may be imposed for passage without authorisation of the vehicles exceeding the prescribed parameters in the amount varying from PLN 120 to PLN 9,000 each. In case more than one parameter has been exceeded, the total amount of the relevant penalties shall be applicable.

In 2011, the Road Traffic Act was amended with respect to the maximum authorised dimensions and weights as specified in Directive 96/53/EC. The amendment shall come into force on 19 October 2012 and replace the aforementioned provisions of the Act on Public Roads.

Bearing in mind the objective of the study, further analysis focuses on the Road Traffic Act in the wording as amended and harmonised with EU law.

---

<sup>84</sup> Code of Administrative Proceedings of 14 June 1960 (Journal of Laws of 2000 No. 98, item 1071).

<sup>85</sup> Road Traffic Act of 20 June 1997 (Journal of Laws of 2005 No. 108, item 908).

<sup>86</sup> Act on Public Roads of 21 March 1985 (Journal of Laws of 2007 No.19, item 115).

The amended Article 66 of the Road Traffic Transport and Section II of Regulation of the Minister of Infrastructure of 31 December 2002<sup>87</sup> (hereinafter referred to as the “Regulation”) specifies the maximum vehicles dimensions and weights as well as the detailed requirements in relation to the equipment.

In case the vehicle or the load exceeds the prescribed criteria, the authorisation of the relevant authorities is needed pursuant to the recently amended Article 64 of the Road Traffic Act, effective as of 19 October 2012.

The authorities issue the authorisations in 7 categories (I to VII) due to the various dimensions and weights.

As a consequence, Article 140aa of the Road Traffic Act (also effective as of 19 October 2012), foresees the pecuniary sanctions for exceeding the standards with respect to the dimensions and weights or non-compliance with the conditions specifies in the authorisation, imposed by way of administrative decisions.

Pursuant to Article 140a point 3 of the Road Traffic Act the following entities are liable for the above mentioned infringements:

- driver;
- anyone who performs any other action in relation to the transport, especially a shipper, sender, a recipient or carrier.

The prescribed amounts of the sanctions are as follows:

- PLN 1,500 for lack of the I and II category authorisation;
- PLN 5,000 for lack of the III to VI category authorisation;
- from PLN 500.00 to PLN 15,000 for lack of the VII category authorisation;
- from PLN 3,000 to PLN 6,000 for passing through a bridge or viaduct infringing the specified conditions or objection of the administrator of the road.

The sanctions are applicable in case the vehicle which has granted authorisation infringes its conditions.

Moreover, pursuant to the Code of Petty Offences and the Regulation on fines, an owner, proprietor, user or driver are subjected to a fine amounting from PLN 50.00 to PLN 200.00 for the public roads passage of a vehicle without necessary documents or

---

<sup>87</sup> Regulation of the Minister of Infrastructure of 31 December 2002 (Journal of Laws of 2003 No. 32, item 262, in force until 19 October 2012).

a vehicle that is not equipped with necessary devices.

### Foreign drivers

Pursuant to Article 28 of the Code of Administrative Proceedings the party is anyone whose legal interest or obligation is concerned in the proceedings or anyone who demands the administrative authority to take the legal action in relation to its legal interest or obligation.

Therefore, unless the material provisions of an act do not stipulate otherwise, the Polish regulations shall apply to foreign drivers.

Additionally, pursuant to Article 140ad of the Road Traffic Act in case the person liable for the infringement is a foreign entity having its registered office in the county with whom Poland has no agreement on mutual execution of pecuniary penalties, a payment of a deposit amounting to the prescribed sanction is required.

### **23.3.3 Directive 2009/40/EC**

Directive 2009/40/EC has been implemented by way of Article 81 of Road Traffic Act and Regulation of the Minister of Infrastructure on the scope and ways of carrying out the technical tests of the vehicles and the model documentation of 18 September 2009<sup>88</sup> (hereinafter referred to as the “Regulation on the technical tests”).

The relevant rules on roadworthiness tests for motor vehicles and their trailers have been provided in Article 81 of the Road Traffic Act and the respective provision of the Regulation on the technical tests.

The provisions oblige an owner of a vehicle to carry out the roadworthiness tests on annual bases. Pursuant to Article 132 of the Road Traffic Act, the police may retain a vehicle registration document in the following cases:

- a vehicle has not passed the periodic roadworthiness tests in due course or the

---

<sup>88</sup> Regulation of the Minister of Infrastructure of 18 September 2009 on the scope and ways of carrying out the technical tests of the vehicles and the model documentation (Journal of Laws of 2009 No. 155, item 1232).

date of the tests was not set appropriately; or

- the periodic roadworthiness tests were not carried out by an authorised entity.

Furthermore, Article 179 of the Polish Criminal Code of 6 June 1997<sup>89</sup> (hereinafter referred to as the “Criminal Code”) provides for a sanction in the form of a fine, a restriction of freedom or 2 years of imprisonment for anyone who is liable for roadworthiness tests (roadworthiness tests centres).

A forgery of respective documents has been defined in Article 270 of the Criminal Code. The respective sanctions are a fine, a restriction of freedom or 2 years of imprisonment.

No further sanctions are applicable.

### *Foreign drivers*

Pursuant to Article 28 of the Code of Administrative Proceedings, the party is anyone whose legal interest or obligation is concerned in the proceedings or anyone who demands the administrative authority to take a legal action in relation to its legal interest or obligation. Therefore, unless the material provisions of an act do not stipulate otherwise, the Polish regulations shall apply to foreign drivers.

#### **23.3.4 Directive 2006/126/EC**

Directive 2006/126/EC has been implemented by the Drivers Act of 5 January 2011<sup>90</sup> (hereinafter referred to as the “Drivers Act”). It will be effective as of 19 January 2013 (with some minor exceptions).

The current provisions on the drivers and driving licence have been regulated by the Road Traffic Act, which will be revoked as of 19 January 2013.

Bearing in mind the objective of this Study, the further description focuses on the new

---

<sup>89</sup> Criminal Code of 6 June 1997 (Journal of Laws of 1997 No. 88, item 553).

<sup>90</sup> Drivers Act of 5 January 2011 (Journal of Laws of 2011 No. 30, item 151).

Drivers Act which will be effective as of 19 January 2013.

The Drivers Act specifies the requirements in relation to person authorised to drive a vehicle, issuance of a driving licence, describes the prescribed conditions for drivers trainings, medical tests for drivers, privileged drivers and indicates the surveillance authority, however, it does not contain any sanctions for infringements.

The relevant provisions of the Code of Petty Offences and the aforementioned Regulation on fines specify the sanctions with respect to drivers.

Pursuant to Article 94 § 1 of the Code of Petty Offences and the Regulation on fines, anyone who drives a vehicle on the public road without a driving licence is subject to a fine amounting to PLN 500.00 and anyone who drives a vehicle on the public road without a prescribed conditions for drivers trainings for a relevant type of vehicle is subject to a fine of PLN 300.00.

Further, pursuant to Article 95 of the Code of Petty Offences and the Regulation on fines, a person driving a vehicle without having the required documents, during the police inspection may be subject to a fine amounting to PLN 50.00 for each and every document, but not more than PLN 250.00 or a police reprimand.

Further, pursuant to Article 135 of the Road Traffic Act the police may retain the driving licence in following cases:

- The driving licence is damaged to the extent making it illegible;
- Forged driving licence;
- Expiry of the driving licence;
- A court decision prohibiting driving a vehicle;
- A respective authority decision of retention of a driving licence;
- Exceeding a limit of 24 points for road offences;
- Exceeding a limit of 20 points for road offences during first year since obtaining a driving licence.

Moreover, pursuant to Article 96 of the Code of Petty Offences, the owner, proprietor, user or driver who allows a person lacking authorisation of the relevant authorities or a person not physically or mentally fit to drive a vehicle, are subject to a fine.

A forgery of the respective documents is regulated in Article 270 of the Polish

Criminal Code. The respective sanctions are a fine, a restriction of freedom or 2 years imprisonment.

#### *Foreign drivers*

Due to the fact that pursuant to Polish law, the aforementioned infringements are qualified as petty offences, the provisions of the Polish Code of Petty Offences shall apply to them. Therefore, pursuant to Article 3 of the Code of Petty Offences, the foreign drivers may be held liable in Poland for this kind of infringements under the same conditions as the Polish drivers.

### **23.4 Notion of criminal and administrative sanction in the Polish legal system**

The main legal acts in the Polish legal system which regulate the criminal offences are the Criminal Code and the Code of Petty Offences. The Criminal Code provides for the rules on the punishment of the crimes and offences, whereas the Code of Petty Offences provides for the sanctions on the petty offences. The Polish legal system established a strong distinction between the crimes, offences and petty offence and consequently varied sanctions for their commitment. To be clear, the degree of severity of the petty offences sanction is much lesser than of the criminal sanctions. This, however, does not concern the amount of a pecuniary penalty, but rather the overall inconvenience suffered by the party. For instance, a person subject to a criminal sanction may in some cases be enrolled in the State Criminal Registry.

According to Article 32 of the Criminal Code, the criminal sanctions for the crimes and offences are as follows:

- a pecuniary fine;
- a restriction of freedom;
- an imprisonment up to maximum of 15 years;
- 25 years imprisonment;
- life imprisonment.

Further, pursuant to Article 18 of the Code of Petty Offences, the applicable sanctions for petty offences are as follows:

- a reprimand;
- a pecuniary fine;
- a restriction of freedom;
- a custody.

Additionally, apart from the sanctions and in some cases instead of them the provisions of the Criminal Code and the Code of Petty Offences provide for the penal measure such as:

- confiscation of property;
- deprivation of civil rights;
- prohibition of driving;
- prohibition of business activity or performance of some professions.

With respect to the crimes, offences and petty offences, an appropriate criminal procedure must be conducted before a criminal court in order to prove that somebody is guilty or not. As a consequence, the prescribed sanctions are imposed.

However, in order to ensure the effectiveness of the fines issued by Police and other competent authorities, the Code of Petty Offences Proceedings provides for particular type of order proceedings that entitle the administrative authority to execute a sanction for commitment of some petty offences and impose a pecuniary fine (e.g. exceeding speed on the road). Pursuant to Article 100 of Code of Petty Offences Proceedings, in those cases, the fines are enforced according to the provisions on the enforcement proceedings in administration<sup>91</sup>.

Please be advised that the fines referred above which are also stipulated in the Regulation on fines are imposed by an administrative authority and are enforced according the provisions on enforcement proceedings in administration.

Pursuant to the Act on liability of collective entities for crimes and offences of 28 October 2002<sup>92</sup>, not only an individual but also entities, companies etc. may be held

---

<sup>91</sup> Act on enforcement proceedings in administration of 17 June 1966 (Journal of Laws of 2005 No. 229, item 1954).

<sup>92</sup> Act on liability of collective entities for crimes and offences of 28 October 2002 (Journal of Laws of 2002 No. 197, item 1661).

liable for crimes and offences.

On the other hand, the administrative sanctions follow from disobedience and non-compliance with the administrative law provisions which are contained in numerous specific fields of law.

The administrative sanctions may constitute pecuniary sanctions as well as a loss or expiry of certain entitlement and rights or possibility to acquire them in the future.

The sanctions are imposed by a relevant administrative authority, whereas the administrative courts perform a surveillance role.

#### *Concurrence between several administrative sanctions*

See above, the total amount of penalties that may be imposed during one road control shall not exceed PLN 10.000,00. The maximum amount of the penalties that may be imposed during a single control in the undertaking varies between PLN 15.000,00 and PLN 40.000,00.

Article 92 section 1 of the Act on road transport provides for the maximum fine that may be imposed on drivers of PLN 2,000.00.

#### *Concurrence between administrative and criminal sanctions*

N.A. Infringements are sanctioned either with administrative sanctions or with criminal sanctions.

### **23.5 The scope of application of the Polish criminal law**

As mentioned above, the main legal acts that regulate the criminal offences are the Criminal Code and the Code of Petty Offences.

Application of the Polish criminal law is based on the territoriality principle. Pursuant to Article 5 of the Criminal Code, the Polish criminal provisions shall apply to anyone who commits a crime within the territory of Poland or on a Polish ship or aircraft, unless an international treaty or agreement stipulates otherwise. The same rule



is provided for in Article 3 of the Code of Petty Offences.

Pursuant to the Criminal Code, a crime is deemed to be committed in a place where:

- a person committing the crime acted;
- the result of the crime (for example death) took place;
- the result of the crime was intended to take place.

Furthermore, according to Article 109 and 111 of the Criminal Code, the Polish criminal provisions shall also apply to a Polish citizen who commits a crime abroad, provided that at the same time the act constitutes a crime abroad.

The Polish criminal law also applies towards a foreigner who commits abroad:

- a crime against the interests of the Republic of Poland;
- a crime against a Polish citizen;
- a crime against a Polish legal person;
- a crime of a terrorist nature.

Moreover, the Polish criminal provisions are applicable in case the sanction in relation to a crime committed abroad is more than 2 years imprisonment and the perpetrator stays on the Polish territory and the decision on extradition was not issued.

Pursuant to Article 112 of the Criminal Code, regardless of whether the act is punishable in the place where it was committed, the Polish criminal provisions are applicable both to a Polish citizen and a foreigner if the crime was against:

- the internal or external security of the Polish state;
- Polish offices or public authorities;
- the fundamental Polish economic interest;
- false evidence before a Polish office;
- any other crime that has provided material profit to the perpetrator within the territory of Poland.

On the contrary, pursuant to Article 3 point 1 of the Code of Petty Offences, the liability for petty offences committed abroad is enforced solely when it is expressly stated in an act. Therefore, as a general rule, the petty offences committed abroad are not punishable, unless a particular act stipulates otherwise.

## **23.6 Summary tables**

In the Polish legal system the role of the competent authorities in relation to the commercial road transport is as follows:

- the Traffic Police, Road Transport Inspection, public road administrator, Border Guard, Customs Office impose the fines;
- Judiciary Authority enforce the fines;
- the Department of Road Transport of the Ministry of Infrastructure revokes authorisation, when applicable;
- District head maintains surveillance over driving licence issuance and has the power to issue respective administration decisions;
- District head and voivodeship governor maintain surveillance over the activity of the centres of drivers training and examination process and have the power to issue respective administration decisions.

The table below provides an overview of the administrative and criminal sanctions provided for in the Polish legal system for the infringements of EU commercial road transport legislation.

It has been specified in the table whether the sanction is of criminal or administrative nature.

Table PL 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on the Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for the infringement	Article of reference	Type of the infringement(s)	Party subjected to sanction	Administrative sanction(s)	Criminal sanction(s)
Regulation (EC) 561/2006	<u>Driving Time</u>	point No. 4.1. of Attachment No.1	Exceeding the daily driving limit: a) by up to 1 hour; b) for each subsequent commenced hour.	Driver		a) PLN 100.00 b) PLN 100.00
	<u>Rest periods</u>					
	<u>Obligatory Breaks</u>					
	<u>Act on road transport of 6 September 2001</u>	point No. 4.2. of Attachment No.1	Exceeding the non-stop driving time: a) by over 15 minutes up to 30 minutes; b) for each subsequent commenced 30 minutes.	Driver		a) PLN 150.00 b) PLN 150.00
	<u>(Journal of Laws of 2007 No. 125, item 874, as amended)</u>	point No. 4.3. of Attachment No.1	Shortening the daily rest period: a) by over 15 minutes up to 1 hour;	Driver		a) PLN 100.00 b) PLN 100.00

Table PL 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on the Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for the infringement	Article of reference	Type of the infringement(s)	Party subjected to sanction	Administrative sanction(s)	Criminal sanction(s)
			b) for each subsequent commenced hour.			
		point No. 4.4. of Attachment No. 1	Shortening the weekly rest period: a) by up to 1 hour; b) for each subsequent commenced hour.	Driver		a) PLN 50.00 b) PLN 50.00
		point No. 4.5. of Attachment No. 1	Exceeding the weekly driving time: a) by over 30 minutes up to 2 hours; b) for each subsequent commenced hour.	Driver		a) PLN 50.00 b) PLN 50.00

Table PL 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on the Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for the infringement	Article of reference	Type of the infringement(s)	Party subjected to sanction	Administrative sanction(s)	Criminal sanction(s)
		point No.15 of Attachment No. 2	Allowing infringement of provisions regarding driving time, obligatory breaks and rest period.	<ul style="list-style-type: none"> <li>- Manager of the undertaking;</li> <li>- Manager of transport in the undertaking;</li> <li>- Person performing the road transport activities.</li> </ul>		PLN 2,000.00
		point No. 5.1.1., 5.1.2 of Attachment No. 3	Exceeding the daily driving limit: a) by over 15 minutes up to 1 hour; b) for each subsequent	<ul style="list-style-type: none"> <li>- Transport undertaking;</li> <li>- Entity</li> </ul>	a) PLN 100.00 b) PLN 200.00	

Table PL 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on the Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for the infringement	Article of reference	Type of the infringement(s)	Party subjected to sanction	Administrative sanction(s)	Criminal sanction(s)
			commenced hour.	performing the road transport activities.		
		point No. 5.2.1., 5.2.2. of Attachment No. 3	Exceeding the maximum non-stop driving time: a) by over 15 minutes up to 30 minutes; b) for each subsequent commenced 30 minutes.	- Transport undertaking;  - Entity performing the road transport activities.	a) PLN 150.00 b) PLN 200.00	
		point No. 5.3.1., 5.3.2. of Attachment No. 3	Shortening the daily rest period: a) by over 15 minutes up to 30 minutes; b) for each subsequent	- Transport undertaking;  - Entity	a) PLN 100.00 b) PLN 200.00	

Table PL 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on the Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for the infringement	Article of reference	Type of the infringement(s)	Party subjected to sanction	Administrative sanction(s)	Criminal sanction(s)
			commenced 30 minutes.	performing the road transport activities.		
		point No. 5.4.1., 5.4.2. of Attachment No. 3	Shortening the weekly rest period: a) by up to 1 hour; b) for each subsequent commenced 1 hour.	- Transport undertaking;  - Entity performing the road transport activities.	a) PLN 50.00 b) PLN 100.00	

Table PL 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on the Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for the infringement	Article of reference	Type of the infringement(s)	Party subjected to sanction	Administrative sanction(s)	Criminal sanction(s)
		point No. 5.5.1., 5.5.2. of Attachment No. 3	Exceeding the weekly driving time: a) by over 30 minutes up to 2 hours; b) for each subsequent commenced hour.	- Transport undertaking;  - Entity performing the road transport activities.	a) PLN 50.00 b) PLN 100.00	
		point No. 5.6.1., 5.6.2. of Attachment No. 3	Exceeding the total biweekly driving time: a) by over 1 hour up to 4 hours; b) for each subsequent commenced hour.	- Transport undertaking;  - Entity performing the road transport activities.	a) PLN 100.00 b) PLN 150.00	



Table PL 1

**SOCIAL RULES ON ROAD TRANSPORT**  
Rules on the Driving Times, Breaks and Rest Periods

EU legislation	Relevant National Legislation for the infringement	Article of reference	Type of the infringement(s)	Party subjected to sanction	Administrative sanction(s)	Criminal sanction(s)
<b>Directive 2002/15/EC</b>	<u>Working time and rest periods</u>  <u>the Labour Code of 26 June 1964</u> <u>(Journal of Laws of 1998 No. 21, item 94, as amended)</u>	Article 281 point 5 of the Labour Code	Infringement of the rules on working time.	- Employer;  - Person acting on behalf of the employer.		from PLN 1,000.00 to PLN 30,000.00

Table PL 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<b>Regulation 3821/1985/EEC</b>	<a href="#">Registration devices</a>  <a href="#">Register sheets</a>  <a href="#">Driver's cards</a>  <a href="#">Act on road transport</a>	point 13.1. of Attachment No.1	- performance of a road transport by a vehicle with registration device to which additional unauthorised device was connected	Driver		<b>PLN 2,000.00</b>
		point 13.2. of Attachment No.1	- failure to register the vehicle's speed, driver's activity or distance travelled	Driver		<b>PLN 2,000.00</b>
		point 13.3. of Attachment No.1	- improper use of a switch of a registration device	Driver		<b>from PLN 100.00 to PLN 1,000.00</b>

	point 13.4. of Attachment No.1	- performance of the road transport activities with non-functioning or malfunctioning registration device	Driver		<b>PLN 1,000.00</b>
	point 13.5. of Attachment No.1	- performance of the road transport activities without a valid driver's card or with damaged driver's card	Driver		<b>PLN 500.00</b>
	point 13.6. of Attachment No.1	- performance of the road transport activities with a vehicle with disconnected registration device	Driver		<b>PLN 2,000.00</b>
	point 13.7. of Attachment No. 1	- unauthorised interference with operation of the registration device	Driver		<b>PLN 2,000.00</b>
	point 13.8. of Attachment No. 1	- unjustified use of couple of register sheets during 24-hour period	Driver		<b>PLN 100.00 for each day</b>

	point 13.9. of Attachment No. 1	- use of a register sheet exceeding a period for which it is designated	Driver		<b>from PLN 100.00 to PLN 1,000.00</b>
	point 13.10. of Attachment No. 1	- use of a register sheet of not certified type or of a type which is not suitable for a particular type of registration device	Driver		<b>PLN 200.00</b>
	point 13.11. of Attachment No. 1	- presentation of a dirty or damaged register sheet	Driver		<b>PLN 200.00</b>
	point 13.12. of Attachment No. 1	- presentation of a register sheet or a driver's card without required entries	Driver		<b>PLN 100.00 for each day</b>
	point 13.13. of Attachment No. 1	- use of the same register sheet or driver's card by a few drivers	Driver		<b>PLN 2,000.00</b>
	point 13.14. of Attachment No. 1	- simultaneous use of a few register sheets or driver's cards	Driver		<b>PLN 2,000.00</b>
	point 13.15. of Attachment No. 1	- presentation of a register sheet which does not contain the required	Driver		<b>PLN 50.00 for lack of each entry</b>

		entry			
	point 13.16. of Attachment No. 1	- discrepancy between a time on register sheet and official time in the country of vehicle's registration	Driver		<b>from PLN 100.00 to PLN 1,000.00</b>
	point 13.17. of Attachment No. 1	- performance of road transport by a driver without a required print-out from the tachograph	Driver		<b>from PLN 200.00 to PLN 1,000.00</b>
	point 16 of Attachment No. 2	-infringement of the provisions on use of devices automatically registering the driving speed, driving time, rest period and driver's activity.	- Manager of the undertaking;  - Manager of transport in the undertaking;  - Person performing the road transport activities.		<b>PLN 2,000.00</b>
	point 6.1.2 to 6.1.6 of	- infringement of different rules and	- Transport undertaking;	<b>from PLN 100.00 to PLN 3,000.00</b>	

	Attachment No. 3	conditions on equipment of the vehicles with registration device (tachograph)	- Entity performing the road transport activities.		
	point 6.2.1 of Attachment No. 3	- performance of road transport with interference in operation of a registration device.	- Transport undertaking;  - Entity performing the road transport activities.	<b>PLN 5,000.00</b>	
	point 6.3.1. to 6.3.14. of Attachment No. 3	- infringement of the rules and conditions on use of the registration devices or digital registration devices.	- Transport undertaking;  - Entity performing the road transport activities.	<b>from PLN 50.00 to PLN 5,000.00</b>	

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<p><b>Regulation (EC) No. 1071/2009</b></p>	<p><u>Act on road transport</u></p>	<p>Article 15 section 1 point 2 letter a</p>	<p>failure to meet the requirements of the performance of the road transport activities</p>	<p>Transport operator</p>	<p><b>obligatory revocation of a licence</b></p>	
		<p>Article 15 section 1 point 2 letter b</p>	<p>gross violation of conditions of the licence or other terms of business covered by the licence specified by the law</p>	<p>Transport operator</p>	<p><b>obligatory revocation of a licence</b></p>	
		<p>Article 15 section 3 point 1</p>	<p>failure to provide the authority on time with information and</p>	<p>Transport operator</p>	<p><b>facultative revocation of a licence</b></p>	

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			documents necessary to obtain a licence			
		point 1.1. of Attachment No. 3	performance of the road transport activities without the required licence	- Transport undertaking;  - Entity performing the road transport activities.	<b>PLN 8,000.00</b>	
		point 1.4. of Attachment No. 3	failure to notify the authority in writing of a change of data of a transport operator	- Transport undertaking;  - Entity performing the road transport	<b>PLN 800.00</b>	



Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
				activities.		
		Article 95a	failure to notify the appropriate authority of a change of data	Entrepreneur	PLN 1,000.00	
	<p><u>Presenting fake documents</u></p> <p><u>the Criminal Code of 6 June 1997 (Journal of Laws of 1997 No. 88, item 553 as amended)</u></p>	Article 270	<p>a) Forging, counterfeiting or altering a document to use it as authentic</p> <p>b) in case of an act of a lesser significance</p>			<p>a) fine (in the amount of between PLN 100.00 and PLN 1,080,000.00), penalty of restriction of freedom (from 1 month to 12</p>

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
						<p>months) or imprisonment from 3 month to 5 years</p> <p>b) fine (in the amount of between PLN 100.00 and PLN 1,080,000.00), penalty of restriction of freedom (from</p>

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
						<b>1 month to 12 months) or imprisonment up to 2 years</b>
<b>Regulation (EC) No. 1072/2009</b>  <b>Regulation (EC) No. 1073/2009</b>	<u>Community licences</u>  <u>Cabotage transport</u>  <u>Permits</u>  <u>Driver's certificates</u>  <u>Act on road transport</u>	point No. 3.1. of Attachment No.3	- performance of international road transport without possessing the required permit for a vehicle	- Transport undertaking;  - Entity performing the road transport activities.	<b>PLN 10,000.00</b>	
		point No. 3.2. of	failure to apply or	- Transport	<b>PLN 8,000.00</b>	

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Attachment No.3	improperly apply for a permit required in the international road transport	undertaking;  - Entity performing the road transport activities.		
		point No. 3.3. of Attachment No.3	performance of international road transport against the rules defined in the permit	- Transport undertaking	<b>PLN 8,000.00</b>	
		point No. 3.5. of Attachment No.3	performance of the cabotage transport within the territory of Poland	- Transport undertaking;	<b>PLN 10,000.00</b>	

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			without the required permit	- Entity performing the road transport activities.		
		point No. 3.6. of Attachment No.3	performance of the cabotage transport against the rules of its performance	- Transport undertaking;  - Entity performing the road transport activities .	<b>PLN 10,000.00</b>	
		point No. 3.7. of Attachment No.3	assignment of international road	- Transport undertaking;	<b>PLN 10,000.00</b>	

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			transport to a foreign entity without the required permit for cabotage transport	- Entity performing the road transport activities.		
		point No. 3.8. of Attachment No.3	assignment of international road transport by a non-normative vehicle to entity without the required permit	- Transport undertaking;  - Entity performing the road transport activities.	<b>PLN 8,000.00</b>	
		point No. 1.4. of	performance of the road	- Transport	<b>PLN 8,000.00</b>	

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Attachment No. 3	transport activities without the required licence	undertaking;  - Entity performing the road transport activities.		
		point No. 2.1. of Attachment No. 3	performance of regular transportation without the required permit	- Transport undertaking;  - Entity performing the road transport activities.	<b>PLN 8,000.00</b>	

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		point No. 2.2. of Attachment No. 3	performance of regular transportation in violation of the conditions of the permit	- Transport undertaking;  - Entity performing the road transport activities.	<p><b>from PLN 500.00 to PLN 3,000.00</b></p>	
		point No. 2.3. of Attachment No. 3	performance of regular transportation without a timetable	- Transport undertaking;  - - Entity performing the road transport activities.	<p><b>PLN 2,000.00</b></p>	



Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		point No. 2.7. of Attachment No. 3	failure to provide a passenger with the required confirmation of payment of a transport fee prior to the beginning of the course	- Transport undertaking;  - Entity performing the road transport activities.	<b>PLN 2,000.00</b>	
		point No. 1.1. of Attachment No. 2	failure to provide a driver with an excerpt from a licence, permit or a certificate on performance of	- Manager of the undertaking;  - Manager of transport in the undertaking;		<b>PLN 2,000.00</b>

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			transportation for own needs	- Person performing the road transport activities.		
		point No. 1.2. of Attachment No. 2	failure to provide a driver with a driver's certificate	- Manager of the undertaking;  - Manager of transport in the undertaking;  - Person performing the road transport		<b>PLN 1,000.00</b>

Table PL 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
				activities.		
		point No. 1.3. of Attachment No. 2	failure to provide a driver with other necessary documents	<ul style="list-style-type: none"> <li>- Manager of the undertaking;</li> <li>- Manager of transport in the undertaking;</li> <li>- Person performing the road transport activities.</li> </ul>		<b>PLN 500.00</b>
		point No. 1 of Attachment No. 1	failure to present an excerpt from a licence, a	Driver		<b>PLN 500.00</b>

Table PL 3

Road Package

<b>EU legislation</b>	<b>Relevant National Legislation for infringement</b>	<b>Article of reference</b>	<b>Type of infringement(s)</b>	<b>Author</b>	<b>Administrative sanction(s)</b>	<b>Criminal sanction(s)</b>
			permit or other document necessary in road transport			

Table PL 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<p><b>Directive 2008/68/EC</b></p>	<p><u><a href="#">Act on transport of dangerous goods of 19 August 2011, (Journal of Laws of 2011 No. 227, item 1367).</a></u></p>	<p>Article 107, which refers to Annex 1 (described in details hereinunder)</p>	<p>- infringement of the obligations and conditions of the Act</p>	<p>Participant of the transport</p>	<p><b>From PLN 200.00 to PLN 10,000.00</b></p> <p><b>In case the infringement also constitutes an offence (in the meaning of the Code of Petty Offences) the provisions of the Act on transport of dangerous goods are solely applicable and only</b></p>	

Table PL 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					administrative sanction is imposed.	
		Annex I, Section 1	- infringements of the documentation requirements	Participant	From PLN 250.00 PLN to PLN 6,000.00	
		Annex I, Section 2	- infringements of the method of transportation	Participant	From PLN 1 000 to PLN 6 000	
		Annex I, Section 3	- non-compliance with the means of transport	Participant	From PLN 500.00 to PLN 3,000.00	

Table PL 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			and the transport units requirements		<b>PLN 200.00 for every missing element in the equipment</b>	
		Annex I, Section 1	- non-compliance with the packaging requirements	Participant	<b>From PLN 800.00 to PLN 3,000.00</b>	
			- other infringements	Participant	<b>From PLN 200.00 to PLN 10,000.00</b>	
		Article 108	infringements of the provisions concerning the obligation listed in Article 53	The entity responsible for ADR and respective AND	<b>PLN 300.00</b>	

Table PL 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
				courses		
		Article 111	infringements of the obligations and conditions of the transport of dangerous goods	- Driver; - Member of the stuff; - Any other natural person performing actions in transport of dangerous goods.		<b>Fine, enforced pursuant to the Code of Petty Offences</b>
		Article 112	non-compliance with the requirements regarding the transport pressure	Anyone who: - launches the		<b>PLN 10,000.00, a ruling on these sanctions is subject to</b>



Table PL 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			devices	device on the market; -places the Π mark on the transport pressure device; -places a similar mark to Π which may be misleading; -launches the device on the market without placing the Π mark on them.		<b>the Code of Petty Offences.</b>

Table PL 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<p><b>Directive 96/53/EC</b></p>	<p><u>Road Traffic Act of 20 June 1997, (Journal of Laws of 2005 No. 108, item 908); the relevant provisions become effective as of 19 October 2012</u></p>	<p>Article 140aa</p>	<p>- passage of a non-standard mean of transport without the prescribed authorisation; - non-compliance with the conditions included in the authorisation</p>	<p>Driver;  The one who performs any other action in relation to the transport, especially a shipper, sender, a recipient, carrier.</p>	<p>- <b>PLN 1,500.00 for lack of the I and II category authorisation;</b> - <b>PLN 5,000.00 for lack of the III to VI category authorisation;</b> - <b>From PLN 500.00 to PLN 15,000.00 for lack of the VII category authorisation;</b> - <b>from PLN 3,000.00 to PLN 6,000.00 for</b></p>	

Table PL 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					<p>passing through the bridge or viaduct infringing the specified conditions or objection of the administrator of the road.</p>	
	<p><a href="#">Code of Petty Offences of 20 May 1971, (Journal of Laws of 2010 No. 46, item 275);</a> <a href="#">Regulation of the Prime Minister of 24 November 2003 on fines</a></p>	<p>Article 28 of the Code of Petty Offences</p>	<p>public roads passage of a vehicle without necessary documents or a vehicle that is not equipped with necessary devices</p>	<ul style="list-style-type: none"> <li>- Owner of a vehicle;</li> <li>- Proprietor;</li> <li>- User;</li> <li>- Driver.</li> </ul>		<p><b>from PLN 50.00 to PLN 200.00</b></p>

Table PL 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	<a href="#">for selected type of petty offences (Journal of Laws of 2003 No. 208, item 2023)</a>					
Directive 2009/40/EC	<a href="#">Road Traffic Act</a>	Article 132	non-compliance with the obligation of periodic roadworthiness tests	Driver	<b>Retention of the vehicle registration document by a police</b>	
	<a href="#">Criminal Code</a>	Article 179	letting a vehicle to a road traffic	Anyone who is responsible for roadworthiness tests (undertakings)		<b>A fine, a restriction of freedom or 2 years imprisonment</b>
Directive	<a href="#">Code of Petty Offences;</a>	Article 91 of the	driving a vehicle without	Anyone driving a		<b>PLN 500.00</b>

Table PL 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
2006/126/EC	<a href="#">Regulation of the Prime Minister of 24 November 2003 on fines for selected type of petty offences</a>	Code of Petty Offences	a driving licence	vehicle		
		Article 91	Driving a vehicle without a driving licence prescribed for relevant type of vehicle	Anyone driving a vehicle		<b>PLN 300.00</b>
		Article 95	Driving a vehicle without having required documents during the police inspection	Driver		<b>PLN 50.00 for each and every document, but not more than PLN 250.00 or a police reprimand.</b>
		Article 96	Allowing a person lacking authorisation of the relevant authorities or	Owner Proprietor User Driver		<b>A fine</b>

Table PL 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			a person not physically or mentally fit to drive a vehicle			
	<a href="#">Road Traffic Act</a>	Article 135	Driving with a driving licence that is damaged, expired or is suspected to be forged.	Driver	<b>Retention of the driving licence by a police</b>	

The table below gathers the sanctions which are considered formally criminal in the Polish legal system.

**Table PL 5**

**Infringements of commercial road transport legislation**

<p><b>Type of infringement(s) and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Criminal sanction</b></p>	<p><b>Is it dissuasive?</b></p>
<p>Act on road transport of 6 September 2001 (Journal of Laws of 2007 No. 125, item 874, as amended) point No. 4.1. of Attachment No.1</p> <p>Exceeding the daily driving limit:</p> <p>a) by up to 1 hour;</p> <p>b) for each subsequent commenced hour.</p> <p>Regulation (EC) 561/2006</p>	<p>a) PLN 100.00</p> <p>b) PLN 100.00</p>	<p>No</p>
<p>Act on road transport of 6 September 2001 (Journal of Laws of 2007 No. 125, item 874, as amended) point No. 4.2. of Attachment No.1,</p> <p>Exceeding the non-stop driving time:</p> <p>a) by over 15 minutes up to 30 minutes;</p> <p>b) for each subsequent commenced 30 minutes.</p>	<p>a) PLN 150.00</p> <p>b) PLN 150.00</p>	<p>No</p>



Table PL 5

Infringements of commercial road transport legislation

<p>Type of infringement(s) and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Criminal sanction</p>	<p>Is it dissuasive?</p>
<p>Regulation (EC) 561/2006</p>		
<p>Act on road transport of 6 September 2001 (Journal of Laws of 2007 No. 125, item 874, as amended) point No. 4.3. of Attachment No.1 Shortening the daily rest period: a) by over 15 minutes up to 1 hour; b) for each subsequent commenced hour.</p> <p>Regulation (EC) 561/2006</p>	<p>a) PLN 100.00 b) PLN 100.00</p>	<p>No</p>
<p>Act on road transport of 6 September 2001 (Journal of Laws of 2007 No. 125, item 874, as amended) point No. 4.4. of Attachment No. 1 Shortening the weekly rest period: a) by up to 1 hour; b) for each subsequent commenced hour.</p>	<p>a) PLN 50.00 b) PLN 50.00</p>	<p>No</p>

Table PL 5

Infringements of commercial road transport legislation

<p>Type of infringement(s) and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Criminal sanction</p>	<p>Is it dissuasive?</p>
<p>Regulation (EC) 561/2006</p>		
<p>point No. 4.5. of Attachment No. 1 Exceeding the weekly driving time: a) by over 30 minutes up to 2 hours; b) for each subsequent commenced hour.</p> <p>Regulation (EC) 561/2006</p>	<p>a) PLN 50.00 b) PLN 50.00</p>	<p>No</p>
<p>point No.15 of Attachment No. 2 Allowing infringement of provisions regarding driving time, obligatory breaks and rest period.</p> <p>Regulation (EC) 561/2006</p>	<p>PLN 2,000.00</p>	<p>No</p>

Table PL 5

Infringements of commercial road transport legislation

<p>Type of infringement(s) and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Criminal sanction</p>	<p>Is it dissuasive?</p>
<p>Working time and rest periods the Labour Code of 26 June 1964 (Journal of Laws of 1998 No. 21, item 94, as amended) Article 281 point 5 of the Labour Code Infringement of the rules on working time.  Directive 2002/15/EC</p>	<p>from PLN 1,000.00 to PLN 30,000.00</p>	<p>yes</p>
<p>Most of the infringements of Regulation (EEC) 3821/1985 (except 3 see table above)</p>	<p>From PLN 50 to 2,000</p>	<p>No</p>

**Table PL 5**

**Infringements of commercial road transport legislation**

<p><b>Type of infringement(s) and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Criminal sanction</b></p>	<p><b>Is it dissuasive?</b></p>
<p>Presenting fake documents the Criminal Code of 6 June 1997 (Journal of Laws of 1997 No. 88, item 553 as amended) Article 270</p> <p>a) Forging, counterfeiting or altering a document to use it as authentic</p> <p>b) in case of an act of a lesser significance</p> <p>Regulation (EC) No 1071/2009</p>	<p>a) fine (in the amount of between PLN 100.00 and PLN 1,080,000.00), penalty of restriction of freedom (from 1 month to 12 months) or imprisonment from 3 month to 5 years</p> <p>b) fine (in the amount of between PLN 100.00 and PLN 1,080,000.00), penalty of restriction of freedom (from 1 month to 12 months) or imprisonment up to 2 years</p>	<p>Yes</p>
<p>Act on road transport</p> <p>Regulation (EC) No. 1072/2009</p> <p>point No. 1.2. of Attachment No. 2</p> <p>Failure to provide a driver with a driver's certificate</p> <p>Regulation (EC) No. 1073/2009</p>	<p>PLN 1,000.00</p>	<p>No</p>

Table PL 5

Infringements of commercial road transport legislation

<p>Type of infringement(s) and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Criminal sanction</p>	<p>Is it dissuasive?</p>
<p>Act on road transport</p> <p>Regulation (EC) No. 1072/2009</p> <p>point No. 1.3. of Attachment No. 2</p> <p>Failure to provide a driver with other necessary documents</p> <p>Regulation (EC) No. 1073/2009</p>	<p>PLN 500.00</p>	<p>No</p>
<p>Act on road transport</p> <p>Regulation (EC) No. 1072/2009</p> <p>point No. 1 of Attachment No. 1</p> <p>Failure to present an excerpt from a licence, a permit or other document necessary in road transport</p> <p>Regulation (EC) No. 1073/2009</p>	<p>PLN 500.00</p>	<p>No</p>
<p>Act on transport of dangerous goods of 19 August 2011, (Journal of Laws of 2011 No. 227, item 1367).</p>	<p>Fine, enforced pursuant to the Code of Petty Offences</p>	<p>N.A.</p>

Table PL 5

Infringements of commercial road transport legislation

<p>Type of infringement(s) and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Criminal sanction</p>	<p>Is it dissuasive?</p>
<p>Article 111 infringements of the obligations and conditions of the transport of dangerous goods</p> <p>- Any other natural person performing actions in transport of dangerous goods.</p> <p>Directive 2008/68/EC</p>		
<p>Act on transport of dangerous goods of 19 August 2011, (Journal of Laws of 2011 No. 227, item 1367) Article 112</p> <p>Non-compliance with the requirements regarding the transport pressure devices</p> <p>Anyone who:</p> <p>- launches the device on the market;</p> <p>-places the Π mark on the transport pressure device;</p> <p>-places a similar mark to Π which may be misleading;</p> <p>-launches the device on the market without placing the Π mark on them.</p> <p>Directive 2008/68/EC</p>	<p>PLN 10,000.00, a ruling on these sanctions is subject to the Code of Petty Offences.</p>	<p>Yes</p>

Table PL 5

Infringements of commercial road transport legislation

<p>Type of infringement(s) and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Criminal sanction</p>	<p>Is it dissuasive?</p>
<p>Code of Petty Offences of 20 May 1971, (Journal of Laws of 2010 No. 46, item 275);</p> <p>Regulation of the Prime Minister of 24 November 2003 on fines for selected type of petty offences (Journal of Laws of 2003 No. 208, item 2023) Article 28 of the Code of Petty Offences</p> <p>Public roads passage of a vehicle without necessary documents or a vehicle that is not equipped with necessary devices</p> <p>Directive 96/53/EC</p>	<p>from PLN 50.00 to PLN 200.00</p>	<p>No</p>
<p>Criminal Code Article 179</p> <p>Letting a vehicle to a road traffic Anyone who is responsible for roadworthiness tests (undertakings).</p> <p>Directive 2009/40/EC</p>	<p>A fine, a restriction of freedom or 2 years imprisonment</p>	<p>Yes</p>

**Table PL 5**

**Infringements of commercial road transport legislation**

<b>Type of infringement(s) and Article of reference in national legislation</b>  <b>Corresponding EU legislation</b>	<b>Criminal sanction</b>	<b>Is it dissuasive?</b>
<p>Code of Petty Offences; Regulation of the Prime Minister of 24 November 2003 on fines for selected type of petty offences Article 91 of the Code of Petty Offences Driving a vehicle without a driving licence Anyone driving a vehicle</p> <p>Directive 2006/126/EC</p>	<p>PLN 500.00</p>	<p>No</p>
<p>Code of Petty Offences; Regulation of the Prime Minister of 24 November 2003 on fines for selected type of petty offences Article 91 Driving a vehicle without a driving licence prescribed for relevant type of vehicle</p> <p>Directive 2006/126/EC</p>	<p>PLN 300.00</p>	<p>No</p>



**Table PL 5**

**Infringements of commercial road transport legislation**

<b>Type of infringement(s) and Article of reference in national legislation</b>  <b>Corresponding EU legislation</b>	<b>Criminal sanction</b>	<b>Is it dissuasive?</b>
<p>Code of Petty Offences; Regulation of the Prime Minister of 24 November 2003 Article 95 Driving a vehicle without having required documents during the police inspection</p> <p>Directive 2006/126/EC</p>	<p>PLN 50.00 for each and every document, but not more than PLN 250.00 or a police reprimand.</p>	<p>No</p>
<p>Code of Petty Offences; Regulation of the Prime Minister of 24 November 2003 Article 96 Allowing a person lacking authorisation of the relevant authorities or a person not physically or mentally fit to drive a vehicle</p> <p>Directive 2006/126/EC</p>	<p>A fine</p>	<p>IMPOSSIBLE TO ASSESS</p>

According to our Polish legal expert administrative and criminal sanctions have a different function in the Polish legal system.

Therefore, it should not be possible to identify administrative sanctions that are criminal in nature according to Polish scholars.

However, based on the framework provided by the ECHR, in the following table we list infringements sanctioned with administrative sanctions that may be qualified as criminal.

**Table PL 6**

**Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR**

<p><b>Type of infringement and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Administrative sanction that could be qualified as criminal sanction</b></p>	<p><b>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</b></p>	<p><b>Is it dissuasive?</b></p>
<p>Act on road transport, Article 15 section 1 point 2 letter a</p> <p>Failure to meet the requirements of the performance of the road transport activities</p> <p>Regulation (EC) No. 1071/2009</p>	<p>Obligatory revocation of a licence</p>	<p>Revocation is deemed to be an afflictive sanction able to affect the possibility to work</p>	<p>Yes</p>
<p>Article 15 section 1 point 2 letter b</p> <p>Gross violation of conditions of the licence or other terms of business covered by the licence specified by the law</p> <p>Regulation (EC) No. 1071/2009</p>	<p>Obligatory revocation of a licence</p>	<p>Revocation is deemed to be an afflictive sanction able to affect the possibility to work</p>	<p>Yes</p>
<p>Article 15 section 3 point 1</p> <p>Failure to provide the authority on time with information and documents necessary to obtain a licence</p>	<p>Facultative revocation of a licence</p>	<p>Revocation is deemed to be an afflictive sanction able to affect the</p>	<p>Yes</p>

**Table PL 6**

**Infringements of commercial road transport legislation sanctioned with administrative sanctions that substantially could be considered criminal in the light of the case law of the ECHR**

<p><b>Type of infringement and Article of reference in national legislation</b></p> <p><b>Corresponding EU legislation</b></p>	<p><b>Administrative sanction that could be qualified as criminal sanction</b></p>	<p><b>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</b></p>	<p><b>Is it dissuasive?</b></p>
<p>Regulation (EC) No. 1071/2009</p>		<p>possibility to work</p>	
<p>Road Traffic Act Article 135</p> <p>Driving with a driving licence that is damaged, expired or is suspected to be forged.</p> <p>Regulation (EC) No. 1071/2009</p>	<p>Retention of the driving licence by a police</p>	<p>Retention is deemed to be an afflictive sanction able to affect the possibility to work</p>	<p>Yes</p>

### **23.7 Effectiveness of the sanctions system**

According to the data obtained from the General Inspectorate of Road Transport, the total amount of the transport undertakings, which have been controlled by the Regional Inspectorates of Road Transport in Poland in the year 2011 amounts to 2,472. In connection with the aforementioned control, the Regional Inspectorates of Road Transport have issued 1,893 decisions on the imposition of the penalties on the transport undertakings.

The total value of the penalties imposed on the transport undertakings in 2011 amounted to PLN 22,195,500.00. Additionally, inspectors of road transport have detected 180,044 different infringements of the regulations regarding the road transport committed by the transport undertakings in 2011.

Based on the partial data received, we notice that in Poland the level of compliance with the law is low.

From a qualitative standpoint, we also note that the amount of the criminal and administrative fines is quite low in comparison to the amount set in other Member States and that other corrective sanctions such as immobilisation of the vehicles or suspension or revocation of administrative documents are rare.

Based on such finding, we conclude that that the Polish sanction system is not effective.