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24 PORTUGAL - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

24.1 Social rules on road transport

24.1.1 Rules on Driving Times and Rest Periods

24.1.1.1 Regulation (EC) No 561/2006

The Regulation (EC) No. 561/2006 has been implemented by the Law No. 27/2010 of 30 August 2010¹. 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 Articles 18, 19 and 20 of Law No. 27/2010 of 30 August 2010.

As to the subject to whom the sanctions are applicable, Article 135 of the Decree-Law No. 114/94 of 3 May 1994² (*Código da Estrada*, hereinafter “Highway Code”) specifies that the general rule establishes that the sanctions apply to the driver. However, under Article 13 of the Law No. 27/2010, which prevails over the Highway Code, the company is responsible for any infringement committed by the driver. Such responsibility may be excluded if the company is able to demonstrate that it has organised the work in a way that allows the driver to comply with the Regulation No. 3821/85 of 20 of December of 1985 and Regulation No. 561/2006 of 15 of March of 2006. In addition, if the driver violates the duty of information established in Article 22, regarding the elements related with the driving times, duration of the weekly working time, pauses, uninterrupted driving times and rest periods said driver incurs in a serious administrative offence. According to No. 4 of Article 13, the other transport activities interveners’ responsibility, notably consignors, forwarders and touristic operators, shall

¹ Law (*Lei*) No. 27/2010 of 30 August 2010, in the Portuguese Official Journal (hereinafter in this Chapter the “OJ”), 1st series, No. 168 of 30 August 2010.

² Decree-Law (*Decreto-Lei*) No. 114/94 of 3 May 1994, in OJ of, 1st A series, No. 102 of 3 May 1994, as modified by Decree-Law No. 82/2011 of 20 June 2011.

be punished for co-participation (*comparticipação*) under the terms of the General Administrative Offences Regime³.

Driving time

(i) Article 18 of the Law No. 27/2010

Article 18 introduces different thresholds of sanctions for the infringements of rules on driving times.

If the driver exceeds the daily driving time limits:

- less than 10 hours, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 1);
- equal or superior to 10 hours and inferior to 11 hours, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 1);
- equal or superior than 11 hours, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 1).

If the driver exceeds the extended daily driving time limits:

- less than 11 hours, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 2);
- equal or superior to 11 hours and inferior to 12 hours, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 2);
- equal or superior than 12 hours, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 2).

According to Paragraph 3, if the driver has exceeded the weekly driving time:

- less than 60 hours, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 3);
- equal or superior to 60 hours and inferior to 70 hours, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 3);

³ *Regime Geral das Contra-ordenações*, enacted by Decree-Law (*Decreto-Lei*) No. 433/82 of 27 October.

- equal or superior to 70 hours, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 3).

If the driver has exceeded the accumulated total driving time:

- less than 100 hours, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 4);
- equal or superior to 100 hours and inferior to 112 hours and 30 minutes, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 4);
- equal or superior to 112 hours and 30 minutes, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 4).

The minimum and maximum limits of the pecuniary fines correspondent to a less serious administrative offence are the following (please note that in this case the Law refers to a special unit (*Unidade de Conta*), the value of which is regularly modified; in order to turn the work more comparable with the ones of other jurisdictions, we have converted the legal units in Euros, at the present value – 1 UC is actually equal to € 102; however, as mentioned, this value changes in time):

- from € 204 to € 918, in case of negligence (*negligência*);
- from € 612 to € 1,530, in case of deliberate misconduct (*dolo*).

The minimum and maximum limits of the pecuniary fines correspondent to a serious administrative offence are the following:

- from € 612 to € 4,080, in case of negligence;
- from € 1,326 to € 9,690, in case of deliberate misconduct.

The minimum and maximum limits of the pecuniary fines correspondent to a very serious administrative offence are the following:

- from € 2,040 to € 30,600, in case of negligence;
- From € 4,590 to € 61,200 in case of deliberate misconduct.

All those pecuniary fines may be increased by 30% in case of transport of dangerous goods and of heavy transport of passengers.

Uninterrupted Driving Times and Pauses

(ii) Article 19 of the Law No. 27/2010

Article 19 introduces different thresholds of sanctions for the infringements of the rules on the uninterrupted driving time.

If the driver has exceeded the uninterrupted driving time:

- less than 5 hours, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 1);
- equal or superior to 5 hours and inferior to 6 hours, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 1);
- equal or superior to 6 hours, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 1).

The non-compliance with the minimum limit of the pause is considered an administrative offence classified as mentioned below:

- if the difference is inferior to 10%, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 2);
- if the difference is equal or superior to 10% and inferior to 30%, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 2);
- if the difference is equal or superior to 30%, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 2).

Rest periods

(iii) Article 20 of the Law No. 27/2010

Article 20 introduces different thresholds of sanctions for the infringements of the rules on the daily rest period.

If the driver has not exceeded the regular rest period time:

- equal or superior than 10 hours and inferior to 11 hours, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 1);
- equal or superior to 8 hours and 30 minutes and inferior to 10 hours, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 1);
- less than 8 hours and 30 minutes, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 1);

If the driver has not exceeded the reduced rest period time:

- equal or superior than 8 hours and inferior to 9 hours, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 2);
- equal or superior than 7 hours and inferior to 8 hours, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 2);
- less than 7 hours, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 2).

If the driver has taken in two blocs the daily regular rest period and does not exceed the reduced rest period time:

- inferior than 1 hour, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 3);
- equal or superior than 1 hour and inferior to 2 hours, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 3);
- equal or superior to 7 hours, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 3).

If the driver has not exceeded the regular weekly rest period time:

- equal or superior than 42 hours and inferior to 45 hours, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 5);
- equal or superior to 36 hours and inferior to 42 hours, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 5);
- less than 36 hours, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 5).

If the driver has not exceeded the reduced weekly rest period time:

- equal or superior than 22 hours and inferior to 24 hours, the driver incurs in a less serious administrative offence (subparagraph a) of paragraph 6);
- equal or superior than 20 hours and inferior to 22 hours, the driver incurs in a serious administrative offence (subparagraph b) of paragraph 6);
- less than 20 hours, the driver incurs in a very serious administrative offence (subparagraph c) of paragraph 6).

Article 28, Paragraph 1 of the Law No. 27/2010 further stipulates that the driver shall be prevented from continuing to drive and the vehicle must be immobilised. The immobilisation shall cease when the payment of the fine occurs and the rest period has taken place.

Under the terms of Article 28, Paragraph 4, the Police Authorities have the competence to control the driver's compliance with the obligations mentioned above.

Transport undertaking's liability

(iv) Article 13 of the Law No. 27/2010

See above mentioned reference to Article 13 of the Law No. 27/2010.

Foreigner Vehicles

Article 3 of the Law No. 27/2010 disciplines that the drivers of heavy vehicles registered in non-EU countries, nor non-members of the European Agreement concerning the work of crews of vehicles engaged in international road transport (hereinafter called "AETR") countries, are subject to the same obligations and provisions contained therein, as well as to the sanction system provided for the Portuguese drivers.

As regards the control specified in Article 5, paragraph 5, such control shall be accomplished without discrimination on the basis of the country of the vehicle's registration, the country of the driver's residence, the country of the company's undertaking, the origin and destiny of the trip and the type of tachograph.

There is no reference in the Portuguese Law concerning the issue of the sanctions applicable to infringements of Reg. 561/2006 committed abroad. On a decision of the High Court of Oporto of 2010 on the matter of drivers resting times (Reg 561/2006), the Court concluded that the infringement of the respective obligations is sanctioned under Portuguese Decree-Law 272/89, enacted well before the Regulation.

24.1.1.2 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 piece of legislation:
Law No. 27/2010.

The mentioned Law addresses the control modalities of the implementation of the European social provisions and the AETR, the system of risks classification, the conservation of documents and the monitoring.

As regards the control of the implementation of the European social provisions and the AETR, there are two distinct modalities: the control carried out on the road (Article 5 and Part A of the Annex) and control in the company's facilities (Article 6 and Part B of the Annex). The first shall occur in different places and hours, at least 6 times a year and the second shall occur if it is detected serious or very serious administrative offences on the road controls .

In what concerns the system of risks classification, Ordinance No. 44/2012 of 13 of February of 2012⁴ regulates the referred system.

The company is obliged to maintain the documents related to the controls carried out for, at least, one year (Article 8 of the Law).

Regarding the monitoring, Article 9 provides that it shall be carried out by the following entities: Authority for Work Conditions (*Autoridade para as Condições do Trabalho*), National Republican Guard (GNR), Mobility and Land Transport Institute (*Instituto da Mobilidade e dos Transportes Terrestres, I.P.*) and Public Security Police (*Polícia de Segurança Pública*).

In addition, please note Decree-Law No. 117/2012, of June 5th has transposed the Directive 2006/22/EC, in what regards the independent drivers' working period organisation who perform mobile road transport activities.

24.1.1.3 Directive 2002/15/EC

The Directive 2002/15/EC has been implemented by Decree-Law No. 237/2007 of 19 June of 2007⁵.

⁴ Ordinance (*Portaria*) No. 44/2012 of 13 of February of 2012, in OJ of, 1st series, No. 31 of 13 February of 2012.

⁵ Decree-Law (*Decreto-Lei*) No. 237/2007 of 19 of June of 2007, in OJ of, 1st series, No. 116 of 19 of June of 2007.

Article 6, Paragraph 1 of the mentioned Decree-Law envisages that the average weekly working time period cannot exceed the 60 hours, nor 48 hours as an average for a 4 months period.

According to Article 6, paragraph 5, if the working time period, including the supplementary work, includes the period between 0 and 5 hours, it cannot exceed 10 hours per day.

The above referred limits may be modified by collective agreement (*Instrumento de Regulamentação Colectiva de Trabalho*).

Under the terms of Article 8, there shall be a rest period not inferior to 30 minutes if the employee works between 6 and 9 hours or to 45 minutes if the employee works more than 9 hours. The employees shall not work consecutively more than 6 hours.

Articles 10 and following set forth the existing administrative offences regime for the infringement of the provisions concerning the maximum amount of working time allowed, rest period and breaks.

More specifically, Article 10, paragraph 1, foresees that the provisions of the Labour Code shall be applicable to the above mentioned administrative offences. The employer is responsible for such offences, under the terms of paragraph 2 of the referred Article.

24.1.2 Tachograph

24.1.2.1 Regulation (EEC) No 3821/1985

Sanctions for infringements against Regulation No. 3821/1985/CEE are contained in the provisions of the Decree-Law No. 169/2009, of 31 of July of 2009⁶.

(v) Articles 5 to 10 of the Decree-Law No. 169/2009

1. Tachograph

⁶ Decree-Law (*Decreto-Lei*) No. 169/2009 of 31 of July of 2009, in OJ of, 1st series, No. 147 of 31 of July of 2009.

Article 5, paragraph 1, prescribes that the entities responsible for the monitoring are the following: Authority for Work Conditions (*Autoridade para as Condições do Trabalho*), National Republican Guard (GNR), Mobility and Land Transport Institute (*Instituto da Mobilidade e dos Transportes Terrestres, I.P.*) and Public Security Police (*Polícia de Segurança Pública*).

Article 7 establishes the administrative offences that shall be applicable:

- Paragraph 2 refers to the very serious administrative offences punished with a pecuniary fine between € 1,200 to € 3,600 or € 1,200 to € 6,000, depending on whether it is a singular person or a legal person, attributed to the company.
- Paragraph 3 refers to the very serious administrative offences punished with a pecuniary fine between € 600 to € 1,800, attributed to the driver.
- Paragraph 4 refers to the serious administrative offences punished with a pecuniary fine between € 400 to € 1,200 or € 400 to € 2,000, depending if it is a singular person or a legal person, attributed to the company.
- Paragraph 5 refers to the serious administrative offences punished with a pecuniary fine between € 200 to € 600, attributed to the driver.
- Paragraph 6 refers to the less serious administrative offences punished with a pecuniary fine between € 100 to € 300.

2. Liability of the transport undertaking

Article 7 establishes the administrative offences that shall be applicable:

- Paragraph 2 refers to the very serious administrative offences punished with a pecuniary fine between € 1,200 to € 3,600 or € 1,200 to € 6,000, depending on whether it is a singular person or a legal person, attributed to the company. The mentioned very serious administrative offence is applicable in the following situations:
 - lack of speed control device, tachograph, when it is mandatory;
 - manipulation of the device;
 - malfunction of the tachograph;
 - destruction of data registered in the tachograph;
 - use of non-activated tachograph;
 - use of tachograph installed by a non-recognised entity.

- Paragraph 3 refers to the very serious administrative offences punished with a pecuniary fine between € 600 to € 1,800, attributed to the driver. The mentioned very serious administrative offence is applicable in the following situations:
 - refusal to subjection to control;
 - non registration of the tachograph;
 - lack of driver card;
 - use of driver card of another person;
 - use of falsified driver card;
 - use of damaged driver card, with unreadable information;
 - non communication of lack of driver card.
- Paragraph 4 refers to the serious administrative offences punished with a pecuniary fine between € 400 to € 1,200 or € 400 to € 2,000, depending on whether it is a singular person or a legal person, attributed to the company. The mentioned serious administrative offence is applicable in the following situations:
 - lack of the verification of the tachograph;
 - use of recording sheet;
 - use of the analogical tachograph instead of digital tachograph;
 - use of tachograph which has suffered a damage during the route or it has been verified a damaged functioning, if the return to the facilities of the company is superior to one week;
 - lack of recording sheet in case of analogical tachograph.
- Paragraph 5 refers to the serious administrative offences punished with a pecuniary fine between € 200 to € 600, attributed to the driver. The mentioned serious administrative offence is applicable in the following situations:
 - use of damaged driver card, with readable information;
 - in case of alteration of the data related to the owner, without substitution in the following 30 days;
 - non-compliance with the obligation of require the substitution of the driver card in the next 7 days.
- Paragraph 6 refers to the less serious administrative offences punished with a pecuniary fine between € 100 to € 300. The mentioned less serious administrative offence is applicable in the following situations:

- insufficiency of printout paper, imputable to the transport undertaking;
- failure of the data transmission, without its lost, imputable to the transport undertaking;
- use of damaged driver card or recording sheet, with readable information, imputable to the driver.

Competent Authority

According to Article 5, paragraph 1, the competent authorities are the following: Authority for Work Conditions (*Autoridade para as Condições do Trabalho*), National Republican Guard (GNR), Mobility and Land Transport Institute (*Instituto da Mobilidade e dos Transportes Terrestres, I.P.*) and Public Security Police (*Polícia de Segurança Pública*).

Foreign drivers

Article 3 of the Law No. 27/2010, the driver of a heavy vehicle, registered in a foreign country or in country which is not part of the AETR, without a tachograph, must manually register, in a daily sheet, the following elements: driving times, time spent on other professional activities besides driving, breaks and rest periods.

24.2 Road package

24.2.1 Regulation (EC) No 1071/2009, Regulation No (EC) 1072/2009, Regulation (EC) No 1073/2009

The Mobility and Land Transport Institute (*Instituto da Mobilidade e dos Transportes Terrestres, I.P.*) has already submitted to the Portuguese Government a proposal regarding the transposition of the mentioned Regulations. However, until now, no legal diploma concerning these matters has been enacted and published.

So far, it is still applicable Decree-Law No. 3/2001 of 10 of January 2001⁷, but only in those aspects that are not in collision with the referred Regulations, which are directly applicable in Portugal. Therefore, the main issues of the Decree-Law will be addressed above.

The implementation of Directive No. 96/22/EC of 29 of April of 1996, amended by the Directive No. 98/76/EC of 1 of October of 1998, has been envisaged in Decree-Law No. 3/2001 of 10 of January 2001. However, the mentioned Directive No. 96/22/EC of 29 of April of 1996 has been revoked by Regulation No. 1071/2009/EC, of 21 of October of 2009.

Based on this Decree-Law, which is applicable to the road passenger transport, Article 20, paragraph 1 prescribes that the entities responsible for the monitoring are the following: Directorate for Inland Transport (*Direcção-Geral de Transportes Terrestres*), National Republican Guard (GNR), General Inspector of Public Works, Transports and Communications (*Inspecção-Geral de Obras Públicas, Transportes e Comunicações*) and Public Security Police (*Polícia de Segurança Pública*). Under the terms of the subsequent Article, paragraph 2, both the attempt and the negligence are punished.

The Directorate for Inland Transport is competent in the matter of the administrative offences.

Article 24 prescribes that the transportation by a non-licensed entity is punished with a pecuniary fine between € 500 and € 2,500. Notwithstanding, according to Article 23, the transportation by a non-licensed entity (whether the entity has a public character or an international entity responsible for passenger's transport) is punished with a pecuniary fine between € 750 and € 3,750, if it is a singular person, or between € 5,000 and € 25,000, in case of a legal person.

Article 27 refers to the administrative offences related to the international transport. According to the current provision, the Portuguese law punishes:

- a) the lack of certificate with an administrative offence between € 500 and € 2,500;
- b) the lack of certified copy of the community licence with an administrative offence between € 1,250 and € 6,250;

⁷ Decree-Law (*Decreto-Lei*) No. 3/2001 of 10 of January 2001, in OJ of, 1st A series, No. 8 of 10 of January 2001.

- c) the accomplishment of regular services without authorisation with an administrative offence between € 1,250 and € 6,250;
- d) the non-compliance with the schedules and itinerary with an administrative offence between € 1,000 and € 5,000;
- e) the providing of specialized services without contract with an administrative offence between € 750 and € 3,750;
- f) the providing of occasional services without the itinerary sheet with an administrative offence between € 500 and € 2,500;
- g) the non emission of the single transport document with an administrative offence between € 100 and € 500.

Article 28 mentions the administrative offences related to transports between Portugal and Third Countries:

- a) the lack of authorisation on regular services is punished with an administrative offence between € 1,250 and € 6,250;
- b) the lack of itinerary sheet on occasional services is punished with an administrative offence between € 500 and € 2,500;
- c) the lack of authorisation on the cabotage services is punished with an administrative offence between € 1,250 and € 6,250.

The lack of documents' submission is punished according to the specific case (Article 29).

The non-compliance with the communication duty, related to elements of the company, is punished by law with an administrative offence between € 125 and € 625.

It is also possible to apply an ancillary penalty under the terms of Article 31, which establishes the suspension of authorisations, licences and *alvarás* if the carrier has committed three administrative offences of the following Articles 24, paragraphs 1 and 2, 25, paragraph 1, 26, paragraph 1 and 27, subparagraph b) and d), within a year after the judgment or after the voluntary payment of the administrative offence.

Foreign offenders

Article 32, Paragraph 1, provides that if the foreign offender does not intend to voluntarily pay the administrative offence, then it shall be paid throughout a deposit correspondent to the maximum amount of the administrative offence.

24.2.2 Regulation (EC) No 1072/2009, Regulation (EC) No 1073/2009

See above.

24.3 Standards of vehicles and load and necessary licences

24.3.1 Directive 2008/68/EC

The Decree-Law No. 41° A/2010 of 29 of April of 2010⁸ has implemented Directive 2008/68/EC on the inland transport of dangerous goods.

The Article 1 of the mentioned Decree states that it applies at the transport of dangerous goods by road, rail or inland.

Article 14 specifies that the non-compliance with the obligations established in the referred Decree-Law are considered administrative offences. Such administrative offences may differ between € 50 and € 3,000 (if it is a singular person) or between € 100 and € 6,000 (in the case of a legal person), depending on the committed offence.

Both the attempt and negligence are punished under the terms of the Portuguese law (paragraph 9).

Foreign drivers

The general rule established in Article 15 of the Highway Code provides that drivers resident in other countries or domiciled in other countries shall voluntarily pay the minimum value of the administrative offence applicable (paragraph 1).

24.3.2 Directive 96/53/EC

⁸ Decree-Law (*Decreto-Lei*) No. 41° A/2010, of 29 of April of 2010, in OJ of, 1st series, No. 83 of 29 of April of 2010.

The Directive No. 96/53/EC, governing 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 Ordinance No. 1092/97 of 3 of November of 1997⁹.

Decree-Law No. 99/2005 of 21 of June of 2005¹⁰ transposes to the Portuguese legal system the Directive No. 2002/7/EC of 18 of February of 2002, which has amended the previous Directive No. 96/53/EC of 25 of June of 1996. The mentioned Decree-Law was, thereafter, amended the Decree-Law No. 133/2010 of 22 of December of 2010¹¹ in what concerns the Regulation that establishes the maximum authorised dimensions and weights.

However the administrative offences for those who exceed the legal limits of weights and dimensions are established in the Highway Code (Articles 57 and 58). According to Article 57, those who infringe the limits will be punished with an administrative offence between € 600 and € 3,000.

Article 58 foresees an exception to the above mentioned rule, providing that it is allowed the exceeding of the limits, since there is a special authorisation that allows it. Nonetheless, those who do not exhibit such authorisation during the monitoring operation shall be punished with an administrative offence between € 600 and € 3,000, except if the offender exhibits it within 8 days. In this last situation, the administrative offence is between € 60 and € 300 (paragraphs 5 and 6). Under the terms of paragraph 7, the non-compliance with the limits established in paragraphs 1 and 2 will be punished with an administrative offence between € 120 and € 600. In these last situations, it may be determined the vehicle immobilisation or the vehicle dislocation to an appropriate place until the situation is regularised.

24.3.3 Directive 2009/40/EC

⁹ Ordinance (*Portaria*) No. 1092/97 of 3 of November 1997, in OJ of, 1st B series, No. 254 of 3 of November of 1997.

¹⁰ Decree-Law (*Decreto-Lei*) No. 99/2005 of 21 of June of 2005, in OJ of 1st A series, No. 117 of 21 of June of 2005.

¹¹ Decree-Law (*Decreto-Lei*) No. 133/2010 of 22 of December of 2010, in OJ of 1st series, No. 246 of 22 of December of 2010.

The Directive 2009/40/EC has not been transposed by the Portuguese Government because it is the recast directive. However, it has already been submitted to the Portuguese Government a proposal regarding the transposition of the mentioned Regulation.

Decree-Law No. 48/2010 of 11 of May of 2010, which established the legal regime of free access and exercise of the activity of technical inspection of motor vehicles and their trailers, had been revoked by the Portuguese Parliament Parliamentary Resolution No. 83/2010 of 30 of May of 2010¹², which has reinstating Decree-Law No. 550/99 of 15 of December of 1999 and certain provisions of Ordinance No. 1165/2000 of 9 of December of 2000.

Article 116 of the Portuguese Highway Code underlines that the lack of an inspection will be punished by law, with an administrative offence between € 250 and € 1,250.

24.3.4 Directive 2006/126/EC

Decree-Law No. 313/2009 of 27 of October of 2009 transposes the Directive 2009/112/EC, of 25 of August of 2009. The countries which had not transposed Directive 2006/126/EC of 20 of December of 2006, could only transpose the Directive 2009/112/CE. Portugal was one of the countries that has only transposed this last mentioned Directive.

Article 121 and 122 of the Highway Code establish that only those who have a driving licence are considered able to drive.

If a person drives a certain vehicle without a driving licence applicable to the category of such vehicle, the driver shall be punished with an administrative offence between € 500 and € 2,500 (categories A to D) and between € 120 and € 600 for some specific cases (paragraphs 13 and 14).

¹² Parliamentary Resolution (*Resolução da Assembleia da República*) No. 83/2010 of 30 of July 2010, in OJ of, 1st series, No. 147 of 30 of July 2010.

Article 130, paragraph 7 of the Highway Code underlines that the driving licence expires and it is not revalidated, the driver shall be punished with an administrative offence between € 120 and € 600.

At last, in case of driving without a proper driving licence, the driver shall be punished with imprisonment for a maximum period of 1 year or with a pecuniary fine until 120 days, under the terms of Article 3 of Decree-Law No. 2/98 of 3 of January of 1998, which amends Decree-Law No. 114/94 of 3 of May of 1994.

24.4 Notion of criminal sanction and of administrative sanction in the Portuguese legal system

Criminal sanctions are the consequences of criminal offences. Pursuant to Portuguese law criminal sanctions can be distinguished in principal and ancillary.

The Principal criminal sanctions are:

1. imprisonment;
2. pecuniary fines (in Portuguese *multa*).

Both criminal sanctions may be substituted, in certain specific cases, by a special sanction of provision of work in favour of the community. Additionally, the Court may also, in some specific cases, substitute the pecuniary fine by an admonition.

The ancillary sanctions are the following:

1. prohibition or suspension to perform a public office;
2. prohibition of driving motor vehicles;

Simultaneously, the Portuguese Criminal Code¹³, also contains different sanctions, named as “Security Measures”, which include, among others, the prohibition to perform a certain activity, the prohibition to drive motor vehicles, the definition of special rules on conduct and the loss of goods or advantages.

Criminal sanctions can be distinguished in custodial sanctions (imprisonment and arrest) and in pecuniary sanctions (pecuniary fines). Custodial sanctions affect the freedom of the offender, pecuniary fines affect his patrimony.

¹³ Revised and enacted by Decree-Law (*Decreto-Lei*) No. 48/95.

Criminal sanctions can both be imposed to physical and to legal persons (such as corporations or other entities), in the latter case only for some categories of crimes and when the same are committed in the corporation' own interest by directors or other relevant persons within the organisation.

Criminal sanctions are subject to the principle of legality (*nullum crimen, nulla poena sine lege*). Indeed pursuant to Article 1 of the Criminal Code, it only can be criminally punished the fact described and deemed as a crime by a law which is previous to the moment when it was executed.

Administrative sanctions are disciplined by Decree-Law No. 483/82 of 27 of October and are also subject to the principle of legality (Articles 2 and 43 of the diploma).

An administrative penalty is the consequence of an administrative offence.

Administrative penalty usually imply the payment of an amount of money (*Coima* or pecuniary fine) and in certain cases also ancillary sanctions such as the prohibition to exercise certain professions, cancellation of public licences, etc..

Both criminal and administrative offences are those actions that violate a rule that protects a public interest. Criminal and administrative sanctions have similarities as they both consist in the limitation of a right of the person that has violated a rule and are deemed to have a dissuasive effect.

Both criminal and administrative sanctions have to be proportionate to the seriousness of the offence.

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

- administrative sanctions cannot affect personal freedom of the offender; on the contrary criminal sanctions may affect it;
- the different statutes of limitation period: up to 5 years for administrative sanctions, depending on the seriousness of the administrative offence (indexed to the amount of the fine) (Article 27 of Decree-Law No. 483/82), whilst for criminal sanctions it depends on the typology of sanction, but may be up to 15 years as a general rule, without prejudice to suspension or disruption;
- the different rules applicable with respect to the burden of proof. According to Criminal law, the burden of proof lies on the accusation side, whilst in administrative sanctions the alleged offender has to prove his innocence when contesting the measure imposing the sanction, although in case of judicial

appeal against such sanction the burden of proof is the same as in the criminal law, at least in principle, although this is a disputed matter.

In addition, it may be argued that one of the differences between criminal sanctions and administrative ones consists in the nature of the goods protected throughout the imposition of such sanction.

Administrative and criminal sanctions may be alternative or cumulative, meaning that the application of the latter excludes the former, or else, both sanctions may be applied together. Article 38 rules that in case both a crime and an administrative offence are committed together, or when a fact is deemed as crime and as an administrative offence, the administrative procedure, if applicable, shall be conducted by the criminal authorities.

Article 17 foresees a limit for pecuniary administrative sanctions between € 3,74 and € 3,740.98 (if it is a singular person) and the maximum limit for a legal person is € 44,891.81. In special laws regarding certain administrative offences the value of the penalties may be higher. In case of negligence, the values are reduced in 50%.

In addition, Article 143 of the Highway Code establishes that it is considered recidivist the offender who commits an administrative offence punished with fine and an ancillary penalty, after having practiced a similar offence punished the same manner, within 5 years prior to such last offence. According to Article 138, the serious and very serious administrative offences are punished with a pecuniary fine and an ancillary offence.

Concurrence between several sanctions

There are no special rules concerning the application of more administrative or criminal sanctions in case more infringements of commercial road transport are detected at the same time or in the same control. Therefore the sanctions for the different infringements will apply.

If more than one infringement is detected at the same time or in the same control, such infringements will be punished accordingly to the number of perpetrated offences.

Concurrence between administrative and criminal sanctions

Portuguese law foresees, in some cases, both criminal and administrative sanctions for the same infringement. Such sanctions “*may be alternative or cumulative, meaning that the application of the latter excludes the former, or else, both sanctions may be applied together*”.

24.5 Scope of application of the Portuguese criminal law

The rules on the scope of application of Portuguese criminal law are laid down in Articles 4 - 6 of the Criminal Code, approved by the Decree-Law No. 48/95 of 15 of March of 1995¹⁴, last amended by Law No. 56/2011 of 15 of November of 2011.

Article 4 states that anyone who commits a crime within the Portuguese State (including vessels and aircrafts) shall be punished according to Portuguese criminal law, unless there is a Treaty or a Convention establishing otherwise.

Article 5 lays down rules on the application of Portuguese criminal law for actions committed abroad. Under the terms of the mentioned Article, unless there is a Treaty or a Convention establishing otherwise, the Portuguese law shall be applicable to facts committed abroad if any of the following offenses has been committed:

- a) crime of computer fraud;
- b) crime of falsification of the legal coin, credit note or stamp value;
- c) crime against the national independence or integrity;
- d) crimes against the Rule of Law (*Estado de direito*);
- e) crimes against a Portuguese, committed by a Portuguese who usually lived in Portugal by the time of the facts, as long as the agent is found in Portugal;
- f) crimes of slaving, traffic of human beings, kidnapping, child sexual abuse, procuring and pollution, as long as the agent is found in Portugal and the extradition is not possible;

¹⁴ Decree-Law No. 48/95 of 15 of March of 1995, in OJ of, 1st A series, No. 63 of March of 1995.

- g) crimes of offence against physical integrity, sexual coercion and rape, if the victim is a minor and the agent is found in Portugal and the extradition cannot be granted;
- h) crimes committed by a Portuguese or by a foreigner against a Portuguese, if:
 - I. the agent was founded in Portugal;
 - II. the agent would also be punished under the terms of the law of the country where the crime was practiced, unless in that country there is no punitive power exercise;
 - III. the fact is a crime that permits extradition and it cannot be granted;
- i) crimes committed by a foreigner found in Portugal and the requested extradition cannot be granted;
- j) crimes committed by a legal person whose head office is located in Portuguese territory.

Article 6 foresees some restrictions to the application of the Portuguese law to facts executed abroad. Thus, application of the Portuguese law shall only occur if the perpetrator has not been prosecuted in the country where the fact has been practiced or if he was not found by any means there (paragraph 1). When applicable, the Portuguese law shall be the ruling one in principle, but the fact will be judged according to the law of the country where the fact was practiced if such law is more favorable to the defendant (paragraph 2).

24.6 Summary tables

Please find below the table providing an overview on the criminal and administrative sanctions foreseen in the Portuguese Legal System for the infringements of EU Commercial Road transport Legislation.

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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)
<p>Regulation 561/06/EC</p>	<p><u>Age</u> <u>Road Traffic Code</u></p>	<p>Article 17 of Law No. 27/2010; 125 and 126 of the Road Traffic Code</p> <p>Article 125 of the Road Traffic Code (paragraph 5 and 7)</p> <p>Article 3 of the Road Traffic</p>	<p>Not respecting minimum age for conductors</p>	<p>Driver</p>	<p>From € 300 up to € 1.500 - Serious offence</p>	<p>Imprisonment until one year or pecuniary fine until 120 days.</p> <p>If the vehicle is a motorcycle or an automobile vehicle: imprisonment until two years or pecuniary fine until 240 days.</p>

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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)
		Code				
	Driving Time D.L. No. 27/2010 of 30 August 2010	Article 18 of Law No. 27/2010	Driving up to 10 hours more per day if the daily time is 9 hours	Transport undertaking	From € 204 up to € 1.530 – less serious offence	
		Article 18 of Law No. 27/2010	Driving more than 10 hours and up to 11 hours per day if the daily time is 9 hours.	Transport undertaking	From € 612 up to € 9.690 – serious offence	
		Article 18 of Law No. 27/2010	Driving more than 11 h per day if the daily time is 9 h	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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 18 of Law No. 27/2010	Exceeding the extended daily driving time: less than 11 hours.	Transport undertaking	From € 204 up to € 1.530 – less serious offence	
		Article 18 of Law No. 27/2010	Exceeding the extended daily driving time: Equal or superior to 10 hours and inferior to 12 hours	Transport undertaking	From € 612 up to € 9.069 – serious offence	
		Article 18 of Law No. 27/2010	Exceeding the extended daily driving time: Equal or superior than 12 hours	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	
		Article 18 of Law No. 27/2010	Exceeding the extended weekly driving time: less than 60 hours	Transport undertaking	From € 204 up to € 1.530 – less serious offence	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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 18 of Law No. 27/2010	Exceeding the extended weekly driving time: Equal or superior to 60 hours and inferior to 70 hours	Transport undertaking	From € 612 up to € 9.069 – serious offence	
		Article 18 of Law No. 27/2010	Exceeding the extended weekly driving time: Equal or superior to 70 hours	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	
		Article 18 of Law No. 27/2010	Exceeding the extended accumulated driving time less than 100 hours	Transport undertaking	From € 204 up to € 1.530 – less serious offence	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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 18 of Law No. 27/2010	Exceeding the extended accumulated driving time: Equal or superior to 100 hours and inferior to 112 hours and 30 minutes	Transport undertaking	From € 612 up to € 9.069 – serious offence	
		Article 18 of Law No. 27/2010	Exceeding the extended accumulated driving time: Equal or superior to 112 hours and 30 minutes	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	
	<u>Rest Periods</u> <u>D.L. No. 27/2010 of 30 August 2010</u>	Article 20 of Law No. 27/2010	Exceeding the regular rest period time equal or superior than 10 hours and inferior to 11 hours	Transport undertaking	From € 204 up to € 1.530 – less serious offence	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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 20 of Law No. 27/2010	Exceeding the regular rest period: Equal or superior to 8 hours and 30 minutes and inferior to 10 hours	Transport undertaking	From € 612 up to € 9.069 – serious offence	
		Article 20 of Law No. 27/2010	Exceeding the regular rest period : Less than 8 hours and 30 minutes	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	
		Article 20 of Law No. 27/2010	Insufficient reduced daily rest period equal or superior than 8 hours and inferior to 9 hours	Transport undertaking	From € 204 up to € 1.530 – less serious offence	
		Article 20 of Law No. 27/2010	Insufficient reduced daily rest period of equal or superior than 7 hours	Transport undertaking	From € 612 up to € 9.069 – serious offence	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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)
			and inferior to 8 hours			
		Article 20 of Law No. 27/2010	Insufficient reduced daily rest period of less than 7 h if reduced daily rest period is allowed .	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	
		Article 20 of Law No. 27/2010	Taking the daily regular rest period in two blocs and does not exceed the reduced rest period time inferior than 1 hour	Transport undertaking	From € 204 up to € 1.530 – less serious offence	
		Article 20 of Law No. 27/2010	Taking the daily regular rest period in two blocs and does not exceed the reduced rest period time: Equal or superior than 1	Transport undertaking	From € 612 up to € 9.069 – serious offence	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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)
			hour and inferior to 2 hours			
		Article 20 of Law No. 27/2010	Taking the daily regular rest period in two blocs and does not exceed the reduced rest period time: Equal or superior to 7 hours	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	
		Article 20 of Law No. 27/2010	Insufficient daily rest period of equal or superior than 8 hours and inferior to 9 hours multi-manning	Transport undertaking	From € 204 up to € 1.530 – less serious offence	
		Article 20 of Law No. 27/2010	Insufficient daily rest period equal or superior than 7 hours and inferior	Transport undertaking	From € 612 up to € 9.069 – serious offence	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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)
			to 8 hours multi-manning.			
		Article 20 of Law No. 27/2010	Insufficient daily rest period of less than 7 h multi-manning	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	
		Article 20 of Law No. 27/2010	Exceeding the regular weekly rest period time equal or superior than 42 hours and inferior to 42 hours	Transport undertaking	From € 204 up to € 1.530 – less serious offence	
		Article 20 of Law No. 27/2010	Exceeding the regular weekly rest period time: Equal or superior to 36 hours and inferior to 42 hours	Transport undertaking	From € 612 up to € 9.069 – serious offence	

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SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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 20 of Law No. 27/2010	Exceeding the regular weekly rest period time: Less than 36 hours	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	
		Article 20 of Law No. 27/2010	Exceeding the reduced weekly rest period time equal or superior than 22 hours and inferior to 24 hours	Transport undertaking	From € 204 up to € 1.530 – less serious offence	
		Article 20 of Law No. 27/2010	Exceeding the reduced weekly rest period: Equal or superior to 20 hours and inferior to 22 hours	Transport undertaking	From € 612 up to € 9.069 – serious offence	
		Article 20 of Law No. 27/2010	Exceeding the reduced weekly rest period: Less than 20 hours	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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 19 of Law no. 27/2010	Exceeding uninterrupted driving time less than 5 hours	Transport undertaking	From € 204 up to € 1.530 – less serious offence	
		Article 19 of Law 27/2010	Exceeding uninterrupted driving time between 5 hours and less than 6 hours	Transport undertaking	From € 612 up to € 9.069 – serious offence	
		Article 19 of Law 27/2010	Exceeding uninterrupted driving time of more than 6 hours	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	
	<u>Breaks</u>	Article 19 of Law No. 27/2010	Exceeding the minimum limit of break in less than 10%	Transport undertaking	From € 204 up to € 1.530 – less serious offence	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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 19 of Law No. 27/2010	Equal or superior to 10% and inferior to 30%	Transport undertaking	From € 612 up to € 9.069 – serious offence	
		Article 19 of Law No. 27/2010	Equal or superior than 30%	Transport undertaking	From € 2.040 up to € 61.200 – very serious offence	
	<p><u>Recidivism</u></p> <p><u>Road Traffic Code</u></p>	Article 143 of the Road Traffic Code	Recurrence of the situation of infringements provided by Article 143, paragraph 1	Transport undertaking	<p>The minimum limits prescribed for the duration of the given ancillary sanction are doubled.</p> <p>and</p>	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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)
					disqualification from driving	
	<u>Exemption of Transport undertaking's liability</u>	Article 13, no. 2, of Law No. 27/2010	The transport undertaking is not liable for the above mentioned administrative offences if it shows that it has complied with all provisions set forth in Regulation 3821/85 and Regulation 561/2006.			

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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)
<p>Directive 2006/22/EC (amended by Directive 2009/4/EC)</p>	<p><u>Driver's absence from work</u> <u>D.L. No. 27/2010 of 30 August 2010</u></p>	<p>Article 21</p>	<p>- Non-compliance with rules related to the schedule and to the service scale.</p>	<p>Transport undertaking</p>	<p>From € 612 up to € 9.069 – serious offence</p>	
		<p>Article 22</p>	<p>- Non-compliance with</p>	<p>Driver</p>	<p>From € 612 up to €</p>	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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 duty to inform.		9.069 – serious offence	
Directive 2002/15/EC	<p><u>Working time and rest periods</u></p> <p><u>Decree-Law No. 237/2007</u></p>	Article 6	Exceeding the average weekly working time period in more than 60 hours nor 48 hours as an average for a 4 months period	Transport undertaking	<p>From € 612 up to € 4.080, depending on the turnover, in case of negligence</p> <p>From € 1.326 up to € 9.690, depending on the company's turnover, in case of misconduct.</p>	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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 8	Exceeding the rest period limits (35 or 45 minutes, depending on the amount of working hours)	Transport Undertaking		
		Article 13	Violation of the duty of information regarding the limits of the working time and the rest periods	Transport Undertaking		
		Article 14,	Using recordings that exceed the foreseen period	Transport Undertaking	Less Serious Administrative	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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)
		subparagraph 1 Article 14, subparagraph 2	Use of non-authenticated recording, use of incomplete recording, lack of annotation or incomplete annotation of the guidelines that shall be included in the Recording Sheet and non-compliance with the obligation of delivery of copies Non-use of recordings,	Transport Undertaking Transport	Offence Serious Administrative Offence	

Table PT 1

SOCIAL RULES ON ROAD TRANSPORT

Rules on Driving Time, 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 14, subparagraph 3	use of recordings which exceed the foreseen period and which make unfeasible the read-put of the recordings, the modification of guidelines or recordings, the non-presentation of recordings timely and the non-compliance with the obligation of maintaining the mentioned recordings in conditions that allow their read-out for 5 years	Undertaking	Very Serious Administrative Offence	

Table PT2

Tachograph (recording equipment)

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	<u>Decree-Law No. 169/2009</u>	Article 7, paragraph 2	Lack of speed control device, tachograph, when it is mandatory; Manipulation of the device with the purpose of forging fake data. Using a malfunctioning tachograph; Using a vehicle with a damaged or malfunctioning tachograph Destruction of data registered in the tachograph; Recorded and stored data not available for at least 365 days	Transport Undertaking	From €1.200 up to €3.600 (singular person) From €1.200 up to €6.000 (legal person) Very serious Offence	Subject to criminal proceeding.

Table PT2

Tachograph (recording equipment)

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			Use of non-activated or not approved tachograph; Use of tachograph installed by a non-recognised entity.			
		Article 7, paragraph 3	Refusal to subjection to control; Driving a vehicle equipped with a tachograph, and the register sheet or the driver's card is not inserted Non registration of the tachograph; Lack of driver card or the usage of expired card by any member of the crew.	Driver	From €600 up to €1.800 Very Serious Offence	

Table PT2

Tachograph (recording equipment)

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			Use of driver card of another person; Use of the original driver's card, when this was replaced; Use of falsified driver card, or one obtained by providing false statements (subject to criminal liability); Non communication or lack of driver card. Manipulation of the driver's card or the recording sheets, with intention to alter the data or to change its normal use. Usage of the driver's card or recording sheet			Subject to criminal liability

Table PT2

Tachograph (recording equipment)

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			<p>damaged, and data is illegible</p> <p>Not communicating that the driver's card has been stolen or lost to the competent authorities of the place where such fact has occurred.</p> <p>Misuse of the recording sheets or the driver's card</p>			Subject to criminal liability
		Article 7, Paragraph 4	<p>Lack of the verification of the tachograph;</p> <p>Use of recording sheet that does not comply with the recording device.</p> <p>Use of the analogical</p>	Transport Undertaking	<p>From €400 up to €1.200 (singular person)</p> <p>From €400 up to €2.000 (legal person)</p>	

Table PT2

Tachograph (recording equipment)

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			tachograph instead of digital tachograph when the vehicle type must use digital tachograph. Use of tachograph which has suffered a damage during the route or it has been verified a damaged functioning, if the return to the facilities of the company is superior to one week; Lack of recording sheet when using analogical tachograph.		<p>Serious Offence</p>	
		Article 7, Paragraph 5	Use of damaged driver card, with readable information;	Driver	<p>From €200 up to €600</p>	

Table PT2

Tachograph (recording equipment)

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			In case of alteration of the data related to the owner, without substitution in the following 30 days; Non-compliance with the obligation of require the substitution of the driver card in the next 7 days.		Serious Offence	
		Article 7, Paragraph 6	Insufficiency of printout paper, imputable to the transport undertaking; Failure of the data transmission, without its lost, imputable to the transport undertaking; Use of damaged or dirty driver card or recording	Driver or Transport undertaking	From €100 up to €300 Less Serious Offence	

Table PT2

Tachograph (recording equipment)

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			sheet, even if data is legible, imputable to the driver.			
		Article 24 of Law No. 27/2010	Lack of tachograph		<p>From € 612 up to € 4.080, in case of negligence</p> <p>From € 1.326 up to € 9.690, in case of misconduct.</p>	

Table PT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
<p>Regulation No. 1071/2009/EC</p> <p>Regulation No. 1072/2009/EC</p> <p>Regulation No. 1073/2009/EC</p> <p>The Mobility and Land Transport Institute has already submitted to the Portuguese</p>	<p>Decree-Law No. 3/2001 of 10 of January 2001</p> <p>Decree-Law No. 3/2001 of 10 of January 2001</p>	Article 24	Transportation by a non-licensed entity is punished with a pecuniary	Any person	Penalty between € 500 and € 2,500	
		Article 27 refers to the administrative offences related to the international transport. d)	Lack of certificate.	Any person	Administrative offence between € 500 and € 2,500	
		Article 27 refers to the administrative offences related to the international transport.	Lack of certified copy of the community license	Any person	Administrative offence between € 1,250 and € 6,250;	

Table PT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article reference	of Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
Government a proposal regarding the transposition of the mentioned Regulations. However, until now, no legal diploma concerning these matters has been approved and published.						
		Article 27 refers to the administrative offences related to the international transport.	Accomplishment of regular services without authorization	Any person	Administrative offence between € 1.250 and € 6.250;	
		Article 27 refers to the administrative offences related to the international transport.	Non-compliance with the schedules and itinerary	Any person	Administrative offence between € 1.000 and € 5.000	

Table PT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article reference	of Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 27 refers to the administrative offences related to the international transport.	Providing of specialized services without contract	Any person	Administrative offence between € 750 and € 3.750	
		Article 27 refers to the administrative offences related to the international transport.	Providing occasional services without the itinerary sheet	Any person	Administrative offence between € 500 and € 2.500	
		Article 28 mentions the	Lack of authorization on regular services	Any person	Administrative offence between €	

Table PT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article reference	of Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		administrative offences related to transports between Portugal and Third Countries			1,250 and € 6,250;	
		Article 28 mentions the administrative offences related to transports between Portugal and Third Countries:	Lack of itinerary sheet on occasional services is punished with an	Any person	Administrative offence between € 500 and € 2,500;	
		Article 28 mentions the administrative offences related to transports between	Lack of authorization on the cabotage services is punished with an	Any person	Administrative offence between € 1,250 and € 6,250;	

Table PT 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article reference	of Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Portugal and Third Countries:				
			Non-compliance with the communication duty, related to elements of the company, is punished by law with an.	Any person	Administrative offence between € 125 and € 625	

Table PT 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	Transport of Dangerous goods Decree-Law No.41-A/2010	Article 14, paragraph 3	Transport of dangerous goods without the necessary authorization.	Consignor	<p>From €750 up to €2.250 (singular person)</p> <p>From €1.500 up to €4.500 (legal person)</p>	
			Non-compliance with security rules concerning the loading and handling of dangerous goods.	Consignor	<p>From €750 up to €2.250 (singular person)</p> <p>From €1.500 up to</p>	

Table PT 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)
			Use of non-admitted vehicles and non-compliance with the required equipment requirements.	Consignor	<p>€4.500 (legal person)</p> <p>From €750 up to €2.250 (singular person)</p> <p>From €1.500 up to €4.500 (legal person)</p>	
		Article 14, Paragraph 4	Lack of security instructions for crew members.	Conveyor/carrier	From € 500 up to € 1.500(singular person)	

Table PT 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)
					From € 1.000 up to € 3.000 (legal person)	
		Article 14, paragraph 5	Lack or the incorrect placement of the warning signals and labels of danger on the vehicles, tankers and containers.	Consignor	From € 250 up to € 750(singular person) From € 500 up to € 1.500 (legal person)	
Directive 96/53/EC	<u>Road Traffic Code</u>	Article 57,	Exceeding weight and	Transport	From € 600 up to €	

Table PT 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)
		Paragraph 1 and 2	dimension limits.	Undertaking	3.000 and In case of special authorization according to Article 58, paragraph 6 , it is possible the vehicle immobilization or vehicle dislocation to the appropriate place (paragraph 8)	
		Article 58, Paragraph 5	Non exhibition of the authorisation.	Transport Undertaking	From €600 up to €3.000	

Table PT 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, Paragraph 7	Non-compliance with other obligations established by Regulation	Transport Undertaking	<p>From €120 up to €600</p> <p>and</p> <p>Vehicle immobilization or vehicle dislocation to the appropriate place (paragraph 8)</p>	
Directive 2009/40/EC	<u>Road Traffic Code</u>	Article 116	Lack of inspection for: -approval of the model; -assignment of registration; -approval of the	Transport Undertaking	From €250 up to €1.250.	

Table PT 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)
			characteristics modification; -periodic verification of the security characteristics and conditions; -verification of the vehicle characteristics after an accident; -technical control.			
Directive 2006/126/EC	<u>Road Traffic Code</u>	Article 122	Lack of model label in case of provisory driving license (paragraph 6) Non communication of	Driver	From €60 up to €300.	

Table PT 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)
			domicile change within 30 days. Non communication of the domicile, by a driver of a foreign Member State, to the competent authorities, within 30 days.			
		Article 130	Lapse of the driving license and non-revalidation of the driving license (paragraph 7)	Driver	From €120 up to €600.	In case of lapse of driving licence: imprisonment until one year or pecuniary fine until 120 days.

Table PT 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)
						If the vehicle is a motorcycle or an automobile vehicle: imprisonment until two years or pecuniary fine until 240 days.
		Article 123	Driving vehicle with a driving license not correspondent to the vehicles' category (paragraph 13)	Driver	From €500 up to €2.500.	
			Driving agricultural or forestry vehicle or tractor having, only, a	Driver	From €120 up to €600.	

Table PT 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)
			driving license for the B or B+E category (paragraph 14)			
		Article 124	Driving agricultural vehicle or tractor having, only, a driving license for driving agricultural and forestry vehicles of another category (paragraph 7)	Driver	From €120 up to €600.	
		Article 125	Driving with a foreign driving license by a person that does not have a residence in Portugal for, at least 185 days.	Driver	From €300 up to €1.500.	

Table PT 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 127	Driving vehicle without respecting the imposed restrictions (paragraph 4)	Driver	From €120 up to €600.	

Table PT 5

<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 17 of Law No. 27/2010; 125 and 126 of the Highway Code Article 125 of the Highway Code (paragraph 5 and 7) Article 3 of the Decree-Law No. 114/94</p> <p>Not respecting minimum age for conductors</p> <p>Regulation 561/06/EC</p>	<p>Fine from € 300 up to € 1.500, imprisonment until one year or pecuniary fine until 120 days.</p> <p>If the vehicle is a motorcycle or an automobile vehicle: imprisonment until two years or pecuniary fine until 240 days.</p>	<p>Yes</p>
<p>Highway Code, Article 130</p> <p>Lapse of the driving licence and non-revalidation of the driving licence (paragraph 7)</p> <p>Directive 2006/126/EC</p>	<p>Fine from €120 up to €600.</p> <p>In case of lapse of driving licence: imprisonment until one year or pecuniary fine until 120 days.</p> <p>If the vehicle is a motorcycle or an automobile vehicle: imprisonment until two years or pecuniary fine until 240 days</p>	<p>Yes</p>

24.7 Sanctions which could be considered substantially criminal in the Portuguese legal system

According to Portuguese authors, notably Prof. Doutor Beleza dos Santos, there is a clear difference between the administrative sanctions and the criminal ones, which have different requirements and purposes. Thus, there is a doctrinal distinction between the nature of the two types of sanctions that cannot be forgotten, being of the essence of both concepts.

That said, taking into consideration that Portuguese system does foresee very high financial penalties in connection with some infringements we believe that the following infringements are sanctioned with administrative sanctions that are substantially criminal pursuant to the case law of the ECHR.

Table PT 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

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?
			Yes or not
<p>Driving Times</p> <p>D.L. No. 27/2010 of 30 August 2010</p> <p>Article 18 of Law No. 27/2010</p> <p>Exceeding the daily driving time equal or superior to 10 hours and inferior to 11 hours</p> <p>Regulation 561/06/EC</p>	<p>From € 612 up to € 9,690</p>	<p>Very high financial penalty abstractly foreseen and applicable to the driver</p>	<p>Yes</p>
<p>Article 18 of Law No. 27/2010</p> <p>Exceeding the daily driving time equal or superior than 11 hours</p> <p>Regulation 561/06/EC</p>	<p>From € 2,040 up to € 61,200</p>	<p>Very high financial penalty abstractly foreseen and applicable to the driver and to the transport undertaking to the extent he is held liable</p>	<p>Yes</p>
<p>Article 18 of Law No. 27/2010</p> <p>Exceeding the extended daily driving time equal or superior to 10 hours and inferior</p>	<p>From € 612 up to € 9,069</p>	<p>Very high financial penalty abstractly foreseen and applicable to the driver</p>	<p>Yes</p>

Table PT 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

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?
			Yes or not
to 12 hours Regulation 561/06/EC			
Article 18 of Law No. 27/2010 Exceeding the extended daily driving time equal or superior than 12 hours Regulation 561/06/EC	From € 2,040 up to € 61,200	Very high financial penalty abstractly foreseen and applicable to the driver and to the transport undertaking to the extent he is held liable	Yes
Article 18 of Law No. 27/2010 Exceeding the extended weekly driving time Equal or superior to 60 hours and inferior to 70 hours Regulation 561/06/EC	From € 612 up to € 9,069	Very high financial penalty abstractly foreseen and applicable to the driver	Yes
Article 18 of Law No. 27/2010 Exceeding the extended weekly driving time equal or superior to 70 hours	From € 2,040 up to € 61,200	Very high financial penalty abstractly foreseen and applicable to the driver	Yes

Table PT 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

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?
			Yes or not
Regulation 561/06/EC			
Article 18 of Law No. 27/2010 Exceeding the extended accumulated driving time equal or superior to 100 hours and inferior to 112 hours and 30 minutes Regulation 561/06/EC	From € 612 up to € 9,069	Very high financial penalty abstractly foreseen and applicable to the driver	Yes
Article 18 of Law No. 27/2010 Exceeding the extended accumulated driving time equal or superior to 112 hours and 30 minutes Regulation 561/06/EC	From € 2,040 up to € 61,200	Very high financial penalty abstractly foreseen and applicable to the driver and to the transport undertaking to the extent he is held liable	Yes
Rest Periods D.L. No. 27/2010 of 30 August 2010	From € 612 up to € 9,069	Very high financial penalty abstractly foreseen and applicable to the driver	Yes

Table PT 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

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?
			Yes or not
Article 20 of Law No. 27/2010 Exceeding the regular rest period time equal or superior to 8 hours and 30 minutes and inferior to 10 hours Regulation 561/06/EC			
Article 20 of Law No. 27/2010 Exceeding the regular rest period time less than 8 hours and 30 minutes Regulation 561/06/EC	From € 2.040 up to € 61,200	Very high financial penalty abstractly foreseen and applicable to the driver and to the transport undertaking to the extent he is held liable	Yes
Article 20 of Law No. 27/2010 Exceeding the reduced rest period time equal or superior than 7 hours and inferior to 8 hours Regulation 561/06/EC	From € 612 up to € 9,069	Very high financial penalty abstractly foreseen and applicable to the driver	Yes

Table PT 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

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?
			Yes or not
<p>Article 20 of Law No. 27/2010</p> <p>Exceeding the reduced rest period time less than 7 hours - Drivers</p> <p>From € 2.040 up to € 61.200</p> <p>Regulation 561/06/EC</p>	<p>From € 2.040 up to € 61,200</p>	<p>Very high financial penalty abstractly foreseen and applicable to the driver and to the transport undertaking to the extent he is held liable</p>	<p>Yes</p>
<p>Article 20 of Law No. 27/2010</p> <p>Taking the daily regular rest period in two blocs and does not exceed the reduced rest period time</p> <p>Equal or superior than 1 hour and inferior to 2 hours</p> <p>Article 20 of Law No. 27/2010</p> <p>Regulation 561/06/EC</p>	<p>From € 612 up to € 9,069</p>	<p>Very high financial penalty abstractly foreseen and applicable to the driver</p>	<p>Yes</p>
<p>Article 20 of Law No. 27/2010</p>	<p>From € 2,040 up to € 61,200</p>	<p>Very high financial penalty abstractly</p>	<p>Yes</p>

Table PT 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

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?
			Yes or not
Taking the daily regular rest period in two blocs and does not exceed the reduced rest period time Equal or superior to 7 hours Regulation 561/06/EC		foreseen and applicable to the driver and to the transport undertaking to the extent he is held liable	
Article 20 of Law No. 27/2010 Exceeding the regular weekly rest period time equal or superior to 36 hours and inferior to 42 hours Regulation 561/06/EC	From € 612 up to € 9,069	Very high financial penalty abstractly foreseen and applicable to the driver	Yes
Article 20 of Law No. 27/2010 Exceeding the regular weekly rest period time Less than 36 hours Regulation 561/06/EC	From € 2,040 up to € 61,200	Very high financial penalty abstractly foreseen and applicable to the driver and to the transport undertaking to the extent he is held liable	Yes
Article 20 of Law No. 27/2010	- Drivers	Very high financial penalty abstractly	Yes

Table PT 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

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?
			Yes or not
Exceeding the reduced weekly rest period time equal or superior to 20 hours and inferior to 22 hours Regulation 561/06/EC	From € 612 up to € 9,069	foreseen and applicable to the driver	
Article 20 of Law No. 27/2010 Exceeding the reduced weekly rest period time less than 20 hours Regulation 561/06/EC	Drivers From € 2,040 up to € 61,200	Very high financial penalty abstractly foreseen and applicable to the driver and to the transport undertaking to the extent he is held liable	Yes
Breaks Article 19 of Law No. 27/2010 Exceeding the minimum limit of break equal or superior to 10% and inferior to 30% Regulation 561/06/EC	From € 612 up to € 9,069	Very high financial penalty abstractly foreseen and applicable to the driver	Yes

Table PT 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

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?
			Yes or not
<p>Article 19 of Law No. 27/2010</p> <p>Exceeding the minimum limit of break equal or superior than 30%</p> <p>Regulation 561/06/EC</p>	<p>From € 2,040 up to € 61,200</p>	<p>Very high financial penalty abstractly foreseen and applicable to the driver and to the transport undertaking to the extent he is held liable</p>	<p>Yes</p>
<p>Driver' s absence from work</p> <p>D.L. No. 27/2010 of 30 August 2010</p> <p>Article 21</p> <p>Non-compliance with rules related to the schedule and to the service scale.</p> <p>Directive 2006/22/EC (amended by Directive 2009/4/EC)</p>	<p>Driver From € 612 up to € 9,069 – serious offences</p>	<p>Very high financial penalty abstractly foreseen and applicable to the driver</p>	<p>Yes</p>

24.8 Effectiveness of the sanctions system

As regards the effectiveness of the national system, the Portuguese system may be considered slightly proportionate. This is particularly true with respect to sanctions for infringements of the rules of Regulation 561/2006. The sanctions are indeed tailored to the seriousness of the offences.

Infringements of the rules contained in the Road Package are instead sanctioned with sanctions that do not seem very dissuasive, considering the economic advantage of an operator performing road transport activities without the required authorisations.

The same applies to the sanctions for infringements of the rules on the transport of dangerous goods. They do not seem very dissuasive, taking into consideration the danger to road safety that are implied in the transport of dangerous goods.

Please note also that overall the system could be considered as not entirely effective also for reasons that are not directly related to the features of the applicable sanctions. This last conclusion is based on the following ideas:

- The length of the process is often pointed out as a main inconvenience of the current system (please see the rules on statutes of limitation established in Articles 27 to 31 of the Legal Regime of Administrative Offences and Article 118 of the Criminal Code).
- The fact that the system provides for too many ways for an individual to react against a penalty, although favourable in certain situations, may also be deemed as a fault in such system. Besides, most of the times reactions aim at gaining time towards a possible statute of limitation instead of being effective in what concerns an effective review/ analysis of the case by the courts.

From a quantitative standpoint, it is worth pointing out that we did not receive any figures concerning infringements of the rules on commercial road transport by the Portuguese authorities and stakeholders. Therefore, it is not possible at the moment to assess to what extent Portuguese sanctions have a dissuasive effect.

25 ROMANIA - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

25.1 Social rules on road transport

25.1.1 Rules on Driving Times and Rest Periods

25.1.1.1 Regulation (EC) No 561/2006

Regulation (EC) No. 561/2006 was implemented in Romania by Government Ordinance No. 37 of 7 August 2007 on the determination of the framework for the application of the rules regarding the driving periods, the breaks and the rest periods of the drivers and the utilisation of the recording equipment for their activity (“Government Ordinance No. 37/2007”) and Government Emergency Ordinance No. 195 of 12.12.2002 regarding traffic on public roads (“Government Emergency Ordinance No. 195/2002”).

See table below for further details on the Romanian sanction system.

Foreign drivers

As a general rule, the provisions establishing sanctions for drivers or undertakings carrying out road transport activities do not differentiate between Romanian or foreign drivers and thus all the sanctions applicable to Romanian drivers are applicable to foreign drivers equally.

There are, nevertheless, a limited number of specific provisions in the Romanian relevant legislation referring to sanctions being applied to foreign drivers or undertakings, such as:

- (i) Government Decision No. 69/2012

Government Decision No. 69/2012 states that certain sanctions shall be applied regardless of whether the driver or the undertakings is Romanian or not

(art. 6 (2) (a)-(b), article 7 (2) (a)-(b) and article 8 (2) (a)-(b) of Government Decision No. 69/2012).

(ii) The Norm approved by Order No. 356/107/2010

The Norm approved by Order No. 356/107/2010 states that for the vehicles registered in other states, being in international traffic, at the request of the Romanian Company for Highways and National Roads (“CNADNR”) or of its subunits, the border police will not allow the exit of the vehicle from Romania until the payment of the tariffs owed according to article 49 from the above order have been paid.

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

Directive 2006/22/EC was implemented under Romanian law by the following:

- Government Ordinance No. 37/2007 transposes Article 1, Article 2 (1), (3), (4), Article 3, Article 4 (6), Article 6(1), Article 7 (1) Article 8 (1) and Article 16 (1) of Directive 2006/22/EC and qualifies the infringements as: (i) very serious (art. 8 (1) of Government Ordinance No. 37/2007); (ii) serious (art. 8 (2) of Government Ordinance No. 37/2007); and (iii) minor (Article 8 (3) of Government Ordinance No. 37/2007); and Government Decision No. 69/2012 also restates the qualification of the infringements as very serious, serious and minor in Article 2.

When defining the very serious infringements, Government Ordinance No. 37/2007 has an interesting approach, stating that they will be treated as contraventions (i.e. administrative offences) should they not be specially qualified otherwise as criminal offences within other more specific criminal regulations.

The present qualification from Annex III of Directive 2006/22/EC was also adopted by Government Ordinance No. 37/2007. Government Ordinance No. 37/2007 transposes Article 1, Article 2 (1), (3), (4), Article 3, Article 4 (6), Article 6(1), Article 7 (1) Article 8 (1) and Article 16 (1) of Directive 2006/22/EC and categorises the infringements as: (i) very serious (Article 8 (1) of Government Ordinance No. 37/2007);

(ii) serious (Article 8 (2) of Government Ordinance No. 37/2007); and (iii) minor (Article 8 (3) of Government Ordinance No. 37/2007).

Furthermore, for an even stronger level of implementation, Government Decision No. 69/2012 in Article 2 also categorises the infringements as very serious, serious and minor, and each regulated infringement is directly listed as very serious, serious and minor.

25.1.1.3 Directive 2002/15/EC

The provisions referring to the organisation of the working time of persons performing road transport activities had been implemented in Romania by:

- Government Ordinance No. 37/2007;
- Government Decision No. 38 of 16 January 2008 on the organisation of the working time of persons performing mobile road transport activities (“Government Decision No. 38/2008”); and
- Order of the Ministry of Transport No. 1058 of 19 October 2007 for the approval of the Methodological norms on the control activity of the observance of the driving periods, breaks and rest periods of the drivers and the utilisation of the recording equipment for their activity (“Order No. 1058/2007”).

As a rule set out by Government Decision No. 38/2008, for the persons involved in road transport activities, the maximum work period per week may not exceed 48 hours. This period may be extended up to 60 hours, if the aggregate work period for any consecutive 4 months has not exceeded 48 hours per month. Furthermore, the daily work period is regulated, in the sense that a worker involved in road transport activities may work without a break for at most 6 continuous hours. Should the working time varies between 6 and 9 hours, the worker should have at least a 30-minute break and respectively, a 45-minute break if the work time exceeds 9 hours. Moreover, if the worker is working night shifts, the total working time within a 24 hour period may not exceed 10 hours.

For the specific sanctions to be applied to breaches of the specific rules implemented by Directive No. 2002/15/EC, please revert to Section I (Rules on driving times, breaks and rest periods) of the summary table below.

Foreign drivers

See above.

25.1.2 Tachograph

25.1.2.1 Regulation (EEC) No 3821/1985

The requirements under the Council Regulation (EEC) No. 3821/85 were observed and implemented in the Romanian legal framework by a series of regulatory enactments such as:

- Government Ordinance No. 37/2007;
- Government Decision No. 899 of 29 July 2003 on the determination of the conditions regarding the approval of the model for the control equipment in road transport, the type homologation of the speed limitation devices, as well as the conditions for assemblage, repair and verification of the control equipment in road transport and of the speed limitation devices (“Government Decision No. 899/2003”);
- Order of the Ministry of Transport No. 181 of 13 February 2008 for the approval of the Regulations regarding the conditions for assemblage, repair and verification of the tachographs and speed limitation devices, as well as for authorisation of the economic operators pursuing such activities – RNTR 8 (“Order No. 181/2008”);
- Order of the Ministry of Transport, Constructions and Tourism No. 116 of 30 January 2006 for the approval of the Technical norms regarding the issuance, replacement, change and renewal of the tachograph cards (“Order No. 116/2006”); and

- Government Decision No. 69 of 01 February 2012 on the determination of the infringements of the provisions of Regulation (EC) No. 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport manager and repealing Council Directive 96/26/EC, of the Regulation (EC) No. 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market, of the Regulation (EC) No. 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No. 561/2006 and of the Government Ordinance No 27/2011 on road transport, as well as of sanctions and measures applicable in case of acknowledgement of these infringements (“Government Decision No. 69/2012”).
- For the specific fines and regulatory breaches as regards the use of tachographs or speed control equipments, please revert to Section II (Tachograph) from the table attached in Schedule 1.

Foreign drivers

See above.

25.2 Road package

25.2.1 Regulation (EC) No 1071/2009

Regulation (EC) No. 1071/2009 was implemented in Romania by:

- Government Ordinance No. 27 of 31 August 2011 on road transportations (“Government Ordinance No. 27/2011”);
- Order of the Ministry of Transport and Infrastructure No. 995 of 07.12.2011 for the approval of the Methodological norms regarding the method of performing the inspections and control over the road transports, of the therewith connected

activities, of the activities of the training and development centres of the specialised personnel in the road transport field, of the activity of the auto-driving schools and of the activity of the authorised driving instructors and for the amendment of the Order of the Ministry of Transport No. 1058/2007 for the approval of the Methodological norms on the control activity of the observance of the driving periods, pauses and rest periods of the drivers and the utilisation of the recording equipment for their activity (“Order No. 995/2011”);

- Government Decision No. 69/2012; and
- Romanian Criminal Code of 1968, published in the Official Gazette No. 65 of 16.04.1997, as subsequently modified (“Criminal Code”).

25.2.2 Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009

Regulation (EC) No. 1072/2009 was implemented in Romania by:

- Government Ordinance No. 27/2011;
- Order No. 995/2011;
- Government Decision No. 69/2012;
- Government Decision No. 1173 of 02 October 2003 on the electronic assignment and distribution of the authorisations international road transport of goods (“Government Decision No. 1173/2003”);
- Government Decision No. 1289 of 27 December 2011 on the amendment and completion of certain regulatory acts in the road transport field;
- Government Decision No. 1130 of 10 October 2002 on the update of the taxes corresponding to the authorisations for international road haulage issued to the transport managers having the headquarters in Romania, performing international road haulage;
- Government Ordinance No. 48 of 12.08.1994 regarding the amendment of certain taxes for the use of public roads and for certain services provided in harbours and airports; and Criminal Code.

Regulation (EC) No. 1073/2009 was implemented in Romania by:

- Government Ordinance No. 27/2011;
- Order No. 995/2011;
- Government Decision No. 69/2012; and
- Criminal Code.

The exact amount of the applied fines and the regulatory infringements for which they are applied implemented in the Romanian legal system as a direct effect of Regulation (EC) No. 1071/2009, 1072/2009 and 1073/2009 may be found in Section II (Road package) from the table below. As it may be observed from the subsection allotted to the implementation of the provisions established by Regulation (EC) No. 1071/2009, Regulation (EC) No. 1072/2009 and Regulation (EC) No. 1073/2009, the penalties are mainly fines and the imprisonment penalties are applicable only to forgery cases.

Government Ordinance No. 27/2011 creates the background for the direct application of, among others, Regulation (EC) No. 1071/2009, and states, in article 85 (2), that the administrative sanctions related to infringements of Regulation (EC) No. 1071/2009 will be further established through a government decision. In this respect, Government Decision No. 69/2012 provides for three categories of infringements: (i) very serious infringements, (ii) serious infringements and (iii) minor infringements, and establishes the correspondent infringements related to the provisions of Regulation (EC) No. 1071/2009, taking also over most of the infringements listed in Annex IV of Regulation (EC) No. 1071/2009. The infringements listed in Annex IV of Regulation (EC) No. 1071/2009 but not provided in Government Decision No. 69/2012 are implemented by other legal acts in the field of road transportation (in this respect please revert to the table below).

For an overview of the most serious infringements listed in Annex IV and taken over also by article 3 of Government Decision No. 69/2012, please note the following infringements:

- driving without a valid roadworthiness certificate if such a document is required under Community law (article 3.1);

- driving with a very serious deficiency of, inter alia, the braking system, the steering linkages, the wheels/tyres, the suspension of chassis, the cabin and elements attached to the chassis, the tachograph and/or the speed limiter (article 3.20);
- not having a tachograph and/or speed limiter, or using a fraudulent device able to modify the records of the recording equipment and/or the speed limiter or falsifying record sheets or data downloaded from the tachograph and/or the driver card. (Article 3.21, 3.26 and 3.28);
- carrying passengers or goods without holding a valid driving licence or carrying by an undertaking not holding a valid Community licence. (Article 3.1 and 3.2); and
- carrying goods exceeding the maximum permissible laden mass by 20% or more for vehicles the permissible laden weight exceeds 12 tonnes, and by 25% or more for vehicles the permissible laden weight of which does not exceed 12 tonnes (Article 23).
 - Since the qualification into the three categories of infringements was implemented in the Romanian law, the approach of the national regulator was to apply different penalties for each of the three categories. An example of this approach would be Government Decision No. 69/2012 which establishes the following fine bands:
 - very serious infringements are penalised with a fine between RON 14,000 and RON 18,000 (approximately EUR 3,220 and EUR 4,140);
 - serious infringements are penalised with a fine between RON 8,000 and RON 12,000 (approximately EUR 1,830 and EUR 2,750); and
 - minor infringements are penalised with a fine between RON 3,000 and RON 6,000 (approximately EUR 690 and EUR 1,380).

The same approach is present throughout the other legal acts implementing the Road Package.

In addressing this present point, for ease of reference, note the following details in addition to Section 1.3.4 of our Report.

The notion of “most serious infringements” is not defined or mentioned under the relevant Romanian legislation. Nevertheless, the infringements listed in Annex IV to the Regulation No. 1071/2009 (“Annex IV”) are sanctioned as stated below. For the specific articles corresponding to these sanctions, please revert to table below – Penalties for Road Transport Activities of the Romanian section of the report on the relevant national legislation transposing or implementing in Romania the relevant pieces of EU legislation on commercial road transport (the “Report”).

Below you may find a clearer description of the fines applied under Romanian law for each of the infringements listed in Annex IV:

- Paragraph 1 of Annex IV falls under the category of “very serious infringements” according to Government Ordinance No. 37/2007 and is sanctioned with a fine between RON 4,000 (the equivalent of EUR 899) and RON 8,000 (the equivalent of EUR 1,798).
- Paragraph 2 of Annex IV falls under the category of “very serious infringements” according to Government Ordinance No. 37/2007 and is sanctioned (i) with a fine between RON 8,000 (the equivalent of EUR 1,798) and RON 16,000, for “not having a tachograph and/or a speed limiter”, and (ii) with a fine between RON 4,000 (the equivalent of EUR 899) and RON 8,000 (the equivalent of EUR 1,798), for “using a fraudulent device able to modify the records of the recording equipment and/or the speed limiter” or for “*falsifying record sheets or data downloaded from the tachograph and/or the driver card*”.
- Paragraph 3 of Annex IV falls under the category of “*very serious infringements*” according to Government Decision No. 69/2012 and is sanctioned with a fine between RON 14,000 (the equivalent of EUR 3,146) and RON 18,000 (the equivalent of EUR 4,045).
- Paragraph 4 of Annex IV falls under the category entitled “First risk category” according to Government Decision No. 1175/2007 and is sanctioned with a fine between RON 8,000 (the equivalent of EUR 1,798) and RON 10,000 (the equivalent of EUR 2,247).
- Paragraph 5 of Annex IV is sanctioned as follows: (i) in the case of “*carrying passengers or goods without holding a valid driving licence*”, with imprisonment (thus being a criminal sanction) between 1 and 5 years, according to Government

Emergency Ordinance No. 195/2002; and (ii) in the case of “carrying by an undertaking not holding a valid Community licence”, which is considered a “very serious infringement” according to Government Decision No. 69/2012, with a fine between RON 14,000 (the equivalent of EUR 3,146) and RON 18,000 (the equivalent of EUR 4,045).

- Paragraph 6 of Annex IV is sanctioned as follows: the “*driving with a driver card that has been falsified*” and the “*driving with a driver card... which has been obtained on the basis of false declarations and/or forged documents*”, the sanction is, according to Article 86 paragraph 1 of Government Emergency Ordinance No. 195/2002, imprisonment (criminal sanction) between 1 and 5 years, aggregated in the manner detailed above for the question listed at point 1, with the sanction of imprisonment (criminal sanction) between 3 months and 3 years established by the Criminal Code for forgery; and the “*driving with a card of which the driver is not the holder*”, the sanction is, according to Article 86 paragraph 1 of Government Emergency Ordinance No. 195/2002, imprisonment (criminal sanction) between 1 and 5 years.
- Paragraph 7 of Annex IV falls under the category of “very serious infringements” according to Government Decision No. 69/2012 and is sanctioned with a fine between RON 14,000 (the equivalent of EUR 3,146) and RON 18,000 (the equivalent of EUR 4,045).

25.3 Standards of vehicles and load and necessary licenses

25.3.1 Directive 2008/68/EC

The present directive was implemented in Romania by:

- Government Decision No. 1326 of 11 November 2009 on the transport of dangerous goods in Romania (“Government Decision No. 1326/2009”);

- Government Decision No. 1175 of 26 September 2007 for the approval of the Norms for the performance of the activity of road transport of dangerous goods in Romania (“Government Decision No. 1175/2007”); and
- Government Decision No. 69/2012.

In the process of implementing the Directive No. 2008/68/EC, Government Decision No. 1326/2009 sets out the general background for carrying out inland transport activities of dangerous goods on road, rail or navigable waterways entirely or partially on Romanian territory, including loading and unloading activities, transfer/transshipment to and from another means of transport.

Moreover, while Government Decision No. 1175/2007 concerns similar aspects as Government Decision No. 1326/2009, it provides a more detailed analysis over the application framework of the A.D.R.¹⁵ and establishes a number of specific sanctions for infringements of the relevant legislation.

For an overview of the sanctions relevant to the infringements in this field please revert to Section III (*Standards of vehicles and load and necessary licenses*) from the table below.

25.3.2 Directive 1996/53/EC

Council Directive 96/53/EC was implemented in Romania by:

- Government Emergency Ordinance No. 195/2002;
- Regulation for the application of Government Emergency Ordinance No. 195/2002 approved by Government Decision No 1391/2006 for the approval of the Regulation for the application of the Government Emergency Ordinance No. 195 of 12.12.2002 regarding traffic on public roads (“Government Decision No. 1391/2006”);

¹⁵ European Agreement concerning the International Carriage of Dangerous Goods by Road, commonly known as ADR (from the French abbreviation Accord européen relatif au transport international des marchandises Dangereuses par Route).

- Government Ordinance No. 43 of 28.08.1997 regarding the roads' regime ("Government Ordinance No. 43/1997");
- Government Ordinance No. 27/2011;
- Government Decision No. 69/2012;
- Order of the Ministry of Administration and Interior No. 356/107 of 04 May 2010 for the approval of the Norms regarding the authorisation and progress of the road vehicles traffic with the maximum weight and/or dimensions admitted by Government Ordinance No. 43/1997 regarding the roads' regime ("Order No. 356/107/2010");
- Order of the Ministry of Public Works, Transport and Housing No. 211 of 11 February 2003 for the approval of the Regulations regarding the type homologation and issuance of the identity card of road vehicles, as well as the type homologation of the products used for them – RNTR 2; and
- Order of the Ministry of Transport and Infrastructure No. 1147 of 05 November 2009 for the amendment of the Regulations regarding the type homologation and issuance of the identity card of road vehicles, as well as the type homologation of the products used for them – RNTR 2, approved by Order of the Ministry of Public Works, Transport and Housing No. 211/2003;
- Government Emergency Ordinance No. 195/2002 and the Government Decision No. 1391/2006 establish among others also the general framework for the classification of the weight applicable to each class of vehicles as well as all the regulations applicable to vehicles exceeding the weight limits.

For a more descriptive presentation of the applicable penalties to breaches of the specific regulations in the present area, please revert to Section III (Standards of vehicles and load and necessary licenses) from the table below.

25.3.3 Directive 2009/40/EC

It seems like the Directive has not been transposed by Romania.

However, even if Directive 2009/40/EC has not yet been transposed due to the fact that it is a recast of Directive 96/96/EC of 20 December 1996 on the approximation

of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers, the latter had been transposed in Romania through Order of the Ministry of Transport, Constructions and Tourism No. 2133 of 8 December 2005 for the approval of the Regulations regarding the certification for framing the road vehicles in the technical norms regarding road safety, environmental protection and use category according to their destination, through the technical periodic inspection (“Order No. 2.133/2005”).

Moreover, due to the recasting of the Directive 96/96/EC through Directive No. 2009/40/EC, the Ministry of Transport published a project on 27 April 2012 for the amendment of Order 2133/2005 in order to be correlated with the European provisions in force today. The amendment was not yet adopted on 10 May 2012.

25.3.4 Directive 2006/126/EC

This directive was implemented by a series of normative acts as follows:

- Order of the Health Ministry No. 1162 of 31.08.2010 for the approval of the Minimum norms regarding the physical and mental aptitudes necessary for driving a motor vehicle;
- Order of the Ministry of Administration and Interior No. 268 of 08.12.2010 on the examination procedure for obtaining the driving licence;
- Order of the Ministry of Administration and Interior No. 163 of 10.08.2011 on the conversion of the national driving licences issued by the competent authorities of other states with Romanian similar documents;
- Order of the Ministry of Administration and Interior No. 1455 of 25.09.2006 on the form, dimensions and content of the driving licence;
- Government Emergency Ordinance No. 195/2002;
- Government Decision No. 1391/2006; and
- Government Decision No. 69/2012.

For a descriptive presentation of the penalties for breaches of the specific regulations in the present area, please revert to Section III (*Standards of vehicles and load and necessary licenses*) from the table below.

25.4 Notion of criminal sanction and of administrative sanction in the Romanian legal system

In line with the description of the Romanian administrative and criminal law structure described under Section 4 below, there are two main categories of sanctions applicable under the relevant Romanian law:

- criminal sanctions; and
- administrative sanctions.

The administrative sanctions can be further divided into:

- main administrative sanctions – such as fines; and
- complementary administrative sanctions – such as, among others, immobilisation of the vehicle.

An excellent example for the latter category (complementary administrative sanctions) is the sanctions that may be applied, as the case may be, under the conditions provided for by Government Decision No. 69/2012, such as:

- immobilisation of the vehicle in traffic;
- suspending the right to use the vehicle by withholding the licence plates and the registration certificate;
- suspending the certified true copy of the transport licence or of the Community licence;
- suspending the transport licence or the Community licence;
- revoking the transport licence or the Community licence;
- suspending the certified true copy of the own account transport certificate;
- revoking the certified true copy of the own account transport certificate;
- suspending the transport certificate on own ones' account;
- revoking the transport certificate on ones' own account;
- revoking the route licence for road passenger transport against cost by regular services;
- revoking the route licence for road passenger transport against cost by regular special services;

- suspending the licence for activities connected to road transport;
- revoking the licence for activities connected to road transport;
- suspending the driving school's authorisation;
- revoking the driving school's authorisation;
- suspending the authorisation of the training and development centre;
- revoking the authorisation of the training and development centre;
- suspending the authorisation of the authorised driving instructor;
- revoking the authorisation of the authorised driving instructor; and
- obliging the road transport manager or the road transport undertaking on its own account to pay the costs associated with the intervention for clearing the affected road sector, if the infringement mentioned in article 4 pt. 34 leads to the obstruction of a road sector.

Should the offender relapse in the same offence, the penalty will be more severe. The following may be considered as good examples in this respect: (i) the sanction of suspending the transport licence or the Community licence if the road transport manager has been sanctioned/condemned twice during the last six months according to the provisions of article 20 (5) of Government Decision No. 69/2012 (article 23 (1) lit. (b) of Government Decision No. 69/2012); (ii) the sanction of revoking the transport licence or the Community licence applies if the road transport manager was sanctioned twice within the last twelve months with the suspension of the transport licence or of the Community licence (article 24 (1) lit. (d) of Government Decision No. 69/2012); (iii) the sanction of revoking the certified true copy of the own account transport certificate if the road transport undertaking was sanctioned twice within the last six months with the suspension of the certified true copy of the transport certificate on its own account (article 29 (1) lit. (d) of Government Decision No. 69/2012).

For a more detailed analysis of the penalties applied to each infringement (maximum and minimum fine), as well as for further examples of complementary administrative sanctions, please refer to the table below.

As defined by legal scholars, criminal sanctions is the consequence of a behaviour having a significant social danger. Such behaviour is regulated under the criminal law.

The main features of the criminal sanctions are as follows:

- they are provided by express criminal legal norms and are only enforced by specialised bodies;
- they have a punitive and restrictive effect upon the rights of a person, commonly imposing restrictions of the main personal rights (such as the right to freedom, to vote, etc.);
- they have the purpose of preventing new criminal offences committed by the same felon as well as a social warning effect upon third parties; and
- they have a role in defending social values of the rules of law (Romanian: *stat de drept*).

According to the Romanian doctrine when imposing and applying criminal sanctions, one should bear in mind that (i) they can be set up only by law (*nulla sanction penalis sine legem*); (ii) they have to be reversible (e.g. in case of judicial errors, in case of leniency) – as a consequence, the Romanian criminal system does not provide for the death penalty; (iii) they are strictly personal (i.e. only the offender can be held liable for the breach of the criminal law); (iv) they have to observe the humanistic principles (e.g. not to induce physical sufferings or humiliation upon the criminal offenders, respect the human rights of the sanctioned person) and (v) they have to provide individualisation limits in order to adapt the actual sanction to the criminal act.

Criminal sanctions are classified in three types of sanctions:

- Main sanctions, which can be applied alone, are the following: (i) life detention, (ii) imprisonment ranging between 15 days up to 30 years and (iii) criminal fine ranging between RON 100 to RON 50,000 (approximately EUR 23 to EUR 11,500).
- Complementary sanctions, which can be only applied in addition to a main sanction and will only start after the execution of the main sanction, are the following: prohibition of certain rights, i.e. (a) the right to be elected and the right to vote within public authorities or in a public elective position; (b) the right to hold a position involving exercise of state authority; (c) the right to hold a position, to exercise a profession or to perform any activity which has been used by the offender to commit the criminal act; (d) parental rights and (e) the right to

be a guardian (in Romanian: tutore) or a fiduciary (Romanian: curator); and military degradation.

- Accessory sanctions, which result of and are closely related to certain types of main sanctions and which usually start at the same time with the main sanction, are the prohibition of the rights provided at letters a)-e) within point 2(i) above.

Besides natural persons, under Romanian law, legal persons, save for the State, public authorities and public institutions conducting a strictly public activity, may be held criminally liable for offences committed for achieving their business object or interest if the offence was committed with the necessary level of fault required by law.

Criminal liability of legal persons does not exclude criminal liability of individuals who contributed in any way, to commit the same offence.

Criminal sanctions for legal persons are mainly fines ranging between RON 2,500 to RON 2,000,000 (approximately EUR 575 to EUR 460,000) and some complementary sanctions such as: (i) the dissolution of the legal person; (ii) suspension of the legal person's activity for a period ranging between 3 months to 1/3 years; (iii) closing working points of the legal person for a period ranging between 3 months to 3 years; (iv) the prohibition to participate in public procurement procedures for a period ranging between 1 to 3 years and (v) publication or display of the criminal conviction decision.

As regards the relationship between criminal and administrative law, the Romanian regulator adopted an interesting approach for criminal acts presenting a low social danger (Romanian: *pericol social scazut*). Respectively, if the sanction provided by law for the criminal breach is maximum 1 year imprisonment, or when expressly provided by law and the value of the damage is low, it has been fully paid and the criminal offender regrets the criminal act - the court of law dealing with the case may decide to change the criminal liability into an administrative sanction.

Unlike the criminal offence, which has a high degree of social danger, with serious consequences, damaging important social values (i.e. state security, life and other attributes of the person, property, etc.), when it comes to the administrative offence, the threat to society is lower, and its consequences are more limited, without affecting such important values of the society.

As a general rule, administrative sanctions (Romanian “*contravenții*”) protect the general social values that are not protected by criminal laws. The main characteristics of the administrative sanctions are the following:

- the punishable act was committed with fault;
- the social danger level of the punishable act is lower than the criminal offence; and
- the punishable act is sanctioned through laws and other regulations.

The criminal offenses are only punishable if they are established by Criminal Code and special criminal laws, while administrative offenses may be established by law, ordinance or government decisions as well as the decisions of the local council of the commune, city, municipality or district of Bucharest Municipality, county council or the General Council of Bucharest Municipality.

Laws, Decisions or Government ordinances may establish administrative offences in all areas of activity, being sanctioned with either major or complementary sanctions.

The major administrative sanctions are the following:

- warning;
- administrative fine; and
- performing a community service.

The complementary administrative sanctions are the following:

- seizure of the goods intended for, used or resulting from the administrative offences;
- suspension or annulment if the case may be of the permit, agreement or the authorisation related to the exercise of the activity;
- unit foreclosure;
- business activity suspension;
- temporarily or definitive revocation of the licence or permit for certain operations or external trade activity;
- waste reduction and bringing the land in its original state.

There are certain cases where administrative sanctions are alternative to the criminal sanctions, therefore should the infringement constitutes a crime according to

the relevant criminal law, the criminal provisions shall become directly applicable (*i.e.* Article 8 of Government Ordinance No. 37/2007 and Article 2 of Government Decision No. 69/2012).

According to the Romanian Criminal Procedural Code, the criminal law action (Romanian: *proces penal*) has the purpose of ascertaining in due time and completely the facts of a criminal offence in order for any person who committed a crime to bear its consequences and for any innocent person to be relieved of any criminal liability. As a general rule, criminal offences are ascertained through a criminal investigation which is carried out by the public prosecutor together with the criminal investigation bodies (Romanian: *organe de cercetare penala*). The latter are (i) the judicial police investigation bodies or (ii) special investigation bodies.

The public prosecutors are members of the Public Ministry and are organised in ancillary offices to each court of law level and are hierarchically subordinated. The public prosecutor supervises and directs the activity of the criminal investigation bodies.

The judicial police investigation bodies are composed by operative workers (Romanian: *lucratori operativi*) appointed by the Minister of Administration and Interior with the approval of the public prosecutor ancillary to the Supreme Court of Justice and not by the Police Department which mainly bears administrative duties.

According to the Romanian law, for certain types of criminal offences, a specialised criminal investigation body is appointed, as mentioned below:

- officers appointed by commanders of military units for criminal offences committed by military personnel within that unit;
- officers specially appointed by the heads of the garrison Command for the military offences committed outside military units by military personnel;
- officers specially appointed by commanders of military units for the criminal offences in the competence of military courts committed by civil persons in relation to their military obligations;
- officers specially appointed by border police officers for border related offences; and
- harbour captains for criminal offences against water navigation safety and against discipline and order on the board of a ship/boat.

Territorial competence of a particular prosecutor/criminal investigation body is determined on a case by case basis (e.g. depending on the criminal offence, where it was committed, where the offender was found etc.).

Administrative offences have to be ascertained through a minute and applied by a specially empowered person/body. These persons are designated through special pieces of legislation, and are for example: (i) mayors, (ii) officers of the Ministry of Administration and Interior, (iii) special empowered persons by Ministers, by the chairman of the Local Council, by the prefect, by the mayor or by other leaders of public administration bodies.

A good example of the above is the express provision of the relevant administrative body in the text of the legal act providing for the administrative sanctions as described below:

- breach of provisions of Government Ordinance No. 37/2007 (on the framework for the application of the rules regarding the driving periods, the breaks and the rest periods of drivers and the utilisation of the recording equipment for their activity) shall be ascertained by (i) the Romanian Road Transport Authority personnel having inspection and control duties, (ii) the Territorial Labour Inspectorate personnel having inspection and control duties, or (iii) the road police officers;
- breach of provisions of Government Decision No. 38/2008 (on working time allocation of persons involved in road transport activities) shall be ascertained by (i) the controllers within the State Control Inspectorate in Road Transportation, or (ii) the Territorial Labour Inspectorate personnel having inspection and control duties;
- breach of provisions of the Government Decision No. 899/2003 (on the determination of the conditions regarding the approval of the model for the control equipment in road transport, the type homologation of the speed limitation devices, as well as the conditions for assemblage, repair and verification of the control equipment in road transport and of the speed limitation devices) shall be ascertained by personnel specially appointed by the Ministry of Transport;

- breach of provisions of the Government Decision No. 69/2012 (on the conditions to be complied with to pursue the occupation of road transport manager) shall be ascertained by (i) inspectors or (ii) road police personnel;
- breach of provisions of the Government Emergency Ordinance No. 195/2002 (on traffic on public roads) shall be ascertained by road police personnel; and
- breach of provisions of the Government Ordinance No. 43/1997 (on the roads' regime) shall be ascertained by (i) the personnel specially empowered by the Transport and Infrastructure Ministry, (ii) the personnel specially empowered by local/country road managers or by (iii) road police personnel in case (i) or (ii) are not available.

Concurrence between several administrative sanctions

In Romania the legal regime of administrative infringements is regulated by Government Ordinance No. 2 of 12 July 2001 regarding the legal regime of contraventions (“Government Ordinance No. 2/2001”) according to which if more infringements are detected at the same time by the same officer, in the first phase the acknowledging body will conclude the minutes identifying the infringement. Only one inspection minutes will be concluded during an inspection by one inspection body, even if more infringements are discovered. Save for the case when it is provided otherwise by the specific regulations establishing the sanction for the acknowledged infringement, the inspecting body will also apply the sanction through the concluded minutes. If the person acknowledging the infringement is not entitled to apply the penalty, he/she shall send the minutes to the body having such jurisdiction which will, on the basis of the minutes, apply the penalty through a written resolution.

The level of the administrative sanction applied for different infringements detected at the same time through the same minutes, will be globally established by cumulating the sanctions relevant for each infringement acknowledged. However, the cumulated sanctions cannot be higher than the double of the maximum of the fine provided for the infringement that is the most serious among the detected infringements. As an example, if during an inspection three infringements were detected, one sanctioned with a fine between RON 4,000 (the equivalent of 899 EUR computed at an exchange rate of 1 EUR = 4.45 RON) and RON 8,000 (the equivalent of EUR 1,798),

another one sanctioned with a fine between RON 14,000 (the equivalent of EUR 3,146) and RON 18,000 (the equivalent of EUR 4,045), and yet another one with a fine between RON 8,000 (the equivalent of EUR 1,798) and RON 10,000 (the equivalent of EUR 2,247), the cumulated sanctions cannot be higher than RON 36,000 (the equivalent of EUR 8,090) (the double of the maximum of the fine provided for the most serious infringement that is RON 18,000 (the equivalent of EUR 4,045))

The sanctions for criminal acts may not be directly applied by the acknowledging bodies as they do not have such powers. However, when such criminal sanctions are applied, the competent body will consider the following rules:

- if only imprisonment sanctions have been applied, the most serious sanction will be applied without aggregating all the sanctions among them. Nevertheless, such sanction may be increased up to its special maximum, and when this maximum is not considered sufficient, the latter may be further increased with up to 5 years;
- if only criminal fine sanctions have been applied, the highest fine will be applied, without aggregating all the sanctions among them. Nevertheless, such sanction may be increased up to its special maximum, and when this maximum is not considered sufficient, the latter may be further increased with up to half of this special maximum;
- if both an imprisonment and a criminal fine sanction have been applied, the imprisonment sanction will be applied. The criminal fine sanction may further be added, in full or in part to the imprisonment penalty;
- if several imprisonment sanctions and several fine sanctions have been applied, the imprisonment sanction determined according to lit. to the above point a) will be applied. The fine, determined according to point b) above, may be further added to the criminal sanction applied.

It should be noted that by applying the rules mentioned above for the criminal sanctions, the established aggregate level of the sanctions cannot be exceeded.

Concurrence between administrative and criminal sanctions

On the basis of the regulations we reviewed for drafting the present Report, we have not identified any relevant infringements sanctioned by both criminal and administrative sanctions in the field of commercial road transport. Moreover, as

mentioned in the Report, in a number of specific cases provided for by Government Ordinance No. 37/2007 and by Government Decision No. 69/2012, the administrative sanctions will only be applied if the infringement is not subject to a criminal sanction. This constitutes a clear case where the administrative and the criminal sanctions are alternative and thus cannot be applied for the same infringement. Nevertheless, in principle, the Romanian legislation allows the cumulative application of criminal and administrative sanctions to the same person, provided that they are applied for different offences. If both a criminal and an administrative sanction is provided for the same act, the criminal penalty will prevail.

Moreover, as a further clarification it should be noted that under Romanian law the “*ne bis in idem principle*” applies. The principle states that no-one may be prosecuted or convicted twice for the same facts or the same punishable conduct (provided in Article 50 of the Charter of Fundamental Rights of the EU, which extends the principle throughout the Union territory).

25.5 Scope of application of Romanian criminal law

The main relevant Romanian rules on the extraterritorial application of criminal law may be found among the provisions of the Romanian Criminal Code. Thus, the general social behavioural norms established by the Romanian Criminal Code shall be applied to:

- offences committed on the Romanian territory, where the notion of “territory” is defined as the land and waters enclosed between the frontiers, together with the subsoil and the airspace, as well as the territorial sea with the soil, subsoil and its corresponding airspace;
- offences or acts of execution of crimes committed on board of Romanian ships or aircrafts; if the result of the crime was produced on board of Romanian ships or aircrafts, Romanian law is applicable as well;
- offences committed outside Romanian territory by a Romanian citizen or by a person without any citizenship but having domicile in Romania;

- offences committed outside Romanian territory, by a non-Romanian citizen or by a person without any citizenship having domicile in Romania, if it is:
- an offence against the Romanian national security;
- an offence against the life of a Romanian citizen or by which the corporal integrity or the health of a Romanian citizen was seriously harmed.
- offences other than the ones mentioned under paragraph (d) above, committed outside Romanian territory, by a non-Romanian citizen or by a person without any citizenship but with domicile in Romania, if:
- the act also constitutes an offence under the criminal law of the country where it was committed; and
- the person committing the offence is not in the country.

Furthermore, according to Article 132 paragraph 4 of Law No. 302/2004 on international judicial cooperation in the field of criminal law, a decision of a foreign court can be recognized by Romanian courts provided the conditions of Article 131 are met. As a result of such recognition, if the sanction imposed through the foreign decision was not executed or was only partly executed, the unexecuted sanction or the rest of the sanction remaining unexecuted will be substituted with a corresponding sanction according to the Romanian criminal law.

25.6 Summary tables

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
Regulation 561/06/EC	<u>Government Emergency Ordinance No 195/2002</u>	Article 20 corroborated with Article 86 paragraph 1 and 2	Not respecting minimum ages for driving	Driver Person knowingly entrusting the vehicle to such person		Imprisonment from 1 to 5 years (Article 86 paragraph 1) Imprisonment from 6 months to 3 years or fine between RON 500 and RON 30,000 (≈ between EUR 115 and 6,865) (Article 86 paragraph 2)

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
	<u>Government Ordinance No 37/2007</u>	Article 8 (1) pt. 21	Breach of the obligation of the undertaking/road transport operator to keep the records regarding the driving periods, the breaks and the rest periods of the drivers for at least a year from their execution, in chronological order and separately for each driver	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 8 (1) pt. 1	Exceeding the daily, respectively the maximum daily driving period, by two or more hours	Undertaking / Road transport operator	Fine between RON 4,000 and RON 8,000 (≈ between EUR	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					920 and 1,840)	
		Article 8 (1) pt. 2	Exceeding the weekly driving period by 14 hours or more	Undertaking / Road transport operator	Fine between RON 4,000 and RON 8,000 (≈ between EUR 920 and 1,840)	
		Article 8 (1) pt. 3	Exceeding the maximum driving period, in two consecutive weeks, by 22 hours and 30 minutes or more	Undertaking / Road transport operator	Fine between RON 4,000 and RON 8,000 (≈ between EUR 920 and 1,840)	
		Article 8 (1) pt. 4	Exceeding the maximum uninterrupted driving period	Undertaking / Road transport	Fine between RON 4,000 and	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			by one hour and 30 minutes or more	operator	RON 8,000 (≈ between EUR 920 and 1,840)	
		Article 8 (1) pt. 5	Breaching the minimum daily rest period by two hours and 30 minutes or more	Undertaking / Road transport operator	Fine between RON 4,000 and RON 8,000 (≈ between EUR 920 and 1,840)	
		Article 8 (1) pt. 6	Breaching the minimum reduced daily rest period by two hours or more	Undertaking / Road transport operator	Fine between RON 4,000 and RON 8,000 (≈ between EUR 920 and 1,840)	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 8 (1) pt. 7	Breaching the fractioned daily rest period by two hours or more	Undertaking / Road transport operator	Fine between RON 4,000 and RON 8,000 (≈ between EUR 920 and 1,840)	
		Article 8 (1) pt. 8	Breaching the minimum daily rest period, within 30 hours, when the vehicle is driven by a crew, by two or more hours	Undertaking / Road transport operator	Fine between RON 4,000 and RON 8,000 (≈ between EUR 920 and 1,840)	
		Article 8 (1) pt. 9	Breaching the minimum reduced weekly rest period by 4 or more hours	Undertaking / Road transport operator	Fine between RON 4,000 and RON 8,000 (≈ between EUR	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					920 and 1,840)	
		Article 8 (1) pt. 10	Breaching the minimum normal weekly rest period by 9 or more hours	Undertaking / Road transport operator	Fine between RON 4,000 and RON 8,000 (≈ between EUR 920 and 1,840)	
		Article 8 (1) pt. 11	Granting by the undertaking/road transport operator of certain payments to the drivers, even under the form of bonuses or primes, according to the covered distance and/or the quantity	Undertaking / Road transport operator	Fine between RON 4,000 and RON 8,000 (≈ between EUR 920 and 1,840)	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			of transported goods			
		Article 8 (1) pt. 30	Refusal of the driver, during traffic control, to allow the verification, retention or copying of any registration regarding the driving periods, breaks and rest periods of the driver	Driver	Fine between RON 4,000 and RON 8,000 (≈ between	
		Article 8 (2) pt. 1	Exceeding the maximum daily driving period, by more than one hour and less than two hours	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					1,380)	
		Article 8 (2) pt. 2	Exceeding the weekly driving period by more than 4 hours and less than 14 hours	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 8 (2) pt. 3	Exceeding the maximum driving period, in two consecutive weeks, by more than 10 hours and less than 22 hours and 30 minutes	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 8 (2) pt. 4	Exceeding the maximum uninterrupted driving period by more than 30 minutes and less than one hour and 30 minutes	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 8 (2) pt. 5	Breaching the minimum daily rest period by more than one hour and less than two hours and 30 minutes	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 8 (2) pt. 6	Breaching the minimum reduced daily rest period by	Undertaking / Road transport	Fine between RON 3,000 and	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			more than one hour and less than two hours	operator	RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 8 (2) pt. 7	Breaching the fractioned daily rest period by more than one hour and less than two hours	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 8 (2) pt. 8	Breaching the minimum daily rest period, within 30 hours, when the vehicle is driven by a crew, by more	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			than one hour and less than two hours		690 and EUR 1,380)	
		Article 8 (2) pt. 9	Breaching the minimum reduced weekly rest period by more than two and less than 4 hours	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 8 (2) pt. 10	Breaching the minimum normal weekly rest period by more than 3 and less than 9 hours	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 8 (3) pt. 1	Exceeding the maximum daily driving period, by less than one hour	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	
		Article 8 (3) pt. 2	Exceeding the weekly driving period by less than 4 hours	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	
		Article 8 (3) pt. 3	Exceeding the maximum driving period, in two consecutive weeks, by less than 10 hours	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					690)	
		Article 8 (3) pt. 4	Exceeding the maximum uninterrupted driving period by less than 30 minutes	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	
		Article 8 (3) pt. 5	Breaching the minimum daily rest period by less than one hour	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	
		Article 8 (3) pt. 6	Breaching the minimum reduced daily rest period by	Undertaking / Road transport	Fine between RON 1,500 and	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			less than one hour	operator	3,000 (≈ between EUR 340 and 690)	
		Article 8 (3) pt. 7	Breaching the fractioned daily rest period by less than one hour	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	
		Article 8 (3) pt. 8	Breaching the minimum daily rest period, within 30 hours, when the vehicle is driven by a crew, by less than one hour	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 8 (3) pt. 9	Breaching the minimum reduced weekly rest period by less than two hours	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	
		Article 8 (3) pt. 10	Breaching the minimum normal weekly rest period by less than 3 hours	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	
Directive 2006/22/EC (amended by Directive	<u>Government Ordinance No 37/2007</u>	Article 8 (1) pt. 32	Non-submission, during the control at the headquarters of the undertaking/road transport operator, of the	Undertaking / Road transport operator	Fine between RON 4,000 and 8,000 (≈ between	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
2009/4/EC)			registrations regarding the driving periods, breaks and rest periods of the drivers requested by the personnel with inspection and control attributions			
Directive 2002/15/EC	Government Decision No 38/2008	Article 12 lit. c)	Refusal of the undertakings/road transport operators to be subject to the control.	Undertaking / Road transport operator	Fine between RON 3,000 and 4,000 (≈ between EUR 690 and 920)	
		Article 12 lit. a)	Breaching certain obligations regarding the organisation of the time of work by the	Undertaking / Road transport operator	Fine between RON 1,500 and 2,000 (≈ between	

Table RO 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 (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			undertakings/road transport operators		EUR 340 and 460)	
		Article 12 lit. b)	Not presenting, at the request of the control organs, the inventory of the time of work of the mobile workers/ independent drivers for a period of 2 years	Undertaking / Road transport operator	Fine between RON 1,500 and 2,000 (≈ between EUR 340 and 460)	

Table RO 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)
<p>Regulation 3821/1985/EEC</p>	<p><u>Government Ordinance No 37/2007</u></p>	<p>Article 8 (1) pt. 12</p>	<p>Use of a vehicle without a tachograph according to the regulations in force or of a vehicle registered for the first time after 1 January 2007, equipped with an analogical tachograph</p>	<p>Undertaking / Road transport operator</p>	<p>Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)</p>
		<p>Article 8 (1) pt. 14</p>	<p>Use of tachographs that are uncertified, unsealed, uncalibrated, defect or that have the term of validity of the verification/calibration overdue</p>	<p>Undertaking / Road transport operator</p>	<p>Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)</p>
		<p>Article 8 (1) pt. 17</p>	<p>Breach of the obligation of the undertaking/road transport operator to unload and store at its headquarters, at the latest every 28 days, of the data from the</p>	<p>Undertaking / Road transport operator</p>	<p>Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and</p>

		tachograph cards of the drivers and/or the breach of the obligation to unload and store at its headquarters, at the latest every 90 days, the data from the digital tachographs of the utilised vehicles		EUR 3,660)
	Article 8 (1) pt. 27	Assigning a vehicle with a digital tachograph to a driver not holding a tachograph card	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)
	Article 8 (1) pt. 34	Deletion, destruction of the data registered on the tachograph diagrams, of the ones stored in the tachograph or on the tachograph card or of the reports printed by the tachograph	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)
	Article 8 (1) pt. 13	Installation/reparation of tachographs that are uncertified, unsealed, uncalibrated, defect, the incorrect calibration of the tachographs or the installation, reparation, calibration of tachographs by an unauthorised economic operator	The workshop installing, repairing and calibrating incorrectly the tachograph	Fine between RON 8,000 and 12,000 (≈ between EUR 1,830 and 2,750)

	Article 8 (1) pt. 35	Installation of illegal manipulation devices of the tachograph, of the tachograph diagrams and/or of the tachograph cards	The economic operator or the driver installing illegal devices	Fine between RON 8,000 and 12,000 (≈ between EUR 1,830 and 2,750)
	Article 8 (1) pt. 15	Driving a vehicle equipped with a tachograph without using tachograph diagrams and/or the tachograph card	Driver	Fine between RON 4,000 and 8,000 (≈ between EUR 920 and 1,840)
	Article 8 (1) pt. 16	Voluntary deterioration of the tachograph	Driver	Fine between RON 4,000 and 8,000 (≈ between EUR 920 and 1,840)
	Article 8 (1) pt. 18	Possession by a driver of more than one valid tachograph card	Driver	Fine between RON 4,000 and 8,000 (≈ between
	Article 8 (1) pt. 19	Use by a driver of a tachograph card issued to another person	Driver	Fine between RON 4,000 and 8,000 (≈ between
	Article 8 (1) pt. 20	Use of a defect or expired tachograph card	Driver	Fine between RON 4,000 and 8,000 (≈

				between
	Article 8 (1) pt. 22	Use of dirty or deteriorated, with illegible data, tachograph diagrams or tachograph cards	Driver	Fine between RON 4,000 and 8,000 (≈ between
	Article 8 (1) pt. 23	Incorrect use of tachograph diagrams or of the tachograph card by the driver	Driver	Fine between RON 4,000 and 8,000 (≈ between
	Article 8 (1) pt. 24	Unauthorised removal of the tachograph diagram from the tachograph or of the tachograph card from the digital tachograph before the end of the workday, affecting the registration of the relevant data	Driver	Fine between RON 4,000 and 8,000 (≈ between
	Article 8 (1) pt. 25	Use of the tachograph diagram or of the tachograph card for a longer period than that provided for, affecting the registration of the relevant data	Driver	Fine between RON 4,000 and 8,000 (≈ between
	Article 8 (1) pt. 26	Breach by the driver of the obligation regarding the introduction by hand of	Driver	Fine between RON 4,000 and 8,000 (≈

		certain data		between
	Article 8 (1) pt. 28	Breach of the provisions regarding the use of the tachograph switch	Driver	Fine between RON 4,000 and 8,000 (≈ between
	Article 8 (1) pt. 29	Non-filling on the tachograph diagram of the data regarding the surname and/or name of the driver	Driver	Fine between RON 4,000 and 8,000 (≈ between
	Article 8 (1) pt. 31	Non-submission in traffic of the necessary number of tachograph diagrams, of the tachograph card or of the prints listed with the printer of the digital tachograph	Undertaking / Road transport operator	Fine between RON 4,000 and 8,000 (≈ between
	Article 8 (1) pt. 36	Use of illegal devices for the manipulation of the tachograph, of the tachograph diagrams and/or of the tachograph cards	Driver	Fine between RON 4,000 and 8,000 (≈ between
	Article 8 (1) pt. 38	Non-declaration by the driver of the loss or theft of the tachograph card at the competent authority of the state on the territory of which this has occurred	Driver	Fine between RON 4,000 and 8,000 (≈ between

	Article 8 (2) pt. 11	Not ensuring a sufficient number of homologated tachograph diagrams corresponding to the tachograph type used for carrying out the road transport operations	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)
	Article 8 (2) pt. 12	Non-submission by the driver to the competent authority of a request for replacement of the tachograph card that is deteriorated, with a faulty functioning, lost or stolen, within 7 calendar days from the date of noticing the deterioration, faulty functioning, lost or theft thereof	Driver	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)
	Article 8 (2) pt. 13	Breaching the provisions regarding the adjustment of the analogical tachograph watch	Driver	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)
	Article 8 (2) pt. 14	Non-filling on the tachograph diagram of the data regarding the start and the end of the drive	Driver	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)

				1,380)
	Article 8 (2) pt. 15	Non-filling on the tachograph diagram of the data regarding the registered kilometres from the departure	Driver	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)
	Article 8 (2) pt. 16	Breaching the provisions regarding the compulsoriness of the reparation of the tachograph damaged during the trip	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)
	Article 8 (2) pt. 17	Lack of the driver's signature on the registrations done by hand since the tachograph was damaged or on the printed reports in case of damage, loss or theft of the tachograph card	Driver	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)
	Article 8 (3) pt. 11	Not ensuring the necessary paper for printing the reports at traffic control	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)

	Article 8 (3) pt. 12	Using dirty or deteriorated, with illegible data, tachograph diagrams or tachograph cards	Undertaking / Road transport operator	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)
	Article 8 (3) pt. 13	Unauthorised removal of the tachograph diagram from the tachograph or of the tachograph card from the digital tachograph before the end of the workday, removal that does not affect the registration of the relevant data	Driver	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)
	Article 8 (3) pt. 14	Using the tachograph diagram or the tachograph card for a longer period than that provided for, use that does not affect the registration of the relevant data	Driver	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)
	Article 8 (3) pt. 15	Non-filling on the tachograph diagram of the data regarding the departure and arrival points	Driver	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)
	Article 8 (3) pt. 16	Non-filling on the tachograph diagram of the data regarding the registration number	Driver	Fine between RON 1,500 and 3,000 (≈ between EUR 340

			of the vehicle		and 690)
	Article 8 (3) pt. 17	Non-filling on the tachograph diagram of the data regarding the number of kilometres at arrival	Driver	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	
	Article 8 (3) pt. 18	Non-filling on the tachograph diagram of the data regarding the time of the change of the vehicle	Driver	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	
	Article 8 (3) pt. 19	Non-filling of the country symbol in the tachograph	Driver	Fine between RON 1,500 and 3,000 (≈ between EUR 340 and 690)	
	<u>Government Decision No 899/2003</u>	Article 12 lit. a)	Performing activities of assemblage, reparation or verification of the tachographs or activities of assemblage, reparation, adjustment or verification of the speed limitation devices by unauthorised economic agents	Economic agents	Fine between RON 1,500 and 2,500 (≈ between EUR 340 and 570)
		Article 12 lit. g)	Refusal to place at the disposal of the	Economic agents	Fine between RON

		authorised control organs the evidence of performed operations over the tachographs and speed limitation devices		1,500 and 2,500 (≈ between EUR 340 and 570)
	Article 12 lit. b)	Breach of the specific norms regarding the certification of new or repaired individual tachographs	Economic agents	Fine between RON 1,000 and 1,500 (≈ between EUR 230 and 340)
	Article 12 lit. d)	Breach of the specific regulations regarding the verification of tachographs or speed limitation devices	Economic agents	Fine between RON 1,000 and 1,500 (≈ between EUR 230 and 340)
	Article 12 lit. f)	Lack of evidence of the operations performed on tachographs and speed limitation devices	Economic agents	Fine between RON 1,000 and 1,500 (≈ between EUR 230 and 340)
	Article 12 lit. c)	Breach of the requirements of undertaking the periodical verification of the tachographs or speed limitation devices assembled on the vehicle, at the specified terms	Holder of the vehicle	Fine between RON 500 and 1,000 (≈ between EUR 110 and 230)

	Article 12 lit. e)	Use of certain specified vehicles unequipped with speed limitation device or equipped with a speed limitation device that does not comply with the specific regulations in force	Holder of the vehicle	Fine between RON 500 and 1,000 (≈ between EUR 110 and 230)
<u>Regulation approved through Order No 181/2008</u>	Article 27 (1) lit. (a)	Issuing the proof of verification and the installation plate without the performance of the provided operations	Authorised personnel of the workshop	Suspension of activity for 30 calendar days
	Article 27 (1) lit. (b)	Using the workshop's card by a different person than the titular of the card	Authorised personnel of the workshop	Suspension of activity for 30 calendar days
	Article 27 (1) lit. (c)	Not placing at the disposal of RAR the evidence of the operations performed over tachographs and/or speed limitation devices	Authorised personnel of the workshop	Suspension of activity for 30 calendar days
	Article 27 (1) lit. (d)	Two offences mentioned in the control registry are noticed within 12 months, regarding: - lack of evidence of the operations performed over tachographs and/or speed	Authorised personnel of the workshop	Suspension of activity for 30 calendar days

			<p>limitation devices;</p> <p>- non-compliance with the work procedures, having direct effect over the correctness of the performed operations.</p>		
	Article 27 (2) lit. (a)	Continuation of the activity during the suspension period	Authorised personnel of the workshop	Annulment of the right to perform the activity	
	Article 27 (2) lit. (b)	Installing manipulation devices of the tachograph and/or speed limitation device	Authorised personnel of the workshop	Annulment of the right to perform the activity	
	Article 28 (1) lit. (a)	Installing un-homologated tachographs or speed limitation devices	Workshop	Suspension of the technical authorisation of the workshop, for 30 calendar days	
	Article 28 (1) lit. (b)	Not communicating to RAR the information regarding the tachograph cards of the workshop (holding, replacement, lost, theft or deterioration)	Workshop	Suspension of the technical authorisation of the workshop, for 30 calendar days	

	Article 28 (1) lit. (c)	Not communicating to RAR the necessary information regarding the security data used in the case of digital tachographs	Workshop	Suspension of the technical authorisation of the workshop, for 30 calendar days
	Article 28 (1) lit. (d)	Performing activities during the period when the necessary specific devices are not compliant with the specified requirements	Workshop	Suspension of the technical authorisation of the workshop, for 30 calendar days
	Article 28 (1) lit. (e)	Performing activities without using the devices indicated by the tachograph producer or its representative and/or, as the case may be, by the producer of devices for the verification of tachographs or its representative	Workshop	Suspension of the technical authorisation of the workshop, for 30 calendar days
	Article 28 (1) lit. (f)	Noticing unauthorised modifications or interventions to the used devices or to the used programmes	Workshop	Suspension of the technical authorisation of the workshop, for 30 calendar days

		Article 28 (1) lit. (g)	Performing activities to types of vehicles for which the economic operator is not authorised	Workshop	Suspension of the technical authorisation of the workshop, for 30 calendar days
		Article 28 (1) lit. (h)	Not communicating to RAR the performance of activities with mobile workshops, according to the provisions of article 24 (4)	Workshop	Suspension of the technical authorisation of the workshop, for 30 calendar days
		Article 28 (1) lit. (i)	Not communicating to RAR, electronically, the data regarding the activities performed according to the RAR requests	Workshop	Suspension of the technical authorisation of the workshop, for 30 calendar days
		Article 28 (1) lit. (j)	Not communicating to RAR the withdrawal of the ability of the producer of tachographs and/or speed limitation devices or of its representative and/or, as the case may be, of the producer of devices for the verification of tachographs and/or speed limitation devices or of its	Workshop	Suspension of the technical authorisation of the workshop, for 30 calendar days

			representative		
		Article 28 (4)	Repeated breach of the provisions leading to the suspension of the technical authorisation of the workshop mentioned under article 28 (1)	Workshop	Annulment of the technical authorisation
		Article 28 (2)	<p>After the second suspension of the activity of the authorised personnel (for the same person or for different persons)</p> <p>Every following suspension of the activity of the authorised personnel</p>	Workshop	<p>Suspension of the technical authorisation of the workshop, for 30 days.</p> <p>Suspension of the technical authorisation of the workshop for an additional period of 3 months</p>
		Article 28 (3)	The workshop does not comply with the authorisation conditions anymore	Workshop	Suspension of the technical authorisation of the workshop until the

					remediation of the observed nonconformities
	<u>Government Decision No 69/2012</u>	Article 3 pt. 26	Non-compliance by the own account transport undertaking/the road transport operator with the obligation of not allowing the departure in the journey of road vehicles that have technical deficiencies with the tachograph or with the speed limitation device or that have the tachograph or the speed limitation device unsealed or do not have enough registry documents to operate the entire distance of the transport	Undertaking / Road transport operator ¹⁶	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120) Suspending the certified true copy of the transport licence/Community licence, for 30 days
		Article 3 pt. 27	Non-compliance by the own account transport undertaking/the road transport operator with the obligation of not allowing the intervention of unauthorised persons over the tachograph and the	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and

¹⁶ Please note that in all cases falling under the provisions of Government Decision No 69/2012 where the undertaking or the road transport manager cannot be identified from the documents presented during the control by the driver, the sanction will apply to the driver (Article 9 of Government Decision No 69/2012).

			speed limitation devices		<p>EUR 4,120)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>
	Article 3 pt. 28	Non-compliance by the own account transport undertaking/ the road transport operator with the obligation to install tachographs and speed limitation devices for the vehicles for which these systems are mandatory only through authorised representatives	Undertaking / Road transport operator	<p>Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
<p>Regulation No 1071/2009/EC</p>	<p><u>Government Decision No 69/2012</u></p>	<p>Article 3 pt. 3</p>	<p>Alienating to another own account road transport undertaking, or to another road transport operator, or to another economic operator carrying out activities connected to the road transport of the transport licence or Community licence and/or of the international transport authorisation, the own account transport certificate, the licence for activities connected to the road transport, as the case may be, or any other</p>	<p>Undertaking / Road transport operator Economic operator performing connected activities to the road transport; or the natural/legal person</p>	<p>Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			documents necessary for carrying out road transports, as well as their use by a natural or legal person other than the owner			
		Article 3 pt. 4	Operating road transport with a vehicle for which the road transport operator/the own account road transport undertaking does not hold a certified true copy of the transport licence, the certified true copy of the Community licence or the certified true	Undertaking / Road transport operator	<p>Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)</p> <p>Suspension of the right to use the vehicle by</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			copy of the own account transport certificate, as the case may be		<p>withholding the licence plates and the registration certificate</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>	
		Article 3 pt. 5	Operating road transport on the basis of a certified true copy of the transport licence, a certified true copy of the Community	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			licence or a certified true copy of the own account transport certificate revoked, suspended, expired, declared lost or inappropriate to the type of transportation performed or which has not been issued for a vehicle owned by the road transport operator/ the own account road transport undertaking, as the case may be		<p>Withholding such documents, the licence plates and the registration certificate (if expired)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>	
		Article 3 pt. 14	Utilisation by the road transport operator/the own	Undertaking / Road transport	Fine between RON 14,000 and RON	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			account transport undertaking of drivers without licence/certificate of professional competence or whose licence/certificate of professional competence is expired	operator	18,000 (≈ between EUR 3,200 and EUR 4,120) Suspending the certified true copy of the transport licence/Community licence, for 30 days	
		Article 3 pt. 20	Operating road transport with road vehicles that have serious technical failures with the braking	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>system, the direction system, the steering linkages, the wheels, the tires and the suspension, the chassis, the cabin and the elements attached to the chassis, the tachograph and/or the speed limitation device established according to the legislation in force</p>		<p>EUR 4,120)</p> <p>Suspension of the right to use the vehicle by withholding the licence plates and the registration certificate for 6 months</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					<p>days, if the above mentioned suspension was applied</p> <p>Annulment of the periodical technical inspection</p>	
		Article 3 pt. 21	Operating road transport with road vehicles that have critical technical failures with the braking system, the direction system, the steering	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			linkages, the wheels, the tires and the suspension, the chassis, the cabin and the elements attached to the chassis, the tachograph and/or the speed limitation device established according to the legislation in force			
		Article 3 pt. 22	Operating road transport with road vehicles that do not meet the provisions of article 71 paragraph 3 of Government Ordinance No 27/2011 – relating to the appropriate technical state	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			of the road vehicles to be used for road transport.		Suspension of 10% of the certified true copies of the transport licence/Community licence, for 30 days	
		Article 3 pt. 24	Non-compliance by the own account transport undertaking/the road transport operator with the obligation to use for the road transport only road vehicles whose technical condition is in accordance with the national regulations for road safety	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120) Suspending the certified true copy of the transport	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			and for environment protection, with the technical inspection valid and certified/classified/framed appropriately, according to the legislation in force		<p>licence/Community licence, for 30 days</p> <p>Suspension of 10% of the certified true copies of the transport licence/Community licence, for 30 days</p>	
		Article 3 pt. 33	Non-compliance by the economic operators carrying on road transportation activities with the obligation to replace the transport	The economic operator performing connected activities to the road transport;	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			operator within 30 days if he does not have this function anymore or if he does not meet the good repute condition or the professional competence	or the natural/legal person		
		Article 4 pt. 12	Non-compliance by the road transport manager/the own account road transport undertaking with the obligation to communicate to the issuing authority the transport licence/Community licence of any amendments regarding the transport	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			manager and/or the term provided in article 12 paragraph (2) and in article 22 paragraph (2) of Government Ordinance No 27/2011, as the case may be			
		Article 4 pt. 19	Non-compliance by a Romanian road transport manager with the provisions of article 25 paragraphs (1)-(3) from the Government Ordinance No 27/2011 – relating to the vehicles allowed to be used for national,	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			international and outside the EU cost-based road transport.			
		Article 4 pt. 20	Non-compliance by a Romanian road transport manager with the provision of article 38 from the Government Ordinance No 27/2011 – relating to the vehicles allowed to be used for national cost-based passenger road transport.	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 22	Non-compliance by the own account road transport	Undertaking / Road transport	Fine between RON 8,000 and RON	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			undertaking with the provisions of article 49 paragraphs (1) and (2) from the Government Ordinance No 27/2011 – relating to the vehicles allowed to be used for national and outside the EU own account road transport.	operator	16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 24	Hiring or maintaining in function, by the road transport manager/the own account road transport undertaking/the economic operator who carries on	The economic operator performing connected activities to the road transport	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			road transportation activities, people with functions that concur to the road safety not complying with the provisions of article 59 paragraph (1) of Government Ordinance No 27/2011			
		Article 4 pt. 26	Non-compliance by the own account road transport undertaking/the road transport manager with the obligation to plan the performance of road transport and to make the schedule so that the driver	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			can comply with the legal provisions in force regarding the driving periods, breaks and rest periods so that the people carrying on road transportation activities can comply with the legal provisions in force regarding the working period			
		Article 4 pt. 33	Non-compliance by the own account road transport undertaking/the road transport manager with the obligation of having at the	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>registered headquarters in the own account road transport certificate one or more documents of the following:</p> <p>(a) the identity cards of the vehicles, in original for those held in property, respectively a copy of them for those held with any other title;</p> <p>(b) original documents attesting the fact that it holds vehicles with any other title;</p> <p>(c) the medical and</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>psychological approvals available for the person who manages permanently and effectively the road transport activity and for the employed road drivers;</p> <p>(d) all the documents attesting the existence of the initial conditions that underlie to the issuance of the own account transport certificate;</p> <p>(e) the expedition/transport form and the form of transport approval in the case of</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			waste transport for the current and the previous year; (f) documents attesting the employment in legal conditions for the persons with functions concurring to the road safety; (g) weight tickets provided for the transport of divisible goods, for the current and previous year; (h) the driver attestation provided by article 5 of Regulation			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			(EC) No 1.072/2007 or a copy of it, as the case may be			
		Article 4 pt. 36	Non-compliance by the road transport manager with the obligation to submit to the Romanian Road Authority (RRA), within 10 days, certified true copies of the transport licence/Community licence for each vehicle for which the financial capacity requirement is not accomplished anymore	Undertaking / Road transport operator	<p>Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 56	<p>Non-compliance by the road transport manager with the obligation to have at the registered headquarters one or more documents of the following, as the case may be:</p> <p>(a) the registration certificates of the vehicles, in original for those held in property, respectively in copy for those held with other title of ownership;</p> <p>(b) original documents attesting the</p>	Undertaking / Road transport operator	<p>Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days – in the case of lit. (a), (b), (d), (h)-(n)</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>fact that it holds vehicles with any other title;</p> <p>(c) valid medical and psychological approvals for persons in functions concurring to the traffic safety;</p> <p>(d) all the documents attesting the maintenance of the conditions to access the road transport manager occupation and the road transport market;</p> <p>(e) the expedition/transport form and the form for transport</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>approval in the case of waste transport, for the current and the previous year;</p> <p>(f) documents attesting the employment in legal conditions of the persons with functions concurring to the traffic safety;</p> <p>(g) weight tickets provided for the transport of divisible goods, for the current and previous year, as well as the special transport authorisations</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>regarding the transport of indivisible goods with the overhaul of the maximum admitted weights and/or dimensions;;</p> <p>(h) the consignment notes (C.M.R) for the current and the previous year;</p> <p>(i) the original INTERBUS control document, reinstated if completely used, and the vehicle logbooks for the INTERBUS control document for the current</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>and the previous year;</p> <p>(j) the control document provided by the bilateral agreements for public road passenger transport by regular services, in the case of non-signatory states of the INTERBUS Agreement, for the current and the previous year;</p> <p>(k) the original control document, reinstated if completely used, and the vehicle logbooks for the control</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>document in exploitation, in the case of passenger transport for national and international traffic by occasional services, for the current and the previous year;</p> <p>(l) insurance for the transported passengers and their luggage in case of accidents that fall under the obligation of the road transport manager;</p> <p>(m) documents regarding the maintenance of the vehicles for a period</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>of 18 months which should include the minimum information regarding: notes related to the drivers' notifications related to the technical state of the vehicle, resolutions of the transport manager, means for solving and supporting documents, as the case may be;</p> <p>(n) the driver attestation provided in article 5 of Regulation (EC) No 1.072/2009 or a copy of it, as the case may</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			be; (o) a copy of the international transport authorisation, in the case provided by article 6 paragraph (1) second thesis of Regulation (EC) No 1.073/2009			
		Article 4 pt. 57	Non-compliance by the road transport manager with the obligation to ensure the existence inside the vehicles used for the cost-based road transport of one or more documents of the following, as the	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>case may be:</p> <p>(a) a copy of the transport licence/Community licence;</p> <p>(b) the valid work ID card of the driver, attesting that he is an employee of the transport operator;</p> <p>(c) the leasing or the rental agreement, as the case may be, in original or an certified true copy of it, in case the road vehicle is held with a leasing or a rental agreement;</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>(d) a copy of the insurance for passengers and their luggage in case of accidents that fall under the obligation of the road transport manager;</p> <p>(e) a certificate of professional competence of the driver, valid for the type of transport operated;</p> <p>(f) the transport document, in conformity with the type of transport operated, as well as the authorisations provided by the laws in force in the</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			field of road transport; (g) the driver attestation provided by article 5 of Regulation (EC) No 1.072/2009, as the case may be; (h) documents attesting the fact that the passengers belong to the category for which the passenger transport by regular special services is authorised/licensed; (i) the documents provided by article 6 paragraph (6) second thesis			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>of Regulation (EC) number 1.073/2009;</p> <p>(j) the vehicle logbook, in the case of performing occasional services provided by article 12 paragraph (1) of Regulation (EC) No 1.073/2009 and/or the cabotage operations provided by article 17 paragraph (1) of Regulation (EC) No 1.073/2009;</p> <p>(k) the agreement between the road transport</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			manager and the transport organiser or an certified true copy of it, in the case provided by article 17 paragraph (4) of Regulation (EC) No 1.073/2009; (1) documents including the elements provided by article 8 paragraph (3) of Regulation (EC) No 1072/2009, in the case of cabotage operations			
		Article 4 pt. 59	Non-compliance by the road transport manager	Undertaking / Road transport	Fine between RON 8,000 and RON	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			with the obligation to ensure the instruction of drivers as regards their obligations	operator	16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 5 pt. 2	Non-compliance by the road transport manager with the obligation to communicate to the issuing authority, within 15 days, the loss, the deterioration or the taking of the transport licence/Community licence/route licence/the certified true copy of the transport licence/the	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			certified true copy of the Community licence			
		Article 5 pt. 3	Non-compliance by the own account transport operator with the obligation to communicate to the issuing authority, within 15 days, about the loss, the deterioration or the taking of the certificate for own account transport/of the certified true copy of the certificate for own account transport	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
			Breach of one or more of	Undertaking /	Suspension of 10%	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			the provisions of pt. 1, 4-6 of Annex IV of Regulation (EC) No 1071/2009	Road transport operator	of the certified true copies of the transport licence/Community licence, for 30 days	
	Criminal Code	Article 288	Forgery	Undertaking / Road transport operator		Imprisonment from 3 months to 3 years Imprisonment from 6 months to 5 years
Regulation No 1072/2009/EC	Government Decision No 69/2012	Article 3 pt. 1	Operating road transport or connected activities thereof without holding a transport	Undertaking / Road transport	Fine between RON 14,000 and RON 18,000 (≈ between	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			licence, Community licence, certificate for transport on one's own account, licence for activities connected to the road transport, route licence, international transport authorisation and/or the transport document specific to the carried out transport type or the road passenger transport against cost, through regular services carried out in other days and at other hours than the ones registered in the	operator The economic operator performing connected activities to the road transport; or the natural/legal person	EUR 3,200 and EUR 4,120) Suspension of the right to use the vehicle by withholding the licence plates and the registration certificate for 6 months	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			traffic graphic, as the case may be			
		Article 3 pt. 2	Operating road transport or connected activities thereof with revoked, suspended, expired or declared lost, as the case may be, transport licence, Community licence, certificate for transport on one's own account, licence for connected activities, route licence, international transport authorisation and/or the transport document specific to the	Undertaking / Road transport operator The economic operator performing connected activities to the road transport; or the natural/legal person	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120) Withholding such documents, the licence plates and the registration certificate (if expired)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			carried out type of transport		Suspending the certified true copy of the transport licence/Community licence, for 30 days	
		Article 3 pt. 3	Alienating to another own account road transport undertaking, or to another road transport operator, or to another economic operator carrying out activities connected to the road transport of the Community licence	Undertaking / Road transport operator Economic operator performing connected activities to the road transport;	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				or the natural/legal person		
		Article 3 pt. 6	Utilisation by the own account road transport undertaking/the road transport operator for the international road transport or for the transport of goods of a driver who is not the holder of the driver attestation as provided by article 5 from the Regulation (EC) No 1.072/2009 or whose driving licence is expired	Undertaking / Road transport operator	<p>Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 3 pt. 7	Non-compliance by the road transport operator of the provisions of article 8 paragraphs (1) and (2) of Regulation (EC) No 1.072/2009	Undertaking / Road transport operator	<p>Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>	
		Article 3 pt. 9	Operating road transport with a vehicle that has been immobilised according to the laws in	Undertaking / Road transport operator	<p>Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			force		<p>EUR 4,120)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>	
		Article 3 pt. 11	Avoiding the control/obstructing the control from the registered headquarters of the road transport operator/the own account transport undertaking/the providers and the beneficiaries of	<p>Undertaking / Road transport operator</p> <p>The driving licence school; or the authorised</p>	<p>Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			divisible goods/the economic operator carrying on road transportation activities/the training and performance improvement centres of the staff from the road transportation domain/the driving schools/the authorised driving instructors, as the case may be	driving instructor; or the natural/legal person The centre for training and development of the personnel specialised in the field of road transports; or the natural/legal person The provider or	Suspension of 10% of the certified true copies of the transport licence/Community licence	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				beneficiary of severable goods		
		Article 4 pt. 2	Non-compliance by the road transport manager with the obligation to return the drivers' licence provided in article 5 of Regulation (EC) No 1.072/2009 to the issuing authority if the conditions required to obtain the driver's licence are not met anymore	Undertaking / Road transport operator	<p>Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>	
		Article 4 pt. 14	Operating road transport of goods and/or passengers	Undertaking / Road transport	Fine between RON 8,000 and RON	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			with other vehicles than those designed by construction for this category or for this type of transport	operator	16,000 (≈ between EUR 1,830 and EUR 3,660) Suspending the certified true copy of the transport licence/Community licence, for 30 days	
		Article 4 pt. 29	Non-compliance by the own account road transport undertaking/the road transport manager with the obligation to operate road transport of goods ensuring	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			a system for fixing the load in accordance with the regulation in force			
		Article 4 pt. 30	<p>Non-compliance by the own account road transport undertaking/the road transport manager with the obligation to make sure that the road vehicle operating the transport of goods meets the following conditions:</p> <p>(a) the lateral doors and/or the back door of the road vehicle used for loading/unloading the</p>	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>goods, the shutters, the heavy duty platform, the tarpaulins, the spare wheel, as well as the other specific equipments of the vehicle are very well attached;</p> <p>(b) the loading shall not block the driving of the vehicle in safety conditions;</p> <p>(c) the centre of gravity of the load should be as close as possible to the centre of the vehicle</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 31	Non-compliance by the own account road transport undertaking/the road transport manager with the obligation to operate road transport of goods only after making sure that the packaging of the goods is resistant enough for the transport safety	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 32	Non-compliance by the own account road transport undertaking/the road transport manager with the obligation to ensure that the elements used for	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			fixing the goods meet the following conditions: (a) meet the functions they were designated for correctly; (b) are adapted for fixing the respective goods; (c) do not have any bows and/or damaged, used-up or loose elements; (d) are in conformity with the European standards and/or the international standards in			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			this domain			
		Article 4 pt. 34	Non-compliance by the own account road transport undertaking/the road transport manager with the obligation to operate road transport of goods on public roads covered with snow, ice or glaze, only if the vehicles are equipped with winter tires on the driving axle/axles or with chains mounted on these wheels or other certified anti-slippery equipments	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 35	Operating road transport of goods on the public roads that are not covered with snow, ice or glaze with vehicles equipped with chains or other certified anti-slippery equipments	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 56	Non-compliance by the road transport manager with the obligation to have at the registered headquarters one or more documents of the following, as the case may be:	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660) Suspending the certified true copy	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>(a) the registration certificates of the vehicles, in original for those held in property, respectively in copy for those held with other title of ownership;</p> <p>(b) original documents attesting the fact that it holds vehicles with any other title;</p> <p>(c) valid medical and psychological approvals for persons in functions concurring to the traffic safety;</p> <p>(d) all the documents</p>		<p>of the transport licence/Community licence, for 30 days – in the case of lit. (a), (b), (d), (h)-(n)</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			attesting the maintenance of the conditions to access the road transport manager occupation and the road transport market; (e) the expedition/transport form and the form for transport approval in the case of waste transport, for the current and the previous year; (f) documents attesting the employment in legal conditions of the persons with functions			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>concurring to the traffic safety;</p> <p>(g) weight tickets provided for the transport of divisible goods, for the current and previous year, as well as the special transport authorisations regarding the transport of indivisible goods with the overhaul of the maximum admitted weights and/or dimensions;;</p> <p>(h) the consignment notes (C.M.R) for the current and the previous</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			year; (i) the original INTERBUS control document, reinstated if completely used, and the vehicle logbooks for the INTERBUS control document for the current and the previous year; (j) the control document provided by the bilateral agreements for public road passenger transport by regular services, in the case of non-signatory states of the			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>INTERBUS Agreement, for the current and the previous year;</p> <p>(k) the original control document, reinstated if completely used, and the vehicle logbooks for the control document in exploitation, in the case of passenger transport for national and international traffic by occasional services, for the current and the previous year;</p> <p>(l) insurance for the</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			transported passengers and their luggage in case of accidents that fall under the obligation of the road transport manager; (m) documents regarding the maintenance of the vehicles for a period of 18 months which should include the minimum information regarding: notes related to the drivers' notifications related to the technical state of the vehicle, resolutions of the transport manager, means for solving and supporting			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>documents, as the case may be;</p> <p>(n) the driver attestation provided in article 5 of Regulation (EC) No 1.072/2009 or a copy of it, as the case may be;</p> <p>(o) a copy of the international transport authorisation, in the case provided by article 6 paragraph (1) second thesis of Regulation (EC) No 1.073/2009</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 57	<p>Non-compliance by the road transport manager with the obligation to ensure the existence inside the vehicles used for the cost-based road transport of one or more documents of the following, as the case may be:</p> <p>(a) a copy of the transport licence/Community licence;</p> <p>(b) the valid work ID card of the driver, attesting that he is an employee of</p>	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>the transport operator;</p> <p>(c) the leasing or the rental agreement, as the case may be, in original or an certified true copy of it, in case the road vehicle is held with a leasing or a rental agreement;</p> <p>(d) a copy of the insurance for passengers and their luggage in case of accidents that fall under the obligation of the road transport manager;</p> <p>(e) a certificate of professional competence</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>of the driver, valid for the type of transport operated;</p> <p>(f) the transport document, in conformity with the type of transport operated, as well as the authorisations provided by the laws in force in the field of road transport;</p> <p>(g) the driver attestation provided by article 5 of Regulation (EC) No 1.072/2009, as the case may be;</p> <p>(h) documents attesting the fact that the</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>passengers belong to the category for which the passenger transport by regular special services is authorised/licensed;</p> <p>(i) the documents provided by article 6 paragraph (6) second thesis of Regulation (EC) number 1.073/2009;</p> <p>(j) the vehicle logbook, in the case of performing occasional services provided by article 12 paragraph (1) of Regulation (EC) No</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>1.073/2009 and/or the cabotage operations provided by article 17 paragraph (1) of Regulation (EC) No 1.073/2009;</p> <p>(k) the agreement between the road transport manager and the transport organiser or an certified true copy of it, in the case provided by article 17 paragraph (4) of Regulation (EC) No 1.073/2009;</p> <p>(l) documents</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			including the elements provided by article 8 paragraph (3) of Regulation (EC) No 1072/2009, in the case of cabotage operations			
		Article 4 pt. 61	Non-compliance by the own account road transport undertaking/road transport manager with the obligation to equip the vehicles with placards indicating the maximum accepted/authorised masses and dimensions	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 75	Non-compliance by the drivers employed by the road transport manager/the own account road transport undertaking with the rules regarding the loading, the distribution of the load, the insurance and the fixation of the transported goods	Driver	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 77	Non-compliance by the own account road transport undertaking with the obligation to ensure the existence inside the vehicle used for the own account transport of one or more of	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>the following documents:</p> <ul style="list-style-type: none"> (a) the certified true copy of the own account transport certificate, as well as the documents attesting that the operated transport is made on own account; (b) the work ID card of the driver attesting that he is an employee of the company; (c) the leasing or the rental agreement, as the case may be, in original or a certified true copy, if the 			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			vehicle is held under a leasing or rental agreement; (d) a copy of the insurance for the transported passengers and their luggage in case of accidents that fall under the obligation of the road transport manager; (e) the certificate of professional competence of the driver, valid for the type of transport operated; (f) the transport document;			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			(g) the driver attestation as provided in article 5 of Regulation (EC) No 1.072/2009			
		Article 5 pt. 8	Non-compliance by the own account road transport undertaking with the obligation to communicate to the Romanian Road Authority – RRA – by filling in a form, in the format electronically available on its website, the modifications regarding the employed drivers’ status within	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			maximum 15 days from the modification			
		Article 5 pt. 9	Non-compliance by the own account road transport undertaking with the obligation to inform the Romanian Road Authority RRA about the loss, the taking or the deterioration of the own account transport certificate and/or of its certified true copy within maximum 15 days starting with the day of noticing the loss, the taking or the deterioration	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 5 pt. 10	Non-compliance by the own account road transport undertaking with the obligation to publish the loss or the taking of the own account transport certificate and/or of its certified true copy in the Romanian Official Gazette, Part III	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 5 pt. 11	Non-compliance by the own account road transport undertaking with the obligation to notify the Romanian Road Authority - RRA, in writing, within	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			28 days, about the change of the registered headquarters			
		Article 5 pt. 12	Non-compliance by the own account road transport undertaking with the obligation to submit the own account transport certificate and its certified true copies to the Romanian Road Authority if the registered headquarter changes	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 5 pt. 13	Non-compliance by the transport operator with the	Undertaking / Road transport	Fine between RON 3,000 and RON	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			obligation to communicate to the Romanian Road Authority – RRA about the loss, the taking or the deterioration of the transport licence/Community licence and/or its certified true copy, within maximum 15 days starting with the date of noticing the loss, the taking or the degradation	operator	6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 5 pt. 14	Non-compliance by the road transport manager with the obligation to publish the loss or the	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			taking of the transport licence/Community licence and/or its certified true copy, as well as the route licence in the Romanian Official Gazette, Part III		1,380)	
		Article 5 pt. 15	Non-compliance by the road transport manager with the obligation to notify the Romanian Road Authority – RRA, in writing, about the change of the registered headquarters within 28 days	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 5 pt. 16	Non-compliance by the road transport manager with the obligation to submit the transport licence/Community licence and/or its certified true copies to the Romanian Road Authority – RRA, if the registered headquarter changes	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 5 pt. 18	Non-compliance by the road transport manager with the obligation to communicate to the Romanian Road Authority – RRA, before operating	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			the road transport, by filling in a form, in the electronic format available on their website, the modifications regarding the employed drivers' status, within maximum 15 days from the modification			
		Article 5 pt. 19	Non-compliance by the drivers employed by the road transport manager/the own account road transport undertaking with the obligation to know the proceedings in case of road accidents/incidents as	Driver	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			regards the vehicle insurance, the personal protection and the protection of the other traffic participants, the environment protection, the protection of goods			
		Article 5 pt. 25	Presenting for control the documents issued by the competent authority, plasticised or in copy or in any other form/other conditions than the ones in which they had been issued, by the undertaking/the road	The economic operator performing connected activities to the road transport	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			transport manager, the connected activities operators or by the drivers			
		Article 5 pt. 26	Non-compliance by the own account road transport manager/the road transport manager with the obligation to ensure the parking of the road vehicles in its detention only in specially arranged places	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 20 (1) lit. (d)	Non-compliance by the road transport operator of the provisions of article 20		Suspending the certified true copy of the transport	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			(1) lit. (a)-(c), on the Romanian territory or in a different EU member state, by abusively using the driver attestation provided in article 5 of Regulation (EC) No 1.072/2009		licence/Community licence, for 30 days In addition to such suspension, one of the following measures can be imposed as well according to article 20 (4), i.e. (i) suspending the issuance of driving licence certificates for the road transport manager; (ii)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					<p>withdrawing one or more driving licence certificates issued to the road transport manager; or (iii) issuing driving licence certificates based on supplementary conditions, in order to prevent the abusive use thereof</p>	
	<p><u>Government Decision No</u></p>	<p>Article 30 (1) lit. a)</p>	<p>Non-utilisation of the international road transport</p>	<p>International road transport of</p>	<p>Fine between RON 12,000 and 40,000</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
	1173/2003		of goods authorisation, with the exception of the CEMT type annual authorisations, for a period of more than 15 calendar days from its issuance	goods operator	(≈ between EUR 2,750 and 9,200)	
		Article 30 (1) lit. b)	Utilisation of the international road transport of goods authorisation by a different person than its titular	International road transport of goods operator	Fine between RON 12,000 and 40,000 (≈ between EUR 2,750 and 9,200)	
		Article 30 (1) lit. c)	Utilisation of the international road transport of goods authorisation without it being filled in	International road transport of goods operator	Fine between RON 12,000 and 40,000 (≈ between EUR 2,750 and 9,200)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			with the identification data of the transport manager or without having the embossing stamp or the hologram applied			
		Article 30 (1) lit. d)	Not returning the authorisations within the term prescribed by Article 27 (1) – 5 calendar days from the expiry of the utilisation period of the authorisation	International road transport of goods operator	Fine between RON 12,000 and 40,000 (≈ between EUR 2,750 and 9,200)	
		Article 29 (1)	Using the original authorisations declared lost, stolen, destroyed or	International road transport of goods operator	Suspension from SIAE for two months of the	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			falsified		international road transport of goods operators	
		Article 27 (2)	Non-compliance with the obligation to return to the SIAE operator the used transport authorisations, within 5 calendar days from the expiry of the utilisation period of the authorisation.	International road transport of goods operator	Modification of the behaviour indicator of the international road transport of goods operator Annulment of the authorisation Proportional reduction of the	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					number of reservations from SIAE of that operator	
	Criminal Code	Article 288	Forgery	Any person Clerk (Romanian: <i>functionar</i>)		Imprisonment from 3 months to 3 years Imprisonment from 6 months to 5 years
Regulation No 1073/2009/EC	Government Decision No 69/2012	Article 3 pt. 7	Non-compliance by the road transport operator of the provisions of article 15	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			of Regulation (EC) No 1.073/2009 regarding the cabotage activities		EUR 3,200 and EUR 4,120) Suspending the certified true copy of the transport licence/Community licence, for 30 days	
		Article 3 pt. 8	Operating international road passenger transport by regular services with a road transport operator that uses a subcontractor which is not indicated in the international transport	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120) Suspending the	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			authorization or that does not meet the requirements provided by article 3 paragraph 1 of Regulation (EC) No 1.073/2009		certified true copy of the transport licence/Community licence, for 30 days	
		Article 3 pt. 10	Avoiding the control/obstructing the control in the road traffic	Driver	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	
		Article 3 pt. 16	Not stopping the vehicle in traffic at the inspectors' regulatory signal	Driver	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 3 pt. 17	Allowing the utilisation of the transport tickets by other persons than those having this right and in other conditions than those provided by the legislation in force	The person using the card-type transport ticket unlawfully or in other conditions than the ones regulated by the legislation in force	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	
		Article 3 pt. 30	Non-compliance by the own account transport undertaking with the obligation to transport only the employees of the company, indicated in the	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			transport document			
		Article 3 pt. 31	Non-compliance by the own account transport undertaking with the obligation to submit the own account transport certificate and/or the certified true copy of this certificate to the State Inspectorate for Road Transport Control (I.S.C.T.R.) where the control has been performed, within maximum five working days starting from the day	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			these documents had been revoked			
		Article 3 pt. 32	Non-compliance by the road transport operator with the obligation to submit the own account transport certificate and/or the certified true copy of this certificate to the I.S.C.T.R. where the control has been performed, within maximum five working days starting from the day these documents had been revoked	Undertaking / Road transport operator	<p>Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 3 pt. 34	<p>Non-compliance by the economic operators carrying on road transportation activities – activities carried on by coaches with the obligation to keep a record of the journeys and the chronological order of execution in a vehicle movement register which should include:</p> <ul style="list-style-type: none"> (a) time of departure/arrival; (b) the indicative number; 	<p>The economic operator performing connected activities to the road transport; or the natural/legal person</p>	<p>Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			(c) the route; (d) the road transport operator; (e) mentions			
		Article 3 pt. 35	Authorisation by the economic operator carrying on road transportation activities of access to the services provided by the coach station for the vehicles belonging to road transport operators with whom no agreement was concluded, for the vehicles belonging	The economic operator performing connected activities to the road transport; or the natural/legal person	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			to road transport operators who do not have the coach station in their traffic graphic, as well as for the vehicles belonging to the road transport operators, used to operate cost-based passenger road transport performed by special or occasional regular services			
		Article 3 pt. 36	Non-compliance by the economic operators carrying on road transportation activities – activities carried on by coach stations – with the	The economic operator performing connected activities to the road transport;	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			obligation to allow the non-discriminatory access of the road transport operators to the services provided by the coach station with no condition to conclude agreements of providing additional services or services that the road transport operator did not require	or the natural/legal person		
		Article 3 pt. 38	Non-compliance by the road drivers employed by the road transport operator/ the own account transport undertaking with the	Driver	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			obligation to issue tickets/travel cards representing the fare for the distance travelled by the passengers			
		Article 3 pt. 39	Non-compliance by the drivers employed by the road transport operator/the own account transport undertaking with the obligation to allow the entrance in the vehicle only to the passengers having a ticket/a travel card or to those benefitting from road transport	Driver	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			facilities, according to the law			
		Article 3 pt. 40	Non-compliance by the drivers employed by the road transport operator/the own account transport undertaking with the obligation of not stopping the vehicle in order for other passengers than for those belonging to the class for which the vehicle is authorised/licensed to ascend/descend, in the case of cost-based road passenger transport by	Driver	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			regular services			
		Article 4 pt. 1	Non-existence at the board of the vehicle of the international transport authorisation for those vehicles used for the international road transport of goods or of passengers operated by a foreign road transport manager, having Romania as transit or destination country	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 3	Execution by the road transport manager, within an occasional international	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>service, of some occasional services/local trips in a different member state than the establishment state, with the non-compliance of the provisions of article 13 the second thesis from the Regulation (EC) No 1.073/2009</p>		<p>EUR 1,830 and EUR 3,660)</p>	
		<p>Article 4 pt. 4</p>	<p>Non-compliance by the road transport manager with the conditions specified in the international passenger transport authorisation in</p>	<p>Undertaking / Road transport operator</p>	<p>Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)</p>	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			the case provided by article 5 from the Regulation (EC) No 1.073/2009 related to the utilisation of additional vehicles		Suspending the certified true copy of the transport licence/Community licence, for 30 days	
		Article 4 pt. 5	Non-compliance by the road transport manager with the obligations provided by article 12 paragraph 2 and/or 3 and in article 17 paragraph 2 of Regulation (EC) no 1.073/2009 related to the information recorded in the	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660) Suspending the certified true copy of the transport	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			vehicle logbook		licence/Community licence, for 30 days	
		Article 4 pt. 6	Not returning, by the road transport manager, the vehicle logbooks containing the information recorded, to the issuing authority according to the regulations in force	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 7	Operating international cost-based road passengers transport for passengers through occasional services without complying with the	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			provisions of the Agreement on the International Carriage of Passengers by Coach and Bus (INTERBUS Agreement), signed by Romania in Brussels on 2nd October 2000, applied by Law No 439/2002		Suspending the certified true copy of the transport licence/Community licence, for 30 days	
		Article 4 pt. 10	Non-compliance by the driver with the provisions of the route licence, of the road graphic and/or of the international transport authorisation	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 11	Sanctioning three times in the last 12 months the same driver employed by the road transport manager for non-compliance with the obligation to issue tickets/travel cards or for issuing inappropriate tickets/travel cards representing the fare for the distance travelled by the passengers	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 13	Transporting passengers that do not have an available ticket/an available travel card in	Driver	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			case of operating cost-based passenger road transport by regular services, or transporting passengers that are not mentioned in the transport document, in case of operating national passenger road transport by occasional services, or transporting passengers that do not have travel cards issued by the transport beneficiary in case of operating passengers road transport through regular special		EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			services			
		Article 4 pt. 14	Operating road transport of goods and/or passengers with other vehicles than those designed by construction for this category or for this type of transport	Undertaking / Road transport operator	<p>Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)</p> <p>Suspending the certified true copy of the transport licence/Community licence, for 30 days</p>	
		Article 4 pt. 27	Non-compliance by the own account road transport undertaking/road transport	Undertaking / Road transport	Fine between RON 8,000 and RON 16,000 (≈ between	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			manager, as the case may be with the obligation to operate passengers road transport only in the limit of the number of seats registered in the vehicle registration certificate, or, in the case of vehicles classified on stars or categories, in the number of chairs registered in the vehicle classification certificate	operator	EUR 1,830 and EUR 3,660) Suspending the certified true copy of the transport licence/Community licence, for 30 days	
		Article 4 pt. 34	Non-compliance by the own account road transport undertaking/the road	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			transport manager with the obligation to operate road transport of passengers on public roads covered with snow, ice or glaze, only if the vehicles are equipped with winter tires on the driving axle/axles or with chains mounted on these wheels or other certified anti-slippery equipments		EUR 1,830 and EUR 3,660)	
		Article 4 pt. 35	Operating road transport of passengers on the public roads that are not covered with snow, ice or glaze with vehicles equipped	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			with chains or other certified anti-slippery equipments			
		Article 4 pt. 37	Non-compliance by the road transport manager with the obligation of using during the cost-based passenger road transport the road placard, specifying the road transport manager, the route and the type of transport	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 38	Non-compliance by the road transport manager	Undertaking / Road transport	Fine between RON 8,000 and RON	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			with the obligation to display at the headquarters and inside the vehicle, the service route, the stations, the schedule and of the transport tariffs, based on the journey identification card, according to the distances between the stations from the route graphic of the route licence, so that this information be available to all users	operator	16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 39	Non-compliance by the road transport manager	Undertaking / Road transport	Fine between RON 8,000 and RON	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			with the obligation to grant access to transport to people benefitting, according to law, from facilities for the cost-based road passenger transport and/or with the obligation to transport, based on the ticket/special journey voucher granted as a facility to the road transport, filled in before operating the transport, only those persons benefitting from transport facilities according to the law in force	operator	16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 40	Non-compliance by the road transport manager with the obligation to take back the passengers to the departing point for free, in case the journey cannot be completed until the destination due to the fault of the road transport manager	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 41	Non-compliance by the road transport manager with the obligation to ensure the transport of people from the vehicles immobilised on the route	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			within maximum 3 hours inside the county, 5 hours in the country and 16 hours for international road transports			
		Article 4 pt. 42	Non-compliance by the road transport manager with the obligation to provide the selling of journey tickets at the end of line or inside the vehicle, including the selling in advance	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 43	Non-compliance by the road transport manager	Undertaking / Road transport	Fine between RON 8,000 and RON	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			with the obligation of informing in advance, at the end of line and, as and if possible, on the route, about the trips that cannot be operated due to force majeure or due to other causes	operator	16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 44	Non-compliance by the road transport manager with the obligation of concluding agreements for the access inside the coach station according to the travel schemes pertaining to the route licences	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 45	Non-compliance by the road transport manager with the obligation to communicate to the Romanian Road Authority (RRA), each Friday, the status of the persons having facilities for the road transport, according to law, transported during the previous week, in the format requested by RRA	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 46	Non-compliance by the road transport manager with the obligation to operate the journey/the	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			route for at least 30 days from the date of submitting the request for cancelling that route licence to the Romanian Road Authority or to the General Direction of transports regulations		EUR 3,660) Suspending the certified true copy of the transport licence/Community licence, for 30 days	
		Article 4 pt. 47	Non-compliance by the road transport manager with the obligation to operate the journey or the trip for at least 30 days, in case of inter-county transports and for at least 60 days for county	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660) Suspending the certified true copy	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			transports from the date of receiving from the Romanian Road Authority the notification regarding the withdrawal of the route licence		of the transport licence/Community licence, for 30 days	
		Article 4 pt. 48	Non-compliance by the road transport manager with the obligation to ensure the issuance of travel tickets in at least two languages – in Romanian and in an international language for the cost-based international passenger road transport	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 49	Non-compliance by the road transport manager with the obligation not to use the public stations for the inter-county passenger road transport by special regular services; the stations used for the entrance/exit of the transported passengers should ensure the minimum safety conditions for these	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 50	Non-compliance by the road transport manager with the obligation to	Undertaking / Road transport	Fine between RON 8,000 and RON 16,000 (≈ between	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			transport only the persons who have been nominalised and have available travel cards issued for the transport beneficiary, in the case of cost-based passengers road transport by special regular services	operator	EUR 1,830 and EUR 3,660) Suspending the certified true copy of the transport licence/Community licence, for 30 days	
		Article 4 pt. 51	Non-compliance by the road transport manager with the obligation to operate the national cost-based passenger road transport by regular services only by buses	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			equipped with an electronic ticketing fiscal device and a card reader with the possibility of transmitting the data on-line, according to the regulations in force			
		Article 4 pt. 52	Non-compliance by the road transport manager with the obligation to communicate twice a year to the General Direction of Regulations in Transport the report of the trips pertaining to regular cost-based international	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			passengers road transport services			
		Article 4 pt. 53	Non-compliance by the road transport manager with the obligation to communicate twice a year to the Romanian Road Authority (RRA) the reports regarding the cabotage operations provided in Regulation (EC) No 1.073/2009	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 54	Non-compliance by the road transport manager with the obligation to	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			display at the headquarters and inside the vehicle the route, the stops, the schedule, the tariffs and the transport conditions, so that this information be available to all users		EUR 1,830 and EUR 3,660)	
		Article 4 pt. 55	Non-compliance by the road transport manager with the obligation to ensure the operation of the service at a level of quality, continuity, regularity and capacity according to the international transport	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660) Suspending the certified true copy	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			authorisation/route licence, in the case of cost-based passenger transport by regular services		of the transport licence/Community licence, for 30 days	
		Article 4 pt. 56	Non-compliance by the road transport manager with the obligation to have at the registered headquarters one or more documents of the following, as the case may be: (a) the registration certificates of the vehicles, in original for those held in property, respectively in	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660) Suspending the certified true copy of the transport licence/Community licence, for 30 days	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			copy for those held with other title of ownership; (b) original documents attesting the fact that it holds vehicles with any other title; (c) valid medical and psychological approvals for persons in functions concurring to the traffic safety; (d) all the documents attesting the maintenance of the conditions to access the road transport manager occupation and the road		– in the case of lit. (a), (b), (d), (h)-(n)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			transport market; (e) the expedition/transport form and the form for transport approval in the case of waste transport, for the current and the previous year; (f) documents attesting the employment in legal conditions of the persons with functions concurring to the traffic safety; (g) weight tickets provided for the transport			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>of divisible goods, for the current and previous year, as well as the special transport authorisations regarding the transport of indivisible goods with the overhaul of the maximum admitted weights and/or dimensions;;</p> <p>(h) the consignment notes (C.M.R) for the current and the previous year;</p> <p>(i) the original INTERBUS control document, reinstated if</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>completely used, and the vehicle logbooks for the INTERBUS control document for the current and the previous year;</p> <p>(j) the control document provided by the bilateral agreements for public road passenger transport by regular services, in the case of non-signatory states of the INTERBUS Agreement, for the current and the previous year;</p> <p>(k) the original</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>control document, reinstated if completely used, and the vehicle logbooks for the control document in exploitation, in the case of passenger transport for national and international traffic by occasional services, for the current and the previous year;</p> <p>(l) insurance for the transported passengers and their luggage in case of accidents that fall under the obligation of the road</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			transport manager; (m) documents regarding the maintenance of the vehicles for a period of 18 months which should include the minimum information regarding: notes related to the drivers' notifications related to the technical state of the vehicle, resolutions of the transport manager, means for solving and supporting documents, as the case may be; (n) the driver			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			attestation provided in article 5 of Regulation (EC) No 1.072/2009 or a copy of it, as the case may be; (o) a copy of the international transport authorisation, in the case provided by article 6 paragraph (1) second thesis of Regulation (EC) No 1.073/2009			
		Article 4 pt. 57	Non-compliance by the road transport manager with the obligation to ensure the existence inside	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>the vehicles used for the cost-based road transport of one or more documents of the following, as the case may be:</p> <ul style="list-style-type: none"> (a) a copy of the transport licence/Community licence; (b) the valid work ID card of the driver, attesting that he is an employee of the transport operator; (c) the leasing or the rental agreement, as the case may be, in original or 		EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>an certified true copy of it, in case the road vehicle is held with a leasing or a rental agreement;</p> <p>(d) a copy of the insurance for passengers and their luggage in case of accidents that fall under the obligation of the road transport manager;</p> <p>(e) a certificate of professional competence of the driver, valid for the type of transport operated;</p> <p>(f) the transport document, in conformity</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>with the type of transport operated, as well as the authorisations provided by the laws in force in the field of road transport;</p> <p>(g) the driver attestation provided by article 5 of Regulation (EC) No 1.072/2009, as the case may be;</p> <p>(h) documents attesting the fact that the passengers belong to the category for which the passenger transport by regular special services is</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>authorised/licensed;</p> <p>(i) the documents provided by article 6 paragraph (6) second thesis of Regulation (EC) number 1.073/2009;</p> <p>(j) the vehicle logbook, in the case of performing occasional services provided by article 12 paragraph (1) of Regulation (EC) No 1.073/2009 and/or the cabotage operations provided by article 17 paragraph (1) of</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>Regulation (EC) No 1.073/2009;</p> <p>(k) the agreement between the road transport manager and the transport organiser or an certified true copy of it, in the case provided by article 17 paragraph (4) of Regulation (EC) No 1.073/2009;</p> <p>(l) documents including the elements provided by article 8 paragraph (3) of Regulation (EC) No</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			1072/2009, in the case of cabotage operations			
		Article 4 pt. 60	Non-compliance by the road transport manager with the obligation to communicate, by appropriate means of advertising, to the users of the regular service he provides based on a route authorisation/licence, the withdrawal of the service with at least 30 days before the withdrawal date	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 61	Non-compliance by the	Undertaking /	Fine between RON	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			own account road transport undertaking/road transport manager with the obligation to equip the vehicles with placards indicating the maximum accepted/authorised masses and dimensions	Road transport operator	8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 62	Non-compliance by the economic operators carrying on road transport activities – activities carried on by coach stations – with the obligation to install boards displaying information	The economic operator performing connected activities to the road transport	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			regarding the routes and the departure/arriving hours of the courses at each platform			
		Article 4 pt. 63	Non-compliance by the economic operators carrying on road transport activities – activities carried on by coach stations – with the obligation to distribute the courses at platforms so that to ensure an interval of at least 15 minutes between two consecutive departures from the same platform	The economic operator performing connected activities to the road transport	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 64	Non-compliance by the economic operators carrying on road transport activities – activities carried on by coach stations – with the obligation to draw the timetable of the coach station taking into account the departure and the arrival hours of the courses; the coach station will open with minimum 30 minutes before the departure/arrival of the first course and it will close after minimum 30	The economic operator performing connected activities to the road transport	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			minutes from the arrival/departure of the last course			
		Article 4 pt. 65	Non-compliance by the economic operators carrying on road transportation activities – activities carried on by coach stations – with the obligation to receive and to register all the requests from the road transport managers asking for access inside the coach station; these requests shall be answered affirmative or	The economic operator performing connected activities to the road transport	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			negative, justifying in writing the answer within 20 days from the day the request is received			
		Article 4 pt. 66	Non-compliance by the economic operators carrying on road transportation activities – activities carried on by coach stations – with the obligation to conclude agreements for access in the coach station with transport operators holding a route licence, in accordance with the	The economic operator performing connected activities to the road transport	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			approved travel schemes, without exceeding the availability period of the transport schedule or the capacity of the coach station			
		Article 4 pt. 67	Non-compliance by the economic operators carrying on road transportation activities – activities carried on by coach stations – with the obligation to apply, when concluding the agreements with the road transport managers, equal tariffs for	The economic operator performing connected activities to the road transport	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			the same services			
		Article 4 pt. 68	Non-compliance by the economic operators carrying on connected road transportation activities – activities carried on by coach stations – with the obligation to communicate on-line to ISCTR, in their requested format, the operation of the courses and routes for each transport operator holding a route licence with which they have concluded an agreement	The economic operator performing connected activities to the road transport	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 4 pt. 69	Non-existence at the coach station of agreements for the access of the vehicles of the road transport managers to its services	The economic operator performing connected activities to the road transport	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 72	Non-compliance by the drivers employed by the own account road transport undertaking/road transport manager with the obligation to transport passengers only in the limit of the number of seats registered in the registration certificate or,	Driver	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			for the vehicles classified on stars or categories, in the limit of the number of seats registered in the classification certificate			
		Article 4 pt. 73	Non-compliance by the drivers employed by the own account road transport undertaking/road transport manager with the obligation to stop in all the stations provided by the route graphic of the route licence and respectively not to stop for the passengers' entrance/exit	Driver	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			in other places than those provided in the route graphic			
		Article 4 pt. 74	Non-compliance by the drivers employed by the road transport manager/the own account road transport undertaking with the obligation to inform the passengers about the obligation to wear a safety belt during the journey	Driver	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 76	Non-compliance by the drivers employed by the road transport manager/the	Driver	Fine between RON 8,000 and RON 16,000 (≈ between	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			own account road transport undertaking with the obligation to transport only the persons nominalised in the control document		EUR 1,830 and EUR 3,660)	
		Article 4 pt. 77	Non-compliance by the own account road transport undertaking with the obligation to ensure the existence inside the vehicle used for the own account transport of one or more of the following documents: (a) the certified true copy of the own account transport certificate, as	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>well as the documents attesting that the operated transport is made on own account;</p> <p>(b) the work ID card of the driver attesting that he is an employee of the company;</p> <p>(c) the leasing or the rental agreement, as the case may be, in original or a certified true copy, if the vehicle is held under a leasing or rental agreement;</p> <p>(d) a copy of the</p>			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			insurance for the transported passengers and their luggage in case of accidents that fall under the obligation of the road transport manager; (e) the certificate of professional competence of the driver, valid for the type of transport operated; (f) the transport document; (g) the driver attestation as provided in article 5 of Regulation (EC) No 1.072/2009			

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 5 pt. 1	Non-compliance by the road transport manager with the communication requirement provided in article 10 paragraph (4) of Regulation (EC) No 1.073/2009	Undertaking / Road transport operator	Fine between RON 3,000 and 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 5 pt. 4	The inappropriate filling in by the road transport manager of the order/agreement with the beneficiary, in the case of cost-based road passenger transport by occasional services	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 5 pt. 5	Not filling in or filling in inappropriately the vehicle logbook by the road transport manager in the case of cost-based road passenger transport by occasional services	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 5 pt. 6	Embarking/debarking the passengers in other points than those mentioned in the order/the agreement with the beneficiary, in the case of cost-based road passenger transport by	Driver	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			occasional services			
		Article 5 pt. 7	Non-compliance by the own account road transport undertaking/the road transport manager with the obligation to inform the passengers about their obligation to wear the seatbelt during the journey, by one of the following means: (a) by the driver; (b) by the group leader or by a person officially appointed as	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			group leader; (c) by audio-video means; (d) by displaying signs and/or pictographs in a visible place at each chair			
		Article 5 pt. 17	Non-compliance by the road transport manager with the obligation to communicate to the Romanian Road Authority – RRA, prior to operating the road transport, by filling in a form, in the	Undertaking / Road transport operator	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			electronic format available on their internet page, the requested information related to the cost-based road passenger transport by occasional services			
		Article 5 pt. 20	Non-compliance by the drivers employed by the road transport manager/the own account road transport undertaking with the obligation to take delivery of goods or parcels only in the limit of available space, in case of operating road passenger transport	Driver	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 5 pt. 21	Non-compliance by the drivers employed by the road transport manager/the own account road transport undertaking with the obligation to ensure the entrance/the exit of passengers in the vehicle, the loading/unloading of the luggage inside/outside the luggage carrier of the vehicle	Driver	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 5 pt. 22	Non-compliance by the economic operators carrying on connected road transportation activities –	The economic operator performing connected	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			activities carried on by coach stations – with the obligation to solve the deficiencies announced by the passengers and observed by I.S.C.T.R, within the term set by the latter	activities to the road transport	1,380)	
		Article 5 pt. 23	Non-compliance by the economic operators carrying on road transportation activities – activities carried on by coach stations – with the obligation to display the functioning schedule in	The economic operator performing connected activities to the road transport	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			each ticket and travel cards office			
		Article 5 pt. 30	Non-compliance by the drivers employed by the road transport manager with the obligation to issue tickets/travel cards, or the issuance of tickets/travel cards that are inappropriate to the distance travelled by the passengers	Driver	Fine between RON 3,000 and RON 6,000 (≈ between EUR 690 and EUR 1,380)	
	<u>Criminal Code</u>	Article 288	Forgery	Any person		Imprisonment from 3 months to 3 years

Table RO 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				Clerk (Romanian: <i>functionar</i>)		Imprisonment from 6 months to 5 years

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
Directive 2008/68/EC	<u>Norms approved by Government Decision No 1175/2007</u>	Article 37 paragraph 3 pt. 1	Transport of dangerous goods forbidden for transport	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 2	Leak of dangerous substances	Consigner and/or transporter,	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				OR Driver, if the undertaking of the road transport operator cannot be determined	and 2,300) Immobilisation of the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 3	Use of a forbidden type of transport or of a non-corresponding means of transport	Consigner and/or transporter, OR Driver, if the	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				undertaking of the road transport operator cannot be determined	the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 4	Shipping in bulk in a bulk container that is not structurally appropriate for the utilisation	Consigner and/or transporter, OR Driver, if the undertaking of the road transport	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				operator cannot be determined		
		Article 37 paragraph 3 pt. 5	Transport with a vehicle without the adequate acceptance certificate for vehicles that can transport certain dangerous goods	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 37 paragraph 3 pt. 6	The vehicle does not comply with the acceptance conditions and presents an immediate danger.	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 7	Use of non-homologated packaging	Consigner and/or transporter,	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				<p>OR</p> <p>Driver, if the undertaking of the road transport operator cannot be determined</p>	<p>and 2,300)</p> <p>Immobilisation of the vehicle (can be applied immediately)</p>	
		<p>Article 37 paragraph 3 pt. 8</p>	<p>Use of packaging not compliant with the applicable packaging instructions</p>	<p>Consigner and/or transporter, OR</p> <p>Driver, if the</p>	<p>Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300)</p> <p>Immobilisation of</p>	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				undertaking of the road transport operator cannot be determined	the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 9	Non-compliance with the special provisions regarding common packaging	Consigner and/or transporter, OR Driver, if the undertaking of the road transport	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				operator cannot be determined		
		Article 37 paragraph 3 pt. 10	Non-compliance with the provisions regarding fixing and stapling the load	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 37 paragraph 3 pt. 11	Non-compliance with the provisions regarding the common loading of packages	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 12	Non-compliance with the degree of filling the tanks or the packaging	Consigner and/or transporter,	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				OR Driver, if the undertaking of the road transport operator cannot be determined	and 2,300) Immobilisation of the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 13	Non-compliance with the provisions for the limitation of the transported quantities with a transport unit	Consigner and/or transporter, OR Driver, if the	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				undertaking of the road transport operator cannot be determined	the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 14	Transport of dangerous goods without the indication of their presence through documents, marking and labelling of the packages or through placarding and marking the vehicle	Consigner and/or transporter, OR Driver, if the undertaking of the road transport	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				operator cannot be determined		
		Article 37 paragraph 3 pt. 15	Transport without the placarding and marking of the vehicle	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 37 paragraph 3 pt. 16	Absence of the information regarding the transported substance, allowing the determination of a contravention within the first risk category, e.g. UN number, name, packaging group	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 17	Not holding, by the driver, of the valid professional training	Consigner and/or transporter,	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			certificate	OR Driver, if the undertaking of the road transport operator cannot be determined	and 2,300) Immobilisation of the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 18	Use of fire or of an unprotected electrical lamp	Consigner and/or transporter, OR Driver, if the	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				undertaking of the road transport operator cannot be determined	the vehicle (can be applied immediately)	
		Article 37 paragraph 3 pt. 19	Non-compliance with the interdiction to smoke	Consigner and/or transporter, OR Driver, if the undertaking of the road transport	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				operator cannot be determined		
		Article 37 paragraph 3 pt. 20	Non-performance of the measures provided in the written instructions on board of the vehicle and applicable to the transported goods	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 37 paragraph 3 pt. 21	Refusal of access or obstructing of the relevant personnel during traffic control or control at the undertakings' offices	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830 and 2,300) Immobilisation of the vehicle (can be applied immediately)	
		Article 38 paragraph 3 pt. 15, second phrase	Non-performance, inadequate performance or with	Consigner and/or transporter,	Fine between RON 8,000 and 10,000 (≈ between EUR 1,830	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			untrained personnel of the cleaning, washing, neutralising, decontaminating or disinfecting operations of the packaging or of the vehicle after unloading the dangerous goods, if these activities present a major risk for the personnel or the environment	OR Driver, if the undertaking of the road transport operator cannot be determined	and 2,300)	
		Article 38 paragraph 3 pt. 1	The transport unit has more than one trailer/semi-trailer	Consigner and/or transporter,	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				OR Driver, if the undertaking of the road transport operator cannot be determined	and 1,600)	
		Article 38 paragraph 3 pt. 2	The vehicle does not comply with the acceptance conditions anymore, but does not constitute an immediate danger	Consigner and/or transporter, OR Driver, if the	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				undertaking of the road transport operator cannot be determined		
		Article 38 paragraph 3 pt. 3	On board of the vehicle do not exist all the necessary functional fire extinguishers according to the Norms	Consigner and/or transporter, OR Driver, if the undertaking of the road transport	Fine between RON 5,000 and 7.000 (≈ between EUR 1,145 and 1,600)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				operator cannot be determined		
		Article 38 paragraph 3 pt. 4	On board of the vehicle do not exist the equipments provided in A.D.R. or in the written instructions	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 38 paragraph 3 pt. 5	The data regarding the try and inspection and the ones regarding the utilisation duration of the packagings, of the big bulk recipients or of the big packagings are not complied with	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	
		Article 38 paragraph 3 pt. 6	Transport of goods in packagings, big bulk recipients or big	Consigner and/or transporter,	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			deteriorated packagings or the transport of empty, not cleaned and deteriorated packagings	OR Driver, if the undertaking of the road transport operator cannot be determined	and 1,600)	
		Article 38 paragraph 3 pt. 7	Transport of goods in packages in a container that is not usable from a structural point of view	Consigner and/or transporter, OR Driver, if the	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				undertaking of the road transport operator cannot be determined		
		Article 38 paragraph 3 pt. 8	Tanks/Tank-containers, including the empty and not cleaned ones, that are not properly closed	Consigner and/or transporter, OR Driver, if the undertaking of the road transport	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				operator cannot be determined		
		Article 38 paragraph 3 pt. 9	Transport of a combined packaging, with a above-packaging that is not properly closed	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 38 paragraph 3 pt. 10	Inadequate labelling, marking or placarding	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	
		Article 38 paragraph 3 pt. 11	Lack of written instructions according to A.D.R. or the	Consigner and/or transporter,	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			existence of certain written instructions that are not applicable to the transported goods	OR Driver, if the undertaking of the road transport operator cannot be determined	and 1,600)	
		Article 38 paragraph 3 pt. 12	Inadequate surveillance or parking of the vehicle	Consigner and/or transporter, OR Driver, if the	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				undertaking of the road transport operator cannot be determined		
		Article 38 paragraph 3 pt. 13	Indication of the packagings, packages or transport means of inexistent dangers	Consigner and/or transporter, OR Driver, if the undertaking of the road transport	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				operator cannot be determined		
		Article 38 paragraph 3 pt. 14	Utilisation of personnel untrained for the performance of operations of manipulation, loading or unloading of dangerous goods	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 38 paragraph 3 pt. 15, first phrase	Non-performance, inadequate performance or with untrained personnel of the cleaning, washing, neutralising, decontaminating or disinfecting operations of the packaging or of the vehicle after unloading the dangerous goods	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 5,000 and 7,000 (≈ between EUR 1,145 and 1,600)	
		Article 39 paragraph 3 pt. 1	The dimensions of the panels or labels or the dimensions of the	Consigner and/or transporter,	Fine between RON 2,000 and 4,000 (≈ between EUR 460	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			letters, numbers or symbols on the panels or on the labels does not comply with the relevant provisions in article 19 lit. (b) and article 21 paragraph 1 lit. (d)	OR Driver, if the undertaking of the road transport operator cannot be determined	and 920)	
		Article 39 paragraph 3 pt. 2	Absence from the transport documents of certain information, other than the ones mentioned under article 37 paragraph 3 pt. 16	Consigner and/or transporter, OR Driver, if the	Fine between RON 2,000 and 4,000 (≈ between EUR 460 and 920)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			above	undertaking of the road transport operator cannot be determined		
		Article 39 paragraph 3 pt. 3	Absence from the board of the vehicle of the professional training certificate of the driver, when there is evidence that he/she does hold such certificate	Consigner and/or transporter, OR Driver, if the undertaking of the road transport	Fine between RON 2,000 and 4,000 (≈ between EUR 460 and 920)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				operator cannot be determined		
		Article 39 paragraph 3 pt. 4	Not designating the safety counsellor/counsellors within the undertaking	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 2,000 and 4,000 (≈ between EUR 460 and 920)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 39 paragraph 3 pt. 5	Not drafting and/or not communicating by the designated examining organ that had issued the certificate of the safety counsellor of the undertaking of the annual report of the safety counsellor, according to annex E to the Regulation for the designation, professional training and examination of the safety counsellor for road, rail and inland waterway transport of	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator cannot be determined	Fine between RON 2,000 and 4,000 (≈ between EUR 460 and 920)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			dangerous goods and according to the provisions of subsection 1.8.3.3 of A.D.R.			
		Article 39 paragraph 3 pt. 6	Not laying down, laying down inadequately, not implementing and/or implementing inadequately by the undertaking the security plan imposed by the provisions of chapter 1.10 of A.D.R.	Consigner and/or transporter, OR Driver, if the undertaking of the road transport operator	Fine between RON 2,000 and 4,000 (≈ between EUR 460 and 920)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				cannot be determined		
		Article 3 pt. 37	Non-compliance by the economic operators carrying on road transportation activities – activities of intermediating cost-based road transport operations – with the requirement of carrying on activities of intermediating cost-based road transport operations for hazardous goods only	The economic operator performing connected activities to the road transport; or the natural/legal person	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			if they: (a) appoint a safety counsel for the transport of hazardous goods; (b) meet their obligations under the provisions of paragraph 1.4 from Annex A to the European Agreement on Road Transport of Dangerous Goods (ADR) concluded at Geneva on 30 September 1957, to			

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			which Romania adhered by Law No 31/1994 with the subsequent amendments			
		Article 20 (1) lit. (c)	Using, for the road transport, tanks, recipients and packagings that present losses of dangerous goods as a consequence of a lack of tightness			
Directive 96/53/EC	<u>Government Decision No 69/2012</u>	Article 3 pt. 23	Carrying goods exceeding the maximum permissible	Undertaking / Road transport operator	Fine between RON 14,000 and RON 18,000 (≈ between	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			laden mass by 20% or more for vehicles the permissible laden weight of which exceeds 12 tonnes, and by 25% or more for vehicles the permissible laden weight of which does not exceed 12 tonnes		EUR 3,200 and EUR 4,120)	
		Article 4 pt. 9	Carrying goods exceeding the maximum permissible laden mass by 20% or more for vehicles the permissible laden	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			weight of which exceeds 12 tonnes, and by 25% or more for vehicles the permissible laden weight of which does not exceed 12 tonnes			
		Article 4 pt. 28	Non-compliance by the own account road transport undertaking/the road transport manager with the rules and procedures that shall be complied with in the case of operating road	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			transport of goods with masses and/or dimensions that exceed the maximum masses and/or dimensions approved			
		Article 4 pt. 58	Non-compliance by the road transport manager with the obligation to operate cost-based road transport of dangerous goods only if it: (a) appoints a safety counsel for the transport of dangerous	Undertaking / Road transport operator	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			<p>goods;</p> <p>(b) meets his obligations under the provisions of chapter 1.4 of Annex A to the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) concluded in Geneva on 30 September 1957, to which Romania adhered by Law No 31/1994 with the subsequent</p>			

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			amendments			
	<u>Government Ordinance No 43/1997¹⁷</u>	Article 61 (1) (d)	Non-compliance with the provisions of article 41 (1) by performing transports with exceeding the weights on axles, total weight and/or dimensions listed in the AST	Road transport operator, OR Natural or legal person using the vehicle on the basis of a different right than the property right, if the road	Fine between RON 10,000 and 15,000 (≈ between EUR 2,290 and 3,430) Immobilisation by the personnel with control attributes, under safety and security of the transport conditions, and, if	

¹⁷ For the vehicles registered in other states, the fines shall be applied in all cases to the driver.

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				transport operator cannot be identified from the transport document, OR Owner of the road vehicle, should the former persons be unidentifiable, OR Driver, should	applicable, lifting the licence plates until the legal conditions for continuing the transport have been fulfilled	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				the former persons be unidentifiable, OR Expeditor, according to its legal responsibilities		
		Article 61 (1) (c)	Non-compliance with the provisions of article 41 (1) ¹⁸ by performing	Road transport operator, OR	Fine between RON 15,000 and 20,000 (≈ between EUR 3,430	

¹⁸ Article 41 (1) of Government Ordinance No 43/1997: “The performance of transport with road vehicles, registered in Romania or in other states, on the public roads with exceeding the maximum total admitted weight, the maximum admitted weights on axles and/or the maximum admitted dimensions provided by annexes No 2 and 3.”

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			transports without AST ¹⁹ and of article 41 (8) ²⁰	Natural or legal person using the vehicle on the basis of a different right than the property right,	and 4,580) Immobilisation by the personnel with control attributes, under safety and security of the transport	

¹⁹ AST represents the document by which the road manager establishes the route to be covered and the owed tariffs, document which allows the performance of the transport with vehicles exceeding the maximum admitted weights and/or dimensions and is valid for the registration numbers of the vehicles with the same technical characteristics listed within, the listed route, direction, period and authorised characteristics, under the conditions set by the road manager (Article 41 (3) of Government Ordinance No 43/1997).

²⁰ Article 41 (8) of Government Ordinance No 43/1997: “Performing transports by non-complying with the conditions listed in AST regarding the registration numbers of the vehicles with the same technical characteristics, the route, direction or periods of performing the transport are considered transport without AST (...)”.

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				if the road transport operator cannot be identified from the transport document, OR Owner of the road vehicle, should the former persons be unidentifiable, OR	conditions, and, if applicable, lifting the licence plates until the legal conditions for continuing the transport have been fulfilled	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				Driver, should the former persons be unidentifiable, OR Expeditor, according to its legal responsibilities		
		Article 61 (1) (e)	Non-compliance with the conditions for performing the transport listed in the transport project,	Road transport operator, OR Natural or legal person	Fine between RON 15,000 and 20,000 (≈ between EUR 3,430 and 4,580)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			except for the ones regarding the works provided for under article 41 (11) ²¹	using the vehicle on the basis of a different right than the property right, if the road transport operator cannot be identified from the transport document, OR	Immobilisation by the personnel with control attributes, under safety and security of the transport conditions, and, if applicable, lifting the licence plates until the legal conditions for continuing the transport have been	

²¹ Article 41 (11) of Government Ordinance No 43/1997: “If, for performing transports with exceeding the maximum admitted weights and/or dimensions, works of arrangement or consolidation of the road infrastructure, of modification of the air or underground installations of any kind, as well as any other works, are necessary, the responsibility for performing these and bearing the cost associated therewith is of the AST titular.”

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				Owner of the road vehicle, should the former persons be unidentifiable, OR Driver, should the former persons be unidentifiable, OR	<p>fulfilled</p>	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				Expeditor, according to its legal responsibilities		
		Article 61 (1) (g)	Not performing the works provided for under article 41 (11)	Undertaking / Road transport operator	Fine between RON 15,000 and 20,000 (≈ between EUR 3,430 and 4,580)	
		Article 61 (1) (i)	Accompanying the transports performed with exceeding the maximum admitted total weight and/or dimensions, without AST	Specialised accompanying personnel	Fine between RON 15,000 and 20,000 (≈ between EUR 3,430 and 4,580) Immobilisation by the personnel with	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					control attributes, under safety and security of the transport conditions, and, if applicable, lifting the licence plates until the legal conditions for continuing the transport have been fulfilled	
		Article 61 (1) (o)	The refusal to submit the vehicle to verification by weighing and/or	Driver	Fine between RON 15,000 and 20,000 (≈ between EUR 3,430 and 4,580)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			measuring the dimensions, the refusal to accompany the vehicle of the personnel with control attributions with a view to weighing and/or measuring the dimensions of the transport, as well as the refusal to present the documents regarding the transport to the personnel with control attributions		Immobilisation by the personnel with control attributes, under safety and security of the transport conditions, and, if applicable, lifting the licence plates until the legal conditions for continuing the transport have been fulfilled	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					Suspension of the certified true copy of the transport licence or of the certified true copy of the transport licence own account (may be applied at the same time as the fine)	
		Article 61 (1) (p)	Performing transport of indivisible goods with exceeding the total maximum admitted weight, the maximum admitted weights on	Road transport operator, OR Natural or legal person	Fine between RON 25,000 and 35,000 (≈ between EUR 5,720 and 8,000)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			axles and/or the maximum admitted dimensions mentioned within annexes No 2 and 3 to Government Ordinance No 43/1997	using the vehicle on the basis of a different right than the property right, if the road transport operator cannot be identified from the transport document, OR Owner of the road vehicle,	Immobilisation by the personnel with control attributes, under safety and security of the transport conditions, and, if applicable, lifting the licence plates until the legal conditions for continuing the transport have been fulfilled	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				should the former persons be unidentifiable, OR Driver, should the former persons be unidentifiable, OR Expeditor, according to its legal		

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				responsibilities		
		Article 61 (1) (q)	Avoidance of the control or barring the control regarding the compliance with the provisions of Government Ordinance No 43/1997, as well as not stopping at the regulatory signal of the personnel with control attributions	Road transport operator, OR Natural or legal person using the vehicle on the basis of a different right than the property right, if the road transport operator	Fine between RON 15,000 and 20,000 (≈ between EUR 3,430 and 4,580) Immobilisation by the personnel with control attributes, under safety and security of the transport conditions, and, if applicable, lifting the licence plates	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				cannot be identified from the transport document, OR Owner of the road vehicle, should the former persons be unidentifiable, OR Driver, should the former persons be	until the legal conditions for continuing the transport have been fulfilled Suspension of the certified true copy of the transport licence or of the certified true copy of the transport licence own account (may be applied at the same time as the fine)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				unidentifiable, OR Expeditor, according to its legal responsibilities		
		Article 61 (1) (h)	Non-compliance with the provisions of article 41 (15) ²² , (17) ²³ , (18) ²⁴ ,	Road transport operator, OR	Fine between RON 6,000 and 10,000 (≈ between EUR 1,370	

²² Article 41 (15) of Government Ordinance No 43/1997: “The vehicle circulating with exceeding the maximum admitted weights and/or dimensions must be preceded by a accompanying vehicle, for:

- (a) a width higher than 3.2 metres and lower or equal to 4.5 metres;
- (b) a length higher than 25.0 metres and lower or equal to 30.0 metres;

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			(19) ²⁵	Natural or legal person	and 2,290)	

- (c) a height higher than 4.5 metres;
- (d) a total weight higher than 80.0 tonnes.”

²³ Article 41 (17) of Government Ordinance No 43/1997: “The vehicle circulating with exceeding the maximum admitted dimensions must be accompanied by two authorised accompanying vehicles circulating one in front and the other behind it, for:

- (a) a width higher than 4.5 metres;
- (b) a length higher than 30.0 metres.”

²⁴ Article 41 (18) of Government Ordinance No 43/1997: “The vehicle circulating with exceeding the maximum admitted weights and/or dimensions must be supplementary accompanied by a road police crew, for:

- (a) a width higher than 5.0 metres;
- (b) a length higher than 40.0 metres;
- (c) a height higher than 5.0 metres;
- (d) a total weight higher than 80.0 tonnes.”

²⁵ Article 41 (19) of Government Ordinance No 43/1997: “The vehicles circulating with exceeding the maximum admitted dimensions must be equipped with supplementary signalling devices established by common order of the ministry of transport and infrastructure and of the ministry of administration and interns.”

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				using the vehicle on the basis of a different right than the property right, if the road transport operator cannot be identified from the transport document, OR Owner of the road vehicle,	Immobilisation by the personnel with control attributes, under safety and security of the transport conditions, and, if applicable, lifting the licence plates until the legal conditions for continuing the transport have been fulfilled	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				should the former persons be unidentifiable, OR Driver, should the former persons be unidentifiable, OR Expeditor, according to its legal		

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
				responsibilities		
		Article 61 (1) (j)	Performing the accompanying of the transports with exceeding the dimensions listed in the AST	Specialised accompanying personnel	<p>Fine between RON 6,000 and 10,000 (≈ between EUR 1,370 and 2,290)</p> <p>Immobilisation by the personnel with control attributes, under safety and security of the transport conditions, and, if applicable, lifting the licence plates</p>	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					until the legal conditions for continuing the transport have been fulfilled	
		Article 61 (1) (l)	Non-compliance with the conditions regarding the endowment provided for under article 41 (20) ²⁶ , of the conditions regarding the	Specialised economic operator	Fine between RON 4,000 and 8,000 (≈ between EUR 920 and 1,840) Immobilisation by the personnel with	

²⁶ Article 41 (20) of Government Ordinance No 43/1997: “The accompanying vehicles must respect the conditions regarding the endowment established by common order of the ministry of transport and infrastructure and of the ministry of administration and interns.”

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			authorisation provided for article 41 (21) ²⁷ and of the conditions regarding the performance of the accompanying provided for under article 41 (22) ²⁸		control attributes, under safety and security of the transport conditions, and, if applicable, lifting the licence plates until the legal conditions for continuing the	

²⁷ Article 41 (21) of Government Ordinance No 43/1997: “The conditions for accompanying the vehicles circulating with exceeding the weights and/or dimensions by the specialised economic operators and by the specialised accompanying personnel, as well as the modality of their verification are established by common order of the ministry of transport and infrastructure and of the ministry of administration and interns.”

²⁸ Article 41 (22) of Government Ordinance No 43/1997: “The conditions regarding the performance of accompanying the vehicles circulating with exceeding the maximum admitted weights and/or dimensions are established by common order of the ministry of transport and infrastructure and of the ministry of administration and interns.”

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					transport have been fulfilled	
		Article 61 (1) (m)	Accompanying the transport by a natural person or by a specialised economic operator with the breach of the provisions of the specific regulations in force	Undertaking / Road transport operator, AND Natural person / Specialised economic operator	Fine between RON 4,000 and 8,000 (≈ between EUR 920 and 1,840) Immobilisation by the personnel with control attributes, under safety and security of the transport conditions, and, if applicable, lifting	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					the licence plates until the legal conditions for continuing the transport have been fulfilled	
		Article 61 (1) (f)	Breach of the provisions of article 41 (9) ²⁹	Driver	Fine between RON 3,000 and 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 61 (1) (k)	Breach of the provisions of article 41	Specialised accompanying	Fine between RON 3,000 and 6,000 (≈	

²⁹ Article 41 (9) of Government Ordinance No 43/1997: “Performing transports with exceeding the maximum admitted weights and/or dimensions is forbidden during Saturdays, Sundays and in legal holiday days, between 6,00 and 22,00. By way of exception, the road manager may authorise such transports, under the conditions established by common order of the ministry of transport and infrastructure and of the ministry of administration and interns.”

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			(16)-(19) ³⁰	personnel	between EUR 690 and EUR 1,380 Immobilisation by the personnel with control attributes, under safety and security of the transport conditions, and, if applicable, lifting the licence plates	

³⁰ Article 41 (16) of Government Ordinance No 43/1997: “On highways, the vehicle ensuring the accompanying of the vehicle circulating with a width higher than 3.2 metres and lower or equal with 4.5 metres will circulate behind it.”
For the provisions of article 41 (17)-(19), please see footnotes 26-28 above.

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					<p>until the legal conditions for continuing the transport have been fulfilled</p>	
	<p><u>Norms approved by Order No 995/2011</u></p>	<p>Article 38 (1) lit. (a)</p>	<p>Infringements sanctioned by the relevant provisions above of the Government Ordinance No 43/1997</p>	<p>Relevant sanctioned persons, as the case may be</p>	<p>Immobilisation of the vehicle and, if applicable, withholding the licence plates with the registration number until the fulfilment of the legal conditions for the continuation of the transport/drive</p>	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 38 (1) lit. (b)	Infringements sanctioned by the relevant provisions above of the Government Ordinance No 43/1997	Relevant sanctioned persons, as the case may be	Withholding, with a view to suspending, the certified true copy of the transport licence, the certified true copy of the Community licence or the own account transport certificate, as the case may be	
		Article 38 (1) lit. (c)	Infringements sanctioned by the relevant provisions above of the	Relevant sanctioned persons, as the	Withholding, with a view to suspending or until the fulfilment of the	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			Government Ordinance No 43/1997	case may be	legal conditions for continuation of the transport, as the case may be, the special transport authorisation, the nominal certificate of the specialised personnel and/or the authorisation of the vehicle accompanying the vehicles with overhauls, other approvals and authorisations issued by the public	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					roads administrators	
Directive 96/96/EC	<u>Order No 2133/2005 of the Ministry of Transport, Constructions and Tourism</u>	Article 28 (2) lit. (a)	If during a period of 12 months two irregularities from the requirements imposed by the effectuation of ITP (Technical Periodical Inspection”) activity are observed by a technical inspector, mentioned on its licence certificate	Authorised staff performing the ITP	Administrative sanction: annulment of the licence certificate Two times the certificate annulled, the authorised staff can no longer perform such activity	
		Article 28 (2) lit.	The technical status of the road vehicle is	Authorised staff	Administrative sanction: annulment	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		(b)	certified in its absence	performing the ITP	of the licence certificate Two times the certificate annulled, the authorised staff can no longer perform such activity	
		Article 28 (2) lit. (c)	The technical status of the road vehicle is certified for the period in which the technical authorisation SITP is suspended, cancelled or	Authorised staff performing the ITP	Administrative sanction: annulment of the licence certificate Two times the	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			expired;		certificate annulled, the authorised staff can no longer perform such activity	
		Article 28 (2) lit. (d)	The technical status of the road vehicle is certified for the period in which the equipment necessary for the ITP does not comply with the specified requirements	Authorised staff performing the ITP	Administrative sanction: annulment of the licence certificate Two times the certificate annulled, the authorised staff can no longer perform such	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					activity	
		Article 28 (2) lit. (e)	The technical status of the road vehicle is certified without using the equipment imposed by the ITP procedure	Authorised staff performing the ITP	<p>Administrative sanction: annulment of the licence certificate</p> <p>Two times the certificate annulled, the authorised staff can no longer perform such activity</p>	
		Article 28 (2) lit. (f)	Modifications or unauthorised interventions are	Authorised staff performing the	Administrative sanction: annulment of the licence	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			observed at the equipment used or at the programmes used	ITP	certificate Two times the certificate annulled, the authorised staff can no longer perform such activity	
		Article 28 (2) lit. (g)	ITP is performed for vehicles for which SITP is not allowed to effectuate ITP	Authorised staff performing the ITP	Administrative sanction: annulment of the licence certificate Two times the certificate annulled,	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
					the authorised staff can no longer perform such activity	
		Article 28 (2) lit. (h)	ITP is performed for vehicles for which the inspector does not have an appropriate licence for that class	Authorised staff performing the ITP	Administrative sanction: annulment of the licence certificate Two times the certificate annulled, the authorised staff can no longer perform such activity	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 28 (2) lit. (i)	It is being applied another security element on the annex of the registration certificate, other than that which was generated by the evidence programme	Authorised staff performing the ITP	<p>Administrative sanction: annulment of the licence certificate</p> <p>Two times the certificate annulled, the authorised staff can no longer perform such activity</p>	
		Article 28 (7)	Certifying without performing the ITP or by non-authorised staff	Authorised staff performing the ITP		Sanction for forgery (See table)

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
Directive 2006/126/EC	<u>Government Decision No 69/2012</u>	Article 3 pt. 12	Operating the activity of theoretical and practical training for people who want to obtain their driving licence without having a driving school authorisation or a driving instructor authorization, issued according to the legislation in force, or with the authorization suspended, revoked or expired, as the case may be	The driving licence school; or the authorised driving instructor; or the natural/legal person	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120) Suspension of the right to use the vehicle by withholding the licence plates and the registration certificate, for 6 months	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
		Article 3 pt. 13	Providing trainings for people from the road transportation domain without having an authorisation of training and performance improvement centre in the road transportation domain, available for those courses and issued according to the legislation in force, or having the authorisation suspended or revoked,	The centre for training and development of the personnel specialised in the field of road transports; or the natural/legal person	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			as the case may be			
		Article 3 pt. 15	Driving a vehicle used for the road transport by road drivers that do not have a licence/a certificate of professional competence or whose licence/certificate of professional competence is expired	Driver	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and EUR 4,120)	
		Article 3 pt. 41	Utilisation by the driving schools or by the approved driving instructors during the	The driving licence school; or the authorised	Fine between RON 14,000 and RON 18,000 (≈ between EUR 3,200 and	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			process of practical training for people who want to obtain their driving licence, of road vehicles that do not meet the requirements provided by the regulations in force	driving instructor; or the natural/legal person	EUR 4,120)	
		Article 4 pt. 15	Performing by the driving schools or by the approved driving instructors of training for people with a view to obtaining their driving licence without complying with the	The driving licence school The authorised driving instructor	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			curriculum programme and plan approved according with the regulations in force			
		Article 4 pt. 16	Non-compliance by the driving schools with the provisions in force regarding the registration of trainees, keeping an evidence of the trainees and their documents, keeping the documents of the employees who ensure the theoretical and practical training of the	The driving licence school	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			trainees			
		Article 4 pt. 17	Utilisation by the driving schools, within the theoretical and practical training process for people who want to obtain their driving licence, of employees that do not meet the requirements provided by the regulations in force	The driving licence school	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 18	Performing, by the approved driving instructors, practical	The authorised driving instructor	Fine between RON 8,000 and RON 16,000 (≈ between	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			training for people who want to obtain their driving licence without having at the board of the vehicle, during the training period, one or more documents provided by the legislation in force		EUR 1,830 and EUR 3,660)	
		Article 4 pt. 78	Non-compliance by the professional training and development centres for professionals in the road transport domain, during the training	The centre for training and development of the personnel specialised in the field of	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			process, of training programs corresponding to the courses they were authorised for	road transports		
		Article 4 pt. 79	Non-compliance by the professional training and development centres for professionals in the road transport domain with the obligation to communicate to the General direction for transport regulations and I.S.C.T.R. the loss,	The centre for training and development of the personnel specialised in the field of road transports	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			the taking or the deterioration of the authorisation			
		Article 4 pt. 80	Non-compliance by the professional training and development centres for professionals in the road transport domain with the requirements that fall under their obligation, according to the regulations in force regarding the registration of trainees and keeping an	The centre for training and development of the personnel specialised in the field of road transports	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			evidence at the registered headquarters of all the documents necessary for their training			
		Article 4 pt. 81	Non-compliance by the professional training and development centres for professionals in the road transport domain with the obligation to provide the lecturers/trainers needed for the courses according to the	The centre for training and development of the personnel specialised in the field of road transports	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			curriculum			
		Article 4 pt. 82	Non-compliance by the professional training and development centres for professionals in the road transport domain with the obligation to inform General direction and transport regulations about any modification of the data presented in the authorisation file	The centre for training and development of the personnel specialised in the field of road transports	Fine between RON 8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 4 pt. 83	Non-compliance by the	The authorised	Fine between RON	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			driving schools or by the authorised driving instructors with the obligation to inform the issuing authority, within 15 days, about the loss, the taking or the deterioration of the authorisation	driving instructor	8,000 and RON 16,000 (≈ between EUR 1,830 and EUR 3,660)	
		Article 5 pt. 27	Non-compliance, by the training and development centres for the specialised personnel in the road transport domain, with the obligation to use	The centre for training and development of the personnel specialised in the field of	Fine between RON 3,000 and 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			the spaces destined for the training and development activity exclusively for the purpose they have been authorised for	road transports		
		Article 5 pt. 28	Non-compliance, by the training and development centres for the specialised personnel in the road transport domain, with the obligation to publish the loss or the taking of the authorisation in the	The centre for training and development of the personnel specialised in the field of road transports	Fine between RON 3,000 and 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			Romanian Official Gazette, Part III			
		Article 5 pt. 29	Non-compliance by the driving schools with the obligation to publish the loss or the taking of the authorisation in the Romanian Official Gazette, Part III	The driving licence school	Fine between RON 3,000 and 6,000 (≈ between EUR 690 and EUR 1,380)	
		Article 5 pt. 31	Non-compliance by the driving schools or by the authorised driving instructors with the obligation to carry on	The driving licence school The authorised driving	Fine between RON 3,000 and 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			their activity only in the spaces that have been authorised for this purpose	instructor		
		Article 5 pt. 32	Non-compliance by the authorised driving instructors with the obligation to submit, at the end of the practical training of the trainee, at the driving school they have concluded an agreement with, copies of the daily vehicle logbooks for the vehicle used by the	The authorised driving instructor	Fine between RON 3,000 and 6,000 (≈ between EUR 690 and EUR 1,380)	

Table RO 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author (Sanctioned person(s))	Administrative sanction(s)	Criminal sanction(s)
			trainee for the practical training			
	<u>Government Emergency Ordinance No 195/2002</u>	Article 20 corroborated with Article 86 paragraph 1 and 2	Not respecting minimum ages for driving	Driver Person knowingly entrusting the vehicle to such person		Imprisonment from 1 to 5 years (Article 86 paragraph 1) Imprisonment from 6 months to 3 years or fine between RON 500 and 30.000 (≈ between EUR 115 and 6865) (Article 86 paragraph 2)

Table RO 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>Government Emergency Ordinance No 195/2002 Article 20 corroborated with Article 86 paragraph 1 and 2</p> <p>Not respecting minimum ages for driving</p> <p>Person knowingly entrusting the vehicle to such person</p> <p>Regulation 561/06/EC</p>	<p>Imprisonment from 1 to 5 years (Article 86 paragraph 1)</p> <p>Imprisonment from 6 months to 3 years or fine between RON 500 and RON 30,000 (≈ between EUR 115 and 6,865) (Article 86 paragraph 2)</p>	<p>Yes</p>
<p>Criminal Code Article 288, Forgery</p>	<p>Imprisonment from 3 months to 3 years</p> <p>Imprisonment from 6 months to 5 years</p>	<p>Yes</p>

25.7 Sanctions which could be considered substantially criminal in the Romanian legal system

Unfortunately, the doctrine and the jurisprudence remain silent as regards the interpretation of the abovementioned sanctions and it is therefore difficult to foresee the outcome of such matter from a practical standpoint.

The maximum fine for infringements listed in the Romanian Country Report is of RON 40,000 (the equivalent of EUR 8,989) for legal persons. In our preliminary view, such fine does not amount to such degree of severity so as to be considered as a criminal sanction within the meaning of Article 6 ECHR. Moreover, in comparison to fines regulated for other fields of administrative law such as in the field of energy, public acquisition or consumer protection where fines may go up to RON 100,000 (the equivalent of EUR 22,472) or in the case of the audiovisual sector where fines may go up to RON 200,000 (the equivalent of EUR 44,944), the maximum fine for the infringements presented in our Report is not very high.

As regards the suspension/withholding/withdrawal of the licence, taking into account the prescribed duration of such penalty, it is our preliminary view that such limitation of activity cannot be considered as constituting a criminal sanction in nature, since the limitation of the offender's rights is proportional to the breach of the commercial transport rules, and is aimed at preventing the perpetuation of the infringements. Different conclusions would apply to infringements of Directive 1996/96/EC committed by control staff. However, as this Study is focused on transport operators, we will not take into consideration penalties for such infringements.

As to the seizure of the vehicle, we note that for none of the administrative infringements indicated in our report such sanction is provided (only the immobilisation of the vehicle is possible, not its seizure).

Therefore, in view of the above, we consider that the administrative sanctions imposed in Romania in the field of commercial road transport seem formally and substantially administrative in nature.

Table RO 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

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>There are no sanctions imposed by the Romanian legislation implementing the EU directives and regulations on commercial road transport which are formally administrative but substantively criminal.</p>			

25.8 Effectiveness of the sanctions system

As it can be seen from the above notes and the specific provisions listed in the table above, Romania only implemented most of the road safety directives and regulations from 24 February 2012 when the Government Decision No. 69/2012 entered in force.

Therefore, at the present time, we cannot clearly assess whether the sanctions identified are efficient in reducing the number and severity of the infringements. However, according to the activity report of the Romanian police for 2011, it seems that the road risk at national level recorded a decreasing trend in the last three years, with a drop of a total of 13% on average. This significant decrease in the number of road deaths was also noted in the 5th Road Safety PIN Report (2010 Road Safety Target Outcome: 100,000 fewer deaths since 2001) issued by the European Transport Safety Council, which acknowledges that “Romania stepped up its efforts to make up for the lost time, achieving a drop in road deaths of 15% in 2010, following a 9% drop in 2009. 2010 was the first year when Romania ranked above the EU average for year-to-year reductions in road deaths.

Compared to 2010, there was a slight increase in 2011 in the number of serious road accidents (+0.07), and injured persons (+2.5%), but a serious decrease (-15.2%) of the road deaths was registered.

From a drafting point of view of the way the acts implementing the European norms and regulations are structured, we may note some policy traits which may reduce the effectiveness of the implemented provisions, such as:

- the fact that the difference (considered as value) between the penalty for serious and minor infringements is of around EUR 2,750 which is not a significant amount for an undertaking;
- the sanctions do not differentiate between undertakings as to the level of infringements, meaning that undertakings with a bigger turnover are punished in the same way as undertakings with a smaller one; or
- the lack of specific criminal sanctions may be seen as an incentive to breach the law.

The Romanian Ministry for Transport also provided us with some figures concerning the number of infringements of Regulation (EC) No 561/2006 and Regulation (EEC) No 3821/1985 detected in the period from April 2011 to April 2012. The figures are contained in the tables below.

Table RO 7	
<u>Regulation (EC) No. 561/2006</u>	<u>No.</u>
Art. 5.1 Not respecting minimum ages for conductors	0
Art. 6.1	
Exceed daily driving time of 9 h if possibilities to extend to 10 h not allowed	31
➤ Exceed extended daily driving time of 10 h if extension allowed	
Art. 6.2 Exceed weekly driving time	0
Art. 6.3 Exceed accumulated driving time during 2 consecutive week	3
Art. 7 Exceed uninterrupted driving time	103
Art. 8.2	
Insufficient daily rest period of less than 11 h if reduced daily rest period not allowed;	32
➤ Insufficient reduced daily rest period of less than 9 h if reduce allowed;	153
➤ Insufficient split daily rest period of less than 3 h+9 h	3
Art. 8.5 Insufficient daily rest period of less than 9 h for multi-manning	3
Art. 8.6	
➤ Insufficient reduced weekly resting period of less than 24 h	12
Insufficient weekly resting period of less than 45 h if reduced weekly resting period not allowed	10

Table RO 8	Table RO
<u>Regulation (EEC) No 3821/85</u>	<u>No.</u>
Art. 3.1 No type approved recording equipment installed and used	0
Art. 13	0
➤ Recording equipment not correctly functioning (for example: recording equipment not properly inspected, calibrated and sealed)	0
Recording equipment improperly used (not using a valid driver card, voluntary abuse, ...)	36
Art. 14.1	283
➤ Not carrying a sufficient number of record sheets X	4
➤ Model of record sheet not approved X	7
➤ Not carrying enough paper for printouts	7
Art. 14.2 Undertaking not keeping record sheets, printouts and downloaded data	0
Art. 14.4	1
➤ Driver holding more than one valid driver car	4
➤ Use of driver card which is not the driver's own valid card	0
➤ Use of defective or expired driver card	0
Art. 14.5 Recorded and stored data not available for at least 365 days	0
Art. 15.1	5
➤ Use dirty or damaged sheets or driver cards and data legible	0
➤ Use dirty or damaged sheets or driver cards and data not legible	0
➤ Failure to apply for replacement of damaged, malfunctioning, lost or stolen driver card within 7 calendar days	0
Art. 15.2	6
➤ Incorrect use of record sheets/driver cards	0
Unauthorized withdrawal of sheets or driver card which has an impact on the record of relevant data	13
Unauthorized withdrawal of sheets or driver card without any impact on data	13

Table RO 8	Table RO
<u>Regulation (EEC) No 3821/85</u>	<u>No.</u>
recorded	
Record sheet or driver card used to cover a period longer than that for which it is intended but no data is lost	13
Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost	5
➤ Not using manual input when required to do so X	0
Not using correct sheet or driver card not in the correct slot (multi-manning)	4
Art. 15.3	
➤ Time recorded on the sheet does not agree with official time of country of registration of the vehicle	21
➤ Incorrect use of switch mechanism	1
Art. 15.5	
➤ Surname missing on record sheet	3
➤ First name missing on record sheet	7
➤ Date of begin or end of use of the sheet missing	0
➤ Place of begin or end of use of the sheet missing	0
➤ Registration number missing on record sheet	0
➤ Odometer reading (start) missing on record sheet	0
➤ Odometer reading (end) missing on record sheet	10
➤ Time of change of vehicle missing on record sheet	0
Art. 15.5a Symbol of country not entered in recording equipment	1
Art. 15.7 Refuse to be checked	0
Art. 15.7	
➤ Unable to produce records of current day	283
➤ Unable to produce records of previous 28 days	
➤ Unable to produce records of the driver card if the driver holds one	
Unable to produce manual records and printouts made during the current day	

Table RO 8	Table RO
<u>Regulation (EEC) No 3821/85</u>	<u>No.</u>
<p style="text-align: center;">and the previous 28 days</p> <ul style="list-style-type: none"> ➤ Unable to produce driver card X <p>Unable to produce printouts made during the current day and the previous 28 days</p>	
<p style="text-align: center;">Art. 15.8</p> <ul style="list-style-type: none"> ➤ Falsify, suppress, destroy data recorded on record sheets, stored in the recording equipment or on the driver card or print-outs from the recording equipment <p>Manipulation of recording equipment, record sheet or driver card which may result in data and/or printouts information being falsified</p> <ul style="list-style-type: none"> ➤ Manipulation device that could be used to falsify data and/or printouts information present on vehicle (switch/wire ...) 	0
<p style="text-align: center;">Art. 16.1</p> <ul style="list-style-type: none"> ➤ Not repaired by an approved fitter or workshop <li style="margin-left: 40px;">➤ Not repaired en route 	0 1
<p style="text-align: center;">Art. 16.2</p> <p>Driver not marking all information for the periods of time which are no longer recorded while recording equipment is unserviceable or malfunctioning</p> <ul style="list-style-type: none"> ➤ Driver card number and/or name and/or driving licence number missing on temporary sheet <li style="margin-left: 40px;">➤ Signature missing on temporary sheet 	0 0 0

Based on the information received, the infringements of social rules detected in Romania amount to around 1,000. Such number of infringements is substantial.

Most of the infringements detected are the following:

- Not carrying a sufficient number of record sheets.

- Infringements of Article 15.7 of Regulation (EEC) No. 3821/85.
- Exceeding uninterrupted driving time.
- Not respecting rules on rest periods.

From the considerations above, it follows that the Romanian system might be considered as not effective.

26 SLOVAKIA - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

26.1 Social rules on road transport

26.1.1 Rules on Driving Times and Rest Periods

26.1.1.1 Regulation (EC) No 561/2006

The sanctions foreseen in Article 19 of EC Regulation No. 561/2006 has been implemented by Act No. 462/2007 Coll. on the Organisation of Working Time in Transport and on Amendment to Act No. 125/2006 Coll. on Labour Inspection and Amendment to Act No. 82/2005 Coll. on Illegal Labour and Illegal Employment and on Amendments to Certain Other Acts in the wording of Act. No. 309/2007 Coll (the “Driving Time Act”).

Pursuant to Section 38 (1) d) of the Driving Time Act, a driver commits an administrative delict if he does not respect work breaks or daily or weekly rest periods or exceeds the maximum daily, weekly or bi-weekly ceilings for driving time. The sanction for such a delict might be a fine of up to approximately EUR 995³¹ or prohibition of activity of up to 1 year (even cumulatively).

A fine of up to approx. EUR 1,659 will be imposed on a natural person pursuant to Section 38 (2) a) of the Driving Time Act if it gives to a driver a pecuniary or non pecuniary advantage for the driven distance or the transported amount of goods or the transported number of persons if this would endanger the security of traffic or if it would motivate further infringements of rules on working time, driving times, time of work emergency and breaks in work or periods of daily or weekly rest from the part of the driver.

³¹ The sanctions in the Driving Time Act were originally denominated in SKK and were not altered after the adoption of the Euro.

Pursuant to Section 38 (1) j) of the Driving Time Act, a driver commits an administrative delict if he does not comply with:

- maximum daily, six-daily or bi-weekly limits on driving time with excess of more than 20%;
- minimum daily or weekly rest time for more than 20%;
- minimum time for breaks during work for more than 33%.

A sanction for the above administrative delict may be a fine of up to approx. EUR 1,659 or a prohibition of activity of up to 2 years (even cumulatively).

For administrative delicts, according to Section 38 of the Driving Time Act, it is possible also to impose a fine of up to approx. EUR 166 in administrative hearing on a ticket³² or of up to approx. EUR 498 in an administrative hearing on an order³³.

Transport undertaking's liability

Pursuant to Section 37 (2) d) of the Driving Time Act, the Slovak Labour Inspection (the "SLI") will impose a fine in the amount between approx. EUR 664 and 3,319 to a transport undertaking if it employs a driver who infringes rules on driving times, break time or periods of daily or weekly rest and he does so due to an infringement of the Driving Time Act committed by the transport undertaking. This provision applies even if the driver committed the infringement on the territory of a different Member State.

Pursuant to Section 37 (3) a) of the Driving Time Act, the SLI will impose a fine on the transport undertaking in the amount between approx. EUR 1,660 and 16,597 if it organises the work of drivers in a manner not allowing them to respect working time, driving times, time of work emergency and time for work breaks or times of daily or weekly rest.

Pursuant to Section 37 (4) a) of the Driving Time Act, the SLI will impose a fine in the amount between approx. EUR 1,660 and 16,597 on the entrepreneur³⁴ who

³² The Driving Time Act uses the term administrative hearing on a ticket, in Slovak *Blokové konanie*.

³³ The Driving Time Act uses the term administrative hearing on an order, in Slovak: *Rozkazné konanie*.

³⁴ The Driving Time Act uses the term "legal entity or natural person – entrepreneur" not "transport undertaking".

provides an incentive bonus, supplement to the salary or another pecuniary or non-pecuniary advantage for the driven distance or for the transported amount of goods or the transported number of persons if this endangered the security of road traffic or if it would motivate further infringements of rules on working time, driving times, time of work emergency and breaks in work or periods of daily or weekly rest periods from the part of the driver.

Pursuant to Section 37 (5) of the Driving Time Act, the SLI will impose a fine in the cases specified in Paragraph 1.1.1 (ii) a) also if the infringement was found in the territory of another Member State or after the return to Slovakia, provided a fine has not been imposed in another member state.

When determining the amount of the fine, the SLI takes into account the gravity of the infringement as it relates to ensuring the security and protection of drivers' health, the transport undertakings' category in the transport undertaking risk factor review system and whether the infringement occurred for the first time or repetitively.

If, within 12 months of the imposition of sanctions, the same person infringes Section 37 (2) and (3) of the Driving Time Act again, the SLI will impose a fine in the upper limit of fines defined in these clauses. If he infringes repetitively Section 37 (4) of the Driving Time Act, the SLI will impose a fine between approx. EUR 6,638 and 33,194.

If a person infringes the Driving Time Act repetitively or the transport undertaking belongs to the category of transport undertakings with the highest risk category in the transport undertaking risk factor review system, the SLI may request the respective administrative authority for the suspension of this undertaking's activity.

For other infringements against the Driving Time Act, the SLI may impose fines from approx. EUR 1,660 to 16,597³⁵.

The Driving Time Act further contains, in its Annex III, a list of infringements of EC Regulation 561/2006 and the scale for considering them less serious, serious and very serious.

Pursuant to Sec 348 (1) d) of the Act No. 300/2005 Coll., the Criminal Code (the "Criminal Code"), a person that carries out an activity covered by a prohibition of

³⁵ Sec. 37 (3) h) of the Driving Time Act.

activity inflicted by a court or administrative authority will be punished with an imprisonment sentence of up to 2 years.

Foreign drivers

The law does not differentiate between foreign and domestic drivers. Therefore, it applies to domestic and foreign drivers to the same extent.

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

Directive 2006/22/EC has been implemented by the Driving Time Act, in particular Sections 29 to 31 of the Driving Time Act. The system of control is put in place to evaluate a representative sample of transport undertakings, mobile employees, in particular drivers and vehicles of all categories. The controls must cover at least 3% of work days of the drivers, 30% of the controlled days must be checked in road checks, 50% of the controlled days must be checked in transport undertakings. A labour inspector carrying out a control will prepare a protocol about the outcomes of the control and these protocols serve as a basis for information sent to the Commission pursuant to Article 17 of EC Regulation 561/2006.

The inspecting authority will keep the collected statistical data for the last year. The transport undertaking must keep the data collected during the checks, in particular, protocols about the results of the check and other documents prepared by the inspection authorities for at least one year. The Driving Time Act furthermore contains specific provisions on road checks and controls in transport undertakings.

Pursuant to Section 37 (3) d) of the Driving Time Act, the SLI will impose a fine from approx. EUR 1,659 and 16,596 on an employer or a transport undertaking that does not ensure the copying of all data pursuant to Regulation 3821/1985, inclusive data on driving times, work breaks or rest periods of a driver recorded by means of an undertaking card³⁶ inserted in the recording equipment of the vehicle at least once in 3

³⁶ The Driving Time Act uses the term undertaking card, in Slovak: *podniková karta*.

months and recorded by means of the driver card at least once in the 28 calendar days or it does not keep the copied data for the 24 months from the day of copying.

Annex I to the Driving Time Act is almost a verbatim copy of Annex I to Directive 2006/22.

26.1.1.3 Directive 2002/15/EC

EC Directive 2002/15 is implemented by the Driving Time Act. Section 3 (1) of the Driving Time Act specifies that the employer cannot organise the work of an employee in transport so as to exceed 60 hours per week. Paragraph 2 of the same Section 3 states that an average weekly working time must not exceed 48 hours in four consecutive months.

Paragraph 3 further stipulates that as to night work, the average working time cannot be more than ten hours within the span of 24 hours for six consecutive months. Concerning breaks, paragraph 6 sets forth that if the overall daily working time is six to nine hours, the mobile worker must have a break of at least 30 minutes after six hours worked.

If the daily working time exceeds nine hours, the worker must be given a break of at least 45 minutes no later than after six hours of work. The breaks may be divided further into more periods of at least 15 minutes each. Section 5 of the Driving Time Act sets out the minimum rest periods to which employees are entitled i.e. eleven consecutive hours per 24 hours. This can be shortened in exceptional cases.

The Driving Time Act contains the sanctions for infringements of EC Directive 2002/15 that are similar to those foreseen for infringements of Regulation (EC) No 561/2006.

Foreign drivers

See above.

26.1.2 Tachograph

26.1.2.1 Regulation (EEC) No 3821/1985

The sanctions for infringements of obligations laid down in EEC Regulation 3821/1985 are set out in Sections 37 and 38 of the Driving Time Act.

A driver may be subject to a fine of up to approx. EUR 498 pursuant to Section 38 (1) f) of the Driving Time Act if he does not manually record, in the record sheet, in the printout from the recording equipment or in the service schedule, the reason for its variance from the obligation to comply with driving times and break time.

A fine of up to approx. EUR 995 or a prohibition of activity of up to 1 year may be imposed on a driver pursuant to Section 38 (1) of Driving Time Acts:

- letter (a) point 3, if he drives a vehicle without a filled-in record sheet or with a record sheet used for a longer time than intended or without a reserve record or if he uses dirty or damaged record sheets with illegible data;
- letter (a) point 4, if he drives a vehicle without a driver card for more than 15 working days and does not prove or demonstrate the reason why it is impossible to show or use the driver card;
- letter a) point 5, if he does not have a driver card or a certificate proving its loss or theft with him;
- letter b) point 1, if he uses a driver card that is damaged, non-functioning or dirty with illegible data;
- letter c) point 1, he does not show a driver card if he is a holder of one, or does not show filled-in record sheets or printouts from the recording equipment or manual records for the current week and for the preceding 28 days;
- letter k) if he does not use recording equipment, record sheet or a driver card or does not record data or time periods in accordance with specific legislation or an international treaty;
- letter l) if he does not request within 7 calendar days the replacement for a driver card that is damaged, not functional, lost or stolen.

A natural person may be subject to a fine of approx. EUR 1,660 pursuant to Section 38 (2) of Driving Time Acts:

- letter b) if he tampers with the recording equipment, with record sheets or with the driver card for the purpose of falsification, concealment or destruction of

data or if he handles the recording equipment for the purpose of making it non-functional or damaged;

- letter c) if he falsifies, conceals or destroys data recorded on the record sheet, on a manual record, on a printout from the recording equipment or in the recording equipment or on the driver card;
- letter d) if he places in the vehicle a tampering device that could be used to alternate, conceal, destruct or falsify data in the recording equipment or data on the record sheet, on the printout from the recording equipment or data on the driver card.

The driver may be subject to a fine of approx. EUR 1,660 and/or a prohibition of activity of up to 2 years pursuant to Section 38 (1) of Driving Time Acts:

- letter a) point 1, if he drives a vehicle without recording equipment or with recording equipment that has no valid periodic check or he does not use the recording equipment properly;
- letter a) point 2, if he drives a vehicle with recording equipment that is damaged or non-functioning; this does not apply if he drives the vehicle back to the transport undertaking, however only within 1 week from the damage;
- letter b) point 2, if he uses a driver card that is falsified or the validity of which expired or uses a card of a different driver or uses more than one valid driver card;
- letter e) if he tampers with recording equipment or if he conceals, adulterates, destroys, damages, loses or tampers with records or if he allows the stealing or falsification of record sheets or data in the recording equipment or on the driver card or if he records untrue information in the confirmation on sickness, taking of annual leave or that in preceding 28 days he drove another vehicle that is not covered by an international treaty or special legislation;
- letter m) if he does not formally notify the loss or theft of his driver card to the respective authority of a member state in which the theft or loss occurred.

Transport undertakings' liability

Pursuant to Section 37 (1) of the Driving Time Act, the SLI may impose a fine amounting up to approx. EUR 664 on the employer who does not:

- familiarise the drivers with the legislation applicable to the use of recording equipment, record sheets or paper rolls used in the recording equipment (letter (a));
- demonstrably instruct the driver about the proper use of the driver card (letter (b));
- provide to the mobile employee in road transport, on request, written data concerning hours worked, time of journey and concerning the time of emergency work and copies of record sheets, print outs from the recording equipment and data copied from the driver card (letter (c)).

The SLI may impose a fine in the amount between approx. EUR 664 and 3,319 on the transport undertaking pursuant to Section 37 (2) of Driving Time Acts:

- letter a) if it operates a vehicle with a non-functioning or damaged recording equipment or with a recording equipment that has a defect;
- letter c) if it does not collect the copied data from the recording equipment or a certificate about the impossibility to copy data from the recording equipment;
- letter g) if it issues to the driver a record sheet or paper roll that has not EU type approval or which is not appropriate for the recording equipment;
- letter f) if it does not provide the driver with a sufficient amount of record sheets or paper rolls to the recording equipment.

The SLI may impose on the transport undertaking a fine in the amount between approx. EUR 1,660 and 16,597 pursuant to Section 37 (3) of Driving Time Acts:

- letter a) if it organises the work of drivers not allowing compliance with the legislation concerning the use of the recording equipment;
- letter b) if it does not request the copies of the recorded data concerning hours worked, the time of journey and work emergency by another employer;
- letter d) if it does not ensure the copying of all data pursuant to Regulation 3821/1985, inclusive data on driving times, times of work breaks or rest periods of a driver via an undertaking card from the recording equipment in the vehicle at least once in 3 months and from the driver card at least once in 28 calendar days or it does not keep the copied data for 24 months from the day of copying;

- letter e) if it discards, destroys, damages, loses, falsifies, manipulates the copied data or enables the alienation or falsification of the copied data;
- letter g) if it operates a vehicle that has to be equipped with a record equipment but it does not proceed with its installation or with record equipment that has not an EU type approval or with record equipment that has not undergone a periodical check or operates a vehicle with a non-functioning or damaged record equipment or with defective record equipment.

Pursuant to sec. 348 (1) d) of the Criminal Code, a person who carries out an activity covered by a prohibition of activity inflicted by a court or administrative authority will be punished by imprisonment of up to 2 years.

Foreign drivers

See above.

26.2 Road package

26.2.1 Regulation (EC) No. 1071/2009

Sanctions for the whole Road Package i.e. EC Regulations 1071/2009, 1072/2009 and 1073/2009 are implemented in Sections 47 to 49 of Act 56/2012 Coll. on Road Transport (the “Road Transport Act”).

Pursuant to Section 48 (1) of the Road Transport Act, a fine amounting between EUR 100 and 15,000 might be imposed on the operator of road transport that:

- letter a) operates road transport without appointing a transport manager or does not enable the appointed transport manager to effectively and systematically manage transport activities in the transport undertaking;
- letter b) appointed a transport manager who does not meet the requirements of professional competence or good reputation;

- letter c) did not notify the administrative authority for transport within 15 days whom he appointed as transport manager or a change in the person of transport manager;
- letter d) did not notify the administrative authority for transport within the stated time period about the change in data registered in an intrastate electronic register of operators of road transport;
- letter f) carries out cabotage transport infringing prescribed rules or without a driving record;
- letter h) does not have an actual and stable establishment in his own or rented premises in the Slovak Republic, does not operate the required technical stock and vehicle fleet or does not have, at the seat of his undertaking, documents on carrying out the business in road transport, in particular permits and licences, accounting documents, employee records and records of vehicles operated.

Pursuant to Section 48 (5) of the Road Transport Act, the Administrative authority for transport will impose a fine between EUR 5,000 and 50,000 if the infringement has been committed repeatedly within 2 years from the validity of a prior fine. The administrative authority for transport will determine the amount of fine in view of the gravity of infringement, in particular its impact on the regularity and reliability of road transport, on health, property and environment and the length of the infringement.

Pursuant to Section 49 (1) e) a fine of up to EUR 500 in an administrative hearing on a ticket and of up to EUR 1,500 in an administrative hearing on an order or a prohibition of activity can be imposed on a person working as a transport manager although the administrative authority for transport or the respective authority of the member state of residence has declared him incapable to independently manage transport activities of the undertaking of the road transport operator.

Pursuant to Section 348 (1) d) of the Criminal Code, a person that carries out an activity covered by a prohibition of activity inflicted by a court or administrative authority will be punished by imprisonment of up to 2 years.

Act No. 56/2012 Coll. on road transport (the “Road Transport Act”) sets out in Sec. 6 that a road transport operator with good repute must not have been sentenced for an intentional criminal offence that is covered by Art. 6 of the Regulation. Furthermore, a statutory body or a transport manager are not considered of good repute in cases when

they were sanctioned for a serious administrative delict mentioned in categories and sorts of infringements set up by the European Commission, provided they were committed within the last 3 years. The categories of infringements set up by the European Commission to which the Road Transport Act points refer in our opinion to Annex IV of the Regulation. However, the Road Transport Act itself does not contain a differentiation between minor, serious or most serious infringements.

26.2.2 Regulation (EC) No 1072/2009/EC and Regulation No (EC) 1073/2009

A fine between EUR 100 and EUR 5,000 can be imposed on a road transport operator pursuant to Section 48 (3) b) of the Road Transport Act, if he does not provide transport services to passengers according to transport licence or infringes the operators duty, transport duty or the tariff duty.

A fine between EUR 100 and EUR 15,000 can be imposed on a road transport operator, pursuant to Section 48 (1) of the Road Transport Acts if he:

- operates a bus service without a transport licence or after withdrawal of his transport licence (letter (e));
- carries out cabotage transport thereby infringing settled rules or without a driving record (letter (f));
- did not return the drivers attestation to the administrative authority for transport, if the driver no longer meets the criteria for its issuance (letter (g));
- does not have the required business licences for road transport at his registered seat, in particular permissions and licences (letter (h)).

Pursuant to Section 48 (5), in case of a repetitive infringement committed within two years from the first one, the fine limit will be increased to between EUR 5,000 and EUR 50,000. In determining the amount of the fine, the administrative authority takes into account the gravity of the infringement, particularly its impact on the regular and reliable road transport, on health, property, environment and the length of the infringement.

Pursuant to Section 49 (1) a) and (2) of the Road Transport Act, a fine of up to EUR 5,000 can be imposed on a person operating road transport without a transport operator permission or without a EC licence.

Pursuant to Section 49 (1) b) and (2) of the Road Transport Act, a fine of up to EUR 3,000 can be imposed on a driver who is unable to produce a copy of a certificate permitting operation of interstate transport or a EC licence.

A criminal sanction could also be applied under Section 251 of the Criminal Code to persons doing business unlawfully. The sanction may consist in an imprisonment sentence of up to 1 year.

26.3 Standards of vehicles and load and necessary licences

26.3.1 Directive 2008/68/EC

The above Directive is implemented in the Slovak Republic in Sections 34 to 39 of the Road Transport Act. The only specific fine concerning the transport of hazardous goods is contained in Section 48 (4) of the Road Transport Act stating that the Administrative authority for transport will impose a fine between EUR 500 and EUR 20,000 on a transport operator, consignor, consignee or another person if it infringes its obligations from the ADR Agreement or the Road Transport Act while packing, handling, loading, filling or cleaning of storage tanks or other containers, during the transport or unloading of hazardous goods.

Pursuant to Section 48 (4) of the Road Transport Act, the administrative authority for transport will impose a fine between EUR 5,000 and 50,000 if the infringement has been committed repeatedly within 2 years from the validity of a prior fine. The administrative authority for transport will determine the amount of fine in view of the gravity of infringement, in particular its impact on the regularity and reliability of road transport, on health, property and environment and the length of the infringement.

Pursuant to Section 49 (1) c) of the Road Transport Act, a fine of up to EUR 500 might be imposed on the driver of a vehicle transporting hazardous goods who does not, in accordance with the ADR Agreement, ensure the presence of the following transport

documents on board of the vehicle: written instructions from the consignor of hazardous goods, certificate of professional competence; and who does not ensure that the transport packaging is effectively closed and labelled until unloading and who does not ensure the use of correct warning signs³⁷, marks and labels.

The fine can be imposed up to EUR 500 in an administrative hearing on a ticket and of up to EUR 1,500 in an administrative hearing on an order.

The Slovak criminal law differentiates a number of elements of crime that could be applicable in cases of infringements of the above directive.

- Pursuant to Section 284 of the Criminal Code, a person who intentionally puts others into danger of death, cause grievous bodily harm or put the property of others into danger of an extensive damage while causing a fire, flood, failure or an accident by means of mass transport, of a harmful effect of explosives, gas, electricity, radioactivity or similarly hazardous substances or powers, or commits other similar hazardous acts will be punished with an imprisonment sentence between 4 to 10 years. If that person commits this act out of negligence, then the punishment will be an imprisonment of up to 1 year.
- Pursuant to Section 298 of the Criminal Code, a person who, without permission, produces, imports, exports, transports, purchases, sells, exchanges, modifies, uses, puts for transport or in another way gets or harbours nuclear or similar radioactive material such as high-risk chemical substance, high-risk biological agent, toxin or material used for their production, will be punished with an imprisonment between 1 to 5 years.
- Pursuant to Section 300 and 301 of the Criminal Code, a person who intentionally or negligently endangers the environment with a damage by infringing binding legislation on the protection of environment or on the protection of natural resources will be punished with an imprisonment of up to 10 years, depending on the circumstances of the case.

26.3.2 Directive 1996/53/EC

³⁷ The Road Transport Act uses the term warning signs, in Slovak : *výstražné tabule*.

The limits for maximum dimensions and weights are laid down in Annex 1 to Government Regulation No. 349/2009. However, sanctions for infringing these limits are set out in Act No. 8/2009 Coll. on Road Traffic and Amendment to Certain Acts (the “Road Traffic Act”), Act No. 372/1990 Coll. on Misdemeanours as amended (the “Misdemeanours Act”) and the Act No. 725/2004 Coll. on Conditions for Operation of Vehicles in Traffic on Roads and Amendment to Certain Acts (the “Traffic Conditions Act”).

Pursuant to Section 138 (1) of the Road Traffic Act, the Police can impose a fine of EUR 3,500 on an entrepreneur who:

- letter a) orders or allows, for the ride, the use of a vehicle that, inclusive cargo, does not meet the conditions for road traffic set out in the Road Traffic Act or in the Traffic Conditions Act;
- letter b) without the knowledge of the driver of the vehicle or his operator, exceeds, by the loading of goods, the maximum permitted overall weight of the vehicle, maximum permitted weight of the road train, the maximum permitted overall weight of the trailer or the maximum permitted axle load.

Pursuant to Section 22 (1) i) and (2) c) of the Misdemeanours Act, a person who uses a vehicle that exceeds the overall permitted weight will be punished with a fine between EUR 150 to EUR 800 and a prohibition of activity for 3 years.

Pursuant to Section 348 (1) d) of the Criminal Code, a person who carries out an activity covered by a prohibition of activity inflicted by a court or administrative authority will be punished by imprisonment of up to 2 years.

The Traffic Conditions Act, in its Section 21 (2) m), provides that, without a permit for special use of roads, a vehicle operator shall not operate on roads a vehicle that exceeds the maximum permitted dimensions and maximum permitted weights specified in the above Government regulation. However, a sanction for infringement of this rule could not be identified.

26.3.3 Directive 2009/40/EC

EC Directive 2009/40 is implemented by the Traffic Conditions Act. Roadworthiness tests in general are set out in Section 48 and the following and periodic roadworthiness tests in Section 50. Sanctions are set out in Section 107.

A fine of EUR 166 will be imposed pursuant to the Traffic Conditions Acts' Section 107 (2),

- letter c) on the person who did not undergo a regular roadworthiness test with a vehicle within the statutory period;
- letter e) on the person who did not undergo a regular roadworthiness test outside the statutory period, if the competent administrative authority decided so.

A fine of EUR 1,000 will be imposed pursuant to Section 107 (4) of the Traffic Conditions Act on the operator or driver of a vehicle that does not submit the necessary documents before the beginning of the roadworthiness test. The same fine can be imposed on a technician who carries out the test before the submission of the required documents or without having the vehicle at his disposal.

A fine of EUR 1,660 will be imposed pursuant to Section 107 (5) of the Traffic Conditions Act on the person carrying out roadworthiness tests or issues documents related to them without a professional competence certificate.

A fine of EUR 3,319 will be imposed pursuant to Section 107 (7) of the Traffic Conditions Act on the person who carries out roadworthiness tests without the permit pursuant to the Traffic Conditions Act.

A fine between EUR 1,000 and EUR 6,639 will be imposed by the Ministry of Transport, Construction and Regional Development (the "Ministry") pursuant to Section 107 (10) a) of the Traffic Conditions Act on the person who issues a registration certificate for a vehicle that has not been type-approved, EC type-approved or does not have the recognition of an EC type-approval; the fine will be imposed for each technical certificate issued.

A fine between EUR 2,000 and EUR 16,597 will be imposed by the Ministry pursuant to Section 107 (12) d) of the Traffic Conditions Act on the person who, as a technical service responsible for roadworthiness tests, infringes its duties by producing, selling and distributing forms of documents, control labels and stamps issued pursuant to the Traffic Conditions Act.

A fine between EUR 9,958 and EUR 16,597 will be imposed pursuant to Section 107 (13) c) of the Traffic Conditions Act on the person who produces, sells, distributes

or in another way handles without permission, the forms of technical certificates, forms, control labels or stamps used in roadworthiness tests.

In determining the amount of fines imposed for these infringements, regard will be given to the gravity, length and results of the infringements and to any repeated infringements of obligations set out in the Traffic Conditions Act.

Pursuant to Section 107 (17) of the Traffic Conditions Act, if the infringement occurs repeatedly, fines can be imposed repeatedly. The fines imposed for infringements set out in Section 107 (4) to (13) of the Traffic Conditions Act can be imposed in the amount of up to three times the ceiling for fines if the same infringement occurs within two years.

A disciplinary fine of EUR 166 will be imposed pursuant to Section 107a (2) of the Traffic Conditions Act on the vehicle operator or driver who infringes his duty to provide his vehicle for a periodic roadworthiness test outside the statutory periods, if so ordered by the Administrative authority for transport.

A disciplinary fine of EUR 1,000 will be imposed pursuant to Section 107a (4) of the Traffic Conditions Act on the technical control technician if he does not allow a repeated roadworthiness test being carried out on his own expenses if ordered to do so by the Administrative authority for transport.

26.3.4 Directive 2006/126/EC

EC Directive 2006/126 is implemented by the Road Traffic Act. Sanctions are contained in the Road Traffic Act as well as in the Misdemeanours Act.

A fine of up to EUR 3,500 will be imposed by the Police pursuant to Section 138 (1) e) of the Road Traffic Act on the entrepreneur who entrusts the driving of a vehicle to a person who does not fulfil conditions for its driving and does not carry documents required for driving the vehicle.

A fine of up to EUR 7,000 will be imposed by the Police pursuant to Section 138 (2) of the Road Traffic Act on the entrepreneur if he infringes the Road Traffic Act repeatedly within one year of the first infringement.

A fine between EUR 300 and EUR 1,300 will be imposed pursuant to Section 22 (1) c) of the Misdemeanours Act on the driver who drives a vehicle without the required

driving licence, after the seizure of the driving licence, except cases when the driver learns or takes a practice ride in driving school, undertakes the driving test or has been permitted to drive after the seizure of the driving licence.

The fine can be imposed in an administrative hearing on a ticket or an administrative hearing on an order in the amount of up to EUR 650.

The Police is entitled to seize the driving licence pursuant to Section 70 (1) of the Road Traffic Act in the case when:

- it is possible to inflict a punishment or sanction of prohibition of activity – prohibition of driving (letter (a));
- the driving licence is invalid (letter (c));
- the driver drives a vehicle with a driving licence that is invalid for such vehicle (letter (d)).

Pursuant to Section 348 (1) (d) of the Criminal Code, a person who carries out an activity covered by a prohibition of activity inflicted by a court or administrative authority will be punished by imprisonment of up to 2 years.

26.4 Notion of criminal sanction and of administrative sanction in the Slovak legal system

Infringements of Slovak public law can be divided into administrative and criminal delicts.

In theory, administrative delicts can be defined as infringements of law that fulfil certain criteria set out in law for which an administrative authority inflicts administrative sanctions. Administrative delicts such as misdemeanours are acts endangering the interests of society but are at the same time not punishable by sanctions under criminal law. Administrative delicts can be further subdivided into:

- misdemeanours;
- administrative delicts of natural persons and legal entities;
- administrative disciplinary delicts;
- administrative delicts against the order.

The purpose of administrative sanctions is to ensure a trouble-free public governance. For misdemeanours, the following types of administrative sanction are foreseen:

- reprimand;
- fines;
- prohibition of activity;
- confiscation of an item.

Administrative sanctions may be imposed on natural persons as well as on legal entities. Administrative sanctions are imposed by administrative authorities. As regards the intent, in administrative proceedings only negligence is required.

Criminal offences are acts infringing the law that are specified in the Criminal Code. Criminal offences are further subdivided into:

- lesser offences: criminal offences committed out of negligence or intentional criminal offences with the maximum punishment not exceeding 5 years of imprisonment;
- crimes: intentional criminal offences with punishment exceeding 5 years of imprisonment.

Sanctions for criminal offences can be either punishments or protective treatment measures. There are several types of punishments under the Criminal Code e.g.:

- imprisonment;
- pecuniary fines;
- prohibition of activity.

The purpose of criminal sanctions is to protect the society from the perpetrator as they prevent committing further crimes, create conditions for re-education of perpetrators and prevent others from perpetrating crimes. They also mean a moral condemnation of the society upon the perpetrator.

Criminal sanctions are imposed by courts. The Criminal Code recognizes direct criminal liability of natural persons and indirect criminal liability of legal entities. Only the following two criminal sanctions can be imposed on legal entities: (i) confiscation of certain financial assets or (ii) confiscation of an entity's entire assets.

The maximum fine threshold that may be imposed in administrative proceedings in the area of commercial road transport is EUR 50,000. The maximum threshold of a fine that may be imposed in general in criminal proceedings is EUR 331,930.

Concurrence between several administrative sanctions

It is possible to impose more administrative sanctions of different categories for the same act (e.g. fine + prohibition of activity). However, pursuant to Sec. 12 (2) of the Misdemeanours Act, if a perpetrator commits by the same conduct more delicts with different fine thresholds, the administrative authority will decide that the perpetrator committed more infringements but it will impose only one fine i.e. the highest of the applicable fines. It will not sum up different fines into one. According to Sec. 41 (1) of the Criminal Act, the same principle also applies for criminal sanctions.

Concurrence between administrative and criminal sanctions

The Constitution of the Slovak Republic does not allow for a person to be punished twice for the same infringement. Therefore, it is not possible to apply administrative and criminal sanctions in connection to the same conduct at the same time. Either an administrative sanction is applied or a criminal sanction is applied. The Act No. 372/1990 Coll. on misdemeanours (the “Misdemeanours Act”) sets out that if an administrative body starts proceedings and the facts of the case suggest that the conduct in question is a crime, it must hand over the case to the prosecutor or to the Police. On the other hand, pursuant to Act No. 300/2005 Coll. the Criminal Code (the “Criminal Code”), the prosecutor or the Police are obliged to hand over the case to the administrative authority if there is no ground for prosecution.

26.5 Scope of application of Slovak criminal law

Pursuant to Section 3 of the Criminal Code, the Criminal Code applies to acts committed in the territory of the Slovak Republic. Criminal offence shall be deemed committed in the territory of the Slovak Republic even where the offender:

- committed the offence at least in part in the territory of the Slovak Republic, provided that an interest protected under this Act was or should have been violated or endangered in whole or in part outside the territory of the Slovak Republic, or;
- committed the offence outside the territory of the Slovak Republic, provided that an interest protected under this Act was or have been violated or endangered in whole or in part in the territory of the Slovak Republic.

The Criminal Code also applies on acts committed outside the Slovak Republic on board of an airplane or ship sailing under the Slovak flag.

Pursuant to Section 4 of the Criminal Code, the Criminal Code also applies to acts committed outside the territory of the Slovak Republic by a Slovak citizen or foreign national with permanent residence in the territory of Slovakia.

Section 5 of the Criminal Code further specifies that the Criminal Code also applies to cases of extremely serious offence committed outside the Slovak Republic on a Slovak citizen and in the state of perpetration where such act is also punishable under the law or the territory does not fall under any criminal jurisdiction.

According to Section 6 of the Criminal Code, the Criminal Code also applies to acts committed outside the territory of Slovakia by an alien not having permanent residence in the territory of Slovakia in cases where the committed act is punishable by the law applicable on the territory where the act was committed, the perpetrator was arrested in the territory of Slovakia and he was not extradited for prosecution to another state. However, the punishment inflicted on him must not be harsher than the one specified under the law of the State where the act has been committed.

Pursuant to Section 7, the Criminal Code is also applicable in cases where it is agreed in an international treaty.

Finally, pursuant to Section 517 of the Act No. 301/2005 Coll.- Code of Criminal Procedure, a foreign court decision may be recognised so that the punishment foreseen by that foreign court is replaced by a punishment that would have been imposed had a Slovak court decided the case. The Slovak court is not allowed to impose a more severe punishment than the one contained in the foreign decision.

26.6 Summary tables

Sanctions in connection with the Rules on Driving Times and Rest Periods and the Rules on recording equipment are imposed on transport undertakings, employers or drivers by the SLI. Sanctions may also be imposed by the Police while supervising the security and fluency of traffic.

Sanctions in connection with the Road Package and EC Directive 2008/68 are imposed by a transport administrative authority. The transport administrative authority for purposes of the Road Package can be the Ministry; Regional Transport Authority; Self-governing Region and the Police.

Sanctions in connection with EC Directive 96/53 and EC Directive 2006/126 are imposed by the Police.

Sanctions in connection with EC Directive 2009/40 are imposed by the District transport authority (Section 107, paragraph 2, 4, 5, 7) and by the Ministry (Sec. 107, paragraph 10 a), 12 d), 13 c)). Disciplinary fines are imposed by the district transport authority.

Criminal sanctions are imposed by Slovak courts. Fines are enforced by courts or executors.

Table SK 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 infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
<p>Regulation 561/2006; EC Directive 2002/15</p>	<p><u>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act)</u></p>	<p>§ 38 (1) d)</p>	<p>Not respecting work breaks, daily or weekly rest periods, max. daily, weekly or bi-weekly ceilings of driving times.</p>	<p>Driver</p>	<p>Fine of up to approx. EUR 995 Prohibition of activity for 1 year (even cumulatively)</p>	<p>Imprisonment of up to 2 years.</p>
		<p>§ 38 (2) a)</p>	<p>Giving to a driver a pecuniary or non pecuniary advantage for the driven distance or the transported amount of goods or the transported number of persons if this would endanger the security of traffic or if it would motivate further</p>	<p>Natural person</p>	<p>Fine of up to approx. EUR 1659.</p>	<p>N/A</p>

Table SK 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 infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			infringements of rules on working time, driving times, time of work emergency and breaks in work or periods of daily or weekly rest periods from the part of the driver.			
		§ 38 (1) j)	Not complying with: max daily, six-daily or bi-weekly limit on driving time with excess of more than 20%; min daily or weekly rest time for more than 20%; min time for breaks during work for more	Driver	Fine of up to approx. EUR 1659. Prohibition of activity of up to 2 years (even cumulatively).	Imprisonment of up to 2 years.

Table SK 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 infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			than 33%.			
		§ 37 (2) d)	Employing a driver who infringes rules on driving times, break times or periods of daily or weekly rest due to an infringement committed by the transport undertaking.	Transport undertaking	Fine between EUR 664 and EUR 3,319. By another infringement within 12 months a fine between EUR 3,319 to 6,638.	N/A
		§ 37 (3) a)	Organising work of drivers in a manner incapacitating them to respect working time, driving times, time of work emergency and time for work breaks or	Transport undertaking	Fine between approx. EUR 1,660 and 16,597. By another infringement	N/A

Table SK 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 infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			times of daily or weekly rest.		within 12 months a fine between EUR 16,597 and 33,194.	
		§ 37 (4) a)	Providing an incentive bonus, in addition to salary or another pecuniary or non-pecuniary advantage for the driven distance or for the transported amount of goods or the transported number of persons if this would endanger the security of road traffic, or motivate infringements of working	Entrepreneur	Fine between approx. EUR 1,660 and 16,597. By another infringement within 12 months a fine between EUR 6,638 and 33,194.	N/A

Table SK 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 infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			time rules, driving times, times of working emergency, breaks in work, periods of daily or weekly rest from the part of the driver.			
EC Directive 2006/22	<u>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act)</u>	§ 37 (3) d)	Does not ensure the copying of all data pursuant to Regulation 3281/1985, inclusive data on driving times, times of work breaks or rest periods of a driver via an undertaking card from the recording equipment in the vehicle at least once in 3 months and from the driver card	Employer or transport undertaking	Fine between approx. EUR 1,659 and 16,596. By another infringement within 12 months a fine between EUR 16,597 and 33,194.	N/A

Table SK 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 infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			at least once in 28 calendar days or if it does not keep the copied data for 24 months from the day of copying.			

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
EEC Regulation 3821/1985	Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act)	§ 38 (1) f)	Does not manually record in the record sheet, printouts from the recording equipment or in the service schedule, the reason for his variance from the obligation to comply with driving time and break time.	Driver	Fine of up to approx. EUR 498.	N/A
		§ 38 (1) a) point 3.	Drives a vehicle without a filled-in record sheet or with a record sheet used for a longer time than intended or without a reserve record or if he uses dirty or damaged	Driver	Fine of up to approx. EUR 995.	N/A

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			record sheets with illegible data.			
		§ 38 (1) a) point 4.	Drives for more than 15 working days and does not prove that it is impossible to show or use the driver card.			
		§ 38 (1) a) point 5.	Does not have a driver card or a certificate proving its loss or theft on him.			
		§ 38 (1) b) point 1.	Uses a driver card that is damaged, non-functioning or dirty with illegible data.			
		§ 38 (1) c) point	Does not show a driver			

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		1.	card if he is a holder of one, or does not show filled-in record sheets or printouts from the recording equipment or manual records for the current and for preceding 28 days.			
		§ 38 (1) k)	Does not use recording equipment, record sheet or a driver card or does not record data or time periods in accordance with specific legislation or an international treaty.			
		§ 38 (1) l)	Does not request the within 7 days the			

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			replacement for a driver card that is damaged, non functional, lost or stolen.			
		§ 38 (2) b)	Tampers with the recording equipment, with record sheets or with the driver card for the purpose of falsification, concealment or destruction of data or if he handles the recording equipment for the purpose of making it non-functional or damaged.	Physical person	Fine of up to approx. EUR 1,666.	Imprisonment of up to 3 years.
		§ 38 (2) c)	Falsifies, conceals or	Physical person	Fine of up to	Imprisonment of up

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			destroys data recorded on the record sheet, on a manual record, on a printout from the recording equipment or in the recording equipment or on the driver card.		approx. EUR 1,666.	to 3 years.
		§ 38 (2) d)	Places in the vehicle a tampering device that could be used to alternate, conceal, destruct or falsify data in the recording equipment or data on the record sheet, on the printout from the recording equipment or data on the			

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			driver card.			
		§ 38 (1) a) point 1.	Drives a vehicle without recording equipment or with recording equipment that has no valid periodic check or he does not use the recording equipment properly.	Driver	Fine of up to approx EUR 1,660. Prohibition of activity for up to 2 years (This even cumulatively).	Imprisonment of up to 2 years. Regarding § 38 (1) b) - Imprisonment of up to 3 years.
		§ 38 (1) a) point 2.	Drives a vehicle with recording equipment that is damaged or non-functioning; this does not apply if he drives the vehicle back to the transport undertaking.			

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		§ 38 (1) b) point 2.	Uses a driver card that is falsified or the validity of which expired or uses a card of a different driver or owns more than one valid driver card.			
		§ 38 (1) e)	Tampers with recording equipment of if he conceals, adulterates, destroys, damages, loses or tampers with records or if he allows the stealing or falsification of record sheets or data in the recording equipment or on the driver card or if he			

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			records untrue information in the confirmation on sickness, taking of annual leave or that in preceding 28 days he drove another vehicle that is not covered by an international treaty or special legislation.			
		§ 38 (1) m)	Does not formally notify the lost or theft of his driver card to the respective authority of a member state in which the theft or lost occurred.			
		§ 37 (1) a)	Does not familiarise the drivers with the	Employer	Fine of up to approx. EUR	

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions	
			legislation applicable to the use of recording equipment, record sheets or paper rolls used in the recording equipment.		<p>664.</p> <p>By another infringement within 12 months a fine between EUR 664 to 1,328.</p>		
		§ 37 (1) b)	Does not demonstrably instruct the driver about the proper use of the driver card.				
		§ 37 (1) c)	Does not provide to the mobile employee in road transport, on request, written data concerning hours worked, time of journey or time of flight, and concerning the time of work emergency and				

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			copies of record sheets, print outs from the recording equipment and data copied from the driver card.			
		§ 37 (2) a)	Operates a vehicle with a non-functioning or damaged recording equipment or with a recording equipment that has a defect.	Transport undertaking	Fine between EUR 664 and 3,319.	N/A
		§ 37 (2) c)	Does not collect the copied data from the recording equipment or a certificate about the impossibility to copy		By another infringement within 12 months a fine between EUR 3,319 and 6,638.	

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			data from the recording equipment.			
		§ 37 (2) g)	Issues to the driver a record sheet or paper roll that has no EU type approval or which is not appropriate for the recording equipment.			
		§ 37 (2) f)	Does not provide the driver with a sufficient amount of record sheets or paper rolls to the record equipment.			
		§ 37 (3) a)	Organises the work of drivers incapacitating compliance with the	Transport undertaking	Fine of up to approx. EUR	N/A

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			legislation concerning the use of the recording equipment.		1,660 and 16,597. By another infringement	

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		§ 37 (3) b)	Does not request the copies of the recorded data concerning hours worked, the time of journey, flight and work emergency by another employer.			
		§ 37 (3) d)	Does not ensure the copying of all data pursuant to Regulation 3821/1985, inclusive data on driving times, times of work breaks or rest periods of a driver via an undertaking card from the recording equipment in the vehicle			

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			at least once per 3 months and from the driver card at least once per 28 calendar days or it does not keep the copied data for 24 month from the day of copying.			
		§ 37 (3) e)	Discards, destroys, damages, loses, falsifies, manipulates the copied data or enables the alienation or falsification of the copied data.			Imprisonment of up to 3 years.
		§ 37 (3) g)	Operates a vehicle that has to be equipped with record equipment without it or with record	Transport undertaking		N/A

Table SK 2

SOCIAL RULES ON ROAD TRANSPORT

Tachograph

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			equipment that has not an EU type approval or with record equipment that has not undergone a periodical check or operates a vehicle with non-functioning or damaged record equipment or with defective record equipment.			

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
EC Regulation 1071/2009	Act 56/2012 Coll. on Road Transport	§ 48 (1) a)	Operates road transport without appointing a transport manager or does not enable to the appointed transport manager to effectively and systematically manage transport activities in the transport undertaking.	Operator of road transport	<p style="text-align: center;">Fine between EUR 100 and 15,000.</p> <p style="text-align: center;">By another infringement within 2 years a fine between EUR 5,000 and 50,000.</p>	N/A

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		§ 48 (1) b)	Appointed a transport manager who does not meet the requirements for professional competence or good reputation.			
		§ 48 (1) c)	Did not notify the administrative authority for transport within 15 days whom he			

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			appointed as transport manager or a change in the person of a transport manager.			

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		§ 48 (1) d)	Did not notify the administrative authority for transport within the stated time period about the change in data registered in an intrastate electronic register of operators of road transport.			
		§ 48 (1) f)	Carries out cabotage transport			

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			<p>infringing stated rules or without a driving record.</p>			
		§ 48 (1) h)	<p>Does not have an effective and stable establishment in his own or rented premises in the Slovak Republic, does not operate the required technical stock and vehicle fleet or does not have, at the</p>			

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			seat of his undertaking, the documents on carrying out business in road transport, in particular permits and licences, accounting documents, employee records and record of vehicles operated.			
		§ 49 (1) e)	Working as a transport manager	Physical person	Fine of up to EUR 500 in administrative block procedure and of up to EUR 1,500 in administrative order procedure	Imprisonment of up to 2

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			although the administrative authority for transport or the respective authority of the Member state of residence has declared him incapable to independently manage transport activities of the undertaking of the road transport		Prohibition of activity.	years.

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			operator.			
EC Regulation No. 1072/2009 and EC Regulation 1073/2009	Act 56/2012 Coll. on Road Transport	§ 48 (3) b)	Does not provide transport services to passengers according to transport licence or infringes the operators duty, transport duty or the tariff duty.	Transport operator	Fine of between EUR 100 and 5,000. By another infringement within 2 years a fine between EUR 5,000 and 50,000.	Imprisonment of up to 1 year.

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		§ 48 (1) e)	Operates a bus service without a transport licence or after withdrawal of his transport licence.		<p style="text-align: center;">Fine of between EUR 100 and 15,000.</p> <p style="text-align: center;">By another infringement within 2 years a fine between EUR 5,000 and 50,000.</p>	N/A
		§ 48 (1) f)	Carries out cabotage transport thereby infringing settled rules or without driving record.		<p style="text-align: center;">Fine of between EUR 100 and 15,000.</p> <p style="text-align: center;">By another infringement within 2 years a fine between EUR 5,000 and 50,000.</p>	
		§ 48 (1) g)	Did not return the drivers attestation to			N/A Imprisonment

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			the administrative authority for transport, if the driver no longer meets the criteria of its issuance.			of up to 1 year.

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		§ 48 (1) h)	Does not have required business licences for road transport at his registered seat, in particular permissions and licences.			
		§ 49 (1) a)	Operating road transport without a Transport operator permission or without a Community	Any person	Fine of up to EUR 5,000.	Imprisonment between 0 to 10 years depending on the exact circumstances of the

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			licence.			infringement.

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		§ 49 (1) b)	Is unable to produce a copy of a certificate permitting operation of interstate transport or a EC licence.	Driver	<p style="text-align: center;">Fine of up to EUR 3,000</p> <p style="text-align: center;">Fine of up to EUR 500 in administrative block procedure and of up to EUR 1,500 in administrative order procedure.</p>	
		§ 48 (4)	Infringes its obligations from the ADR Agreement or the Road Transport Act while packing, handling, loading, filling or cleaning of	Transport operator, consignor, consignee, other person	<p style="text-align: center;">Fine of between EUR 500 and 20,000.</p> <p style="text-align: center;">By another infringement within 2 years a fine between EUR 5,000 and 50,000.</p>	

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			storage tanks or other containers, during the transport or unloading of hazardous goods.			

Table SK 4

Standards of Vehicles, Load and Necessary Licences

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
EC Directive 2008/68	Act 56/2012 Coll. on Road Transport	§ 49 (1) c)	Does not, in accordance with the ADR Agreement, ensure the presence of the following transport documents on board of the vehicle: written instructions from the consignor of hazardous goods, certificate of professional	Driver of a vehicle carrying hazardous goods.	<p style="text-align: center;">Fine of up to EUR 500.</p> <p style="text-align: center;">Fine of up to EUR 500 in administrative hearing on a ticket and of up to EUR 1,500 in administrative hearing on an order.</p>	<p style="text-align: center;">Imprisonment between 0 to 10 years depending on the exact circumstances of the infringement.</p>

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			competence and that does not ensure that the transport packaging be closed and labelled until unloading and that does not ensure the use of correct warning tables, marks and labels.			
		§ 138 (1) a)	Orders or the ride the vehicle that, cargo, does not conditions for	Entrepreneur	Fine of up to EUR 3,500.	N/A

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			ic set out in the traffic Act r the conditions act.			
<p>EC Directive 96/53</p>	<p>Act No. 8/2009 Coll on road traffic; Act 372/1990 Coll. Misdemeanours Act</p>	<p>§ 138 (1) b)</p>	<p>Without the knowledge of the driver of the vehicle or its operator exceeds by loading the goods the maximum permitted overall weight of the vehicle, maximum permitted weight of the road train, the</p>	<p>Person</p>	<p>Fine between EUR 150 and 800 Prohibition of activity for 3 years.</p>	<p>Imprisonment of up to 2 years.</p>

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			maximum permitted overall weight of the trailer or the maximum permitted axle load.			
		§ 22 (1) i)	Uses a vehicle that exceeds the overall permitted weight.			
		22 (2) m)	Operates on roads a vehicle that with its dimensions and weight exceeds the	Vehicle operator	Sanction could not be identified.	N/A

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			maximum permitted dimensions and maximum permitted weights without special permits.			
		§ 107 (2) c)	Did not undergo a regular roadworthiness test with the vehicle within the statutory period.	Person	Fine of EUR 166.	
EC Directive	Act No. 725/2004 Coll. on conditions	§ 107 (2) d)	Did not undergo a	Person	Fine of EUR 1,000.	

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
2009/40	<u>for operation of vehicles in traffic on ground communications (Traffic Conditions act)</u>		regular roadworthiness test outside the statutory period if the competent administrative authority decided so.			
		§ 107 (4)	Does not submit the necessary documents before the beginning of the roadworthiness test. The same fine can be	Operator or driver of a vehicle		

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			imposed on the technician that carries out the test before the submission of the required documents or without having the vehicle at his disposal.			
		§ 107 (5)	Carries out roadworthiness tests or issues documents related to them without a professional competence	Person	A fine of EUR 1,660.	N/A

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			certificate.			

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		§ 107 (7)	Carries out roadworthiness tests without the permit pursuant to the Traffic Conditions Act.		A fine of EUR 3,319.	
		§ 107 (10) a)	Issues a registration certificate for a vehicle, that has not been type-approved, EC type-approved or had not had the recognition of		A fine between EUR 1,000 and 6,639.	

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			an EC type-approval; a fine shall be imposed for each issued technical certificate.			
		§ 107 (12) d)	As a technical service charged of roadworthiness tests, infringes its duties by producing, selling and distributing forms of documents, control labels		A fine between EUR 2,000 and EUR 16,597.	

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			and stamps issued pursuant to the Traffic Conditions Act.			
		§ 107 (13) c)	Produces, sells, distributes or in another way, handles without permission the forms of technical certificates, forms, control labels or stamps used in	Person	A fine between EUR 9,958 and EUR 16,597.	N/A

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			roadworthiness tests.			

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		§ 107a (2)	Infringes his duty to provide his vehicle for a roadworthiness test another time if ordered so by the administrative authority for transport.	Vehicle operator or driver	A disciplinary fine of EUR 166.	
		§ 107a (4)	Carrying out a roadworthiness test if it does not allow a roadworthiness test being carried out on	Person	A disciplinary fine of EUR 1,000.	

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			its own expense another time.			

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
		§ 138 (1) e); § 138 (2)	Entrusts the driving of a vehicle to a person that does not fulfil conditions for its driving and does not carry documents required for driving the vehicle.	Entrepreneur	A fine of up to EUR 3,500; A fine of up to EUR 7,000 shall be imposed by the Police pursuant to sec. 138, para 2 on the entrepreneur, if he infringes the Act repetitively within one year from the first infringement.	
EC Directive 2006/126	Act No. 8/2009 Coll. on road traffic; Act No. 372/1990 Coll. on Misdemeanours	§ 22 (1) c)	Drives a vehicle without the required driving licence, after	Driver	A fine between EUR 300 and EUR 1,300.	Imprisonment of up to 2 years.

Table SK 3

Road Package

EU legislation	Relevant national legislation for infringement	Article of reference	Type of infringements	Author (Sanctioned person(s))	Administrative sanctions	Criminal sanctions
			<p>the seizure of the driving licence, except cases when the driver takes a practice ride in a driving school, undergoes the test on driving a vehicle or has been permitted to drive after the seizure of the driving licence.</p>			

Given the subject matter of this study, there are only a few elements of crime and subsequently, criminal sanctions that would be applicable.

Pursuant to Section 348 (1) d) of the Criminal Code, a person who carries out an activity covered by a prohibition of activity inflicted by a court or administrative authority will be punished by imprisonment of up to 2 years.

Pursuant to Section 220 (1) of the Criminal Code, a person who falsifies or modifies the vehicle identification number of a motor vehicle, engine number on a motor vehicle, the production tag of a motor vehicle or the factory number of parts of a motor vehicle will be punished by imprisonment of up to 3 years. In particular circumstances, this period can be extended to 10 years (*e.g.* if the person does it as a member of dangerous grouping³⁸ etc.).

Pursuant to Section 251 of the Criminal Code, a person who does business unlawfully may be punished by imprisonment of up to 1 year

Pursuant to Section 352 of the Criminal Code, a person who falsifies a public deed, official stamp, official block, official symbol or a seal, substantially amends them in order to use them as authentic, or has them made in order to use them as authentic will be punished by imprisonment of up to 3 years. The same punishment applies if the person has the above documents made officially by providing false documents.

Pursuant to Section 284 of the Criminal Code, a person who intentionally puts others into danger of death or causes grievous bodily harm or puts property of others into danger of an extensive damage while causing a fire, flood, failure or an accident by means of mass transport, or of a harmful effect of explosives, gas, electricity, radioactivity or similarly hazardous substances or powers, or commits other similar hazardous acts, will be punished with imprisonment between 4 to 10 years. If that person commits this act out of negligence, then the punishment will be imprisonment of up to 1 year.

Pursuant to Section 298 of the Criminal Code, a person who, without permission, produces, imports, exports, transports, purchases, sells, exchanges, modifies, uses, puts for transport or in another way gets or harbours nuclear or similar radioactive material or a high-risk chemical substance or high-risk biological agent or

³⁸ The Criminal Code uses the term dangerous grouping, in Slovak *Nebezpečné zoskupenie*.

toxin or material used for their production will be punished with imprisonment between 1 to 5 years.

Pursuant to Section 300 and 301 of the Criminal Code, a person who intentionally or negligently endangers the environment by infringing binding legislation on the protection of environment or on the protection of natural resources will be punished with an imprisonment sentence of up to 10 years, depending on the circumstances of the case.

Table SK 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 No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act), § 38 (1) d</p> <p>Not respecting work breaks, daily or weekly rest periods, max. daily, weekly or bi-weekly ceilings of driving time.</p> <p>Regulation 561/2006; EC Directive 2002/15Act</p>	<p>Imprisonment of up to 2 years.</p>	<p>Yes</p>
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act) § 38 (1) j),</p> <p>Not complying with:</p> <p>max daily, six-daily or bi-weekly limit on driving time with excess of more than 20%;</p> <p>min daily or weekly rest time for more than 20%;</p> <p>min time for breaks during work for more than 33%.</p> <p>Driver Fine of up to approx. EUR 1659.</p> <p>Prohibition of activity of up to 2 years (even</p>	<p>Imprisonment of up to 2 years</p>	<p>Yes</p>

Table SK 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>cumulatively).</p> <p>Regulation 561/2006; EC Directive 2002/15Act</p>		
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act), § 38 (2) b)</p> <p>Tampers with the recording equipment, with record sheets or with the driver card for the purpose of falsification, concealment or destruction of data or if he handles the recording equipment for the purpose of making it non-functional or damaged.</p> <p>EEC Regulation 3821/1985</p>	<p>Imprisonment of up to 3 years</p>	<p>Yes</p>
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act), § 38 (2) c)</p> <p>Falsifies, conceals or destroys data recorded on the record sheet, on a manual record, on a printout from the recording equipment or in the recording equipment or on the driver card.</p>	<p>Imprisonment of up to 3 years</p>	<p>Yes</p>

Table SK 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>EEC Regulation 3821/1985</p>		
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act), § 38 (2) d</p> <p>Places in the vehicle a tampering device that could be used to alternate, conceal, destruct or falsify data in the recording equipment or data on the record sheet, on the printout from the recording equipment or data on the driver card.</p> <p>EEC Regulation 3821/1985</p>	<p>Imprisonment of up to 3 years.</p>	<p>Yes</p>
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act), § 38 (1) a point 1.</p> <p>Drives a vehicle without recording equipment or with recording equipment that has no valid periodic check or he does not use the recording equipment properly.</p> <p>EEC Regulation 3821/1985</p>	<p>Imprisonment of up to 2 years.</p>	<p>Yes</p>

Table SK 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 No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act), § 38 (1) a) point 2.</p> <p>Drives a vehicle with recording equipment that is damaged or non-functioning; this does not apply if he drives the vehicle back to the transport undertaking.</p> <p>EEC Regulation 3821/1985</p>	<p>Imprisonment of up to 2 years.</p>	<p>Yes</p>
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act), § 38 (1) b) point 2. Uses a driver card that is falsified or the validity of which expired or uses a card of a different driver or owns more than one valid driver card.</p> <p>EEC Regulation 3821/1985</p>	<p>Imprisonment of up to 3 years.</p>	<p>Yes</p>
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act), § 38 (1) e)</p>	<p>Imprisonment of up to 2 years.</p>	<p>Yes</p>

Table SK 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>Tampers with recording equipment of if he conceals, adulterates, destroys, damages, loses or tampers with records or if he allows the stealing or falsification of record sheets or data in the recording equipment or on the driver card or if he records untrue information in the confirmation on sickness, taking of annual leave or that in preceding 28 days he drove another vehicle that is not covered by an international treaty or special legislation.</p> <p>EEC Regulation 3821/1985</p>		
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act)§ 38 (1) m</p> <p>Does not formally notify the lost or theft of his driver card to the respective authority of a member state in which the theft or lost occurred.</p> <p>EEC Regulation 3821/1985</p>	<p>Imprisonment of up to 2 years.</p>	<p>Yes</p>
<p>Act No. 462/2007 Coll. on the organisation of working</p>	<p>Imprisonment of up to 3 years.</p>	<p>Yes</p>

Table SK 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>time in transport (Driving Time Act), § 37 (3) e</p> <p>Discards, destroys, damages, loses, falsifies, manipulates the copied data or enables the alienation or falsification of the copied data.</p> <p>EEC Regulation 3821/1985</p>		
<p>Act 56/2012 Coll. on Road Transport § 49 (1) e</p> <p>Working as a transport manager although the administrative authority for transport or the respective authority of the Member state of residence has declared him incapable to independently manage transport activities of the undertaking of the road transport operator.</p> <p>Regulation (EC) No 1071/2009</p>	<p>Imprisonment of up to 2 years.</p>	<p>Yes</p>
<p>Act 56/2012 Coll. on Road Transport § 48 (3) b)</p> <p>Does not provide transport services to passengers according to transport licence or infringes the operators duty, transport duty or the tariff duty.</p>	<p>Imprisonment of up to 1 year</p>	<p>Yes</p>

Table SK 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>EC Regulation No. 1072/2009 and EC Regulation 1073/2009</p>		
<p>Act 56/2012 Coll. on Road Transport Does not have required business licences for road transport at his registered seat, in particular permissions and licences.</p> <p>EC Regulation No. 1072/2009 and EC Regulation 1073/2009</p>	<p>N/A</p> <p>Imprisonment of up to 1 year.</p>	
<p>Act 56/2012 Coll. on Road Transport § 49 (1) a) Operating road transport without a Transport operator permission or without a Community licence</p> <p>EC Regulation No. 1072/2009 and EC Regulation 1073/2009</p>	<p>Imprisonment between 0 to 10 years depending on the exact circumstances of the infringement.</p>	<p>Yes</p>
<p>Act 56/2012 Coll. on Road Transport § 49 (1) b) Is unable to produce a copy of a certificate permitting operation of interstate transport or a EC licence.</p> <p>EC Regulation No. 1072/2009 and EC Regulation</p>	<p>Imprisonment between 0 to 10 years depending on the exact circumstances of the infringement</p>	<p>Yes</p>

Table SK 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</p>		
<p>Act 56/2012 Coll. on Road Transport, § 48 (4) Infringes its obligations from the ADR Agreement or the Road Transport Act while packing, handling, loading, filling or cleaning of storage tanks or other containers, during the transport or unloading of hazardous good. EC Regulation No. 1072/2009 and EC Regulation 1073/2009</p>	<p>Imprisonment between 0 to 10 years depending on the exact circumstances of the infringement</p>	<p>Yes</p>
<p>Act 56/2012 Coll. on Road Transport § 49 (1) c) Does not, in accordance with the ADR Agreement, ensure the presence of the following transport documents on board of the vehicle: written instructions from the consignor of hazardous goods, certificate of professional competence and that does not ensure that the transport packaging be closed and labelled until unloading and that does not ensure the use</p>	<p>Imprisonment between 0 to 10 years depending on the exact circumstances of the infringement.</p>	<p>Yes</p>

Table SK 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>of correct warning tables, marks and labels.</p> <p>EC Directive 2008/68</p>		
<p>Act No. 8/2009 Coll on road traffic; Act 372/1990 Coll. Misdemeanours Act</p> <p>- § 138 (1) b) Without the knowledge of the driver of the vehicle or its operator exceeds by loading of goods the maximum permitted overall weight of the vehicle, maximum permitted weight of the road train, the maximum permitted overall weight of the trailer or the maximum permitted axle load.</p> <p>- § 22 (1) i) Uses a vehicle that exceeds the overall permitted weight.</p> <p>EC Directive 96/53</p>	<p>Imprisonment of up to 2 years.</p>	<p>Yes</p>
<p>Act No. 8/2009 Coll. on road traffic; Act No. 372/1990 Coll. on Misdemeanours § 22 (1) c) Drives a vehicle without the required driving licence, after the seizure of the driving licence, except cases when the</p>	<p>Imprisonment of up to 2 years.</p>	<p>Yes</p>

Table SK 5

Infringements of commercial road transport legislation

Type of infringement(s) and Article of reference in national legislation Corresponding EU legislation	Criminal sanction	Is it dissuasive?
driver takes a practice ride in a driving school, undergoes the test on driving a vehicle or has been permitted to drive after the seizure of the driving licence. EC Directive 2006/126		

26.7 Sanctions which could be considered substantially criminal in the Slovak legal system

As stated, the maximum fine threshold that may be imposed in administrative proceedings in the area of commercial road transport is EUR 50,000. The maximum threshold of a fine that may be imposed in general in criminal proceedings is EUR 331,930.

However we believe that pursuant to the ECHR case, financial penalties above EUR 15,000 may be considered as criminal sanctions in substance.

Table SK 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p>
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act), § 37 (4) a)</p> <p>Providing an incentive bonus, supplement to salary or another pecuniary or non-pecuniary advantage for the driven distance or for the transported amount of goods or the transported number of persons if this would endanger the security of road traffic, or motivate infringements of working time rules, driving times, times of working emergency, breaks in work, periods of daily or weekly rest from the part of the driver.</p> <p>Regulation 561/2006; EC Directive</p>	<p>Fine between approx. EUR 1,660 and 16,597.</p> <p>By another infringement within 12 months a fine between EUR 6,638 and 33,194</p>	<p>High financial penalty</p>	<p>No</p>

Table SK 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p>
<p>2002/15</p>			
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act) § 37 (3) b) Does not request the copies of the recorded data concerning hours worked, the time of journey, flight and work emergency by another employer.</p> <p>EEC Regulation 3821/1985</p>	<p>Fine between approx. EUR 1,660 and 16,597.</p> <p>By another infringement within 12 months a fine between EUR 6,638 and 33,194</p>	<p>High financial penalty</p>	<p>No</p>
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act) § 37 (3) d) Does not ensure the copying of all data pursuant to Regulation</p>	<p>Fine between approx. EUR 1,660 and 16,597.</p> <p>By another infringement within 12 months a fine between EUR 6,638 and</p>	<p>High financial penalty</p>	<p>No</p>

Table SK 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p>
<p>3821/1985, inclusive data on driving time, times of work breaks or rest periods of a driver via an undertaking card from the recording equipment in the vehicle at least once per 3 months and from the driver card at least once per 28 calendar days or it does not keep the copied data for 24 month from the day of copying.</p> <p>EEC Regulation 3821/1985</p>	<p>33,194</p>		
<p>Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act) § 37 (3) g)</p> <p>Operates a vehicle that has to be equipped with record equipment without it or with record equipment that</p>	<p>Fine between approx. EUR 1,660 and 16,597.</p> <p>By another infringement within 12 months a fine between EUR 6,638 and 33,194</p>	<p>High financial penalty</p>	<p>No</p>

Table SK 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p>
<p>has not an EU type approval or with record equipment that has not undergone a periodical check or operates a vehicle with non-functioning or damaged record equipment or with defective record equipment.</p> <p>EEC Regulation 3821/1985</p>			
<p>All infringements of Regulation (EC) No 1071/2009</p>	<p>Fine between EUR 100 and 15,000.</p> <p>By another infringement within 2 years a fine between EUR 5,000 and 50,000.</p>	<p>Very high financial penalty</p>	<p>Yes</p>
<p>Act 56/2012 Coll. on Road Transport § 48 (1) e Operates a bus service without a transport licence or after withdrawal of his transport licence.</p>	<p>Fine of between EUR 100 and 15,000.</p> <p>By another infringement within 2 years a fine between EUR 5,000 and 50,000.</p>	<p>Very high financial penalty</p>	<p>Yes</p>

Table SK 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p>
<p>EC Regulation No. 1072/2009 and EC Regulation 1073/2009</p>			
<p>Act 56/2012 Coll. on Road Transport § 48 (1) f) Carries out cabotage transport thereby infringing settled rules or without driving record.</p> <p>EC Regulation No. 1072/2009 and EC Regulation 1073/2009</p>	<p>Fine of between EUR 100 and 15,000.</p> <p>By another infringement within 2 years a fine between EUR 5,000 and 50,000.</p>	<p>Very high financial penalty</p>	<p>Yes</p>
<p>Act No. 725/2004 Coll. on conditions for operation of vehicles in traffic on ground communications (Traffic Conditions act)</p> <p>§ 107 (13) c) Produces, sells, distributes or in another way handles</p>	<p>A fine between EUR 9,958 and EUR 16,597.</p>	<p>Very high financial penalty</p>	<p>No</p>

Table SK 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p>
<p>without permission the forms of technical certificates, forms, control labels or stamps used in roadworthiness tests.</p> <p>EC Directive 2009/40</p>			

26.8 Effectiveness of the sanctions system

According to the last three reports on labour protection and activities of public authorities in labour inspections, annually published by the SLI (2009, 2010, 2011), an improvement in this sector was recorded between 2008 and 2010. The SLI found that drivers operating only intra-state are committing more infringements than those operating internationally. The main persisting problem is the incapacity of drivers to use the recording equipment and their ignorance of legislation.

Efficiency of sanctions is arguable as the SLI mentioned the same infringements in all three reports: not respecting driving hours, breaks, rest periods, use of driver cards belonging to other drivers and incorrect use of the recording equipment. In 2011, the most frequent infringements concerned the noncompliance with the minimum daily rest period and breaks in driving for more than 4.5 hours.

Following a no-name communication with the relevant Slovak authorities, we can conclude that the State supervision is currently weak and only a tiny proportion of violations are covered. The amount of penalties is considered by the authorities to be sufficiently high and deterrent. However, due to weak control, the effectiveness of the fines suffers as they are not imposed frequently enough.

On the other hand, fines in respect of vehicles, approval process may be imposed only to the aggregate amount of EUR 16,597. However, this ceiling cannot be imposed if the infringement occurs for the first time. The main weakness is that the size of the infringing entity is not taken into account. Such fines are insufficient for larger companies.

The amount of fines imposed in respect of this Act is growing rapidly, mainly in areas of technical and emission inspections. In recent years, more than 300 final and non-appealable fines were imposed. This may be due to the increasing amount of checks and inspections performed by the police. Fines are considered to be reasonably effective. It is not very common that fines are imposed on the same infringing entity two or more times.

The table below provides some figures concerning the number of controls carried out in the years 2009-2011:

Table SK 7

Results of inspections performed by Slovak Labour Inspection (SLI) in line with Act No. 462/2007 Coll. on the organisation of working time in transport (Driving Time Act)

We provide comparison with results from previous years where applicable

	Year 2011	Year 2010	Year 2009
Number of drivers checked	8 635 from that: passenger transport 1 115 goods transportation 5 656	6 185 from that: - passenger transport 529 - goods transportation 5 656	4 615 from that: - passenger transport 425 - goods transportation 4 190
Number of work days checked	145 784	114 843	92 215
Number of negatives recognized	- Infringements of minimum daily rest period 6 687 Infringements of taking breaks during driving - 6 072 Infringements of daily driving time limits 2 428	<i>N/A</i>	Infringements of minimal daily rest period 5 031 Infringements of taking a break during driving 4 872 Infringements of a daily driving time limits 1 924
Number of sanctions imposed by SLI	2 651 in aggregated amount of EUR 448,597	2 153 in aggregated amount of EUR 285,391	<i>N/A</i>

From the figures received, it can be concluded that despite the fact that sanctions are dissuasive in Slovakia if compared to other Member States, the level of compliance with social rules is still low, as the number of infringements detected is still high if compared to the number of drivers checked and to the number of infringements detected

in other Member States of the EU carrying out a similar number of checks on a yearly basis.

27 SLOVENIA - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

27.1 *Social rules on road transport*

27.1.1 Rules on Driving Times and Rest Periods

27.1.1.1 Regulation (EC) No 561/2006

The Regulation No. 561/2006/EC (hereinafter, “Regulation 561/06”) has been implemented by the Act on Working Time and Compulsory Rest Periods of Persons Performing Mobile Road Transport Activities, and on Recording Equipment (Tachographs) in Road Transport³⁹ (hereinafter, “AWT”). The sanction system related to the infringements of rules on driving times, rest periods, breaks and weekly and monthly working hours is envisaged in Chapter V of the AWT.

The sanctions envisaged in the AWT are applicable to the driver, to the transport operator (legal entity) and also to the responsible person employed at the entity for whom the driver was performing the transport. The AWT does not provide for the possibility to penalize other crew members besides the driver.

Driving times

Article 37 of the AWT introduces variable monetary fines for drivers who commit infringements of the rules on driving times:

If the driver commits an infringement of the rule regarding breaks, envisaged in article 7 of Regulation 561/2006, he may be sanctioned with a fine of:

- 40 EUR, if he exceeded the allowed driving time by a maximum of 30 minutes;
- 120 EUR, if he exceeded the allowed driving time by a period of 31-60 minutes;

³⁹ Act on Working Time and Compulsory Rest Periods of Persons Performing Mobile Road Transport Activities, and on Recording Equipment (Tachographs) in Road Transport, in Official gazette of the Republic of Slovenia (“OJ”), No. 64/2007, as amended.

- 250 EUR, if he exceeded the allowed driving time by a period of 61-120 minutes;
- 400 EUR, if he exceeded the allowed driving time by a period of 121-180 minutes;
- 600 EUR, if he exceeded the allowed driving time by more than 180 minutes.

If the driver commits an infringement of the rules on daily driving time (Article 6 of the Regulation 561/06); or of the rules on daily and weekly resting time (Article 8 of the Regulation 561/06) or of the rules on the interruption of resting time (Article 9 of the Regulation 561/06), he may be fined with 150 EUR.

Article 32, paragraph 3 of the AWT also provides that the driver who is found to be in breach of the rules on driving times, prescribed breaks and resting time, may have his licence temporarily seized and is prohibited from continuing his voyage. If the driver is found to be in breach of the above mentioned rules while on the border, the driver may be prevented from entering the Republic of Slovenia.

Transport undertaking's liability

The AWT very thoroughly sets forth the liability of the transport undertaking and, cumulatively, also the liability of the person in charge (employee of the undertaking who is directly responsible for the infringement).

The AWT does not foresee joint liability of the transport undertakings for infringements committed by drivers. However, the AWT Chapter V does prescribe the undertaking's liability in the following cases:

- an undertaking which commits an infringement of the rules envisaged in Article 5 of the Regulation 561/06 is fined with a pecuniary fine of 800 - 1,250 EUR (the responsible person at the undertaking is fined with a pecuniary fine of 300 EUR);
- an undertaking which commits an infringement of the rules envisaged in Articles 6, 7, 8, and 9 of the Regulation 561/06 is fined with a pecuniary fine of 800 - 2,000 EUR (the responsible person at the undertaking is fined with a pecuniary fine of 300 EUR). With regard to infringements of driving times (Article 7), this is the only provision on the AWT which foresees the liability of the undertaking and of the drivers for the same offence;

- an undertaking which commits an infringement of the rules envisaged in Article 10 of the Regulation 561/06 is fined with a pecuniary fine of 1,600 - 2,900 EUR (the responsible person at the undertaking is fined with a pecuniary fine of 400 EUR).

Foreign drivers

The AWT provides in Article 2.a. that the AWT is applicable in the territory of Slovenia to all drivers who are employed at a company (undertaking), which is established in a Member State of the EU. The AWT does not include any provisions regarding drivers with a non-EU licence or employed at a company not established in the EU.

Finally, please note that the acts implementing and/or transposing Regulation 561/2006 and other relevant directives and/or regulations do not include any references to the principle of extraterritoriality.

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

Directive 2006/22/EC has been implemented into the Slovenian legislation by the AWT and by the Decree on supervising the implementation of regulations related to working time and compulsory rest periods of mobile workers, and on recording equipment (tachographs)⁴⁰, (hereinafter, “Decree on Tachographs”).

The AWT addresses the competent authorities⁴¹ to perform checks required on drivers, undertakings and vehicles which fall within the frame of Regulation (EEC)

⁴⁰ Decree on supervising the implementation of regulations related to working time and compulsory rest periods of mobile workers, and on recording equipment (tachographs) in OJ, No. 34/2006, last amendment in 2009.

⁴¹ The competent authorities for the implementation and enforcement of Regulations 561/06 and 3812/85 are:

- the Ministry of Transport, which supervises the workshops and garages which are permitted to install the tachograph equipment;
- the traffic inspectorate;

3821/85 and the possible sanctions, whereas the Decree on Tachographs provides specifics regarding the performance of road checks and the revisions of transport operators, frequency of checks and their modalities, and the rules relating to repair, replacement and/or decommission of tachograph equipment.

Neither the AWT nor the Decree on Tachographs contain any provisions or annexes which would reflect the Annex III to the Directive 2006/22/EC and include the most common infringements of the Regulation No. 561/06. The provisions of the AWT concentrate around the infringements contained in Annex III to Directive 2006/22/EC and do not include any qualifications or specific consequences.

The Slovenian system does not provide a classification of infringements into serious, very serious and minor.

27.1.1.3 Directive 2002/15/EC

Directive 2002/15/EC has been implemented into Slovenian legislation by the AWT. Article 4 of the AWT provides that the longest weekly working time period may be raised to 60 working hours (weekly average cannot exceed 48 hours) but only if it does not exceed the weekly average of 48 hours in the course of 4 months.

Article 36 of the AWT envisages a sanction for the employer which commits an infringement of the rule on maximum weekly working hours, which is a pecuniary fine of 800 – 1,250 EUR and 300 EUR for the responsible person of the undertaking.

Article 5 of the AWT foresees that the persons employed in road transport sector must have a break at the latest after 6 consecutive hours of work. The working hours must then be interrupted by a break which must last at least 30 minutes, if the total sum of working hours is 6-9 hours, and 45 minutes if the total sum of working hours is 9+ hours.

The breaks from the previous paragraph may be divided in several shorter breaks, however, each break must last at least 15 minutes.

-
- the labour inspectorate, which supervises the application of rules on driving time and mandatory rest periods;
 - the market inspectorate, which controls whether the tachograph equipment has a valid approval and permit;
 - police, which exercises control in the frame of traffic safety.

Article 36 of the AWT envisages a sanction for the employer who commits an infringement of the rule on mandatory breaks envisaged in Article 5, which is a pecuniary fine of 800 – 1,250 EUR and 300 EUR for the responsible person of the undertaking.

With respect to rest periods, Article 6 of the AWT refers directly to the provisions of Regulation No. 561/2006.

The provisions regarding night work (i.e. between 23:00 and 06:00 hours), are set forth in Article 7 of the AWT. Article 7 provides that if the employee conducts night work for 4 hours or more, his total working time in every given 24-hour period may not exceed 10 hours.

Payment for night work is allotted to the employees pursuant to the applicable legislation in Slovenia and the applicable collective agreements. The night work (and payment) arrangement cannot be such as to allow for a possibility of endangering the road traffic safety (Article 7/2 of the AWT). Article 36 of the AWT envisages a sanction for the employer who commits an infringement of the rule on night work from Article 7, which is a pecuniary fine of 800 – 1,250 EUR and 300 EUR for the responsible person of the undertaking.

Article 8, paragraph 2 of the AWT provides that the employers must arrange for proper recording of working time of workers in the road transport sector. A record of the working time of the employees is kept at the seat of the employer. The employer is obliged to keep the data for at least 2 years after the lapse of the period to which they relate. The information with respect to each particular worker must be entered into the record as soon as possible, but in no event later than 28 days after the previous entry regarding the same person has been made.

Employers must make the records of their working hours available to workers, at their request.

If the employer does not keep records as envisaged in Article 9 of the AWT, he may be fined with a pecuniary fine of 800 – 1,250 EUR and 300 EUR for the responsible person of the undertaking. This is provided in Article 36 of the AWT.

27.1.2 Tachograph

27.1.2.1 Regulation No. 3821/1985/EEC

The competent authorities and their competences and assignments, as well as infringements and sanctions for breaches of the rules envisaged in Regulation No. 3821/1985/EC (hereinafter, “Regulation 3821/85”) were transposed into Slovenian legislation by the AWT.

Article 32 of the AWT provides that the enforcement of the provisions of Regulation 3821/85 is supervised by the Ministry of Infrastructure and Spatial Planning (it now includes the former Ministry of Transport, which no longer exists), the Traffic Inspectorate, the Labour Inspectorate, the Market Inspectorate and the Police.

Administrative sanctions

AWT provides in Article 32, paragraphs 2-5, that the abovementioned organs have the following competences (in addition to those already envisaged in Regulation 3821/85):

- to prohibit further use of any vehicle in which the recording device was malfunctioning and it was not repaired pursuant to Article 16/1 and 16/2 of Regulation 3821/85;
- to order or execute a special inspection of the recording device or the speed-control device and any part of the vehicle which is related to these two devices, if there is a suspicion that the device is not functioning properly;
- to request from the driver to allow the control of the recording device and the speed-control device;
- to temporarily seize the written excerpt from the recording device to serve as proof in the procedure for establishing whether there has been a breach of the rules envisaged in Regulation 3821/85.

The Traffic Inspectorate or the Police may prohibit the driver from further using his vehicle and temporarily seize his licence and licence plates of the vehicle, if, when performing a special inspection of the recording device and speed-control device, it is established that:

- the recording device has been tampered in such a way to cause the recording of altered data;
- the speed-control device is not set to the legal speed limit.

If the inspection of the recording device shows that the recording device has not withstood regular checks or has not been properly or regularly calibrated, the driver is prohibited from continuing his journey and his licence is temporarily seized.

If the inspection of the vehicle and the recording device shows, that the recording device or the speed-control device has been tampered – i.e. they have been connected to another device the purpose of which is to enable the recording device or the speed-control device to record false and/or corrupted data, the authorities direct such vehicle to a qualified garage, where the device is removed and decommissioned. The costs of the removal are borne by the transport undertaking which is responsible for this vehicle.

Liability of the transport undertaking and pecuniary sanctions

- Article 38 of the AWT provides that the transport undertaking which commits an infringement of the rule envisaged in Article 14, paragraph 2 of the Regulation 3821/85 (obligation to keep records from tachographs for the period of minimum 1 year after they have been recorded) may be fined with a pecuniary fine of 400 - 2,900 EUR. The responsible person of the undertaking may be fined with a pecuniary fine of 400 EUR.
- Article 39 of the AWT provides that the transport undertaking which commits an infringement of Article 12 of the Regulation 3821/85 (installation and supervision of tachographs) is fined with a pecuniary fine of 1,600-3,300 EUR. The responsible person of the undertaking may be fined with a pecuniary fine of 300-600 EUR.
- Article 40 of the AWT provides that the undertaking which commits an infringement of the rules envisaged in Article 3 (mandatory use of tachographs), Article 13 (obligation to ensure the correct use of the tachograph device and driver card), Article 14 (tachograph additional equipment), Article 15 (rules on the appropriate use of the tachograph device and filling-in of the record sheets) and Article 16 (rules regarding the procedure in the event of malfunctioning of the tachograph device) may be fined with a pecuniary fine of 800 - 2,000 EUR.

The responsible person of the undertaking may be fined with a pecuniary fine of 300-600 EUR.

AWT does not provide any sanctions for the drivers in the event of infringements of Regulation 3821/85, with the exception of administrative sanctions, described above. AWT does not envisage any pecuniary sanctions for the drivers in the event of infringements of Regulation 3821/85.

Foreign drivers

The AWT provides in Article 2.a. that the AWT is applicable in the territory of Slovenia to all drivers which are employed at a company (undertaking), which is established in a member state of the EU. The AWT does not include any provisions regarding drivers with a non-EU licence or employed at a company not established in the EU.

27.2 Road package

27.2.1 Regulation (EC) No 1071/2009, Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009

The sanction system for infringements of the rules envisaged in Regulations 1071/2009/EC (hereinafter, “Regulation 1071/09”), 1072/2009/EC (hereinafter, “Regulation 1072/09”) and 1073/2009/EC (hereinafter, “Regulation 1073/09”), and the competent authorities for supervision of the enforcement of the provisions provided therein, are transposed in Slovenian legislation in the Road Transport Act⁴² (hereinafter, “RTA”).

The competent authorities who exercise their powers with regard to sanctions of the above mentioned Regulations are the Traffic Inspectorate, the Market Inspectorate, customs authorities and the Police. The compliance of the drivers and undertakings

⁴² Road Transport Act in OJ No. 5/2007, as amended, last amendment was included in the OJ, No. 49/2011.

with the rules envisaged in Regulations (EC) Nos 1071/09, 1072/09 and 1073/09 is monitored and sanctioned by the Traffic Inspectorate.

The sanctions may be applied to undertakings and drivers. The RTA does not provide criminal sanctions for infringements of rules included in the Regulations (EC) Nos 1071/09, 1072/09 and 1073/09. Also, the Slovenian sanction system does not foresee a specific sanction system for those infringements which are included in Annex IV of the Regulation 1071/2009. In addition, the use of a counterfeit or someone else's documents may result in a criminal sanction if such offence is qualified as the forgery of documentation.

All other infringements of the rules envisaged in the Regulations (EC) Nos 1071/09, 1072/09 and 1073/09 are qualified as minor offences, and are sanctioned with pecuniary fines.

None of the legislative acts reviewed makes reference to the loss of good repute and/or any effect this may have on the undertaking.

Slovenian law does not specifically categorize the infringements into more serious or less serious. In this respect, it does not add anything to EU law on this topic. We can only estimate the seriousness of the infringement by looking at the amount of the pecuniary fine prescribed for it in the Road Transport Act or other legislation.

That said, the RTA provides that any person who has been punished for serious offences more than twice in the period of the last two years, is deemed not to have a good repute and thus cannot perform road transport pursuant to the RTA. A serious offence is one for which a pecuniary fine of more than 3,000 EUR (for a legal person) or 800 EUR (for a natural person) is prescribed (Article 24 of the RTA). The law does not provide any specifics on how the loss of good repute is declared. The Traffic Inspectorate is the competent organ for implementing and surveying the use of the RTA, thus the Traffic Inspectorate also monitors the good repute of companies and issues resolutions concerning it.

Foreign drivers

The Minor Offences Act⁴³ states that the liability of foreign nationals for offences in Slovenia is the same as for Slovenian nationals. I should be noted that one of the sanctions for offences committed on the road is a permanent revocation of the

⁴³ The Minor Offences Act, in OJ No. 29/2011.

driving licence. Drivers holding a non-Slovenian licence, however, cannot have their licence permanently revoked, but they can be banned from driving in the territory of Slovenia. Nevertheless, since no sanction of permanent revocation of licence is prescribed for infringements of the Regulations Nos (EC) 1071/09, 1072/09 and 1073/09, this difference is irrelevant. The RTA provides in Article 133 that if an offence which is envisaged in the RTA is committed by a legal or natural person (or a driver employed by such person) which does not have a registered seat or branch office in Slovenia, the driver of the vehicle by which the offence was committed shall be deemed to be the representative of such legal or natural person.

For specific infringements and sanctions, please see table below.

27.3 Standards of vehicles and load and necessary licences

27.3.1 Directive 2008/68/EC

Directive 2008/68/EC (hereinafter, “Directive 2008”) has been implemented into Slovenian legislation by the Transport of Dangerous Goods Act⁴⁴ (hereinafter, “TDGA”).

TDGA states that it regulates the transport of dangerous goods on roads, railways, sea and inland waterways and air. Chapter IV of the TDGA contains provisions related to the transport of dangerous goods by road. Chapter IV provides the duties of the transporter, the sender, the receiver and the driver with regard to the transport of dangerous goods, the safety measures and road-control of the transport.

The competent authority for the issuance of executive rules or decrees regarding the transport of dangerous goods is the Ministry of Infrastructure and Spatial Planning. The inspectorate (acting under the Ministry of Agriculture and the Environment) is supervising the enforcement of the TDGA and of the executive rules related to the transport of radioactive or nuclear cargo. The competent authorities for the supervision of the enforcement of the TDGA provisions related to road transport are the Police and the Traffic Inspectorate.

⁴⁴ Transport of Dangerous Goods Act, in OJ No. 33/2006 (last amended in 2010).

The TDGA only foresees the possibility of pecuniary sanctions for infringements of its provisions. TDGA does not prescribe criminal liability or other administrative sanctions besides pecuniary fines. However, the traffic inspectorate and the police have authority to (Article 53/9 of the TDGA) prevent the transport or prevent the continuance of transport which has already begun, and/or if they conclude that the provisions of the TDGA have been breached.

TDGA foresees a unique pecuniary fine of 1,000 EUR for infringements of all provisions contained therein. This fine may be increased to 2,000 EUR or 4,000 EUR if the infringement causes a risk to the environment or health of the people. For more specifications on the sanctions, please see table below.

Liability of undertakings

The responsible person of the undertaking is liable in addition to the undertaking. He is not jointly liable for the fine imposed on the undertaking. The TDGA prescribes additional fines for the responsible persons.

Foreign offenders

The Minor Offences Act⁴⁵ states that the liability of foreign nationals for offences in Slovenia is the same as for Slovenian nationals. All breaches of the TDGA are qualified as offences, thus the provisions of the MOA apply.

27.3.2 Directive 96/53/EC

Directive 96/53/EC has been implemented into Slovenian legislation by the Rules on dimensions and weights of road vehicles⁴⁶ (hereinafter, “RDW”).

The RDW provides that all vehicles in road transport in Slovenia must comply with the measures and weights prescribed by the RDW, regardless if the competent

⁴⁵ Minor Offences Act in OJ, No. 29/2011.

⁴⁶ Rules on dimensions and weights of road vehicles (Official gazette of the RS, No. 138/2006, as amended).

authorities in states in which the vehicles were registered, allowed for the vehicles to surpass the maximum measures and weights.

A vehicle which surpasses the maximum allowed measures and/or weight can be involved in traffic only with a special permission for exceptional transport, issued by the competent authority (in Slovenia, the permit for national roads is issued by the Slovenian Roads Agency, and the permit for municipal roads is issued by the municipal authorities).

Annex I to the RDW provides the maximum measures and weights for different vehicles.

The sanctions for infringements related to the maximum allowed dimensions and weights and to infringements of rules regarding exceptional transport are envisaged in the Roads Act (Official gazette of the RS, no. 109/2010).⁴⁷

For specific infringements and sanctions, please see table below.

The Roads Act only prescribes pecuniary fines, no criminal sanctions are envisaged. It cumulatively sanctions the driver, the person who loaded the cargo and the shipper (i.e. the person or entity who ordered the transport to take place), and also the undertaking that has either performed the transport or acted as a client, requesting the transport to take place. In addition to pecuniary fines, the competent authority may order the driver of the oversized/overweight vehicle to immediately remove it from traffic (Article 111 of the Roads Act).

Foreign drivers

The Minor Offences Act states that the liability of foreign nationals for offences in Slovenia is the same as for Slovenian nationals. All breaches of the Roads Act are qualified as offences, thus the provisions of the MOA apply.

27.3.3 Directive 2009/40/EC

Directive 2009/40/EC has been partly implemented into Slovenian legislation by the Motor Vehicles Act⁴⁸ (hereinafter, “MVA”). The MVA Articles 48-54 provide

⁴⁷ Rules on dimensions and weights of road vehicles, in OJ No. 138/2006, as amended.

the rules regarding roadworthiness tests for motor vehicles, their specifications, mandatory frequency of tests and the rules regarding the execution of tests by expert organizations and undertakings.

The MVA provides that each vehicle must successfully pass a roadworthiness test before it is given a vehicle registration certificate. Thus, the sanctions provided by the MVA are not linked directly to roadworthiness tests but to the possession of a valid vehicle registration certificate, for which a roadworthiness test is obligatory.

Drivers and undertakings (if the vehicle is owned by an undertaking) are sanctioned with a pecuniary fine for driving without a valid vehicle registration certificate. For specific sanctions, please see table below.

Foreign drivers

The Minor Offences Act states that the liability of foreign nationals for offences in Slovenia is the same as for Slovenian nationals. All breaches of the Motor Vehicles Act are qualified as offences, the provisions of the MOA therefore apply.

27.3.4 Directive 2006/126/EC

Directive 2006/126/EC has been implemented into Slovenian legislation by the Drivers Act⁴⁹.

The infringements of the Drivers Act only entail pecuniary sanctions, with the exception of driving with a fake licence, which could constitute forgery pursuant to Article 251 of the Criminal Code and is sanctioned with imprisonment for up to two years. The Minor Offences Act also provides for an accessory sanction of the confiscation of vehicle in case of recidivism (*i.e.* if the driver is caught driving after his licence has been seized as a consequence of a traffic offence).

Apart from the situations mentioned above, the infringements of the Drivers Act only entail pecuniary sanctions. For specific sanctions, please see table below.

⁴⁸ Motor Vehicles Act, in OJ No. 106/2010.

⁴⁹ Drivers Act, in OJ No. 109/2010.

Foreign drivers

The Minor Offences Act states that the liability of foreign nationals for offences in Slovenia is the same as for Slovenian nationals. All breaches of the Motor Vehicles Act are qualified as offences, the provisions of the MOA therefore apply.

Foreign drivers, which hold a foreign driving licence, cannot be sanctioned with a permanent seizure of a driving licence. Instead, they may be prohibited from driving in Slovenia for a certain amount of time.

27.4 Notion of criminal sanction and of administrative sanction in the Slovenian legal system

Criminal sanctions are the consequences of criminal offences. Pursuant to Slovenian law, criminal sanctions can be divided into 4 groups:

- sanctions/punishments;
- warning sanctions;
- safety measures;
- corrective measures (intended only for offenders who are minors).

Sanctions are the principal type of criminal sanctions. There are 4 main types of sanctions:

- imprisonment;
- pecuniary fine;
- prohibition from operating a vehicle;
- expulsion of a foreign national.

Sanctions are also divided into principal and additional sanctions. Imprisonment is always a principal sanction, whereas a pecuniary fine or prohibition of operating a vehicle can be executed as additional sanctions, in addition to imprisonment or another criminal sanction.

The main difference between sanctions is based on which offender's rights they limit: custodial sanctions affect the offender's freedom or other liberties, fines affect his property.

Criminal sanctions may only be imposed on physical persons and not to legal persons. However, there are certain criminal offences which may be committed by legal

persons as well. In that case, the responsible person of the legal person would be held liable for actions committed by legal persons, whereas the only applicable criminal sanction that may be imposed on the legal person is a pecuniary fine.

Criminal sanctions are subject to the principle of legality and no one shall be sanctioned for an action or omission which has not been defined as a criminal offence by the Criminal Code, before it has been committed/omitted, and for which the sanction has not been foreseen in advance. This rule is included in the Slovenian Criminal Code, Article 2.

Administrative penalties/sanctions are prescribed in a large amount of laws. They are consequences of offences and other minor infringements, which do not constitute a criminal offence. Administrative sanctions are generally in the form of a pecuniary fine, however, there also are other types of sanction such as the prohibition to operate a vehicle, temporary limitation of a certain right, withdrawal of a certain permit, inability to perform an operation or business, etc.

Criminal and administrative sanctions have similarities since they both consist in the limitation of a right of the person who has violated the rules. The difference between criminal and administrative sanctions is based on the fact that criminal sanctions are intended as punishment and to reform the offender, whereas administrative penalties are intended as punishment but also as a means to ensure compliance with the laws.

Slovenian law does not envisage a clear criterion to distinguish between criminal and administrative sanctions. It can be said that only sanctions which are envisaged in the Criminal Code are deemed criminal sanctions, although, as explained above, only imprisonment and expulsion are sanctions which are imposed strictly in criminal proceedings.

The differences between administrative and criminal sanctions can be briefly summarized as follows:

- administrative penalties cannot affect personal freedom of the offender, on the contrary, criminal sanctions can;
- different rules apply with respect to the burden of proof. Criminal sanctions apply if the offender is proven guilty beyond reasonable doubt. Administrative sanctions may apply with probable cause, whereas the alleged offender has to contest the imposed measure in administrative proceedings.

Pursuant to Slovenian law, administrative sanctions are the following:

- pecuniary fines;
- sanctions which result in the limitation of a certain right (for examples, see above).

Concurrence between several sanctions

According to the Minor Offences Act, if the infringing person (with one action or several actions) commits several infringements, the pecuniary fine is calculated for each infringement and then summed up and declared as one single sanction. The pecuniary fines may be accumulated. However, the MOA prescribes that the maximum shall not exceed the sum of twice the highest possible amount prescribed for any single sanction out of those who are prescribed for the infringements which were committed. If different sanctions are prescribed for various infringements which were committed (i.e. pecuniary fine and a seizure of the permit), the sanctions may be applied cumulatively, since there is no prohibition of this in the law.

Concurrence between administrative and criminal sanctions

As mentioned before, all infringements of the rules on road transport, envisaged in the above mentioned regulations and directives, are considered as offences in Slovenian law (i.e. not as criminal offences). Therefore, the question whether criminal and administrative sanctions are cumulative or alternative is not applicable. However, where a certain action (such as presenting a fake driver's licence or a fake permit for transport) is to be considered as a criminal offence (forgery), the criminal and administrative sanctions may then apply in a cumulative way.

27.5 Scope of application of Slovenian criminal law

The rules on the scope of application of Slovenian criminal law are laid down in Articles 4-15 of the Criminal Code.

Article 4 provides that the Criminal Code applies equally to all persons of age, regardless of whether they are Slovenian nationals or foreigners.

Article 10 provides that the Slovenian Criminal Code applies to everyone who commits a crime on the territory of the Republic of Slovenia (hereinafter, “**RS**”) or on a boat or an airplane which is registered in the RS, regardless of its position at the moment when the crime was committed. Therefore, the Criminal code envisages the principle of territorial competence.

Article 11 provides that the Slovenian Criminal Code also applies to everyone who commits a criminal act in another country, if the criminal act committed concerns:

- the falsification of money, or another criminal act which is prosecuted in all signatory States, regardless of where it is committed;
- terrorism;
- crime against the sovereignty of the RS and its democratic constitutional order.

Article 12 further provides that the Slovenian Criminal Code applies to any Slovenian national who commits a crime, punishable by the Slovenian Criminal Code, when abroad.

Article 13 provides that the Slovenian Criminal Code applies to a foreign national who has committed a crime in a foreign country, against a Slovenian national, regardless of what kind of crime it is. In addition, the Slovenian Criminal Code shall also apply to a foreign national who has committed a crime in a foreign country against a foreign state or national, if he is caught on the territory of the RS but is not extradited to his country. In this event, a Slovenian court may not impose a more severe sentence than the ones envisaged by the law of the state where the crime has been committed.

Article 14 provides that in certain situations, a permission by the Ministry of Justice is required to begin the procedure of prosecution in Slovenia. The permission is required if:

- the prosecution of a foreign national who has committed a crime on the territory of Slovenia has already began or ended in a foreign country;
- the prosecution of an offender who has committed a crime abroad has already began or ended in a foreign country;
- a Slovenian national who has committed a crime in a foreign country has already served his sentence in the foreign country, or has been acquitted, or the prosecution has lapsed due to statute of limitation;
- a foreign national who has committed a crime in a foreign country, against a Slovenian national, but has already served his sentence in the foreign, or has been acquitted, or the prosecution has lapsed due to statute of limitation;

- a Slovenian national has committed an action which is not deemed a criminal offence in a foreign country, but it is deemed as such in Slovenia, and it was committed against a Slovenian national or against the RS.

27.6 Summary tables

In the Slovenian legal system, the roles of competent authorities are as follows:

- The Ministry issues decrees, rules and other legal acts and acts as the second instance for appeals against resolutions and orders issued by the inspectorates. It also appoints an organ or agency authorised to issue licences or other permits.
- Police exercises control on the road and imposes fines.
- Inspectorates (Traffic inspectorate, Labour inspectorate, Market inspectorate) exercise control and impose fines.
- Judiciary authority executes fines if appeal was unsuccessful.

Comments

None of the Slovenian legislative acts implementing the EU legislation on the commercial road transport and related Acts reviewed makes reference to recidivism or increased penalties in that event.

Table SI 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 and Directive 2002/15/EC	<u>Act on Working time and compulsory rest periods of persons performing mobile road transport activities and on recording equipment (tachographs) in road transport</u>	Article 36	Not respecting minimum age for conductors	Undertaking	800-1,250 EUR	
				Responsible person of the undertaking	300 EUR	
				Driver/crew member	150 EUR	

Table SI 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 37	Exceed daily driving time; Exceed weekly driving time; Exceed accumulated driving time during 2 consecutive weeks; Exceed uninterrupted driving time;	Undertaking	800-1,250 EUR	
				Responsible person of the undertaking	300 EUR	

Table SI 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)
			Insufficient daily rest periods (Article 8);	Driver/crew member (where applicable and where specific sanctions are not set forth)	150 EUR	
		Article 37	Exceed daily driving time	Driver	40-600 EUR	
		Article 38	Failure to keep data downloaded from vehicle unit and driver card for at least 12 months	Undertaking Responsible	400-2,900 EUR 400 EUR	

Table SI 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)
				person		

Table SI 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 3821/85	<u>Act on Working time and compulsory rest periods of persons performing mobile road transport activities and on recording equipment (tachographs) in road transport</u>	Article 38	Failure to keep data downloaded from vehicle unit and driver card for at least 12 months (Article 14/2 of the Regulation)	Undertaking	400-2,900 EUR	
				Responsible person	400 EUR	
		Article 39	Installation and supervision of tachographs	Undertaking	1,600-3,300 EUR	
				Responsible person	300-600 EUR	

Table SI 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 40	All actions which represent infringements of Articles 3, 13, 14 (except paragraph 2), 15 and 16 of the Regulation 3821/85/EC	Undertaking	800-2,000 EUR	

Table SI 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 1071/2009/EC	<u>Road Transport Act</u>	Article 126, paragraph 10	Failure to ensure the management of transport pursuant to Article 4 of the Regulation	Transport manager	2.500-4,000 EUR	
		Article 128, paragraph 1	Failure to notify the issuer of the licence about the changes of data which are relevant for the issuing of the licence (Article 11, paragraph 5 of the Regulation)	Transport operator	420-1,250 EUR	
			Providing fake documentation – it can be classified as a criminal offence of	Transport operator (responsible person)	Imprisonment for up to 2 years	Yes

Table SI 3

Road Package

EU Legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			falsification of documentation pursuant to Article 251 of the Criminal Code			
Regulation 1072/2009/EC	<u>Road Transport Act</u>	Article 124, paragraph 1	Performing transport services without a valid community licence (Article 4 of the Regulation)	Transport manager	4,000-8,000 EUR	
				Transport operator	2,000-4,000 EUR	

Table SI 3

Road Package

EU Legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 125	Performing a cabotage in the territory of Slovenia, in breach of the Regulation	Transport operator	4,000-8,000 EUR	
				Driver	2,000-4,000 EUR	
		Article 126	Allowing another transport operator to use one's (non-transferable) licence or using of a licence that was not granted to the transport operator (article 4 of the Regulation)	Transport operator	2,500-4,000 EUR	

Table SI 3

Road Package

EU Legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Article 127	Performing road transport services without having a community licence or other required permit in the vehicle. (Article 4, paragraph 6 of the Regulation)	Transport operator	1,500-2,500 EUR	
				Driver	420 EUR	
		Article 128	Employing a driver who is not a national of a EU member state and does not possess a permit pursuant to regulation 1072/2009/EC in his vehicle	Transport operator	420-1,250 EUR	

Table SI 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 1073/2009/EC	<u>Road Transport Act</u>	Article 124	Failure to possess and keep a licence, pursuant to Article 4 of the Regulation	Transport manager	4,000-8,000 EUR	
				Transport operator	2,000-4,000 EUR	
		Article 125	Performing a cabotage in the territory of Slovenia, in breach of the Regulation	Transport operator	4,000-8.000 EUR	

Table SI 3

Road Package

EU Legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
				Driver	2,000-4,000 EUR	
		Article 126	Allowing another transport operator to use one's (non-transferable) licence or using of a licence that was not granted to the transport operator (article 4 of the Regulation)	Transport operator	2,500-4,000 EUR	
		Article 126	Performing of passenger transport without a valid community licence (Article 6 of the	Transport operator	2,500-4,000 EUR	

Table SI 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)			
		Article 126	Enabling another transport operator to use one's non-transferable community licence to perform passenger transport	Transport operator	2,500-4,000 EUR	
		Article 126	Not complying with Regulation 1073/2009 when performing special services of passenger transport	Transport operator	2.500-4,000 EUR	
		Article 126	Performing occasional services of passenger transport without a journey form (Article 12	Transport operator	2.500-4,000 EUR	

Table SI 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 Regulation)			
		Article 126	Performing road transport services without having a community licence or other required permit in the vehicle. (Article 4, paragraph 3 of the Regulation)	Transport operator	1.500-2.500 EUR	
				Driver	420 EUR	
			Failure to keep a valid licence to perform regular or occasional services in the vehicle (Article 6, paragraph 6 of the Regulation)	Transport operator	1.500-2.500 EUR	

Table SI 3

Road Package

EU Legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
				Driver	420 EUR	
			Temporary or permanent interruption of passenger transport on an international line, without permission (Article 11 of the Regulation)	Transport operator	1.500-2.500 EUR	
				Driver	420 EUR	

Table SI 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	<u>Traffic of Dangerous Goods Act</u>	Article 54	Infringements of TDGA provisions regarding packaging, vehicles, permits and documentation, safety inspections, obligation of notification, markings and warning signs, safety consultants, expertise of drivers, continuance of transport despite prohibition, performing of transport despite prohibition, etc.	Transport operator	<p>1,000 EUR. The fine is increased to 2.000 EUR if the infringement causes a risk for damage to the environment or health. The fine is increased to 4,000 EUR if the infringement causes a high and serious risk of death or severe damage to health or to the environment.</p> <p>The responsible</p>	

Table SI 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>person of the undertaking is fined with a pecuniary fine of 200 EUR, which is increased to 400 EUR and 800 EUR, respectively, under the conditions described above.</p>	
		Article 55	<p>Infringements of TDGA provisions regarding packaging instructions, labelling, safety instructions, permits and authorisations, etc.</p>	Individual person	<p>200 EUR (The fine is increased to 400 EUR if the infringement causes a risk for damage to the environment or health. The fine is increased to 800</p>	

Table SI 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)
					EUR if the infringement causes a high and serious risk of death or severe damage to health or to the environment.	
Directive 96/53/EC	<u>Roads Act</u>	Article 30	Exceeding the maximum permissible axle weights	The driver, the person who loaded the cargo and the client (who requested the transport)	200-900 EUR	
		Article 30	Exceeding the maximum permissible axle weights %	The legal person (undertaking) or sole entrepreneur who performs the	600-3.000 EUR	

Table SI 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 or, (acting as client) requests that such a transport takes place		
		Article 31	Exceeding the maximum permissible overall weight of the vehicle	The driver, the person who loaded the cargo and the client (who requested the transport)	200-900 EUR	
		Article 31	Exceeding the maximum permissible overall weight of the vehicle	The legal person (undertaking) or sole entrepreneur who performs the transport or, (acting as client)	600-3.000 EUR	

Table SI 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)
				requests that such a transport takes place		
		Article 32	Performing a transport in breach of the permission for exceptional transport	The driver, the person who loaded the cargo and the client (who requested the transport)	200-600 EUR	
			Performing a transport in breach of the permission for exceptional transport	The legal person (undertaking) or sole entrepreneur who performs the transport or, (acting as client) requests that such a transport	600-1.800 EUR	

Table SI 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)
				takes place		
			Performing a transport in breach of the permission for exceptional transport	Responsible person of the legal entity who performed the transport or requested the transport to take place	500 EUR	
			Performing an exceptional transport without permission	Driver	1,000 EUR	
			Performing an exceptional transport without permission	Legal person (undertaking) or sole entrepreneur	3.000 EUR	
			Performing an exceptional transport	Responsible person of the	1,000 EUR	

Table SI 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)
			without permission	undertaking		
Directive 2009/40/EC	Motor Vehicles Act	Article 26	Driving without a valid vehicle registration certificate	Driver	500 EUR (100 EUR if there has been less than 1 month since the lapse of validity of the vehicle registration certificate)	

Table SI 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)
			Driving without a valid vehicle registration certificate (if the vehicle is owned by an undertaking)	Undertaking	5,000 EUR (1000 EUR if there has been less than 1 month since the lapse of validity of the vehicle registration certificate)	

Table SI 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)
				Responsible person	500 EUR (150 EUR if there has been less than 1 month since the lapse of validity of the vehicle registration certificate)	
Directive 2006/126/EC	Drivers Act	Article 50	Driving with a licence which has lapsed	Driver	40 EUR	
		Article 50	Driving without a medical certificate or	Driver	200 EUR	

Table SI 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)
			without the medical devices required for driving (glasses, etc.)			
		Article 50	Under-age driving	Driver	500 EUR	
		Article 50	Possession of a licence for which a double was issued	Driver	500 EUR	
		Article 50	Consigning the vehicle to someone without a driving licence (for this category of vehicles)	Keeper of the vehicle	500 EUR	
		Article 50	Driving while undergoing a sanction of prohibition of driving or if the licence has been temporarily seized	Driver	1,000 EUR and 18 penalty points	
		Article 50	Driving if the licence	Driver	1,000 EUR	

Table SI 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)
			has been permanently seized as a result of an offence or safety measure in criminal proceedings			
		Article 54	Possession of more than one driving licence for the same category of vehicles	Driver	500 EUR	
		Article 60	Driving with a licence which was revoked on the basis of a court resolution or with a licence, issued in another EU member state on the basis of a revoked Slovenian	Driver	500 EUR, seizure of licence	

Table SI 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			
		Article 47	Failure to possess and present a licence for attendance of exceptional transport	Attendant of exceptional transport	40 EUR	
		Article 47	Attending an exceptional transport without proper training pursuant to the prescribed programme	Attendant of exceptional transport	600	
		Article 51	Failure to label the vehicle with the prescribed label if the vehicle is being driven by a minor (16+) and with an attendant	Attendant	500 EUR	
		Article 59	Failure to notify the	Driving licence	40 EUR	

Table SI 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)
			authority of the change of residence or name within 30 days of the change	holder		
		Article 59	Issuing a false statement about theft or losing of a driving licence	Driving licence holder	500 EUR	
		Article 68	Driving of a vehicle which is not adapted to physical capabilities of the driver, if the driver is limited by his physical capabilities to driving only vehicles which are specifically adapted to his capabilities	Driver who is physically incapable of driving other vehicles than those which are adapted	200 EUR	

Table SI 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 80	Driving with a licence which has been revoked on the basis of an unsuccessful medical control examination for determining the capability to drive	Driver	500 EUR	
		Article 85	Failure to exercise due control over minors, if the latter commits an infringement of rules on traffic safety	Parents or custodian	200 EUR	
		Article 86	Failure to obey orders of competent authorities while driving (traffic inspectorate, police)	Driver	250 EUR	

The table below gathers the sanctions which are considered formally criminal in the Slovenian legal system.

Table SI 5		
Infringements of commercial road transport legislation		
Type of infringement(s) and Article of reference in national legislation	Criminal sanction	Is it dissuasive?
Corresponding EU legislation		
There are no infringements of road commercial transport sanctioned with criminal sanctions with the exception of the general offence of submitting fake documents sanctioned pursuant to the Criminal Code.		

27.7 Sanctions which could be considered substantially criminal in the Slovenian legal system

In Slovenian law, the only sanction which may be imposed strictly for criminal actions is imprisonment. All other sanctions which are prescribed by the Penal Code (pecuniary fine, prohibition of operating a vehicle, expulsion of a foreign national) may be prescribed in criminal, as well as in other proceedings.

As to financial penalties, the maximum amount of a pecuniary fine imposed for a minor offence is 5,000 EUR for a natural person and 500,000 EUR for a legal person as prescribed by the MOA. The Penal Code also prescribes pecuniary sanctions for criminal offences, whereas the limit is higher: 1,000,000 EUR for companies, whereas the pecuniary sanctions for natural persons are calculated using the daily amount. The daily amount is calculated based on the financial status and wealth of the individual, and then the sanction is declared in the number of daily amounts. The daily amount may not exceed 1,000 EUR, whereas the maximum possible number of daily amounts is 1,500 EUR (for concurrent criminal acts, which were all committed for the purpose of profit-making).

In conclusion, we are of the opinion that the sanctions prescribed for infringements of rules on road transport are not in any way significantly higher or different than the ones applied to other minor administrative infringements/offences.

Therefore there are no administrative sanctions for infringements of the rules on commercial road transport that may be qualified as criminal by nature.

Table SI 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

Type of infringement and Article of reference in national 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?
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There are no sanctions imposed by the Slovenian legislation implementing the EU directives and regulations on commercial road transport which are formally administrative but substantively criminal.

27.8 Effectiveness of the sanctions system

The following conclusions may be drawn from the process of reviewing the Slovenian legislation in the area of sanctions for infringements of rules on road transport:

- The Slovenian system does not distinguish between serious and not serious (or less serious) infringements. On this respect, it is worth pointing out that the Slovenian Authority informed us that they are in the process of establishing the risk rating system where the figures for the social legislation infringements will contain also levels of seriousness (see Annex Sl. 1).
- Pecuniary fines are somewhat disproportionate (*i.e.* for some infringements, they are not considered high enough to have a preventive role) – this in turn leads to incentives to commit breaches since the fine which may be imposed is lesser than the benefit which is to be gained by breaching the rules.
- Slovenian system has no sanctions which would result in the loss of good repute or seizure of vehicles. The large majority of sanctions are pecuniary, which, again, provides an incentive to breach the rules. The seizure of a vehicle is, for most undertakings, probably a more frightening prospect than the payment of a fine.
- Sanctions are set in a fixed amount or an interval, but in our opinion, the intervals are not important enough to satisfactorily differentiate large undertakings from small ones. Undertakings with a big turnover are thus more likely to commit infringements since the pecuniary fines constitute less of a problem.
- All infringements are considered as offences – no criminal liability applies.

From a quantitative standpoint, we received some information concerning the Slovenian control and sanctions system. The tables below include figures on the number of controls carried out in the years 2009-2010. The analysis of such figures shows that at least the number of detected offences of the EU social rules in commercial road transport is substantial and excessive in comparison to other Member States.

In the light of such figures and of the legal analysis carried out above, it is posited in agreement that the Slovenian sanction system is not effective.

Table SI7			
Number of drivers checked at the roadside by country of registration and main type of carriage (2009-2010)			
Main type of carriage	EU/EEA/Switzerland		Third Countries
	Nationals	Non-nationals	
Carriage of passengers	2.256	664	1.523
Carriage of goods	5.063	2.916	6.194
TOTAL:	7.319	3.580	7.717

Table SI 8							
Number of vehicles stopped for roadside check by type of road and country of registration (2009-2010)							
Type of road	A	B	BG	CY	CZ	D	DK
Motorway	126	0	148	0	88	58	1
National road	161	2	244	1	62	23	4
Secondary road	16	0	7	0	32	3	0
Type of road	E	EST	F	FIN	GB	GR	H
Motorway	23	6	2	0	0	2	476
National road	11	5	3	0	2	7	179
Secondary road	1	0	0	0	0	0	68
Type of road	I	IRL	L	LT	LV	M	NL
Motorway	174	1	0	36	37	3	4
National road	104	0	0	28	7	1	1

Table SI 8

Number of vehicles stopped for roadside check by type of road and country of registration (2009-2010)

Secondary road	21	0	0	8	3	0	2
Type of road	P	PL	RO	S	SK	SLO	FL
Motorway	4	332	426	4	185	1.870	1
National road	4	163	59	3	85	3.804	1
Secondary road	2	40	46	1	25	1.645	0
Type of road	IS	N	CH	Other		TOTAL	
Motorway	0	0	8	2.429		6.444	
National road	0	0	0	4.393		9.357	
Secondary road	0	0	0	895		2.815	
					Total:	18.616	

Table SI 9				
Number of vehicles stopped for roadside check by type of tachograph				
Type of tachograph	EU/EEA/Switzerland		Third Countries	
	Nationals	Non-nationals		
Analogue	5.504	2.438	6.958	
Digital	1.815	1.142	759	
TOTAL:	7.319	3.580	7.717	
			Total:	18.616

Table SI 10			
Number of working days checked at the roadside by main type of carriage and country of registration			
Main type of carriage	EU/EEA/Switzerland		Third Countries
	Nationals	Non-nationals	
Carriage of passengers	5.691	1.648	3.071
Carriage of goods	66.273	39.348	43.426
TOTAL:	71.964	40.996	46.497

The tables below provide figures on the number of offences detected during the above controls.

Table SI 11							
OFFENCES - number and type of offences detected at the roadside							
Article	Type of offence	Carriage of passengers			Carriage of goods		
		EU/EEA/Switzerland		Third Countries	EU/EEA/Switzerland		Third Countries
		Nationals	Non-nationals		Nationals	Non-nationals	
R 6	Driving time:						
	- daily limit	6	7	3	193	143	59
	- weekly limit						
	- fortnightly limit						
R 6	Lack of records for other work and / or availability	6	4	11	231	143	211
R 7	Breaks in driving time (driving more than 4,5 hours without break or break too short)	15	12	4	439	160	49
R 8	Rest periods:						

Table SI 11

OFFENCES - number and type of offences detected at the roadside

Article	Type of offence	Carriage of passengers			Carriage of goods		
		EU/EEA/Switzerland		Third Countries	EU/EEA/Switzerland		Third Countries
		Nationals	Non-nationals		Nationals	Non-nationals	
	- daily minimum	12	16	6	262	297	148
	- weekly minimum						
R 10 & 26	Driving time records:						
	- 1 year for keeping data	this type of offence s not applicable for road-side checks, therefore do not enter any data here					
	- record sheets for the preceding 28 days	16	8	4	317	138	194
D Annex IA	Recording equipment:						
	- incorrect functioning	16	5	4	150	83	37
	- misuse or manipulation of the recording equipment						
							Total: 3,409

The tables below provide figures on checks at the premises of the undertakings.

Table SI 12		
Number of drivers checked and number of working days checked at the premises of undertakings (2009-2010)		
Type of carriage	Number of drivers checked	Number of working days checked
I. Typology		
Carriage of passengers	350	23.647
Carriage of goods	1.540	134.014
Total:	1.890	157.661
II. Typology		
Carriage for hire or reward	1.765	147.063
Carriage on own account	125	10.598
Total:	1.890	157.661

Table SI 13

OFFENCES - number and type of offences detected at the premises

Article	Type of offence	Carriage of passengers	Carriage of goods	
R 6	Driving time:			
	- daily limit	51	1.750	
	- weekly limit			
	- fortnightly limit			
R 6	Lack of records for other work and / or availability	42	1.507	
R 7	Breaks in driving time (driving more than 4,5 hours without break or break too short)	254	5.504	
R 8	Rest periods:			
	- daily minimum	515	3.344	
	- weekly minimum			
R 10 & 26	Driving time records:			
	- 1 year for keeping data	88	1.585	
	- record sheets for the preceding 28 days			
D Annex I	Recording equipment:			
	- incorrect functioning	89	803	
	- misuse or manipulation of the recording equipment			

28 SPAIN - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

28.1 *Social rules on road transport*

28.1.1 Rules on Driving Times and Rest Periods

28.1.1.1 Regulation (EC) No 561/2006

In the field of infringements and relevant provisions implementing fines Regulation (EC) 561/2006 (and, essentially, its Articles 6, 7 and 8) are to be found in the following legislation:

- *Ley 16/1987, de 30 de Julio, de ordenación de los transportes terrestres*⁵⁰ (hereinafter, “LOTT”). The LOTT has been modified and updated regularly.
- *Real Decreto 1211/1990, de 28 de septiembre, por el que se aprueba el Reglamento de la Ley de ordenación de los transportes terrestres*⁵¹ (hereinafter, “ROTT”). The ROTT, which develops and complements the LOTT, has been modified and updated regularly.

Infringements of Regulation (EC) No. 561/2006 are classified both by LOTT and ROTT in one of these three categories:

- *Muy Graves* (Very Serious);
- *Graves* (Serious);
- *Leves* (Minor).

Very serious infringements are regulated in Articles 140.20 LOTT and 197.20 ROTT. According to these two articles, it will be a very serious infringement when

⁵⁰ BOE, 31 de julio de 1987.

⁵¹ BOE, 8 de octubre de 1990.

there is an excess of over 50% of the maximum driving times or uninterrupted driving, as well as when there is a reduction in excess of 50% of the mandatory rest periods.

Sanctions for these very serious infringements are provided by Articles 143.1h LOTT and 201.1h ROTT and they consist in a fine which will range from 3,301 to 4,600 € and the vehicle's immobilisation (Articles 143.3 LOTT and 201.3 ROTT). The fine will range from 4,601 to 6,000 € if the person liable had been fined for another very serious infringement within the previous 12 months.

Serious infringements are regulated in Articles 141.6 LOTT and 198.6 ROTT. According to these two Articles, it will be a serious infringement when there is an excess of over 20% of the maximum driving times or uninterrupted driving, as well as when there is a reduction in excess of 20% of the established rests periods, except when the excess or reduction shall be considered as a very serious infringement in accordance to Articles 140.20 LOTT and 197.20 ROTT.

Sanctions for these serious infringements are provided by Articles 143.1f LOTT and 201.1f ROTT and they consist in a fine which will range from 1,501 to 2,000 € and the vehicle's immobilisation (Articles 143.3 LOTT and 201.3 ROTT). The fine will range from 2,001 to 3,300 € if the person liable had been fined for another identical serious infringement or for any very serious infringement within the previous 12 months.

Minor infringements are regulated in Articles 142.3 LOTT and 199.3 ROTT. According to these two Articles, it will be a minor infringement when there is an excess in the maximum driving times or uninterrupted driving, as well as when there is a reduction of the established rests periods or breaks, except when they shall be considered as a serious or very serious infringement.

Sanctions for these minor infringements are provided by Articles 143.1c LOTT and 201.1c ROTT and they consist in a fine which will range from 301 to 400 €. The vehicle's immobilisation will also apply when the remaining distance until destination exceeds 30 kilometres. The fine will range from 401 to 1,000 € if the person liable had been fined for another very serious infringement within the previous 12 months.

The liability will be adjudicated to the person holding the transport concession or authorisation (Article 138 LOTT).

In accordance to article 19 Regulation (EC) No. 561/2006, a transport operator may be punished for infringements discovered in Spain but originated in another

Member State or third country. Spanish legislation (LOTT and ROTT) will be applicable to these infringements, including fines.

Transport operators without residence in Spain and committing these infringements in Spain will be subject to specific procedural rules in accordance with Articles 146.4 LOTT and 201.5 ad 216 ROTT. These rules are aimed basically at ensuring that proceedings are duly notified to the transport operator and that he can properly defend himself. They also cover specific issues applicable to the sale of immobilised vehicles and contemplate the possibility of prohibiting that the transport operator enters into Spain for a period of 5 years when the operator has been punished in five or more occasions during a two-year period of time.

Graduation of fines within the range established by law will be made in accordance with the criteria set forth in Articles 143.1 LOTT and 201.1 ROTT (social consequences of the infringement, intention, nature of damages, unlawful gain by the infringing party, recidivism).

The Department of Transport (*Ministerio de Fomento*) of the Spanish Government has issued a document called “*Baremo sancionador*” with guidelines on the application of those fines within the assigned ranges. The “*Baremo*” is updated regularly and has no legal binding character, although it bears the authority of the issuing Department and it is extremely useful.

In addition to the infringements and fines described by LOTT and ROTT regarding driving times, breaks and rest periods, it must also be mentioned that the *Real Decreto-Legislativo 339/1990* (approving the *Ley sobre tráfico, circulación de vehículos a motor y seguridad vial*)⁵² contemplates, as a specific and independent infringement, “*the excess in more than a 50% of driving times or the reduction in more than a 50% of rest periods established in the legislation applicable to road transport*” (Article 64.5i). Therefore, in addition to the LOTT-ROTT (very serious) infringement, there will be an additional infringement (and fine). Here, the liability will be attributed to the driver. This infringement is qualified as a very serious infringement and is subject to a fine of 500 €. This fine may be increased up to a 30% in the situations described in Article 68 (relevance of the infringement, the infringing person’s background, recidivism, potential danger of the infringement to the infringing party and to the road’s users, proportionality). If the infringing party’s residence is not in

⁵² BOE, núm. 63, de 14 de marzo de 1990

Spain, the authorities will request that a provisional fine deposit be made. Otherwise, the vehicle will be subject to immobilisation (Article 67.4). If the infringing party pays the fine immediately or within 15 days after the infringement notice has been notified, there will be a 50% reduction on the fine amount (articles 79 and 80).

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

This Directive has been implemented by the *Resolución de 19 de abril de 2007, de la Dirección General de Transportes por Carretera, por la que se establecen los controles mínimos sobre las jornadas de trabajo de los conductores en el transporte por carretera.*

The above implementing measure does not contain any measure on sanctions.

In compliance with the Directive 2006/22/EC it foresees, *inter alia*, that the numbers of working days checked has to amount to 1% and that as from:

January 2008 the number of working days checked has to amount to 2% ;

January 2010 number of working days checked has to amount to 3%.

28.1.1.3 Directive 2002/15/EC

This Directive has been implemented by *Real Decreto 902/2007, de 6 de julio, por el que se modifica el Real Decreto 1561/1995, de 21 de septiembre, sobre jornadas especiales de trabajo, en lo relativo al tiempo de trabajo de trabajadores que realizan actividades móviles de transporte por carretera.* This *Real Decreto* does not foresee sanctions for infringements of the rules on working times. The relevant sanctions are to be found in the LOTT.

28.1.1.4 Regulation (EEC) No 3821/85

Regulation (EEC) No. 3821/85 (Article 19) has also been implemented in Spain by the LOTT and ROTT.

Infringements will also fall under any of these three categories: very serious, serious and minor.

Very serious infringements are regulated in Article 140 LOTT, paragraphs 10, 11, 12, 13, 22 and 24 and in Article 197 ROTT, paragraphs 10, 11, 12, 13, 22 and 24.

Very serious infringements are defined and punished as follows:

- Manipulation of the tachograph, or any of its elements, with the aim to alter its usual functions, or the installation of mechanic, electronic or other devices aimed at altering its correct functions or at modifying its measurements, even if they are not in operation when the inspection takes place (Articles 140.10 LOTT and 197.10 ROTT). Fines will be in a range between 4,601 to 6,000 € (Articles 143.1i LOTT and 201.1i ROTT). The fine will range from 6,001 to 18,000 € if the person liable had been fined for another very serious infringement within the previous 12 months. Immobilisation of the vehicle will also apply here (Article 143.3 LOTT and 201.3 ROTT).
- Lack of tachograph (Article 140.11 LOTT and Article 197.11 ROTT). Fines will be in a range between 4,601 to 6,000 € (Articles 143.1i LOTT and 201.1i ROTT). The fine will range from 6,001 to 18,000 € if the person liable had been fined for another very serious infringement within the previous 12 months.
- Significant lack of registry sheets or of data registered in the tachograph or in the driver's cards (Articles 140.12 LOTT and 197.12 ROTT). Fines will be in a range between 4,601 to 6,000 € (Articles 143.1i LOTT and 201.1i ROTT). The fine will range from 6,001 to 18,000 € if the person liable had been fined for another very serious infringement within the previous 12 months.
- Falsification of registry sheets, driver's cards or other control devices, as well as of its contents and alteration of mandatory data in the registry sheets or the driver's cards (Article 140.13 LOTT and 197.13 ROTT). Fines will be in a range between 4,601 to 6,000 € (Articles 143.1i LOTT and 201.1i ROTT). The fine will range from 6,001 to 18,000 € if the person liable had been fined for another very serious infringement within the previous 12 months.
- Registry sheet or driver's card not inserted into the tachograph; insertion of registry sheet without the driver's name and last name or insertion of registry sheets or driver's cards belonging to another driver (Articles 140.22 LOTT and 197.22 ROTT). Fines will be in a range from 3,301 to 4,600 € (Articles

143.1h and 201.1h ROTT). The fine will range from 4,601 to 6,000 € if the person liable had been fined for another very serious infringement within the previous 12 months.

- Lack of registry sheets or lack of necessary manual annotations when the tachograph is out of service (Articles 140.24 LOTT and 197.24 ROTT). Fines will be in a range from 2,001 to 3,300 € (Articles 143.1g LOTT and 201.1g ROTT). The fine will range from 3,301 to 4,600 € if the person liable had been fined for another very serious infringement within the previous 12 months.

Serious infringements are regulated in Article 141 LOTT, paragraphs 5, 7, 8, 9 and 11 and Article 198 ROTT, paragraphs 5, 7, 8, 9 and 11.

These serious infringements are defined and punished as follows:

- Inadequate functioning of the tachograph attributable to the transport operator when this shall not be considered as a very serious infringement in accordance to Articles 140.10 and 197.10 ROTT, and lack of periodic inspection in accordance to the law (Articles 141.5 LOTT and 198.5 ROTT). Fines will be in a range from 1,501 to 2,000 € (Articles 143.1f LOTT and 201.1f ROTT). The fine will range from 2,001 to 3,300 € if the person liable had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months.
- Use of the same registry sheet during several journeys making it impossible to read it because of the data overlapping (Articles 141.7 LOTT and 198.7 ROTT). Fines will be in a range from 1,501 to 2,000 € (Articles 143.1f LOTT and 201.1f ROTT). The fine will range from 2,001 to 3,300 € if the person liable had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months.
- Lack of manual annotations by the driver in the tachograph or in the registry sheets when this duty is established by law, unless this is considered a very serious infringement in accordance with Article 140 LOTT, paragraphs 22 and 24 and 197 ROTT, paragraphs 22 and 24, or a minor infringement in accordance with Articles 142.5 LOTT and 199.5 ROTT (Articles 141.8 LOTT and 198.8 ROTT). Fines will be in a range from 1,501 to 2,000 € (Articles 143.1f LOTT and 201.1f ROTT). The fines will range from 2,001 to 3,300 €

if the person liable had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months.

- Use in the tachograph of more than one registry sheet by the same person during one journey, except when the vehicle is changed and the registry sheet from the first vehicle is not homologated for use in the second vehicle (Articles 141.9 LOTT and 198.9 ROTT). Fines will be in a range from 1,501 to 2,000 € (Articles 143.1f LOTT and 201.1f ROTT). The fines will range from 2,001 to 3,300 € if the person liable had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months.
- Non-significant lack of registry sheets or data registered in the tachograph or in the driver's cards that need to be archived at the transport operator's premises at the request of the authorities (Articles 141.11 LOTT and 198.11 ROTT). Fines will be in a range from 1001 to 1500 €. The fines will range from 1,501 to 2,000 € if the person liable had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months.

Minor infringements are regulated in Articles 142.5 LOTT and 199.5 ROTT.

These minor infringements are defined and punished as follows:

- Lack of manual annotations by the driver in the tachograph or in the registry sheets when the law establishes this duty and, notwithstanding the lack of annotations, it is possible to determine its contents out of the same tachograph or out of the preceding or subsequent registry sheets. The fines will range from 301 to 400 € (Articles 143.1c LOTT and 201.1c ROTT). The fines will range from 401 to 1,000 € if the person liable had been fined for another very serious infringement within the previous 12 months.

The liability of the above mentioned infringements will be adjudicated to the person holding the transport concession or authorisation. In the case of the infringement of Articles 140.10 LOTT and 197.10 ROTT, other persons liable will be those manipulating the tachograph or devices mentioned therein and also those persons collaborating with the manipulation, installation or trading with the tachograph and devices.

In accordance to Regulation (EC) No. 3821/85 Spanish authorities may punish a transport operator for infringements discovered in Spain but originated in another

member state or third country. Spanish legislation (LOTT and ROTT) will be applicable to these infringements, including fines.

Transport operators without residence in Spain and committing infringements in Spain will be subject to specific procedural rules in accordance with Articles 146.4 LOTT and 201.5 ad 216 ROTT. These rules are basically aimed at ensuring that proceedings are duly notified to the transport operator and that he can defend himself. They also cover specific issues affecting, if applicable, the sale of immobilised vehicles and contemplate the possibility of prohibiting that the transport operator enters into Spain for a period of 5 years when the operator has been punished in 5 or more occasions during a 2-year period of time.

Graduation of fines within the range established by law will be made in accordance with the criteria set forth in Articles 143.1 LOTT and 201.1 ROTT (social consequences of the infringement, intention, nature of damages, unlawful gain by the infringing party, recidivism).

The Department of Transport (*Ministerio de Fomento*) of the Spanish Government has issued a document called *Baremo sancionador* with guidelines on the application of those fines within the assigned ranges. The “*Baremo*” is regularly updated and has no legal binding character, although it bears the authority of the issuing Department and is extremely useful.

28.2 Road package

28.2.1 Regulation (EC) No 1071/2009

Regulation 1071/2009/EC has not had any specific implementation in Spain regarding sanctions. Therefore, infringements and fines applicable in this field will be those contained in LOTT and ROTT in relation to the scope of application covered by the Regulation.

Infringements in this area are covered in Articles 140.2 LOTT and 197.2 ROTT. According to these Articles, performing public transport without complying with the requirements set forth in Article 42.1 LOTT for access to the profession of carrier constitutes a very serious infringement. Fines applicable to this infringement will range

from 4,601 to 6,000 € (Articles 143.1i LOTT and 201.1i ROTT). The fines will range from 6,001 to 18,000 € if the person liable had been fined for a very serious infringement within the previous 12 months. Also, the infringing operator will be deprived of all licences and authorisations in his possession requesting compliance with the same requirements (Articles 143.2 LOTT and 201.2 ROTT).

The liability of the above mentioned infringements will be adjudicated to the person performing the transport.

In accordance to Regulation (EC) No. 1071/2009, Spanish authorities may punish a transport operator for infringements discovered in Spain but originated in another member state or third country. Spanish legislation (LOTT and ROTT) will be applicable to these infringements, including fines.

Transport operators without residence in Spain and committing infringements in Spain will be subject to specific procedural rules in accordance with Articles 146.4 LOTT and 201.5 ad 216 ROTT. These rules are basically aimed at ensuring that proceedings are duly notified to the transport operator and that he can defend himself. They also cover specific issues affecting, if applicable, to the sale of immobilised vehicles and contemplate the possibility of prohibiting the transport operator from entering into Spain for a period of 5 years when the operator has been punished in 5 or more occasions during a 2-year period of time.

Graduation of fines within the range established by law will be made in accordance with the criteria set forth in Articles 143.1 LOTT and 201.1 ROTT (social consequences of the infringement, intention, nature of damages, unlawful gain by the infringing party, recidivism).

The Department of Transport (*Ministerio de Fomento*) of the Spanish Government has issued a document called “*Baremo sancionador*” with guidelines on the application of those fines within the assigned ranges. The “*Baremo*” is regularly updated and has no legal binding character, although it bears the authority of the issuing Department and is extremely useful.

28.2.2 Regulation (EC) No 1072/2009/EC and Regulation (EC) No 1073/2009

Regulations (EC) 1072/2009 and (EC) 1073/2009 have not had any specific implementation in Spain regarding sanctions. Therefore, infringements and fines applicable in this field will be those contained in LOTT and ROTT in relation to the scope of application covered by the Regulations.

There are several infringements applicable in this area, classified as very serious, serious and minor.

Very serious infringements (and their fines) are the following:

- Transfer or authorisation, express or tacit, of transport licences or titles by their holders in favor of other persons (Articles 140.4 LOTT and 197.4 ROTT). Fines will range from 4,601 to 6,000 € (Articles 143.1i LOTT and 201.1i). The fines will range from 6,001 to 18,000 € if the person liable had been fined for a very serious infringement within the previous 12 months. In addition, the infringing operator will be deprived of all licences and authorisations of the same class as the one being subject to transfer or licence (Articles 143.2 LOTT and 201.2 ROTT). Immobilisation of the vehicle is also granted (Articles 143.3 LOTT and 201.3 ROTT).
- Performance of public transport without authorisation, even if on board of the vehicle there is an authorisation which is outdated, has been revoked or has lost its validity or should have been returned to the transport authorities (Articles 140.1.9 LOTT and 197.1.9 ROTT). Fines will range from 4,601 to 6,000 € (Articles 143.1i LOTT and 201.1i). The fines will range from 6,001 to 18,000 € if the person liable had been fined for a very serious infringement within the previous 12 months. Immobilisation and precinct of the vehicle will be also granted (Articles 143.3 LOTT and 201.3 ROTT).
- Performance of public transport without authorisation because of lack of legal control (Articles 140.1.2 LOTT and 197.1.2 ROTT). Fines will range from 4,601 to 6,000 € (Articles 143.1i LOTT and 201.1i). The fines will range from 6,001 to 18,000 € if the person liable had been fined for a very serious infringement within the previous 12 months. Immobilisation and precinct of the vehicle are also granted (Articles 143.3 LOTT and 201.3 ROTT).

Serious infringements (and their fines) will be those similar to the ones above but which justifiably deserve a less stringent treatment in accordance to their nature and circumstances (Articles 141.31 LOTT and 198.31 ROTT). In this case, fines will be in a range from 1,501 to 2,000 € (Articles 143.1f LOTT and 201.1f ROTT).

Minor infringements will be those regulated in Articles 142.8 LOTT (199.8 ROTT) and 142.9 LOTT (199.9 ROTT). The first one will take place when the operator performs public or private transport without having an authorisation or licence but requests one in compliance with all requirements established by law within the 15 days after the infringement proceedings have started. The second one contemplates performance of public or private transport without having on board of the vehicle the authorisation or licence request by law. Both infringements are sanctioned with a fine ranging from 201 to 300 € (Articles 143.1b LOTT and 201.1b ROTT). The fine will go from 301 to 400 € if the person liable had been fined for a very serious infringement within the previous 12 months.

The liability of the above mentioned infringements will be adjudicated to the person performing the transport or acting against the mentioned rules.

In accordance to Regulation (EC) No.s 1072/2009 and 1073/2009, Spanish authorities may punish a transport operator for infringements discovered in Spain but originated in another Member State or third country. Spanish legislation (LOTT and ROTT) will be applicable to these infringements, including fines.

Foreign transport operators

Transport operators without residence in Spain and committing infringements in Spain will be subject to specific procedural rules in accordance with Articles 146.4 LOTT and 201.5 ad 216 ROTT. These rules are basically aimed at ensuring that proceedings are duly notified to the transport operator and that he can defend himself. They also cover specific issues affecting, if applicable, the sale of immobilised vehicles and contemplate the possibility of prohibiting the transport operator from entering into Spain for a period of 5 years when the operator has been punished in 5 or more occasions during a 2-year period of time.

Graduation of fines within the range established by law will be made in accordance with the criteria set forth in Articles 143.1 LOTT and 201.1 ROTT (social consequences of the infringement, intention, nature of damages, unlawful gain by the infringing party, recidivism).

The Department of Transport (*Ministerio de Fomento*) of the Spanish Government has issued a document called “*Baremo sancionador*” with guidelines on the application of those fines within the assigned ranges. The “*Baremo*” is regularly

updated and has no legal binding character, although it bears the authority of the issuing Department and is extremely useful.

28.3 Standards of vehicles and load and necessary licences

28.3.1 Directive 2008/68/EC

Directive 2008/68/EC on the transport of dangerous goods by land is implemented by LOTT and ROTT in the field of infringements and fines.

The LOTT and ROTT also distinguish here three different levels of infringements. Very serious infringements are regulated by Article 140.25 LOTT (197.25 ROTT), where up to twenty-three different types of infringements are described. Serious infringements are regulated by Article 141.24 LOTT (198.24 ROTT), with eleven different types of infringement being covered therein. Finally, article 142.23 LOTT (199.23 ROTT) contemplates two minor infringements in this field.

Regarding fines, LOTT and ROTT provide the following rules:

- Very serious infringements will be punished with a fine in the range of 2,001 to 3,300 € (Articles 143.1g LOTT and 201g ROTT). The fine will be in the range of 3,301 to 4,600 € if the infringing party had been fined for another very serious offence within the previous 12 months.
- Serious infringements will be punished with a fine in the range of 1,001 to 1,500 € (Articles 143.1e LOTT and 201.1e ROTT). This fine will go up to 1,501 to 2,000 € if the infringing party had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months.
- Minor infringements will be punished with a formal warning or a fine of up to 200 € (Articles 143.1a LOTT and 201.1a ROTT). The fine will be in the range of 201 to 300 € if the infringing party had been fined for another very serious offence within the previous 12 months.

As per the attribution of liability to specific persons, LOTT and ROTT identify not only the transport operator as the person liable, but also other persons who have played certain roles in the performance of the carriage, loading and unloading of the dangerous goods. These other persons are the consignor as well as the parties assuming functions in the loading and unloading operations (Articles 143.1a, e and g LOTT and 201.1a, e and g ROTT).

28.3.2 Directive 1996/53/EC

In the field of infringements, LOTT and ROTT are also applicable to the implementation of Directive 96/53/EC.

Infringements are calculated on the excess over the vehicle's maximum authorised mass and are classified as very serious, serious and minor infringements in Articles 140.19 LOTT (197.19 ROTT), 141.4 LOTT (198.4 ROTT) and 142.2 LOTT (199.2 ROTT), respectively.

Very serious infringements are punished with a fine ranging from 3,301 to 4,600 € (Articles 143.1h LOTT and 201.1h ROTT). This fine will go up to 4,601 to 6,000 € if the infringing party had been fined for another very serious offence within the previous 12 months. Immobilisation of the vehicle will also be applicable (Articles 143.3 LOTT and 201.3 ROTT).

Serious infringements are punished with a fine ranging from 1,501 to 2,000 € (Articles 143.1f LOTT and 201.1f ROTT). This fine will go up to 2,201 to 3,300 € if the infringing party had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months. Immobilisation of the vehicle will also be applicable (Articles 143.3 LOTT and 201.3 ROTT).

Minor infringements are punished with a fine ranging from 301 to 400 € (Articles 143.1c LOTT and 201.1c ROTT). This fine will go up to 401 to 1,000 € if the infringing party had been fined for another very serious offence within the previous 12 months. Immobilisation of the vehicle will also be applicable (Articles 143.3 LOTT and 201.3 ROTT).

Article 140.19 LOTT (197.19 ROTT) also establishes special rules on attribution of liability applicable to all types of infringements (very serious, serious and

minor) in this sector. According to this Article, the party liable will not only be the transport operator but also the consignor and the consignee, as well as freight forwarder, unless these may offer exculpatory grounds. Some excesses will only be attributable to the party stowing the goods on the vehicle. Consignor and consignee will be presumed out of liability in cases of parcels and removals.

28.3.3 Directive 2009/40/EC

The scope of application of Directive 2009/40/EC is covered in Spain by the following legislation:

- *Real Decreto 2042/1994, de 14 de octubre, por el que se regula la inspección técnica de vehículos (BOE núm. 275, de 17 de noviembre de 1994).*
- *Real Decreto 2822/1998, de 23 de diciembre, por el que se aprueba el Reglamento General de Vehículos (BOE núm. 22, de 26 de enero de 1999).*
- *Real Decreto 224/2008, de 15 de febrero, sobre normas generales de instalación y funcionamiento de las estaciones de inspección técnica de vehículos (BOE núm. 69, de 20 de marzo de 2008).*

Infringements and fines within the scope of this legislation are governed by the *Real Decreto-Legislativo 339/1990* (approving the *Ley sobre tráfico, circulación de vehículos a motor y seguridad vial*) (BOE núm. 63, de 14 de marzo de 1990). In particular:

- serious infringement: to drive with a vehicle infringing the technical conditions established by law, unless this is covered by Article 65.4 II, and infringing the legal rules applicable to the vehicles technical inspection (Article 65.4o);
- very serious infringement: to drive with a vehicle infringing technical conditions, which severely affect road safety (Article 65.4 II).

Regarding fines, the *Real Decreto-Legislativo* establishes the following criteria:

- very serious infringements will be punished with a 500 € fine (Article 67.1);
- serious infringements will be punished with a 300 € fine (Article 67.1);
- fines may be increased up to a 30% in the situations described in article 68 (relevance of the infringement, the infringing person's background,

recidivism, potential danger of the infringement to the infringing party and to the road's users, proportionality);

- if the infringing party's residence is not within Spain, the authorities will request that a provisional fine deposit be made. Otherwise, the vehicle will be subject to immobilisation (Article 67.4);
- if the infringing party pays the fine immediately or within 15 days after the infringement notice has been notified, there will be a 50% reduction on the fine amount (Articles 79 and 80).

Liability will be attributed to the infringing person (Article 69).

According to Article 65, when the infringements may also be considered criminal offences, Article 72 will apply. This article makes clear that there cannot be two sanctions, one administrative and one criminal, over one single infringing behavior. If the infringement is rendered to be criminal and criminal proceedings end up with a decision condemning the infringing party, then the administrative proceedings should terminate with no sanction at all.

28.3.4 Directive 2006/126/EC

Directive 2006/126/EC has been implemented by the *Real Decreto 818/2009, de 8 de mayo, por el que se aprueba el Reglamento General de Conductores* (BOE, nº 138, 8 de agosto de 2009). Article 75 of the *Real Decreto* deals with sanctions and establishes that the *Ley sobre tráfico, circulación de vehículos a motor y seguridad vial* (approved by *Real Decreto-Legislativo 339/1990*) (BOE núm. 63, de 14 de marzo de 1990) will apply on this field. Therefore, Title V of the *Real Decreto-Legislativo* will govern infringements (Article 65) and sanctions (Article 67). Infringements are also classified as very serious, serious and minor.

Within the scope of the Directive 2006/126/EC, the *Real Decreto-Legislativo* contemplates the following infringements:

- very serious infringements:
 - to drive a vehicle without having obtained the appropriate authorisation (driving licence) (Article 65.5k);
- serious infringements:

- to drive a vehicle with an invalid authorisation (driving licence) not fulfilling the legal requirements established in Spain (Article 65.4 ll);
- to drive a vehicle with a suspended authorisation (driving licence) or with an authorisation whose use has been legally forbidden to its holder (Article 65.4s);
- not to prevent that the vehicle is driven by someone who has never held an authorisation (driving licence) before (Article 65.4v).

Regarding fines, the *Real Decreto-Legislativo* establishes the following criteria:

- very serious infringements will be punished with a 500 € fine (Article 67.1);
- serious infringements will be punished with a 300 € fine (Article 67.1);
- fines may be increased up to a 30% in the situations described in Article 68 (relevance of the infringement, the infringing person's background, recidivism, potential danger of the infringement to the infringing party and to the road's users, proportionality);
- if the infringing party's residence is not within Spain, the authorities will request that a provisional fine deposit be made. Otherwise, the vehicle will be subject to immobilisation (Article 67.4);
- if the infringing party pays the fine immediately or within 15 days after the infringement notice has been notified, there will be a 50% reduction on the fine amount (Articles 79 and 80).

Liability will be attributed to the infringing person (article 69).

According to Article 65, when the infringements may also be considered criminal offences, Article 72 will apply. This article makes clear that there cannot be two sanctions, one administrative and one criminal, over one single infringing behaviour. If the infringement is rendered to be criminal and criminal proceedings end up with a decision condemning the infringing party, then the administrative proceedings should terminate with no sanction at all.

28.4 Notion of criminal sanction and of administrative sanction in the Spanish legal system

Under Spanish law criminal sanctions are a result of a commission of a crime previously established by law.

Spanish criminal law is governed by *Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal* (as amended) (Criminal Code). In addition there is some special criminal legislation. Criminal proceedings are regulated by the *Ley de Enjuiciamiento Criminal* (as amended) (Criminal Procedure Code)

Criminal sanctions can only be imposed when they are regulated by law and to crimes committed after the law is in force.

Criminal sanctions can only be imposed to the persons identified in Articles 27-31bis, which include legal persons.

The main criminal sanctions can be classified in: a) imprisonment; b) deprivation of rights; c) fines. There are also accessory sanctions, basically consisting of interdiction from public office.

Administrative sanctions are those imposed as a consequence of administrative infringements previously established by law.

There are many legal instruments defining administrative infringements and imposing administrative sanctions. As a rule, administrative infringements are classified in the following categories: very serious (*muy graves*), serious (*graves*) and minor (*leves*).

Procedural rules applicable to administrative infringements and sanctions will be governed by the specific rules contained in the applicable legal instrument and by the *Real Decreto 1398/1993, de 4 de agosto, por el que se aprueba el reglamento del procedimiento para el ejercicio de la potestad sancionadora*.

Administrative sanctions are mainly of a pecuniary nature (fines), but they may also include other measures, such as prohibitions, immobilisations, precincts, disciplinary measures, etc.

The basic difference between criminal and administrative sanctions has to do with where they are regulated. If the Criminal Code governs the sanction, then this is a criminal sanction. If the infringement is identified in an administrative legal instrument, it is an administrative sanction.

Similar principles apply to both types of sanctions regarding rights of defence, burden of proof, innocence presumption, etc,

Concurrence between several sanctions

Pursuant to Spanish law if one behaviour (even the same one) falls in one or more infringements typified by the legislation, there will be one penalty per (different) infringement with no limitation.

Concurrence between administrative and criminal sanctions

In Spain, when an infringement falls both under criminal and administrative rules, the first ones will take preference. And there will be no double sanction for the same infringement.

28.5 Scope of application of Spanish criminal law

The scope of Spanish criminal law is laid down by article 23 of *Ley Orgánica 6/1985, de 1 de Julio, del Poder Judicial* (LOPJ).

The general rule is that the Spanish criminal law will be applied by Spanish criminal courts when crimes are committed in Spain by Spanish citizens or foreigners (Article 23.1). However, Article 23 LOPJ, paragraphs 2, 3 and 4, under certain circumstances, and in relation to special types of crimes, grants jurisdiction to Spanish criminal courts to apply Spanish criminal law to crimes committed outside of Spain by Spanish citizens or foreigners.

None of the extraterritorial crimes governed by Article 23 LOPJ are directly connected to conducts described by the administrative infringements in the field of road transportation.

28.6 Summary tables

Although the LOTT-ROTT are national rules, the enforcement of these rules is completely in the hands of the transport authorities of the relevant autonomous community (region). The (administrative, not judicial) process is as follows: 1) the police sends the denounce to the regional authorities; 2) the authorities send a resolution initiating proceedings to the infringing party; 3) the infringing party has the option to admit the infringement and pay the fine and accept the eventually related sanctions or to appeal the resolution; 4) if the resolution is appealed, the infringing party will have the right to file allegations and request the opening of a discovery phase; 5) after the allegations and discovery phase, a final resolution will come from the authorities which may be appealed against a higher authority within the region (*recurso de alzada*); 6) if this final appeal is rejected, then the door is open to discuss the matter before ordinary jurisdictional courts.

Table ES 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>Driving times and rest periods</u> <u>Ley 16/1987, de Ordenación de los Transportes Terrestres (LOTT) and Real Decreto 1211/1990 (ROTT)</u>	140.20 LOTT (197.20 ROTT)	Excess of over 50% of the maximum driving times or uninterrupted driving, as well as when there is a reduction in excess of 50% of the mandatory rest periods	Person holding the transport authorisation	3301-4600 € 4601-6000€ (if previously sanctioned) Vehicle's immobilisation	No
		141.6 LOTT (198.6 ROTT)	Excess of over 20% of the maximum driving times or uninterrupted	Person holding the transport authorisation	1501-200 € 2001-3300 € (if previously	No

Table ES 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)
			driving, as well as when there is a reduction in excess of 20% of the established rests periods, except when the excess or reduction shall be considered as a very serious infringement in accordance to articles 140.20 LOTT (197.20 ROTT)		sanctioned) Vehicle's immobilisation	
		142.3 LOTT (199.3 ROTT)	Excess in the maximum driving times or uninterrupted driving, as	Person holding the transport authorisation	301-400 € 401-1000 € (if previously	No

Table ES 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)
			well as when there is a reduction of the established rests periods or breaks, except when they shall be considered as a serious or very serious infringement		<p>sanctioned)</p> <p>Vehicle's immobilisation when the remaining distance until destination exceeds 30 kilometers</p>	
		64.5i	Excess in more than a 50% of driving times or the reduction in more than a 50% of rest periods established in the	Driver	<p>500€</p> <p>This fine may be increased up to a 30% in the situations</p>	

Table ES 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)
			legislation applicable to road transport		described in article 68 (relevance of the infringement, the infringing person's background, recidivism, potential danger of the infringement to the infringing party and to the road's users, proportionality). If the infringing	

Table ES 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)
	<p><u>Real Decreto Legislativo 339/1990</u></p>				<p>party's residence is not within Spain, the authorities will request that a provisional fine deposit be made. Otherwise, the vehicle will be subject to immobilisation (article 67.4). If the infringing party pays the fine immediately or</p>	

Table ES 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)
					<p>within 15 days after the infringement notice has been notified, there will be a 50% reduction on the fine amount (articles 79 and 80).</p>	

Table ES 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	<u>LOTT-ROTT</u>	140.10 LOTT, (197.10 ROTT)	a) Manipulation of the tachograph, or any of its elements, with the aim to alter its usual functions, or the installation of mechanic, electronic or other devices aimed at altering its correct functions or at modifying its measurements, even if they are not in operation when the inspection takes place	Person holding the transport authorisation and persons manipulating the tachograph or other devices mentioned therein or persons collaborating with the	Fines will be in a range between 4601 to 6000 € (articles 143.1i LOTT and 201.1i ROTT. The fine will range from 6001 to 18000 € if the person liable had been fined for another very	No

Table ES 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)
				manipulation, installation or trading with the tachograph and other devices	<p>serious infringement within the previous 12 months.</p> <p>Immobilisation of the vehicle will also apply here (article 143.3 LOTT and 201.3 ROTT).</p>	

Table ES 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)
		140. 11 LOTT (197.11 ROTT)	Lack of tachograph	Person holding the transport authorisation	<p>Fines will be in a range between 4601 to 6000 € (articles 143.1i LOTT and 201.1i ROTT. The fine will range from 6001 to 18000 € if the person liable had been fined for another very serious</p>	No

Table ES 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)
					<p>infringement within the previous 12 months.</p>	
		<p>140.12 LOTT (197.12 ROTT)</p>	<p>Significant lack of registry sheets or of data registered in the tachograph or in the driver's cards</p>	<p>Person holding the transport authorisation</p>	<p>Fines will be in a range between 4601 to 6000 € (articles 143.1i LOTT and 201.1i ROTT. The fine will range from 6001 to 18000 € if the person</p>	<p>No</p>

Table ES 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)
					<p>liable had been fined for another very serious infringement within the previous 12 months.</p>	
		<p>140.13 LOTT (197.13 ROTT)</p>	<p>Falsification of registry sheets, driver's cards or other control devices, as well as of its contents and alteration of mandatory data in the registry sheets or the driver's cards</p>	<p>Person holding the transport authorisation</p>	<p>Fines will be in a range between 4601 to 6000 € (articles 143.1i</p>	<p>No</p>

Table ES 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)
					<p>LOTT and 201.1i ROTT. The fine will range from 6001 to 18000 € if the person liable had been fined for another very serious infringement within the previous 12 months.</p>	

Table ES 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)
		140.22 LOTT (197.22 ROTT)	Registry sheet or driver's card not inserted into the tachograph; insertion of registry sheet without the driver's name and last name or insertion of registry sheets or driver's cards belonging to another driver	Person holding the transport authorisation	Fines will be in a range from 3301 to 4600 € (articles 143.1h and 201.1h ROTT). The fine will range from 4601 to 6000 € if the person liable had been fined for another very serious infringement within the	No

Table ES 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)
					previous 12 months.	
		140.24 LOTT (197.24 ROTT)	Lack of registry sheets or lack of necessary manual annotations when the tachograph is out of service	Person holding the transport authorisation	<p>Fines will be in a range from 2001 to 3300 € (articles 143.1g LOTT and 201.1g ROTT).</p> <p>The fine will range from 3301 to 4600 € if the person liable had been fined for another very</p>	No

Table ES 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)
					<p>serious infringement within the previous 12 months.</p>	
		<p>141.5 LOTT (198.5 ROTT)</p>	<p>Inadequate functioning of the tachograph attributable to the transport operator when this shall not be considered as a very serious infringement in accordance to articles 140.10 and 197.10 ROTT, and lack of periodic inspection in accordance to the law</p>	<p>Persona holding the transport authorisation</p>	<p>Fines will be in a range from 1501 to 2000 € (articles 143.1f LOTT and 201.1f ROTT). The fine will range from 2001 to 3300 € if the person</p>	<p>No</p>

Table ES 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)
					<p>liable had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months.</p>	
		<p>141.7 LOTT (198.7 ROTT)</p>	<p>Use of the same registry sheet during several journeys making it impossible to read it because of the data</p>	<p>Person holding the transport</p>	<p>The fine will range from 2001 to 3300 €</p>	<p>No</p>

Table ES 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)
			overlapping	authorisation	if the person liable had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months.	
		141.8 LOTT	Lack of manual annotations by the driver in the tachograph or in the	Person holding the	Fines will be in a range from	No

Table ES 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)
		(198.8 ROTT)	registry sheets when this duty is established by law, unless this is considered a very serious infringement in accordance with article 140 LOTT, paragraphs 22 and 24 and 197 ROTT, paragraphs 22 and 24, or a minor infringement in accordance with articles 142.5 LOTT and 199.5 ROTT	transport authorisation	1501 to 2000 € (articles 143.1f LOTT and 201.1f ROTT). The fines will range from 2001 to 3300 € if the person liable had been fined for another identical serious infringement or for a very	

Table ES 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)
					<p>serious infringement within the previous 12 months.</p>	
		<p>141.9 LOTT (198.9 ROTT)</p>	<p>Use in the tachograph of more than one registry sheet by the same person during one journey, except when the vehicle is changed and the registry sheet from the first vehicle is not homologated for use in the second vehicle</p>	<p>Person holding the transport authorisation</p>	<p>Fines will be in a range from 1501 to 2000 € (articles 143.1f LOTT and 201.1f ROTT). The fines will range from 2001 to 3300 € if the person</p>	<p>No</p>

Table ES 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)
					<p>liable had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months.</p>	
		<p>141.11 LOTT (198.11 ROTT)</p>	<p>Non-significant lack of registry sheets or data registered in the tachograph or in the driver's cards that need to be</p>	<p>Person holding the transport</p>	<p>Fines will be in a range from 1001 to 1500 €.</p>	<p>No</p>

Table ES 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)
			archived at the transport operator's premises at the request of the authorities	authorisation	<p>The fines will range from 1501 to 2000 € if the person liable had been fined for another identical serious infringement or for a very serious infringement within the previous 12</p>	

Table ES 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)
					months.	
		142.5 LOTT (199.5 ROTT)	Lack of manual annotations by the driver in the tachograph or in the registry sheets when the law establishes this duty and, notwithstanding the lack of annotations, it is possible to determine its contents out of the same tachograph or out of the preceding or subsequent registry sheets.	Person holding the transport authorisation	Fines will be in a range from 1001 to 1500 €. The fines will range from 1501 to 2000 € if the person liable had been fined for another identical serious infringement or for a very	NO

Table ES 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)
					serious infringement within the previous 12 months.	

Table ES 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 No 1071/2009/EC	<u>LOTT-ROTT</u>	140.2 LOTT (197.2 ROTT)	Perform public transport without complying with the requirements set forth in article 42.1 LOTT for access to the profession of carrier	Person performing the transport	Fines applicable to this infringement will range from 4601 to 6000 € (articles 143.li LOTT and 201.li ROTT). The fines will range from 6001 to 18000 € if the person liable had been fined for a very serious infringement within the previous 12 months. Also, the	

Table ES 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>infringing operator will be deprived of all licences and authorisations in his possession requesting compliance with the same requirements (articles 143.2 LOTT and 201.2 ROTT)</p>	
<p>Regulation No 1072/2009/EC and</p>	<p><u>LOTT-ROTT</u></p>	<p>140.4 LOTT</p>	<p>Transfer or authorisation, express or tacit, of</p>	<p>Person performing the</p>	<p>Fines will range from 4601 to 6000</p>	<p>No</p>

Table ES 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>Regulation No1073/2009/EC</p>		<p>(197.4 ROTT)</p>	<p>transport licences or titles by their holders in favor of other persons</p>	<p>transport or acting against the rules</p>	<p>€ (articles 143.1i LOTT and 201.1i). The fines will range from 6001 to 18000 € if the person liable had been fined for a very serious infringement within the previous 12 months. In addition, the infringing operator will be deprived of all licences and</p>	

Table ES 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>authorisations of the same class as the one being subject to transfer or licence (articles 143.2 LOTT and 201.2 ROTT). Immobilisation of the vehicle is also granted (articles 143.3 LOTT and 201.3 ROTT).</p>	
		<p>140.1.9 LOTT (197.1.9 ROTT)</p>	<p>Performance of public transport without authorisation, even if on board of the vehicle there</p>	<p>Person performing the transport or acting against</p>	<p>Fines will range from 4601 to 6000 € (articles 143.1i LOTT and 201.1i).</p>	<p>No</p>

Table ES 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			is an authorisation which is outdated, has been revoked or has lost its validity or should have been returned to the transport authorities	the rules	<p>The fines will range from 6001 to 18000 € if the person liable had been fined for a very serious infringement within the previous 12 months.</p> <p>Immobilisation and precinct of the vehicle will be also granted (articles 143.3 LOTT and 201.3 ROTT).</p>	

Table ES 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		140.1.2 LOTT (197.1.2 ROTT)	Performance of public transport without authorisation because of lack of legal control	Person performing the transport or acting against the rules	<p>Fines will range from 4601 to 6000 € (articles 143.1i LOTT and 201.1i).</p> <p>The fines will range from 6001 to 18000 € if the person liable had been fined for a very serious infringement within the previous 12 months.</p> <p>Immobilisation and precinct of the</p>	No

Table ES 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					vehicle are also granted (articles 143.3 LOTT and 201.3 ROTT).	
		141.31 LOTT (198.31 ROTT)	Those similar to the three above but which deserve justifiably a less stringent treatment in accordance to their nature and circumstances	Person performing the transport or acting against the rules	Fines will be in a range from 1501 to 2000 € (articles 143.1f LOTT and 201.1f ROTT).	No
		142.8 and 9 LOTT (199.8 and 9 ROTT)	The operator performs public o private transport without having an authorisation or licence but requests one in compliance	Person performing the transport or acting against the rules	Fine ranging from 201 to 300 € (articles 143.1b LOTT and 201.1b ROTT). The fine	No

Table ES 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>with all requirements established by law within 15 days after the infringement proceedings have started.</p> <p>Performance of public or private transport without having on board of the vehicle the authorisation or licence request by law</p>		<p>will go from 301 to 400 € if the person liable had been fined for a very serious infringement within the previous 12 months.</p>	

Table ES 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	<u>LOTT-ROTT</u>	140.25 LOTT (197.25 ROTT)	23 types of very serious infringements are described by these articles	LOTT and ROTT identify not only the transport operator as the person liable, but also other persons who have played certain roles in the performance of the carriage, loading and unloading of the dangerous goods. These	Fine in the range of 2001 to 3300 € (articles 143.1g LOTT and 201g ROTT). The fine will be in the range of 3301 to 4600 € if the infringing party had been fined for another very serious offence within the previous 12 months.	No

Table ES 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>other persons are the consignor as well as the parties assuming functions in the loading and unloading operations (articles 143.1a, e and g LOTT and 201.1a, e and g ROTT).</p>		
		141.24 LOTT (198.24 ROTT)	11 types of serious infringements are described by these	LOTT and ROTT identify not only the	Fine in the range of 1001 to 1500 € (articles 143.1e	No

Table ES 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)
			articles	transport operator as the person liable, but also other persons who have played certain roles in the performance of the carriage, loading and unloading of the dangerous goods. These other persons are the consignor as well as the	LOTT and 201.1e ROTT). This fine will go up to 1501 to 2000 € if the infringing party had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months.	

Table ES 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)
				parties assuming functions in the loading and unloading operations (articles 143.1a, e and g LOTT and 201.1a, e and g ROTT).		
		142.23 LOTT (199.23 ROTT)	2 types of minor infringements are described by these articles	LOTT and ROTT identify not only the transport operator as the person liable, but also other	Fine of up to 200 € (articles 143.1a LOTT and 201.1a ROTT). The fine will be in the range of 201 to 300 € if the infringing	No

Table ES 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>persons who have played certain roles in the performance of the carriage, loading and unloading of the dangerous goods. These other persons are the consignor as well as the parties assuming functions in the loading and unloading</p>	<p>party had been fined for another very serious offence within the previous 12 months.</p>	

Table ES 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)
				operations (articles 143.1a, e and g LOTT and 201.1a, e and g ROTT).		
Directive 96/53/EC	<u>LOTT-ROTT</u>	140.19 LOTT (197.19 ROTT)	Very serious infringements which are calculated on the excess over the vehicle's maximum authorised mass	The party liable will not only be the transport operator but also the consignor and the consignee, as well as freight forwarder, unless these may offer	Fine ranging from 3301 to 4600 € (articles 143.1h LOTT and 201.1h ROTT). This fine will go up to 4601 to 6000 € if the infringing party had been fined for another very serious offence	No

Table ES 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>exculpatory grounds. Some excesses will only be attributable to the party stowing the goods on the vehicle. Consignor and consignee will be presumed out of liability in cases of parcels and removals.</p>	<p>within the previous 12 months. Immobilisation of the vehicle will also be applicable (articles 143.3 LOTT and 201.3 ROTT).</p>	
		141.4 LOTT	Serious infringements	The party liable	Fine ranging from	No

Table ES 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)
		(198.4 ROTT)	which are calculated on the excess over the vehicle's maximum authorised mass	will not only be the transport operator but also the consignor and the consignee, as well as freight forwarder, unless these may offer exculpatory grounds. Some excesses will only be attributable to the party stowing the	1501 to 2000 € (articles 143.1f LOTT and 201.1f ROTT). This fine will go up to 2201 to 3300 € if the infringing party had been fined for another identical serious infringement or for a very serious infringement within the previous 12 months. Immobilisation of	

Table ES 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)
				goods on the vehicle. Consignor and consignee will be presumed out of liability in cases of parcels and removals.	the vehicle will also be applicable (articles 143.3 LOTT and 201.3 ROTT).	
		142.2 LOTT (199.2 ROTT)	Minor infringements which are calculated on the excess over the vehicle's maximum authorised mass	The party liable will not only be the transport operator but also the consignor and the consignee, as well as freight	Fine ranging from 301 to 400 € (articles 143.1c LOTT and 201.1c ROTT). This fine will go up to 401 to 1000 € if the infringing party	No

Table ES 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>forwarder, unless these may offer exculpatory grounds. Some excesses will only be attributable to the party stowing the goods on the vehicle. Consignor and consignee will be presumed out of liability in cases of parcels</p>	<p>had been fined for another very serious offence within the previous 12 months. Immobilisation of the vehicle will also be applicable (articles 143.3 LOTT and 201.3 ROTT).</p>	

Table ES 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 removals.		
Directive 2009/40/EC	<u>Real Decreto Legislativo 339/1990</u>	65.4 o)	To drive with a vehicle infringing the technical conditions established by law, unless this is covered by article 65.4 ll, and infringing the legal rules applicable to the vehicles technical inspection	Infringing person	500€ Fines may be increased up to a 30% in the situations described in article 68 (relevance of the infringement, the infringing person's background, recidivism, potential danger of	According to article 65, when the infringements may also be considered criminal offences, article 72 will apply. This article makes clear that there cannot be two sanctions, one administrative and one criminal, over one single infringing behavior. If the infringement is rendered to be criminal and criminal proceedings end up with a decision condemning the infringing party, then the

Table ES 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>the infringement to the infringing party and to the road’s users, proportionality).</p> <p>If the infringing party pays the fine immediately or within 15 days after the infringement notice has been notified, there will be a 50% reduction on the fine amount</p>	<p>administrative proceedings should terminate with no sanction at all.</p>

Table ES 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)
					(articles 79 and 80).	
		65.4, II)	To drive with a vehicle infringing technical conditions, which severely affect road safety	Infringing person	300 € Fines may be increased up to a 30% in the situations described in article 68 (relevance of the infringement, the infringing person's background, recidivism, potential danger of	According to article 65, when the infringements may also be considered criminal offences, article 72 will apply. This article makes clear that there cannot be two sanctions, one administrative and one criminal, over one single infringing behavior. If the infringement is rendered to be criminal and criminal proceedings end up with a decision condemning the

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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>the infringement to the infringing party and to the road’s users, proportionality).</p> <p>If the infringing party pays the fine immediately or within 15 days after the infringement notice has been notified, there will be a 50% reduction on the fine amount</p>	<p>infringing party, then the administrative proceedings should terminate with no sanction at all.</p>

Table ES 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)
					(articles 79 and 80).	
Directive 2006/126/EC	Real Decreto Legislativo 339/1990	65.5, k)	To drive a vehicle without having obtained the appropriate authorisation (driving licence)	Infringing person	500€ Fines may be increased up to a 30% in the situations described in article 68 (relevance of the infringement, the infringing person's background,	According to article 65, when the infringements may also be considered criminal offences, article 72 will apply. This article makes clear that there cannot be two sanctions, one administrative and one criminal, over one single infringing behavior. If the infringement is rendered to be criminal and criminal proceedings end up with a

Table ES 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>recidivism, potential danger of the infringement to the infringing party and to the road's users, proportionality).</p> <p>If the infringing party pays the fine immediately or within 15 days after the infringement notice has been notified, there will be a 50%</p>	<p>decision condemning the infringing party, then the administrative proceedings should terminate with no sanction at all.</p>

Table ES 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>reduction on the fine amount (articles 79 and 80).</p>	
		65.4, II)	To drive a vehicle with an invalid authorisation (driving licence) not fulfilling the legal requirements	Infringing person	<p>300€</p> <p>Fines may be increased up to a 30% in the situations described in article 68 (relevance of the infringement, the infringing</p>	<p>According to article 65, when the infringements may also be considered criminal offences, article 72 will apply. This article makes clear that there cannot be two sanctions, one administrative and one criminal, over one single infringing behavior. If the infringement is rendered to</p>

Table ES 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>person's background, recidivism, potential danger of the infringement to the infringing party and to the road's users, proportionality).</p> <p>If the infringing party pays the fine immediately or within 15 days after the infringement notice has been</p>	<p>be criminal and criminal proceedings end up with a decision condemning the infringing party, then the administrative proceedings should terminate with no sanction at all.</p>

Table ES 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>notified, there will be a 50% reduction on the fine amount (articles 79 and 80).</p>	
		65.4, s)	To drive a vehicle with a suspended authorisation (driving licence) or with an authorisation whose use has been legally forbidden to its holder	Infringing party	<p>300€</p> <p>Fines may be increased up to a 30% in the situations described in article 68 (relevance of the</p>	<p>According to article 65, when the infringements may also be considered criminal offences, article 72 will apply. This article makes clear that there cannot be two sanctions, one administrative and one criminal, over one single</p>

Table ES 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>infringement, the infringing person's background, recidivism, potential danger of the infringement to the infringing party and to the road's users, proportionality).</p> <p>If the infringing party pays the fine immediately or within 15 days after the</p>	<p>infringing behavior. If the infringement is rendered to be criminal and criminal proceedings end up with a decision condemning the infringing party, then the administrative proceedings should terminate with no sanction at all.</p>

Table ES 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>infringement notice has been notified, there will be a 50% reduction on the fine amount (articles 79 and 80).</p>	
		65.4, v)	<p>Not to prevent that the vehicle is driven by someone who has never held before an authorisation (driving licence)</p>	Infringing party	<p>300€</p> <p>Fines may be increased up to a 30% in the situations described in</p>	<p>According to article 65, when the infringements may also be considered criminal offences, article 72 will apply. This article makes clear that there cannot be two sanctions, one</p>

Table ES 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>article 68 (relevance of the infringement, the infringing person's background, recidivism, potential danger of the infringement to the infringing party and to the road's users, proportionality). If the infringing party pays the fine immediately or</p>	<p>administrative and one criminal, over one single infringing behavior. If the infringement is rendered to be criminal and criminal proceedings end up with a decision condemning the infringing party, then the administrative proceedings should terminate with no sanction at all.</p>

Table ES 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>within 15 days after the infringement notice has been notified, there will be a 50% reduction on the fine amount (articles 79 and 80).</p>	

Table ES 5

Infringements of commercial road transport legislation

Type of infringement(s) and Article of reference in national legislation Corresponding EU legislation	Criminal sanction	Is it dissuasive?
There are no infringements of road commercial transport sanctioned with criminal sanctions.		

28.7 Sanctions which could be considered substantially criminal in the Spanish legal system

According to our Spanish legal expert in Spain, criminal law is treated very restrictively. Criminal law is for the worst behaviours. Therefore it cannot be supported that infringements covered by the transport legislation would be considered as criminal ones.

However, in the light of the severity of some financial penalties foreseen by Spanish legislation, it is posited in agreement that the following sanctions for infringements of the rules on commercial road transport might be qualified as substantially criminal.

Table ES 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p> <p>Yes or not</p>
<p>LOTT-ROTT, 140.10 LOTT, (197.10 ROTT)</p> <p>a) Manipulation of the tachograph, or any of its elements, with the aim to alter its usual functions, or the installation of mechanic, electronic or other devices aimed at altering its correct functions or at modifying its measurements, even if they are not in operation when the inspection takes place</p> <p>Regulation 3821/1985/EEC</p>	<p>Fines will be in a range between 4601 to 6000 € (Articles 143.1i LOTT and 201.1i ROTT). The fine will range from 6001 to 18000 € if the person liable had been fined for another very serious infringement within the previous 12 months.</p> <p>Immobilisation of the vehicle will also apply here (Article 143.3 LOTT and 201.3 ROTT).</p>	<p>Very high financial penalty abstractly prescribed</p>	<p>Yes</p>

Table ES 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p> <p>Yes or not</p>
<p>LOTT-ROTT, 140. 11 LOTT (197.11 ROTT)</p> <p>Lack of tachograph</p> <p>Regulation 3821/1985/EEC</p>	<p>Fines will be in a range between 4601 to 6000 € (Articles 143.1i LOTT and 201.1i ROTT). The fine will range from 6001 to 18000 € if the person liable had been fined for another very serious infringement within the previous 12 months.</p>	<p>Very high financial penalty abstractly prescribed</p>	<p>Yes</p>
<p>LOTT-ROTT, 140.12 LOTT (197.12 ROTT)</p> <p>Significant lack of registry sheets or of data registered in the tachograph or in</p>	<p>Fines will be in a range between 4601 to 6000 € (Articles 143.1i LOTT and 201.1i ROTT). The fine will range from 6001 to 18000 € if the person liable had been fined for another very</p>	<p>Very high financial penalty abstractly prescribed</p>	<p>Yes</p>

Table ES 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p> <p>Yes or not</p>
<p>the driver's cards Person holding the transport authorisation</p> <p>Regulation 3821/1985/EEC</p>	<p>serious infringement within the previous 12 months.</p>		
<p>LOTT-ROTT, 140.13 LOTT (197.13 ROTT)</p> <p>Falsification of registry sheets, driver's cards or other control devices, as well as of its contents and alteration of mandatory data in the registry sheets or the driver's cards</p>	<p>Fines will be in a range between 4601 to 6000 € (Articles 143.1i LOTT and 201.1i ROTT). The fine will range from 6001 to 18000 € if the person liable had been fined for another very serious infringement within the previous 12 months.</p>	<p>Very high financial penalty abstractly prescribed</p>	<p>Yes</p>

Table ES 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p> <p>Yes or not</p>
<p>Regulation 3821/1985/EEC</p>			
<p>LOTT-ROTT, 140.4 LOTT (197.4 ROTT)</p> <p>Transfer or authorisation, express or tacit, of transport licences or titles by their holders in favor of other persons</p> <p>Regulation No 1072/2009/EC and Regulation No1073/2009/EC</p>	<p>The fines will range from 6001 to 18000 € if the person liable had been fined for a very serious infringement within the previous 12 months. In addition, the infringing operator will be deprived of all licences and authorisations of the same class as the one being subject to transfer or licence (articles 143.2 LOTT and 201.2 ROTT). Immobilisation of the vehicle is also granted (articles 143.3 LOTT</p>	<p>Very high financial penalty abstractly prescribed</p>	<p>Yes</p>

Table ES 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p> <p>Yes or not</p>
	<p>and 201.3 ROTT).</p>		
<p>LOTT-ROTT, 140.1.9 LOTT (197.1.9 ROTT)</p> <p>Performance of public transport without authorisation, even if on board of the vehicle there is an authorisation which is outdated, has been revoked or has lost its validity or should have been returned to the transport authorities</p> <p>Regulation No 1072/2009/EC and Regulation No1073/2009/EC</p>	<p>Fines will range from 4601 to 6000 € (Articles 143.1i LOTT and 201.1i).</p> <p>The fines will range from 6001 to 18000 € if the person liable had been fined for a very serious infringement within the previous 12 months.</p> <p>Immobilisation and precinct of the vehicle will be also granted (Articles 143.3 LOTT and 201.3 ROTT).</p>	<p>Very high financial penalty abstractly prescribed</p>	<p>Yes</p>

Table ES 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>Type of infringement and Article of reference in national legislation</p> <p>Corresponding EU legislation</p>	<p>Administrative sanction that could be qualified as criminal sanction</p>	<p>Why can this sanction be qualified as criminal despite its formal qualification as administrative sanction?</p>	<p>Is it dissuasive?</p> <p>Yes or not</p>
<p>LOTT-ROTT, 140.1.2 LOTT (197.1.2 ROTT)</p> <p>Performance of public transport without authorisation because of lack of legal control</p> <p>Regulation No 1072/2009/EC and Regulation No1073/2009/EC</p>	<p>Fines will range from 4601 to 6000 € (Articles 143.1i LOTT and 201.1i). The fines will range from 6001 to 18000 € if the person liable had been fined for a very serious infringement within the previous 12 months. Immobilisation and precinct of the vehicle are also granted (Articles 143.3 LOTT and 201.3 ROTT).</p>	<p>Very high financial penalty abstractly prescribed</p>	<p>Yes</p>

28.8 Effectiveness of the sanctions system

Since 1987, when the LOTT was enacted, the Spanish sanctions system in the road transport sector has progressively grown in effectiveness. Under the supervision of the Department of Transport (*Ministerio de Fomento*), one of the finest in the country, the design of the LOTT-ROTT system has been based on a detailed set of rules providing both for a comprehensive and extensive body of well organised and classified infringements and sanctions. The day-to-day enforcement of the sanction system is in the hands of the Spanish regions (*Comunidades Autónomas*) and this may prove to be one of the weaknesses of the system, as the interpretation of the rules is in the hands of not a single governmental unit but in each of the regional transport Departments. And despite the coordinating efforts from the national Department of Transport, regional discrepancies in the application of the LOTT-ROTT rules are not an exception, as the practice shows once in a while. Providing fines within a range system has also been criticised, because fine ranges are sometimes quite ample. But ranges allow for a better adjustment of the fine to the real circumstances of the infringement. And the *Baremo de Sanciones* (Sanction Guidelines) edited by the Department of Transport of the Spanish national government has proven to be a very useful and helpful tool within this framework.

We have been referred that Spanish operators believe that the Spanish road transport sanction system is extremely detailed and technical and that this implies that it is difficult to understand the rules. As the technical nature of these rules cannot be changed, efforts in training of both transport operators and lawyers applying the rules should be emphasized.

That said we notice that an analysis of Spanish figures on offences detected in 2007-2008 shows that, despite the severity of the financial sanctions foreseen, a high number of offences has been detected in Spain in the relevant period. The available numbers concern infringements of the social rules in commercial road transport.

From a qualitative standpoint, we notice that sanctions are severe and also proportionate, as they take into account the seriousness of the infringements and the fact that the offence has been committed more than once in a specific period of time.

In the light of all above, we believe that the Spanish system is proportionate and well conceived. However, we notice that there may be a lack of effectiveness to the extent that the most serious infringements and fraudulent behaviors are not sanctioned with very dissuasive penalties such as the withdrawal of authorisations or licences, but simply with higher financial penalties. On this respect, it could be argued that such penalties may not be sufficiently dissuasive for infringements committed by undertakings having a substantial turnover.

29 SWEDEN - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

29.1 Social rules on road transport

29.1.1 Rules on Driving Times and Rest Periods

29.1.1.1 Regulation (EC) No 561/2006

Regulation No. (EC) 561/2006 has been implemented by the National Regulation on Driving times, Breaks and Tachographs etc. (*Förordning (2004:865) om kör- och vilotider samt färdskrivare, m.m.*). The sanction system related to infringements of the National Regulation on Driving times, Breaks and Tachographs etc. is envisaged in Chapter 9, see table below for sanction fees.

There is no liability pursuant to the National Regulation on Driving times, Breaks and Tachographs etc. when penalty may be imposed pursuant to the Criminal Code (*Brottsbalken SFS: 1962:700*) or the Traffic Criminal Act (*Lagen (1951:649) om straff för vissa trafikbrott*) or if there is a sanction fee pursuant to the National Regulation on Driving Times Breaks and Tachographs etc.

(i) Sanction fees pursuant to Chapter 9 Section 6-8

Chapter 9 Section 6-8 of the National Regulation on Driving times, Breaks and Tachographs etc. introduces different thresholds of penalties for the infringements of rules on driving times. The article mentioned is the one in Regulation (EC) No. 561/2006.

Driving times

Pursuant to Article 6.1 if the driver has exceeded the daily driving time limits by 1 to more than 2 hours, he can be fined with a pecuniary sanction from 1,000-4,000 SEK.

Pursuant to Article 6.2 if the driver has exceeded the weekly driving time limits:

by 4 to more than 14 hours, he can be fined with a pecuniary sanction from 1,000-4,000 SEK.

Pursuant to Article 6.3 if the driver has exceeded the driving time limits for two weeks by 10 to more than 22.5 hours, he can be fined with a pecuniary sanction from 1,000 to 4,000 SEK.

Breaks

Pursuant to Article 7 when the continuous driving time has been exceeded by 0.5 to more than 1.5 hours, there may be a fine from 1,000 to 4,000 SEK.

Rest periods

Pursuant to Articles 8.1-8.4 when the rest period has not been sufficient (less than 11 hours, no reduced rest period) by 1 to more than 2.5 hours, there may be a fine from 1,000 to 4,000 SEK.

When the rest period has not been sufficient (less than 9 hours, reduced rest period) by 1 to more than 2 hours, there may be a fine from 1,000 to 4,000 SEK.

When the rest period has not been split sufficiently (less than 3+9 hours) by 1 to more than 2 hours, there may be a fine from 1,000 to 4,000 SEK.

Pursuant to Article 8.5 when the rest period has not been sufficient (less than 9 hours, reduced rest period) when the crew is more extensive by 1 to more than 2 hours, there may be a fine from 1,000 to 4,000 SEK.

Pursuant to Article 8.6 when the rest period has not been sufficient (less than 24 hours) by 2 to more than 4 hours, there may be a fine from 1,000 to 4,000 SEK. When the weekly rest period has not been sufficient (less than 45 hours, no reduced rest period) by 3 to more than 9 hours less than 45, there may be a fine from 1,000 to 4,000 SEK.

Pursuant to Article 8.6 a when the weekly rest period has not been sufficient (less than 90 hours, when deferred rest period) by 6 to more than 14 hours, there may be a fine from 1,000 to 4000 SEK.

When the weekly rest period has not been sufficient (less than 69 hours, no deferred rest period) by 4 to more than 12 hours, there may be a fine from 1,000 to 4,000 SEK.

Reimbursement and organisation

Pursuant to Article 10.1 if the drivers remuneration is linked to the travelled distance or amount of transported goods, there may be a fine of 4,000 SEK.

Pursuant to Article 10.2 when the work is not organised properly, the drivers are not informed and when Regulation (EEC) No. 3821/85 or Chapter 2 of the 561/2006/EC is not followed, there may be a fine of 4,000 SEK.

Pursuant to Article 10.4 when the transport schedules are not compatible with Regulation (EC) 561/2006, there may be a fine of 4,000 SEK.

(ii) Sanction fees pursuant to Chapter 9 Section 9

Chapter 9 Section 9 of the National Regulation on Driving times, Breaks and Tachographs etc. introduces different thresholds of penalties of the driver for the infringements of rules on driving times when the violation has been committed in another country, within the EES or in Switzerland, and the violation is revealed in Sweden.

Pursuant to Article 6 when the driver has violated the rules on driving times, there may be a fine of 3,000 SEK.

Pursuant to Article 7 mom.1 when the driver has violated the rules on breaks, there may be a fine of 3,000 SEK.

Pursuant to Article 8.1-8.5 when the driver has violated the rules on rest periods, there may be a fine of 3,000 SEK.

Pursuant to Article 8.6 when the driver has violated the rules on weekly rest periods, there may be a fine of 3000 SEK.

Pursuant to Article 8.6 a when the deferred weekly rest period has not been sufficient, there may be a fine mom. 1 fine of 3,000 SEK.

Pursuant to Article 12 when the driver has not indicated the reasons for depart from 561/2006 sec. 2 on the record sheet of the recording equipment, on a printout from the recording equipment or in the duty roster, there may be a fine of 1,800 SEK.

(iii) Other sanction fees pursuant to the National Regulation on Driving times, Breaks and Tachographs etc.

Chapter 6 Section 2 foresees that if a company has violated the rules on how to copy driver cards and the documentation from vehicle units, there may be a fine of 1000 SEK. mom. 1

If a company has violated the rules on how to store certain documentation and keep it available for authorised control officer, there may be a fine of 4,000 SEK.

Chapter 9 Section 8 foresees the responsibility for an employer when a driver has violated certain rules when in another State within the EEA and Switzerland, see the table below.

Foreign drivers

Foreigners infringing Swedish rules on road commercial transport in Sweden are sanctioned like Swedish citizens. There are no special rules imposing the seizure of the vehicle in case of non immediate payment of the fine.

29.1.1.2 Directive 2006/22/EC (amended by Directive 2009/4/EC)

Directive 2006/22/EC has been transposed by the Act on Driving times, Breaks and Tachographs (*Lag (2004:865) om kör- och vilotider samt färdskrivare*) and the Act 2004:865 addresses all the checks required on drivers, transport companies and vehicles which fall under the scope of Regulation No. 3821/85.

The Act on Driving times, Breaks and Tachographs contains several provisions regarding the check system, the number and the modalities of these controls, depending on the fact that they are carried out on the road (roadside checks) or at the transport operator premises.

The Act on Driving times, Breaks and Tachographs indicates the Swedish Transport Agency as competent authority.

Please see the table below for further information regarding sanctions.

29.1.1.3 Directive 2002/15/EC

Directive 2002/15/EC is executed through the Act on Working Hours Regarding Certain Road Transport Work (*Lag (2005:395) om arbetstid vid visst*

vägtransportarbete). Rules on self-employed workers are introduced into the Act on Working Hours Regarding Certain Road Transport Work which comes into force 1 May 2012. There are sanction fees related to the Act, see table below, but there are no sanction fee levels. The Swedish Transport Agency will establish National Regulations on this matter.

29.1.2 Tachograph

29.1.2.1 Regulation (EEC) No 3821/1985

Sanctions for infringements against Regulation (EEC) No. 3821/1985 are stipulated in National Regulation on Driving times, Breaks and Tachographs etc. (*Förordning (2004:865) om kör- och vilotider samt färdskrivare, m.m.*). The sanction system related to infringements of the Regulation No. 3821/1985/CEE is envisaged in Chapter 9, see the table below for sanction fees.

Chapter 9 Section 8 disciplines the responsibility for an employer when a driver has violated certain rules when in other state within the EES and Switzerland (see table below).

There is no liability pursuant to the National Regulation on Driving Times, Breaks and Tachographs etc. when penalty may be imposed pursuant to the Criminal Act (*Brottsbalken*) or the Traffic Criminal Act (*Lagen (1951:649) om straff för vissa trafikbrott*) or if there is a sanction fee pursuant to the National Regulation on Driving Times Breaks and tachographs, etc.

29.2 Road package

29.2.1 Regulation (EC) No 1071/2009

Regulation (EC) No. 1071/2009 is executed through the Act 2011:1582 amending the Professional Transports Act (*Yrkestrafiklagen (1998:490)*). This act has come into force on 1 May 2012.

Pursuant to Chapter 5, Section 2 of the Professional Transports Act, there may be a liability for a buyer of transport services. The act states that if a transport, as mentioned in the Professional Transports Act or Regulation No. 1071/2009, has been carried out without due authorisation a professional player that for himself or on behalf of others have concluded an agreement with the carrier regarding a transport may be sentenced to fines or prison for a maximum of one year if the professional player knew or had reason to believe that due authorisation was missing.

Chapter 2, Section 2 of the Professional Transports Act states that the requirements of good repute are not met if a person has been convicted of, or in another way been sentenced to, a sanction for one or several infringements of the provisions within the areas stated in Article 6.1, paragraph 3 in Regulation (EC) No. 1071/2009 or otherwise been convicted for a serious crime. A serious crime may be economic crimes or crimes of violence.

29.2.2 Regulation (EC) No 1072/2009

Regulation (EC) No. 1072/2009 is executed through the Act 2011:1582 amending the Professional Traffic Act (*Yrkestrafiklagen (1998:490)*). This act is yet to come into force on 1 May 2012. Regulation (EC) No. 1072/2009 is referenced in Chapter 3, Section 1 of the Professional Traffic Act. Violations of Chapter 3, Section 1 are dealt with under Chapter 5, Section 3. However, no fee levels have been available to us yet.

29.2.3 Regulation No. 1073/2009/EC

Regulation No. 1073/2009 is executed through the Act 2011:1582 amending the Professional Traffic Act (*Yrkestrafiklagen (1998:490)*). This act is yet to come into force on 1 May 2012. Regulation 1073/2009 is referenced in Chapter 3, Section 1 of the

Professional Traffic Act. Violations of Chapter 3, Section 1 are dealt with under Chapter 5, Section 3. However, no fee levels have been available to us yet.

29.3 Standards of vehicles and load and necessary licences

29.3.1 Directive 2008/68/EC

Directive 2008/68/EC is executed through the National Regulation 2011:1221 amending the National Regulation on Road Signs (*Vägmärkesförordningen (2007:90)*), National Regulation 2011:1219 amending the National Regulation on Road Traffic Definitions (*Förordningen (2011:1219) om vägtrafikdefinitioner*), National Regulation 2011:1220 amending the National Regulation on Traffic (*Trafikförordningen (1998:1276)*) and through the National Regulation on Transport of Dangerous Goods (*Förordningen (2006:311) om transport av farligt gods*).

Amendments through the National Regulation 2011:1221: 3 new road signs pursuant to dangerous goods (no sanction fees).

Amendments through the National Regulation 2011:1219: a new definition of tunnel category (no sanction fees).

Amendments through the National Regulation 2011:1220: new provisions regarding categorization of road tunnels and transport of dangerous goods (no sanction fees for the amended provisions). Please note that Appendix 1 of the National Regulation on Traffic contains a detailed list of sanction fees for infringements of the National Regulation (*Brott mot trafikförordningen (1998:1276)*).

Pursuant to the National Regulation on Transport of Dangerous Goods (2006:311), the Swedish Civil Contingencies Agency (*Myndigheten för samhällsskydd och beredskap*) is responsible for transports on land of dangerous goods and has established a number of National Regulations containing several sanction fee provisions (*ADR-S and ADR – National Regulations on transport of dangerous goods on road and terrain from the Swedish Civil Contingencies Agency*). The transport of dangerous goods in the air and on sea is the responsibility of the Swedish Transport Agency. See the table below for a detailed list of sanction fees.

29.3.2 Directive 96/53/EC

Directive 96/53/EC is executed through the National Regulation 1997:694 amending the Car Register's Proclamation (*Bilregisterkungörelsen (1972:599)*), which has been terminated and become a part of the Road Transport Register's Act (*Lag (2001:558) om vägtrafikregister*), through the National Regulation 1997:696 amending the Road Traffic Proclamation (*Vägtrafikkungörelsen (1971:603)*), which has been terminated and become part of the National Regulation on traffic (*Trafikförordning (1998:1276)*), through the National Regulation 1997:695 amending the Proclamation on Vehicles (*Fordonskungörelsen (1971:595)*), which has been terminated and become a part of the Vehicle's Act (*Fordonslag (2002:574)*).

National Regulation (EC) No 1072/2009 is also executed through provisions from the Swedish Transport Agency, VVFS 1997:376 and VVFS 1997:377 (no sanctions) and through the National Regulation 2000:289 amending the National Regulation on traffic (*Trafikförordning (1998:1276)*), see sanctions in the table below. Furthermore, please note Appendix 1 of the National Regulation on Traffic containing a detailed list of sanction fees for infringements of the National Regulation (*Brott mot trafikförordningen (1998:1276)*) that are not related to the amendments attributable to Directive 96/53/EC.

29.3.3 Directive 2009/40/EC

Pursuant to information available on EUR Lex, Sweden did not consider national execution measures necessary. However, certain references (comparisons) are made from the National Regulation TSFS 2010:84 from the Swedish Transport Agency on roadworthiness tests (*Transportstyrelsens föreskrifter och allmänna råd (TSFS 2010:84) om kontrollbesiktning*).

Please note that driving a vehicle without a valid roadworthiness certificate or with an expired certificate when roadworthiness tests are mandatory constitutes an offence which is sanctioned with a fine in the amount of 1,500 SEK. Finally, driving with a fake roadworthiness certificate is criminally sanctioned with a fine in the amount of 1,500 SEK and/or an imprisonment sentence.

29.3.4 Directive 2006/126/EC

Regulation No. 1072/2009 is executed through the Act 2010:798 and Act 2012:5 amending the Driver's Licence National Regulation (*Körkortsförordning (1998:980)*) and the Act 2011:1580 amending the Driver's Licence Act (*Körkortslagen (1998:488)*). Several provisions of the Acts do not enter into force until 2013. The sanctions that relate to the provisions that have been entered into force are displayed in the table below. Please also note that there are several sanction fees pursuant to the Driver's Licence National Regulation and the Driver's Licence Act, displayed in the table below.

29.4 Notion of criminal sanction and of administrative sanction in the Swedish legal system

Criminal sanctions are the consequences of criminal offences. 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 (assets).

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. Corporate fines may be applied directly to corporations.

Criminal sanctions are subject to the principle of legality.

The sanctions (penalties) are:

- fines;
- conditional sentence;
- probation;
- imprisonment;
- compulsory care in certain cases;
- care of young persons;
- juvenile community service.

Other sanctions for offences may be:

- intensive supervision with electronic monitoring (foot tag);
- damages;
- community service;
- transfer for special care;
- various sanctions can be combined.

An offence may involve other consequences for the person sentenced. The court can sometimes decide that the person sentenced must surrender certain property that he or she has used in connection with the offence (so-called “forfeiture of property”) or that the person should be deported from Sweden (this only applies to foreign nationals).

The question of what should happen with the defendant's driving licence will be considered by the county administrative board.

Administrative penalties are not regulated by a specific act. Instead several acts regulate the right to administrative sanctions. An administrative penalty is the consequence of an administrative offence. Typically, an authority is designated and entrusted to issue administrative sanctions on behalf of the state.

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

Both criminal and administrative offences are those actions that violate a rule that protect a public interest.

Criminal and administrative sanctions have similarities as they both consist in the limitation of a right of the person that has violated a rule.

They are deemed to have a dissuasive effect since they consist in a threat to inflict damage to potential offenders.

Both criminal and administrative sanctions have to be proportionate having regard to the seriousness of the infringement.

Sweden does not clearly distinguish administrative and criminal sanctions. There are no thresholds for pecuniary fines.

The Supreme Administrative Court has ruled that withdrawal of a licence (because of a committed crime) is classified as a criminal sanction that could be decided after a sanction of a traffic crime has been sentenced (violation of the Traffic

Criminal Act). According to the court, Swedish people know, or ought to know, that a conviction of a traffic crime leads to a withdrawal of the licence.

Concurrence between several administrative sanctions

The sanction fees for several infringements of Regulations 561/2006 and 3821/85 are (according to Chapter 10, Section 3 of the National Regulation on Driving Times, Breaks and Tachographs etc. (*SW: Förordning (2004:865) om kör- och vilotider samt färdskrivare, m.m.*)) limited to an amount of 10,000 SEK (approx. 1,140 EUR) for one driver and 200,000 (approx. 22,700 EUR) for a company or employer. The sanction fee is also limited to a maximum of 10 % of the annual income of the company or employer. To our knowledge, there are no other limitations of sanctions for multiple infringements of European transport rules.

Concurrence between administrative and criminal sanctions

The application of a criminal penalty excludes the possibility to apply an administrative penalty as regards National Regulation 2004:865 on Driving Times, Breaks and Tachographs.

However, it is generally possible to combine an administrative penalty with a criminal penalty, as long as it is deemed proportionate.

29.5 Scope of application of Swedish criminal law

Act 1971:965 on penalties for traffic violations committed abroad (*Lag 1971:965 om straff för trafikbrott som begåtts utomlands*) regulates traffic violation committed abroad. Section 1 of the Act refers to the act on certain traffic violations (1951:649) stating that it also applies to actions committed abroad. Section 2 of the Act lists several traffic acts clarifying that they may also apply on actions committed abroad if a corresponding code exists in that place. Section 3, applicable if responsibility cannot be sought from Section 1 or 2, applies fines to numerous (fifteen are listed) violations to where the act applies. However, pursuant to Section 3, the violations need to have occurred in Denmark, Finland, Iceland or Norway.

The rules on the scope of application of Swedish criminal law are laid down in Chapter 2 of the Criminal Code. Pursuant to Section 1 crimes committed in Sweden shall be adjudged in accordance with Swedish law and by a Swedish court. The same applies when it is uncertain where the crime was committed but grounds exist for assuming that it was committed within Sweden.

Section 2 states that crimes committed outside of Sweden shall be adjudged according to Swedish law and by a Swedish court where the crime has been committed:

- by a Swedish citizen or an alien domiciled in Sweden;
- by an alien not domiciled in Sweden who, after having committed the crime, has become a Swedish citizen or has acquired domicile in Sweden or who is a Danish, Finnish, Icelandic, or Norwegian citizen and is present in Sweden; or
- by any other alien, who is present in Sweden, and the crime under Swedish Law can result in imprisonment for more than six months.

The above does not apply if the act is not subject to criminal responsibility under the law of the place where it was committed or if it was committed within an area not belonging to any state and, under Swedish law, the punishment for the act cannot be more severe than a fine. In such cases, a sanction may not be imposed which is more severe than the severest punishment provided for the crime under the law in the place where it was committed (Law 1972:812).

Section 3 lists other cases than those listed in Section 2, stating that crimes committed outside of Sweden shall be adjudged according to Swedish law and by a Swedish court:

- if the crime was committed on board a Swedish vessel or aircraft or was committed in the course of duty by the officer in charge or a member of its crew;
- if the crime was committed by a member of the armed forces in an area in which a detachment of the armed forces was present, or if it was committed by some other person in such an area and the detachment was present for a purpose other than an exercise;
- if the crime was committed in the course of duty outside the Realm by a person employed in a foreign contingent of the Swedish armed forces;
- if the crime committed was a crime against the Swedish nation, a Swedish municipal authority or other assembly, or against a Swedish public institution;

- if the crime was committed in an area not belonging to any state and was directed against a Swedish citizen, a Swedish association or private institution, or against an alien domiciled in Sweden;
- if the crime is hijacking, maritime or aircraft sabotage, airport sabotage, an attempt to commit such crimes, a crime against international law, unlawful dealings with chemical weapons, unlawful dealings with mines or false or careless statement before;
- an international court, or;
- if the least severe punishment prescribed for the crime in Swedish law is imprisonment for four years or more. (Law 1998:1703).

Besides the cases described in Sections 1-3, crimes may be adjudged according to Swedish law and by a Swedish court in accordance with the provisions of the Act on International Collaboration concerning Proceedings in Criminal Matters (1975:19). (Law 1976:20).

29.6 Summary tables

In the Swedish legal system the role of the competent authorities are the following:

- the Police imposes fines;
- the prosecutor's office may issue certain also certain fines;
- the Swedish Civil Contingencies Agency is responsible for ADR;
- the Swedish Transport Agency revokes authorisation when applicable.

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

Table SE 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>	9:4, 9:8 Appendix	Not respecting minimum ages for conductors.	- Crew member - Employer	2000 SEK		
	<u>National Regulation on Driving times, Breaks and Tachographs etc.</u>	<u>Driving Times</u>	9:5, 9:8 Appendix	Exceeding the daily driving by 1 or up to more than 2 hours.	- Drivers - Employer	From 1000 to 4000 SEK	
			9:5, 9:7 Appendix	Exceeding the weekly driving time by 4 or up to more than 14 hours.	- Drivers - Employer	From 1000 to 4000 SEK	

Table SE 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)
		9:5, 9:8 Appendix	Exceeding the driving time for 2 weeks by 10 or up to more than 22.5 hours.	- Drivers - Employer	From 1000 to 4000 SEK	
	Rest Periods	9:5, 9:8 Appendix	Not respecting the rules on daily rest period (less than 11 hours) by 1 up to more than 2.5 hours.	- Drivers - Employer	From 1000 to 4000 SEK	
		9:5, 9:8 Appendix	Not respecting the rules on daily rest period (less than 9 hours, reduced rest period) by 1 or up to more than 2	- Drivers - Employer	From 1000 to 4000 SEK	

Table SE 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)
			hours.			
		9:5, 9:8 Appendix	Not respecting the rules on splitted daily rest period (less than 3+9 hours) by 1 up to more than 2 hours.	- Drivers - Employer	From 1000 to 4000 SEK	
		9:5, 9:8 Appendix	Not respecting the rules on daily rest period (less than 9 hours, reduced rest period) when the crew is more extensive by 1 up to more than 2 hours.	- Drivers - Employer	From 1000 to 4000 SEK	

Table SE 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)
		9:5, 9:8 Appendix	Not respecting the rules on daily rest period (less than 24 hours) by 2 up to more than 4 hours.	- Drivers - Employer	From 1000 to 4000 SEK	
		9:5, 9:8 Appendix	Not respecting the rules on the weekly rest period (less than 45 hours, no reduced rest period) by 3 up to more than 9 hours.	- Drivers - Employer	From 1000 to 4000 SEK	
		9:5, 9:8 Appendix	Not respecting the rules on the weekly rest period (less than 90	- Drivers - Employer	From 1000 to 4000 SEK	

Table SE 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)
			hours, referred weekly rest) by 6 up to more than 14 hours.			
		9:5, 9:8 Appendix	Not respecting the rules on the weekly rest period (less than 69 hours, no referred weekly rest) by 4 up to more than 12 hours.	- Drivers - Employer	From 1000 to 4000 SEK	
	<u>Breaks</u>	9:5, 9:8 Appendix	Infringements of rules on breaks.	- Drivers - Employer	From 1000 to 4000 SEK	

Table SE 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)
	<u>Reimbursement and organisation</u>	9:7 Appendix	Connection between the salary and the travelled distance or amount of transported goods.	- Professional	4000 SEK	
		9:7 Appendix	The work is not organised properly, the drivers are not informed and Regulation (EEG) No. 3821/85 or Chapter 2 of the 561/2006/EG is not followed	- Professional	4000 SEK	

Table SE 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)
		9:7 Appendix	The transport schedules are not compatible with 561/2006/EG.	- Professional	4000 SEK	
	<u>Violations committed in another county (EES or Switzerland) but revealed in Sweden.</u>	9:9 Appendix	The driver has violated the rules on driving time.	- Drivers	3000 SEK	
		9:9 Appendix	The driver has violated the rules on breaks.	- Drivers	3000 SEK	
		9:9 Appendix	The driver has violated the rules on rest periods.	- Drivers	3000 SEK	

Table SE 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)
		9:9 Appendix	The driver has violated the rules on weekly rest periods.	- Drivers	3000 SEK	
		9:9 Appendix	The deferred weekly rest period has not been sufficient.	- Drivers	3000 SEK	
		9:9 Appendix	The driver has not indicated the reasons for depart from 561/2006 on the record sheet of the recording equipment, on a printout from the recording equipment or	- Drivers	3000 SEK	

Table SE 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)
			in the duty roster.			
	<u>Other sanction fees pursuant to the National Regulation.</u>	6:2 mom. 1	A company has violated the rules on how to copy driver cards and 2 § mom. 1 the documentation from vehicle units.	- Professional	1000 SEK	
		6:2 mom. 1	A company has violated the rules on how to store certain documentation and keep it available for authorised control	- Professional	4000 SEK	

Table SE 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)
			officer.			
Directive 2002/15/EC	<u>Working time and rest periods</u> <u>Act on Working Hours Regarding Certain Road Transport Work (changes (regarding self-employed) enters into force 1 May 2012)</u>	24 §	To ensure that the law is followed.		Relevant authority may issue injunctions or prohibits to ensure that the law is followed. May be combined with a penalty.	
		25 §	An employer or self-employed violates the issued injunction or prohibit by negligence	- Employer	Sanction fee	Imprisonment up to 1 year.

Table SE 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)
			or intent (if not combined with a penalty).			
		26 §	Employer: exceeded working hours pursuant to the law, not sufficient breaks pursuant to 18 §, violation of obligations pursuant to 16 § or provides incorrect information when requested by the Swedish Transport Agency pursuant to 22 § st.1, by negligence or	- Employer	Sanction fee (no levels). is a sanction, but it is up to the competent authority to decide the amount.	

Table SE 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)
			intent.			
		26 a §	Self-employed: exceeded working hours pursuant to the law, not sufficient breaks pursuant to 18 §, violation of obligations pursuant to 20 § mom. 1 or provides incorrect information when requested by the Swedish Transport Agency pursuant to 22 § st.1, by negligence or	- Self employed	Sanction fee (no levels). is a sanction, but it is up to the competent authority to decide the amount.	

Table SE 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)
			intent.			
		27 §	Violation of obligations pursuant to collective agreement.	- Employer	As regards sanctions, see the At work Codetermination Act (SW: Lagen (1976:580) om medbestämmande i arbetslivet).	
		28 §	Violation of obligations pursuant to collective agreement.	- Employer	Over-time sanction fee (no levels).	

Table SE 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	<u>National Regulation on Driving Times, Breaks and Tachographs, etc.</u>	9:5	Not installed or used tachograph (no sanction if the vehicle is equipped with tachograph pursuant to 2:1).	- Driver - Employer	4000 SEK	
		9:6	Not sufficient amount of diagram sheets.	Professional	2000 SEK	
		9:6	Not approved diagram sheets.	Professional	2000 SEK	
		9:6	Not sufficient amount of printing paper.	Professional	1000 SEK	

Table SE 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)
		9:7	Violated rules on storage, submitting and displaying of diagram sheets, copied records or prints to the control officer and there is no sanction fee pursuant to Section 3.	-Professional	4000 SEK	
		9:5, 9:8	The driver has more than 1 valid driver card, uses a driver card that is not his own or uses a driver card which is damaged or expired.	- Driver - Employer	4000 SEK	

Table SE 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)
		9:5, 9:8	The driver uses damaged or dirty sheets or driver card (legible data)	- Driver - Employer	1000 SEK	
		9:5, 9:8	The driver uses damaged or dirty sheets or driver card (not legible data)	- Driver - Employer	4000 SEK	
		9:5, 9:8	Delayed application for replacement of damaged, lost or stolen driver card, with more than 7 days.	- Driver - Employer	2000 SEK	

Table SE 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)
		9:5, 9:8	Misuse of diagram sheets/driver card or illicit use removal of sheet or driver card, affecting the registration of relevant data.	- Driver - Employer	4000 SEK	
		9:5, 9:8	Illicit removal of sheet or driver card, not affecting the registration of relevant data or use of sheets or driver card for longer than they are intended	- Driver - Employer	1000 SEK	

Table SE 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)
			for (no lost data).			
		9:5, 9:8	Use of sheets or driver card for longer than they are intended for (lost data), no manual input or wrong sheet or driver card in wrong place.	- Driver - Employer	4000 SEK	
		9:5, 9:8	Registered time on the sheet and the official time of the vehicle's registration country is not congruent.	- Driver - Employer	2000 SEK	

Table SE 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)
		9:5, 9:8	Incorrect use of conversion equipment.	- Driver - Employer	4000 SEK	
		9:5, 9:8	Missing data on diagram sheet: surname, last name, date and place for initiated and finished use, registration number, odometer reading (start and finish) and time for vehicle change.	- Driver - Employer	1000-4000 SEK	
		9:5, 9:8	Country symbol not cited in the tachograph.	- Driver - Employer	1000 SEK	

Table SE 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)
		9:5, 9:8	Not been able to display driver card, diagram sheet, manual registration or print.	- Driver - Employer	4000 SEK	
		9:5, 9:8	Not repaired by approved installer or workshop.	-Professional	4000 SEK	
		9:5, 9:8	Not repaired during the transport.	- Driver - Employer	2000 SEK	
		9:5, 9:8	Not inserted data which is not registered due to failure of tachograph.	- Driver - Employer	4000 SEK	

Table SE 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)
		9:5, 9:8	Missing data on print: driver card number, name, driver licence number or signature.	- Driver - Employer	2000 or 4000 SEK	
		9:5, 9:8	Lost or stolen driver card has not been formally reported to competent authority.	- Driver - Employer	4000 SEK	
		9:5, 9:8	Not exempted transport after tachograph not being inspected or when defects have been found.	- Driver - Employer	4000 SEK	

Table SE 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)
		9:5, 9:8	Driven vehicle with tachograph without driver card.	- Driver - Employer	4000 SEK	
		9:5, 9:8	Violation of rules on tachograph card pursuant to (EEG) nr 3821/85.	- Driver - Employer	4000 SEK	
		9:7	No list of holders of workshop cards.	-Professional	4000 SEK	
		9:7	Not reported stolen or lost business card or workshop card to the relevant authority.	-Professional	4000 SEK	

Table SE 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)
		9:7	Violated rules on storage, submitting or display diagram sheets, copied data or prints to the competent control officer.	-Professional	20000 SEK	

Table SE 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. 1071/2009	<u>Transport Manager</u> <u>Professional Traffic Regulation (SW: Yrkestrafik-förordningen (2012:237))</u>	2:5 and 6:1 of the Regulation	- not reporting the exchange of a transport manager	- Transport undertaking; - Entity performing the road transport activities.	1800 (this sanction fee is relevant for infringements of the previous Professional Traffic Regulation (1998:779). There are no new levels for the updated Regulation (2012:237))	

Table SE 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)	<u>Community licence Professional Traffic Act (SW: Yrkestrafiklagen (1998:490))</u>	5:1 section 1 of the Act	- performance of international road transport without possessing the required permit for a vehicle (illegal commercial traffic)	- Transport undertaking; - Entity performing the road transport activities.	Immobilization of the vehicle or transport of the vehicle out of the country.	Fine or imprisonment for 1 year. No fine levels available.
		5:1 section 2 of the Act	- violation of the conditions of the permit	- Transport undertaking;		Fine. No fine levels available.
	<u>Regulation (1998:786) on</u>	Paragraph 4 (Article 3 in Regulation 1072/2009)	- traffic without required permit pursuant to Article 3		Fine	

Table SE 3

Road Package

EU Legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
No. 1072/2009	<u>International Road Transports within the EES</u>	Paragraph 4 (Regulation 1072/2009)	-cabotage transports not in accordance with the Regulation 1072/2009		Fine	
		Paragraph 6 (Regulation 1072/2009)	- person who has entered into a transportation agreement with the transport undertaking,, when the traffic was performed without relevant permits, and the person knew or should or had reasonable cause to believe that the required permits were missing or that the cabotage transport was not performed on accordance		Fine	

Table SE 3

Road Package

EU Legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			with the Regulation			
		Paragraph 7 (Regulation 1072/2009)	- transport not in accordance with Regulation 1073/2009		Immobilization of the vehicle or transport of the vehicle out of the country (if the vehicle is registered abroad).	
		Article 4.6 of Regulation 1072/2009	- not carried or been able to present a community licence		3000	
		Article 5.6 of Regulation	- not been able to present a driver attestation		3000	

Table SE 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. 1073/2009	The General Prosecutor's regulation (1999:178) on penalties for certain crimes	1072/2009				
		Paragraph 7 (Regulation 1073/2009)	- transport not in accordance with Regulation 1073/2009		Immobilization of the vehicle or transport of the vehicle out of the country (if the vehicle is registered abroad)	
		Paragraph 4 (Article 4 and 6 of Regulation	- transport without the required permit		Fine	
	Regulation					

Table SE 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>(1998:786) on International Road Transports within the EES</u>	1073/2009)				
		Paragraph 4 (Article 12 of Regulation 1073/2009)	- transport without the required permits pursuant to Article 12 (not required if resident in Sweden, Norway, Denmark or Finland)		Fine	
		Paragraph 4 (Article 5.5 of Regulation 1073/2009)	- transport without the required driver attestation		Fine	
		Paragraph 4 (Regulation 1073/2009)	- cabotage traffic not in accordance with the Regulation as a whole		Fine	

Table SE 3

Road Package

EU Legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Paragraph 6 (Regulation 1073/2009)	- person who has entered into a transportation agreement with the transport undertaking,, when the traffic was performed without relevant permits, and the person knew or should or had reasonable cause to believe that the required permits were missing or that the cabotage transport was not performed on accordance with the Regulation		Fine	
	<u>The General Prosecutor's</u>	Article 4.3 sentence 2 of Regulation	- not carried or been able to present a community		3000	

Table SE 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>regulation (1999:178) on penalties for certain crimes</u>	1073/2009	licence			
		Article 19.1 of Regulation 1073/2009	- not carried or been able to present an authorisation or control document.		3000	
		Article 17.1 of Regulation 1073/2009	- not carried or been able to present a journey form		3000	

Table SE 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>Directive 2008/68/EC</p>	<p><u>Transport of Dangerous goods</u></p> <p><u>ADR-S and ADR</u></p>				<p>Liability Codes</p> <p>A- Sender</p> <p>B- Transporter, road carrier</p> <p>C- Driver</p> <p>D- Receiver</p> <p>E- Other crew member</p> <p>F- Other participant. (eg. loader, user of container or UN container)</p>	

Table SE 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)
	<u>Declaration of goods</u>					
		5.4.1 8.1.2.1(a) (ADR-S national transports)	Missing/not carried (value calculated amount pursuant to 1.1.3.6)		C 3000 F 3000	
		5.4.1 8.1.2.1(a) (ADR international transports)				
		5.4.1 8.1.2.1(a) (ADR-S national transports)	Missing/ not carried (transport exceeding value calculated amount pursuant to		C 4000 F 4000	

Table SE 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)
		5.4.1 8.1.2.1(a) (ADR international transports)	1.1.3.6)			
		5.4.1 5.5.2.1 (ADR-S national transports) 5.4.1 5.5.2.1 (ADR international transports)	No or inappropriate details of the nature & quantity of dangerous goods (UN number, official transportation label, code, class 7, net weight class 7, labels, control temperature/emergency temperature,		C 2500 F 2500	

Table SE 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)
			information re. gas unit). Max one deficiency.			
		5.4.1 5.5.2.1 (ADR-S national transports) 5.4.1 5.5.2.1 (ADR international transports)	No or inappropriate details of the nature & quantity of dangerous goods (UN number, official transportation label, code, class 7, net weight class 7, labels, control temperature/emergency temperature, information re. gas unit).		C 3000 F 3000	

Table SE 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)
			Two deficiencies.			
		5.4.1 5.5.2.1 (ADR-S national transports) 5.4.1 5.5.2.1 (ADR international transports)	No or inappropriate details of the nature & quantity of dangerous goods (UN number, official transportation label, code, class 7, net weight class 7, labels, control temperature/emergency temperature, information re. gas unit). Three deficiencies.		C 3500 F 3500	

Table SE 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)
		5.4.1 5.5.2.1 (ADR-S national transports) 5.4.1 5.5.2.1 (ADR international transports)	No or inappropriate details of the nature & quantity of dangerous goods (UN number, official transportation label, code, class 7, net weight class 7, labels, control temperature/emergency temperature, information re. gas unit). More than three deficiencies.		C 4000 F 4000	

Table SE 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)
		5.4.1 (ADR-S national transports) 5.4.1 (ADR international transports)	No or inappropriate details of the nature & quantity of dangerous goods pursuant to ADR/ADR-S (other than UN number, official transportation label, code, class 7, net weight class 7, labels, control temperature/emergency temperature, information re. gas unit). Max one deficiency.		A 3000 C 1500 F 1500	

Table SE 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)
		5.4.1 (ADR-S national transports) 5.4.1 (ADR international transports)	No or inappropriate details of the nature & quantity of dangerous goods pursuant to ADR/ADR-S (other than UN number, official transportation label, code, class 7, net weight class 7, labels, control temperature/emergency temperature, information re. gas unit). Max two deficiencies.		A 4000 C 2000 F 2000	

Table SE 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)
		5.4.1 (ADR-S national transports) 5.4.1 (ADR international transports)	No or inappropriate details of the nature & quantity of dangerous goods pursuant to ADR/ADR-S (other than UN number, official transportation label, code, class 7, net weight class 7, labels, control temperature/emergency temperature, information re. gas unit). Three or more		C 2500 F 2500	

Table SE 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)
			deficiencies.			
		1.4.2 5.4.1 (ADR-S national transports)	Information in documentation wrong, non-compliance with transported goods.		C 4000 F 4000	
		1.4.2 5.4.1 (ADR international transports)				
		5.4.1.1.1 (ADR-S national transports)	Information in non-consecutive order and/or other extra		A 2000 C 1000	

Table SE 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)
		5.4.1.1.1 (ADR international transports)	information added save for information listed in ADR/ADR-s		F 1000	
		5.4.1.1.2 (ADR-S national transports) 5.4.1.1.2 (ADR international transports)	Information not clearly readable.		A 2000 C 1000 F 1000	
		5.4.1.4 (ADR-S national transports) 5.4.1.4 (ADR international	Language requirement not satisfied.		A 2000 C 1000 F 1000	

Table SE 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)
		transports)				
		3.5.6 (ADR-S national transports) 3.5.6 (ADR international transports)	Note re EQ in transport document missing (Text: Dangerous goods in limited amounts” and amount of packages.		A 2000 C 1000 F 1000	
	<u>Package certificate</u>	5.4.2, 8.1.2.1 (a) (ADR-S national transports) 5.4.2, 8.1.2.1 (a) (ADR	Not carried/presented/missing inadequate		A 3000 B 3000 C 1500 F 1500	

Table SE 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)
		international transports)				
	<u>Written instructions</u>	5.4.0, 5.4.3 8.1.2.1(b) (ADR-S national transports)	Not carried/not presented		C 3000 E 3000	
		5.4.0, 5.4.3 8.1.2.1(b) (ADR international transports)				
		5.4.3 (ADR-S	Flawed. Not compliant		B 3000	

Table SE 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)
		national transports) 5.4.3 (ADR international transports)	with model.		C 1500	
		5.4.3.2 (ADR-S national transports) 5.4.3.2 (ADR international transports)	Language requirement not satisfied (driver unable to read or understand)		B 4000 C 2000 E 2000	

Table SE 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)
		5.4.3.1, 8.1.2.3 (ADR-S national transports)	Not stored easily accessible		C 2000	
		5.4.3.1, 8.1.2.3 (ADR international transports)				
		5.4.3.3 (ADR-S national transports)	Not checked what dangerous goods that are carried and/or not studied written instructions before journey begun		C 2000 E 2000	
		5.4.3.3 (ADR international				

Table SE 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)
		transports)				
	<u>Special agreements/temporary deficiencies/permit for conducting transport</u>	5.4.1.2.1 c) och d) 5.4.1.2.3.3 (ADR-S national transports) 5.4.1.2.1 c) och d) 5.4.1.2.3.3 (ADR international transports)	Copy of competent authorities permit missing		C 3000	
		8.1.2.2(c) (ADR-S national transports)	Copy of competent authority's permit not carried		A 3000 B 3000 C 1500	

Table SE 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)
		8.1.2.2(c) (ADR international transports)				
	<u>Permit for loading and discharge</u>	7.5.11 CV1 (1) (a) (ADR-S national transports) 7.5.11 CV1 (1) (a) (ADR international transports)	Missing/not carried		B 3000 C 1500	

Table SE 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)
		7.5.11 CV1 (1) (b) (ADR-S national transports)	Preliminary application not done (outside densely populated area)		B 3000 C 1500	
		7.5.11 CV1 (1) (b) (ADR international transports)				
	<u>ID</u>	1.10.1.4 8.1.2.1(d) (ADR-S national transports) 1.10.1.4	Identification not carried		C 3000 E 3000	

Table SE 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)
		8.1.2.1(d) (ADR international transports)				
	<u>Certificate of approval</u>	9.1.3 (ADR-S national transports) 9.1.3 (ADR international transports)	Missing		C 4000	
		9.1.3 (ADR-S national transports)	Expired (more than 30 days)		C 4000	

Table SE 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)
		9.1.3 (ADR international transports)				
		9.1.3 (ADR-S national transports) 9.1.3 (ADR international transports)	Expired (less than 30 days)		C 3000	
		8.1.2.2(a) (ADR-S)	Not carried valid		B 3000	

Table SE 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)
		national transports) 8.1.2.2(a) (ADR international transports)			C 1500	
		8.1.2.2(a) (ADR-S national transports) 8.1.2.2(a)	Not carried original, only copy		B 2000 C 1000	
	<u>Driver's certificate</u>	8.2.1.1 (ADR-S national transports)	Missing		C 4000	

Table SE 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)
		8.2.1.1 (ADR international transports)				
		8.2.1.5 (ADR-S national transports) 8.2.1.5 (ADR international transports)	Expired (more than 30 days)		C 4000	
		8.2.1.5	Expired (less than 30		B 4000	

Table SE 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)
		1.4.2.2.1(b) (ADR-S national transports) 8.2.1.5 (ADR international transports)	days)		C 2000	
		8.2.1.1, 8.2.1.3, 8.2.1.4 (ADR-S national transports) 8.2.1.1, 8.2.1.3, 8.2.1.4 (ADR	Missing prescribed training		C 4000	

Table SE 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)
		international transports)				
		8.1.2.2(b) (ADR-S national transports) 8.1.2.2(b) (ADR international transports)	Not carried		C 1500	
	<u>Other ADR training</u>	1.3, 8.2.3, 8.5 S12 3.5.1.1(a), 13.2.2.3, 15.2.2,	Lacking		C 3000 E 3000 F 3000	

Table SE 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)
		16.10, 18.2 (ADR-S national transports) 1.3, 8.2.3, 8.5 S12 3.5.1.1(a) (ADR international transports)				
		1.3.3, 8.2.3 3.5.1.1(a), 13.2.2.3,	Not completed renewal course		A 4000 B 4000 C 2000	

Table SE 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)
		15.2.2, 16.10, 18.2 (ADR-S national transports) 1.3.3, 8.2.3 3.5.1.1(a) (ADR international transports)			E 2000 F 2000	
		13.2.2.3 (ADR-S national transports)	Documentation on training not carried in transport.		C 1500	
	<u>Loading/ Stowing</u>		Load not properly		C 4000	

Table SE 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)
	<u>(insecure load)</u>	7.5.7 (ADR-international transports)	secured (above value calculated amount 1.1.3.6)		F 4000	
		7.5.7 (ADR-S national transports) 7.5.7 (ADR international transports)	Load not properly secured (value calculated amount per 1.1.3.6)		C 2500 F 2500	

Table SE 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)
		7.5.7.2 (ADR-S national transports) 7.5.7.2 (ADR international transports)	Not followed rules on stacking		A 4000 C 2000 E 2000 F 2000	
		7.5.7.5, 8.3.3 (ADR-S national transports) 7.5.7.5, 8.3.3 (ADR	Opened load		C 3000 E 3000	

Table SE 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)
		international transports)				
		7.5.2 (ADR-S national transports) 7.5.2 (ADR international transports)	Inadequate separation of incompatible loads		C 4000 F 4000	
		7.5.4 (ADR-S national transports) 7.5.4 (ADR international	Not maintained		C 3000 F 3000	

Table SE 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)
		transports)				
	<u>Labelling of loads/over packs</u>	5.1.2.1, 5.2.1.1, 5.2.1.7.2, (ADR-S national transports)	UN number missing		C 3000 F 3000	
		5.1.2.1, 5.2.1.1, 5.2.1.7.2, (ADR international transports)				
		5.1.2.1, 5.2.1.1, 5.2.1.7.2,	UN number wrong, not compliant with goods		C 3000 F 3000	

Table SE 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)
		(ADR-S national transports) 5.1.2.1, 5.2.1.1, 5.2.1.7.2, (ADR international transports)				
		5.1.2.1, 5.2.1.2 5.2.1.7.2 (ADR-S national transports) 5.1.2.1,	UN number not clearly visible/readable		A 4000 C 2000 F 2000	

Table SE 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)
		5.2.1.2 5.2.1.7.2 (ADR international transports)				
		5.2.1.4 (ADR-S national transports) 5.2.1.4 (ADR international transports)	UN number missing (one of two prescribed) (IBC container over 450 litres)		A 3000 C 1500 F 1500	
		3.4.3(a), 3.4.4(c), 3.4.5(c)	Labelling of dangerous goods packed in reduced amount (EQ)		F 3000	

Table SE 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)
		3.5.4 (ADR-S national transports) 3.4.3(a), 3.4.4(c), 3.4.5(c) 3.5.4 (ADR international transports)	or dangerous goods packed in limited amount (LQ) missing/wrong			
		3.4.3(a), 3.4.4(c), 3.4.5(c) 3.5.4 (ADR-S national transports)	Labelling of dangerous goods packed in reduced amount (EQ) or dangerous goods packed in limited amount (LQ) not		F 3000	

Table SE 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)
		3.4.3(a), 3.4.4(c), 3.4.5(c) 3.5.4 (ADR international transports)	clearly visible			
		5.1.2, 5.1.3, 5.2.1.3, 5.2.1.5-5.2.1.9 (ADR-S national transports) 5.1.2, 5.1.3, 5.2.1.3, 5.2.1.5-5.2.1.9	Other prescribed labelling missing		C 3000 F 3000	

Table SE 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)
		(ADR international transports)				
		5.1.2.1, 5.2.2.1.1 (ADR-S national transports)	Labels missing		C 3000 F 3000	
		5.1.2.1, 5.2.2.1.1 (ADR international transports)				
		5.2.2.1.1 5.2.2.1.2 (ADR-S national transports)	Labels or permanent warning signs wrong		C 3000 F 3000	

Table SE 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)
		5.2.2.1.1 5.2.2.1.2 (ADR international transports)				
		5.2.2 (ADR-S national transports) 5.2.2 (ADR international transports)	Labels do not fulfil requirements re..... (colour, signs, general design, size, placement, and/or requirement to withstand weather)		A 3000 C 1500 F 1500	
		5.2.2.1.11.1 (ADR-S national	Label class 7- not removed/covered as no		A 2000	

Table SE 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)
		transports) 5.2.2.1.11.1 (ADR international transports)	longer relevant for content		F 1000	
		5.2.2.1.7 (ADR-S national transports) 5.2.2.1.7 (ADR international transports)	Label missing on IBC container greater than 450 litres and/or large container.		A 3000 C 1500 F 1500	

Table SE 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)
	<u>Large labels</u>	5.3.1, 10.2 (ADR-S national transports)	Missing (all)		C 4000	
		5.3.1 (ADR international transports)				
		5.3.1 10.2 (ADR-S national transports)	Missing (one or more but not all)		C 3000	
		5.3.1 (ADR				

Table SE 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)
		international transports)				
		5.3.1 10.2 (ADR-S national transports) 5.3.1 (ADR international transports)	Not right adjusted, placed, or with wrong information (one or more)		A 4000 B 4000 C 2000	
		5.3.1 10.2 (ADR-S	Incorrectly placed (one or more)		A 4000 B 4000	

Table SE 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)
		national transports) 5.3.1 (ADR international transports)			C 2000	
		5.3.1.1.5 10.2 (ADR-S national transports) 5.3.1.1.5 (ADR international transports)	No longer required, not removed/covered		C 2000	

Table SE 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)
	<u>Labelling transportation units/containers</u>	5.3.2 10.5.3 (ADR-S national transports) 5.3.2 (ADR international transports)	Orange coloured labels missing (all)		C 4000	
		5.3.2 10.5.3 (ADR-S national transports)	Orange coloured labels missing (some but not all)		C 3000	

Table SE 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)
		5.3.2 (ADR international transports)				
		10.2 (ADR-S national transports)	Orange coloured labels missing on parked vehicles(all)		C 4000	
		10.2 (ADR-S national transports)	Orange coloured labels missing on parked vehicles (some but not all)		C 3000	
		5.3.2 (ADR-S national transports)	Orange coloured labels incorrectly placed.		A 4000 B 4000	

Table SE 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)
		5.3.2 (ADR international transports)			C 2000	
		5.3.2 (ADR-S national transports) 5.3.2 (ADR international transports)	Orange coloured labels not well displayed, designed or correctly attached		A 4000 B 4000 C 2000	
		5.3.3 (ADR-S	Labels for goods transported at a higher		C 4000	

Table SE 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)
		national transports) 5.3.3 (ADR international transports)	temperature missing (all)			
		5.3.3 (ADR-S national transports) 5.3.3 (ADR international transports)	Labels for goods transported at a higher temperature missing (some but not all)		C 3000	

Table SE 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)
		5.3.3 (ADR-S national transports) 5.3.3 (ADR international transports)	Labels for goods transported at a higher temperature incorrectly placed		A 4000 B 4000 C 2000	
		5.3.3 (ADR-S national transports) 5.3.3 (ADR international transports)	Labels for goods transported at a higher temperature incorrectly designed		A 4000 B 4000 C 2000 F 2000	

Table SE 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)
		5.3.3 (ADR-S national transports)	Warning label gas treated unit missing		C 4000 F 4000	
		5.3.3 (ADR international transports)				
		5.5.2 (ADR-S national transports)	Warning label gas treated unit not correctly designed.		A 4000 B 4000 F 2000	
		5.5.2 (ADR international transports)				

Table SE 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)
		5.5.2 (ADR-S national transports) 5.5.2 (ADR international transports)	Warning label gas treated unit not correctly placed.		A 4000 B 4000 C 2000 F 2000	
		7.5.11 CV 36 3.3 SP 633 (ADR-S national transports) 7.5.11 CV 36	Other mandatory labelling missing		C 4000 F 4000	

Table SE 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)
		3.3 SP 633 (ADR international transports)				
		7.5.11 CV 36 3.3 SP 633 (ADR-S national transports) 7.5.11 CV 36 3.3 SP 633 (ADR international transports)	Other mandatory labelling inadequate or miss placed		C 2000 F 2000	
		5.3.6 (ADR-S national transports)	Label for environmentally hazardous goods		C 4000	

Table SE 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)
		5.3.6 (ADR international transports)	missing (all)			
		5.3.6 (ADR-S national transports) 5.3.6 (ADR international transports)	Label for environmentally hazardous goods (one or more but not all)		C 3000	

Table SE 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)
		5.3.6 (ADR-S national transports) 5.3.6 (ADR international transports)	Label for environmentally hazardous goods incorrectly designed /attached		A 4000 B 4000 C 2000	
		5.3.6 (ADR-S national transports) 5.3.6 (ADR international transports)	Label for environmentally hazardous goods incorrectly placed		A 4000 B 4000 C 2000	

Table SE 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)
		3.4.10--13 (ADR-S national transports) 3.4.10--13 (ADR international transports)	Labelling for LTD QTY missing (all)		A 4000 B 4000 C 2000	
		3.4.10--13 (ADR-S national transports) 3.4.10--13 (ADR international)	Labelling for LTD QTY missing (one or several but not all)		A 3000 B 3000 C 1500	

Table SE 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)
		transports)				
		3.4.12 (ADR-S national transports) 3.4.12 (ADR international transports)	Labelling for LTD QTY incorrectly designed		A 3000 B 3000 C 1500	
		3.4.10--13 (ADR-S national transports) 3.4.10--13 (ADR	Labelling for LTD QTY misplaced		A 3000 B 3000 C 1500	

Table SE 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)
		international transports)				
		3.4.10--13 (ADR-S national transports) 3.4.10--13 (ADR international transports)	Labelling no longer needed not duly removed/covered		A 4000 C 2000 F 2000	
	<u>Other equipment and personal protection gear</u>	8.1.5 (ADR-S national transports)	Break saddles /missing/inadequate		B 3200 C 1600	

Table SE 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)
		8.1.5 (ADR international transports)				
		8.1.5 (ADR-S national transports) 8.1.5 (ADR international transports)	Independent warning gear missing/malfunctioning (both)		B 4000 C 2000	
		8.1.5 (ADR-S national transports)	Independent warning gear missing/malfunctioning		B 3200 C 1600	

Table SE 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)
		8.1.5 (ADR international transports)	(either)			
		8.1.5 (ADR-S national transports) 8.1.5 (ADR international transports)	Eye rinse fluid missing		B 3200 C 1600	
	<u>Supplementary equipment for certain</u>	8.1.5 (ADR-S	Safety vest missing		B 2400	

Table SE 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)
	<u>situations</u>	national transports 8.1.5 (ADR international transports)			C 1200 E 1200	
		8.1.5 (ADR-S national transports) 8.1.5 (ADR international transports)	Portable light missing		B 2400 C 1200 E 1200	
		8.1.5 (ADR-S	Portable light not		B 4000	

Table SE 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)
		national transports) 8.1.5 (ADR international transports)	suitable		C 2000 E 2000	
		8.1.5 (ADR-S national transports) 8.1.5 (ADR international transports)	Safety gloves missing		B 2400 C 1200 E 1200	

Table SE 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)
		8.1.5 (ADR-S national transports) 8.1.5 (ADR international transports)	Protective eye wear missing		B 2400 C 1200 E 1200	
	<u>Additional equipment needed for certain classes</u>	8.1.5 (ADR-S national transports) 8.1.5 (ADR international transports)	Escape equipment missing (labels 2.3 or 6.1)		C 4000 E 4000	

Table SE 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)
		8.1.5 (ADR-S national transports) 8.1.5 (ADR international transports)	Shovel missing (labels 3, 4.1, 4.3, 8 and 9)		B 2400 C 1200 E 1200	
		8.1.5 (ADR-S national transports) 8.1.5 (ADR international)	Sealing equipment for sewages missing (labels 3, 4.1, 4.3, 8 and 9)		B 2400 C 1200 E 1200	

Table SE 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)
		transports)				
		8.1.5 (ADR-S national transports) 8.1.5 (ADR international transports)	Plastic catchment vessel missing (labels 3, 4.1, 4.3, 8 and 9)		B 2400 C 1200 E 1200	
	<u>Fire extinguishing equipment</u>	8.1.4 (ADR-S national transports) 8.1.4 (ADR international	All missing/ low powder capacity		C 4000	

Table SE 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)
		transports)				
		8.1.4.2 (ADR-S national transports) 8.1.4.2 (ADR international transports)	Missing / low powder capacity when transporting value based amount pursuant to 1.1.3.6		C 2500	
		8.1.4.1(a) (ADR-S national transports) 8.1.4.1(a) (ADR international transports)	A-extinguisher missing/ low powder capacity		B 4000 C 2000	

Table SE 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)
		8.1.4.1(b) (ADR-S national transports)	B-extinguisher missing/ low powder capacity		C 2400	
		8.1.4.1(b) (ADR international transports)				
		8.1.4.4 (ADR-S national transports)	Misses/has inadequate labels/sealing		B 2400 C 1200	
		8.1.4.4 (ADR international transports)				
		8.1.4.4 (ADR-S	Expiry date/date for		B 2400	

Table SE 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)
		national transports) 8.1.4.4 (ADR international transports)	next inspection missing		C 1200	
		10.6 (ADR-S national transports)	Not inspected within max. one year		B 2400 C 1200	
		8.1.4.5 (ADR-S national transports) 8.1.4.5 (ADR international transports)	Not easily accessible to crew		B 4000 C 2000	

Table SE 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)
		8.1.4.5 (ADR-S national transports)	Not duly protected from weather		B 2400 C 1200	
		8.1.4.5 (ADR international transports)				
	<u>Passenger transport</u>	8.3.1 (ADR-S national transports)	Carried passengers despite prohibition		C 3000	
	8.3.1 (ADR international transports)					
	<u>Smoking prohibition</u>	7.5.9,	Smoking during goods handling close to,		C 3000	

Table SE 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)
		8.3.5 (ADR-S national transports) 7.5.9, 8.3.5 (ADR international transports)	nearby vehicle or container		E 3000 F 3000	
	<u>Fire prohibition</u>	8.5 S1(3) (ADR-S national transports) 8.5 S1(3) (ADR international transports)	Smoked used fire in or near vehicle transporting materials in class 1 or during loading or unloading of such		C 3000 E 3000 F 3000	

Table SE 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)
	<u>Other</u>	8.1.1 (ADR-S national transports) 8.1.1 (ADR international transports)	Transport unit contains more than one trailer (except ADR-S 10.7)		C 3000	
		7.5.1 (ADR-S national transports) 7.5.1 (ADR international transports)	Not complied with regulations on loading/unloading/handling		C 3000 E 3000 F 3000	
		8.3.6 (ADR-S	Running engine during loading/unloading		C 3000	

Table SE 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)
		national transports 8.3.6 (ADR international transports)	despite prohibition			
		4.1.1.15 (ADR-S national transports) 4.1.1.15 (ADR international transports)	Used barrel/cask/IBC despite passed expiry date for permitted usage		F 3000	
		10.8 (ADR-S national transports)	Not permitted driving practice		C 3000	

Table SE 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)
		8.4 (ADR-S national transports) 8.4 (ADR international transports)	Vehicle surveillance missing/inadequate and/or wrongful vehicle parking		C 3000	
		9.2.5 (ADR-S national transports) 9.2.5 (ADR international transports)	Speed limiting device missing/inadequate		B 4000 C 2000	
		4.1.1.1,	Cabbage/tan: not sealed/damaged/leakag		C 3000	

Table SE 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)
		4.1.3.8.1, 4.3.2.3.5, 4.3.2.4.1, 4.4.2.1, 4.5.2.1, 4.7.2.1 (ADR-S national transports) 4.1.1.1, 4.1.3.8.1, 4.3.2.3.5, 4.3.2.4.1, 4.4.2.1,	e/ on the outside		F 3000	

Table SE 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)
		4.5.2.1, 4.7.2.1 (ADR international transports)				
		7.1.4 (ADR-S national transports) 7.1.4 (ADR international transports)	Used large container despite major flaws.		C 3000 F 3000	
Directive 96/53/EC	<u>National Regulation on Traffic</u>	14:3 mom. 1 c	Exceeded the maximum vehicle length.	- Driver	2500 SEK	

Table SE 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)
		14:4	Vehicle is used without snow tyres or equivalent equipment when such shall be used.	- Driver - Owner	1200 SEK	
Directive 2009/40/EC			Driving without a valid roadworthiness certificate or with an expired certificate a vehicle for which roadworthiness tests are mandatory	- Driver - Owner	1500 SEK	
			Driving with a fake roadworthiness certificate	- Driver - Owner		Criminal Code may be applicable Fine or

Table SE 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)
						Imprisonment
Directive 2006/126/EC	<u>Driver's Licence Act</u>	3:15 and 9:2	Violation of rules on carrying driver's licence (or proof of that such has been issued and document proving the identity of the driver) when driving a car, truck, motor cycle, moped class I etc.	- Driver	500 SEK	
		3:15, 21 and 9:2	Violation of rules on carrying driver's licence (or proof of that such has been issued and document proving	- Driver	500 SEK	

Table SE 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)
			the identity of the driver) when driving a moped class II.			
		3:15, 21 and 9:2	Violation of rules on carrying driver's licence (or proof of that such has been issued and document proving the identity of the driver) when driving snowmobile or ATV.	- Driver	500 SEK	
		7:9 and 9:3	Violation of rules on handing over an invalid driver's licence to the Swedish Transport	- Driver	1200 SEK	

Table SE 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)
			Agency.			
		9:4	A person drives a vehicle against the rules in the Act.	- Driver - The person that allows the violation.		The Traffic Criminal Act (SW: Lagen (1951:649) om straff för visa trafikbrott.
	<u>Driver's Licence National Regulation</u>	3:16 b, 16 c and 9:2	A person provides false information when applying or notifying (if the Criminal Code does not apply to the action).		Sanction fee (no levels provided)	Criminal Code may be applicable
		4:4 mom. 2 4:5, 12 and	The person who overviews the learner	- Overseeing person	1000 SEK	

Table SE 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)
		9:3	has not ensured that the vehicle is properly marked pursuant to the Driver's Licence National Regulation.			

The table below gathers the sanctions which are considered formally criminal in the Swedish legal system.

Table SE 5		
Infringements of commercial road transport legislation		
Type of infringement(s) and Article of reference in national legislation	Criminal sanction	Is it dissuasive?
Corresponding EU legislation		
Driving with a fake roadworthiness certificate	Criminal Code may be applicable Fine or Imprisonment	Impossible to assess
Driver's Licence Act 9:4 A person drives a vehicle against the rules in the Act. Directive 2006/126/EC	Sanction fee (no levels provided) contained in the Traffic Criminal Act (SW: Lagen (1951:649) omstraff för visa trafikbrott	Impossible to assess
Driver's Licence National Regulation 3:16 b, 16 c and 9:2A person provides false information when applying	Sanction fee (no levels provided)	Impossible to assess

Table SE 5

Infringements of commercial road transport legislation

Type of infringement(s) and Article of reference in national legislation	Criminal sanction	Is it dissuasive?
Corresponding EU legislation or notifying (if the Criminal Code does not apply to the action). Sanction fee (no levels provided) Criminal Code may be applicable	Criminal Code may be applicable	

29.7 Sanctions which could be considered substantially criminal in the Swedish legal system

Table SE 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			
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?
There are no sanctions imposed by the Swedish legislation implementing the EU directives and regulations on commercial road transport which are formally administrative but substantively criminal			

29.8 Effectiveness of the sanctions system

Based on the information publicly available in 2009, *Sveriges Åkeriföretag*, a lobby organisation of the Swedish road transportation industry, raised concerns about police inefficiencies in combating alleged illegal transports by foreign drivers in Sweden. Primarily, the criticism derived in the debate of social dumping and salary levels. Furthermore, the lobby accused the police and prosecutor offices of lacking sufficient knowledge on EU transportation law.

Please note that it was not possible to find data on the number of infringements of the rules on commercial road transport in Sweden.

Neither the Swedish authorities contacted provided us with such data.

Therefore the assessment of the effectiveness of the Swedish system has been carried out based on the data publicly available and on the features of the system.

From a qualitative standpoint we notice two features of the Swedish systems:

- The amount of the financial penalties is low compared to the amount foreseen in other Member States for similar infringements. The maximum amount being 20,000 SEK equal to less than 2,500 Euros.
- The financial penalties do not differentiate between serious, very serious and minor infringements. The same amount is established for most of the infringements of Regulation (EC) No 561/2006 and of Regulation (EC) No 3821/85. The same applies to infringements of the Directive 2006/68/EC. Therefore, the system does not appear proportionate.
- The law does not foresee sanctions such as withdrawal of driving licences as well of Community licences. Such sanctions are indeed deemed to have a higher deterrent effect than financial penalties.

Such a conclusion seems to be confirmed by the figures concerning infringements detected in Sweden.

The number of infringements of social rules detected in Sweden in the years 2007-2008 is substantial: around 7,000 offences (according to the Commission's figures referred in the 25th report from the Commission on the implementation of the

social legislation relating to road transport, Commission Staff Working Document, Sec(2011) 52)⁵³.

⁵³ See the Report on the implementation in 2007-2008 of Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport and of Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities (25th report from the Commission on the implementation of the social legislation relating to road transport), Commission Staff Working Document, Sec(2011) 52.

30 UNITED KINGDOM ("UK") - COUNTRY REPORT ON SANCTIONS IN THE ROAD TRANSPORT SECTOR

30.1 Foreword: Administrative and Criminal Sanctions and their extraterritorial application in respect of commercial road transport rules in the UK legal system

From 1 April 2009 breaches of commercial vehicle legislation can be dealt with by way of fixed penalty. A new, graduated set of penalties (described as 'deposits') are available with the amount to pay being dependent upon the seriousness of the offending. These fixed penalties are administrative sanctions within the UK legal system. 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.

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 Fixed Penalty (Amendment) Order 2009, 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.

30.1.1 Criminal Sanctions in respect of commercial road transport rules in the UK legal system

Criminal sanctions in the UK 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 UK 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.

30.2 *Social rules on road transport*

30.2.1 Rules on Driving Times and Rest Periods

30.2.1.1 Regulation No. 561/06/EC

The Passenger and Goods Vehicles (Recording Equipment)(Downloading and Retention of Data) Regulations 2008 implement certain provisions of Regulation (EC) 561/2006 .

Article 15(7) of Regulation 3821/85, as amended by article 26(4) of Regulation 561/2006, requires a driver to produce to an enforcement officer hard copies of his driving record made during the current day and the previous 28 days. Section 97A of the Transport Act 1968 conflicts with article 15(7) as amended as it requires drivers to return such records to their employers within 21 days making it impossible for them to comply with the new requirement. Regulations 2 and 4(c) of the Passenger and Goods Vehicles (Recording Equipment)(Downloading and Retention of Data) Regulations 2008 therefore repeal section 97A of the Transport Act 1968 and replace it with a new provision (section 97C) requiring drivers to return paper records held by them to the transport undertaking (or undertakings) for which they have been working within 42 days of the records having been created.

Regulation 2 of the Passenger and Goods Vehicles (Recording Equipment)(Downloading and Retention of Data) Regulations 2008 implements article 10(5)(a) of Regulation 561/2006 by inserting new provisions into the Transport Act 1968, as follows:

➤ new sections 97D and 97E of the Transport Act 1968 require transport undertakings to download data held electronically on a vehicle unit and a driver card whenever that is necessary to ensure that the data is not overwritten or otherwise lost to the undertaking and in any event before the expiration of specific periods according to the data concerned, namely:

- in the case of data stored on the vehicle unit other than detailed speed data, a period of 56 days computed in accordance with section 97D(3);
- in the case of data stored on the driver card, a period of 28 days computed in accordance with section 97E(3);
- section 97F requires transport undertakings to download any data held electronically on a vehicle unit or driver card where an enforcement officer has reason to believe that an offence under the Road Traffic Regulation Act 1984, the Road Traffic Act 1988, the Road Traffic Offenders Act 1988 or Part 6 of the Transport Act 1968 has been committed;

- sections 97G and 97H create offences of failing to download or to retain data and provide for the making of data which has been downloaded accessible to enforcement officers.

Regulation 3 of the Passenger and Goods Vehicles (Recording Equipment)(Downloading and Retention of Data) Regulations 2008 inserts new sections 102B and 102C into the Transport Act 1968 which make provision in respect of :

- criminal proceedings against transport undertakings which are unincorporated bodies;
- offences committed by a corporate or unincorporated body with the consent or connivance of a director or other officer of that body.

Paragraphs (a), (b) and (d) of regulation 4 implement article 20(3) of Regulation 561/2006 by making it an offence if a driver who works for two or more undertakings fails to provide each of them with sufficient information to enable them to discharge their obligations in relation to the drivers' hours rules and provide for consequential amendments to definitions in the Transport Act 1968.

The sanction system related to the infringements of rules on driving time, breaks and rest periods envisaged in Regulation No. 561/06/EC is laid down in sections 96-99 of the Transport Act 1968, as amended. Fixed penalties are laid down in the Fixed Penalty (Amendment) Order 2009. Such fixed penalties are graduated and therefore envisage and stipulate varying seriousness of offence.

In the UK, any contravention of Regulation 561/2006/EC 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 £2500 in addition to any fixed penalty offence applicable to the offence. This offence is laid down under section 96(11A) of the Transport Act 1968, as amended.

Extraterritoriality/Commercial road transport rules relating to foreign vehicles

It must be noted 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.

Section 266 of the Transport Act 2000 inserted section 99A after section 99 of the Transport Act 1968. It gives police and vehicle examination officers the power to prohibit the driving of a UK registered passenger or goods vehicle whereby there is a breach of European Regulations 561/06/EC or Regulation 3821/85/EC. This is significant as previously only the driving of foreign registered vehicles could be prohibited by virtue of the provisions of the Road Traffic (Foreign Vehicles) Act 1972.

Any person who drives a vehicle subject to such a prohibition, or who causes or permits it to be driven, or who fails to comply with a direction to remove the vehicle to a specified place, commits a summary offence punishable by a level 5 fine (£5000).

This power to prohibit the driving of UK passengers and goods rectifies the previous anomaly whereby only the driving of foreign registered vehicles could be prohibited by virtue of the provisions of the Road Traffic (Foreign Vehicles) Act 1972.

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 s.55 of the Crime (International Co-operation) Act 2003 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 s.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 Vehicle Operator Services Agency (VOSA) vehicle examiner, and he cannot supply a satisfactory UK address, the officer may require the offender to pay a deposit which will act as a guarantee against the paying of the fixed penalty or is a surety against any subsequent court fine.

Vehicles that are seriously defective or overloaded or where the driver has committed drivers' hours offences are liable to have a prohibition notice issued. Failure

to comply with the notice is a summary offence punishable by up to a £5,000 fine. Under Schedule 4 of the Road Safety Act 2006, authorised officers may also immobilise the vehicle by means of a wheel clamp.

30.2.1.2 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 UK legal system by The Road Transport (Working Time) Regulations 2005. These infringements are dealt with in the UK 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).

30.2.1.3 Directive 2002/15/EC

The Road Transport (Working Time) Regulations 2005 implement the provisions of Council Directive 2002/15/EC concerning the organisation of the working time of persons performing mobile road transport activities.

These 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 (Council Regulation (EEC) 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 time worked and to provide copies.

They make it an offence to fail to comply with their requirements and provide for enforcement.

The sanctions for breach are set out by Regulation 17, together with Paragraphs 3 & 4 of Schedule 2, of The Road Transport (Working Time) Regulations 2005.

Extraterritoriality/Commercial road transport rules relating to foreign vehicles

See above

30.2.2 Tachograph

30.2.2.1 Regulation (EEC) No 3821/1985

The Passenger and Goods Vehicles (Recording Equipment)(Tachograph) Regulations 2006 implement Regulation (EEC) No. 3821/85 and make provision in relation to the cards (company cards, control cards, driver cards and workshop cards) used with digital tachographs, which are tachographs complying with Annex IB to Regulation (EEC) No 3821/85. Those new vehicles, which are required to be fitted with tachographs, have been required to be fitted with digital tachographs since 1 May 2006 (Regulation No. (EEC) 561/2006).

Section 99 of the Transport Act 1968 was amended by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005. The main change was to introduce sub-sections 99ZA to 99ZF which now relate to the powers to inspect records and equipment required under Regulation (EC) No. 3821/85 and the relating offences.

The Passenger and Goods Vehicles (Recording Equipment)(Tachograph) Regulations 2006 prohibit the use by a person of more than one driver card, of a driver card of which he is not the holder, of a forged or altered card and of a card issued as a result of an incorrect application. Making a false statement in an application for a card is also prohibited. Breach is an offence, the penalty depending upon the nature of the breach (regulation 3).

The Passenger and Goods Vehicles (Recording Equipment)(Tachograph) Regulations 2006 prohibit the use by a person of more than one workshop card, or PIN, for each workshop in which he works, of a workshop card or PIN of which he is not the holder or in a place which is not his workplace, of a forged or altered card and of a card

issued as a result of an incorrect application. They also prohibit the divulging of a PIN. Breach is an offence, the penalty depending on the nature of the breach (regulation 4).

Causing or permitting a person to breach such prohibitions is also prohibited, the maximum penalty being, if the offender is convicted on indictment, two years and a fine, or if the offender is convicted summarily, the statutory maximum (£5,000) (regulations 3 and 4).

The Passenger and Goods Vehicles (Recording Equipment)(Tachograph) Regulations 2006 require written notification of lost or stolen cards to be given to the Secretary of State and the return to him of damaged or malfunctioning cards. Failure to comply is an offence punishable by a level 5 fine (£5,000) (regulation 5).

The Passenger and Goods Vehicles (Recording Equipment)(Tachograph) Regulations 2006 require a card holder to notify the Secretary of State of details on the card requiring correction and to return it for correction. The Secretary of State may also require the return of cards issued erroneously for correction. Failure to comply is an offence punishable by a level 5 fine (£5,000) (regulation 6).

A card which identifies another person as the holder, which has been falsified or which has been issued as a result of a false application must be surrendered or may be confiscated by a police officer or VOSA examiner. Failure to surrender such a card is an offence punishable by a level 5 fine (£5,000) (regulation 7).

Sanctions are set out in the Transport Act 1968 as amended. It should be noted that any person who aids and abets, counsels or procures the making of a false record in relation to tachograph entries can be charged under section 8 of the Accessories and Abettors Act 1861. Fixed penalties are laid down in the Fixed Penalty (Amendment) Order 2009. Such fixed penalties are graduated and therefore envisage and stipulate varying seriousness of offence.

30.3 Road package

30.3.1 Regulation (EC) 1071/2009

The transposition into UK legislation of Regulation (EC) No. 1071/2009 has been delivered through The Goods Vehicles (Licensing of Operators) Act 1995. Sanctions are laid down therein against each relevant section dealing with that offence.

Please note that the UK 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. Administrative sanctions are laid down by the Fixed Penalty (Amendment) Order 2009 by way of a non-graduated fixed fine.

As to the loss of good repute, 8. Paragraph 1 of Schedule 3 of the Goods Vehicles (Licensing of Operators) Act 1995 gives traffic commissioners discretionary powers to have regard to any matter in determining whether individuals or companies are of good repute either upon application or at any time during the life of the licence but in particular must have regard to any relevant convictions (see below) of the individual or company/directors, employees/officers, or agents.

Under paragraph 2 of Schedule 3 a traffic commissioner must conclude that an individual is not of good repute if he or she has a) more than one conviction for a serious offence or b) has been convicted of road transport offences. More than one road transport offence is required for a mandatory finding of loss of good repute.

A serious offence is defined as any conviction where one of the following punishments has been imposed:

- Imprisonment exceeding three months;
- A fine exceeding level 4 on the standard scale, currently £2500;
- A community service order (or equivalent) requiring unpaid work for more than 60 hours;
- Any punishment outside the UK corresponding to the above.

30.3.2 Regulation (EC) No 1072/2009 and Regulation (EC) No 1073/2009

The Goods Vehicles (Community Licences) Regulations 2011 gives effect to aspects of Regulation No. 1072/2009/EC of 21 October 2009 which makes provision for a Community licence allowing goods vehicles access to the market in the carriage of

goods by road between Member States and for a driver attestation where the driver is a third country national.

Regulation 1072/2009, which is directly applicable in Member States, recasts existing European Regulations and governs the conditions for the issue and use of Community licences and driver attestations. It prescribes the form of the Community licence (Article 4(4) and Annexes I and II) and driver attestation (Article 5(3) and Annexes I and III), and the period of validity for each (Articles 4(2) and 5(7) respectively).

Regulation 6 confers entitlement to a Community licence on the basis of the relevant Great Britain licence. It also provides that existing Community authorisations and driver attestations which meet certain conditions are to be treated as Community licences and driver attestations respectively for the purposes of Regulation 1072/2009 and of these Regulations. The competent authorities are the Secretary of State and traffic commissioners, as provided for in regulation 5.

These Regulations establish an offence of using a goods vehicle without a Community licence, punishable on summary conviction by a fine up to level 4 (£2,500) on the standard scale (regulation 4). They provide authorised officers with a power to stop for the purpose of checks in relation to regulation 4 (regulation 13); and authorised officers are designated for the purpose of carrying out any necessary inspections (regulation 11). Provision is also made for administrative penalties in certain circumstances – in particular the refusal to issue and the withdrawal of documents (regulation 7). The Regulations confer rights of appeal against administrative penalties (regulations 8 to 10).

Regulation 12 requires the holder of a Community licence or driver attestation to supply information in certain circumstances, and provides that such documents may be withdrawn in the event of failure to comply.

Provision is made for the automatic transfer of a Community licence following the death, bankruptcy or incapacity of the holder (regulation 14) and for offences which may be committed by a body corporate (regulation 15). In addition provision is made for the amendment of the Road Traffic (Foreign Vehicles) Act 1972, so that an authorised officer may prohibit the driving of a vehicle on the road in certain circumstances (regulation 16).

The Motor Vehicles (International Circulation)(Amendment) Order 2010 inserts a new definition of “the Council Regulation on goods transport cabotage” which reflects the coming into force on 14th May 2010 of articles 8 and 9 of Regulation 1072/2009 of the European Parliament and of the Council on common rules for access to the international road haulage market, which also concern goods transport cabotage.

The Public Service Vehicles (Community Licences) Regulations 2011 give effect to aspects of Regulation (EC) No 1073/2009 of 21 October 2009 which provides for a Community licence allowing buses and coaches access to the market in the carriage of passengers by road between Member States, a requirement for an authorisation for the purpose of carrying out regular services, and a requirement for control documents when carrying out occasional services.

Regulation 1073/2009, which is directly applicable in Member States, recasts existing European Regulations and governs the conditions for the issue and use of Community licences and authorisations. It prescribes the form of the Community licence (Article 4(2) and Annexes I and II), that the Commission shall establish the format of authorisations (Article 6(4)), and the period of validity for both Community licences and authorisations (Articles 4(4) and 6(2) respectively).

The competent authorities for the purposes of the Public Service Vehicles (Community Licences) Regulations 2011 and Regulation 1073/2009 are the Secretary of State and traffic commissioners, as provided for in regulation 5 of the Public Service Vehicles (Community Licences) Regulations 2011.

The Public Service Vehicles (Community Licences) Regulations 2011 establish various offences, punishable on summary conviction by a fine up to the level prescribed (regulations 4, 9 and 10). They provide officers with a power to stop vehicles for the purpose of checks in relation to regulations 4 and 10 (regulation 13); and authorised inspecting officers are designated for the purpose of carrying out any necessary inspections (regulation 11). Provision is also made for administrative penalties in certain circumstances – in particular the refusal to issue and the withdrawal of documents (regulation 7).

Regulation 12 requires the holder of a Community licence or authorisation to supply information in certain circumstances, and provides that such documents may be withdrawn in the event of failure to comply.

Provision is made for the automatic transfer of a Community licence and an authorisation following the death, bankruptcy or incapacity of the holder (regulation 14) and for offences which may be committed by a body corporate (regulation 15).

Sanctions are set out through the Public Passenger Vehicles Act, the Public Service Vehicles (Community Licences) Regulations 2011 and the Goods Vehicles (Licensing of Operators) Act 1995 collectively. Administrative sanctions are laid down by the Fixed Penalty (Amendment) Order 2009 by way of a non-graduated fixed fine.

30.4 Standards of vehicles and load and necessary licences

30.4.1 Directive 2008/68/EC

The transposition into UK legislation of Regulation No. 2008/68/EC has been delivered in part through The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009. The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 implement Directive 2008/68/EC of the European Parliament and of the Council of 24th September 2008 on the inland transport of dangerous goods. This Directive applies the Annexes to the European Agreement concerning the International Carriage of Dangerous Goods by Road signed at Geneva on 30th September 1957, as amended (“ADR”), the Annex to the Regulation concerning the International Carriage of Dangerous Goods by Rail (“RID”) which forms Appendix C to the Convention concerning International Carriage by Rail (“COTIF”) and the Regulations annexed to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterway (“ADN”). These Regulations only apply the provisions of ADN in respect of safety adviser qualifications.

In respect of the application of ADR/RID Part 2 of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 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 UK 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 UK and the Department of the Environment UK may issue authorisations permitting carriage which would otherwise contravene Part 2 of the Regulations.

Sanctions are generally set down by Article 31 and Schedule 3 of the Health & Safety at Work Act 1974.

30.4.2 Directive 96/53/EC

Directive No. 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 in part by the Road Vehicles (Construction and Use)(Amendment) Regulations 2003 and the Road Vehicles (Authorised Weights) Regulations 1998. Regulation 3 of the Road Vehicles (Construction and Use)(Amendment) Regulations 2003 transposes the maximum authorised length of vehicles into UK law by amending Regulation 7 of the Road Vehicles (Construction and Use) Regulations 1986. Regulation 4 lays down requirements imposed by Directive No. 96/53/EC in respect of turning circle – buses by amending Regulation 13 of the Road Vehicles (Construction and Use) Regulations 1986.

The Schedules to the Road Vehicles (Authorised Weights) Regulations 1998 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. The maximum authorised vehicle weights are set down through Schedule 1 of the Road Vehicles (Authorised Weights) Regulations 1998.

Sanctions are set out in the Road Traffic Act 1988. Fixed penalties are set down, via contravention of Section 41B of the Road Traffic Act 1988, by the Fixed Penalty (Amendment) Order 2009. As the summary table sets out, such fixed penalties are graduated and therefore stipulate varying penalties in respect of varying seriousness of offence.

30.4.3 Directive 2009/40/EC

Council 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 UK law. The transposition deadline for this to take place is 31 December 2050. The summary table sets down offences equivalent, where applicable and in existence in UK law, to those breaches of Directive 2009/40/EC which have been laid down in the Road Traffic Act 1988.

30.4.4 Directive 2006/126/EC

The transposition into UK legislation of Directive 2006/126/EC has been delivered in part through the Motor Vehicles (Driving Licences) (Amendment) Regulations 2012.

Regulation 1 brings the Motor Vehicles (Driving Licences) (Amendment) Regulations 2012 into force on 20th April 2012 save for regulations 2 and 4, and the related Schedules 1 and 3, which come into force on 19th January 2013.

Schedule 1 Paragraph 2(2) amends section 97(1)(d) of the Road Traffic Act 1988 and creates new subsection 97(1)(e). These amendments 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.

Paragraph 4(2) and (4) of the Motor Vehicles (Driving Licences) (Amendment) Regulations 2012 makes amendments to section 99 of the Road Traffic Act 1988, for the purposes of implementing provisions on driving licence administrative validity periods. These will generally be 5 years for a licence to drive any prescribed class of goods vehicle or passenger-carrying vehicle, or 10 years in other cases.

Paragraphs 4(6) and 4(7) enable the Secretary of State to require medical evidence before granting a new driving licence, in order to satisfy the Secretary of State that the driver is not suffering from a prospective or current disability.

Schedule 2

Paragraph 2 amends section 39(1) of the Road Safety Act 2006, which in turn inserts section 98A into the Road Traffic Act 1988 providing for the compulsory surrender of old-form licences. Following compulsory surrender, the Secretary of State may require a person to provide medical evidence before granting a new driving licence.

Schedule 3

Paragraphs 2 to 4, 5(b) and (c), 7 to 18, 19(c), (d)(ii) and (f), 20 to 26, 27(a), (c), (d) and (f), 28 to 30, 32 to 38, 41(b) and (c), 42, 43, 46(a), 48, 49(a) and (c)(i) and 50 to 53 provide for the introduction of new categories and sub-categories of vehicles (principally mopeds and motorcycles) and that there is no driving test (and hence that no new licence is to be granted) in respect of vehicles formerly in sub-category B1 (lighter three or four wheeled vehicles).

Paragraphs 4, 13(c) and 46(a)(viii) and (b) make provision regarding the granting of licences for category B96, which category comprises of cars or light vans combined with a trailer having a maximum authorised mass exceeding 750 kilograms. A B96 licence is only granted if a person holds, or held, a Community licence to drive such vehicles.

Paragraphs 5(a), 9, 20(b), (c) and (d) make provision in relation to the use of vehicles by those who are disabled and the competency of such persons to drive.

Sanctions are laid down by the Road Traffic Act 1988.

The Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 relate to CPC Testings and sanctions as applied therein have been set down in the summary table relating only to CPC Testings.

30.5 *Notion of criminal sanction and of administrative sanction in the UK legal system*

See above.

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.

30.6 *Scope of application of UK criminal law*

UK criminal law can be applicable to either the UK as a whole i.e. England and Wales, Scotland and Northern Ireland, or it can be made to apply to the separate countries within the UK i.e. England and Wales, Scotland or Northern Ireland. for example, the good vehicles (licencing of operators) act 1995 applies to England, Wales and Scotland, but does not extend to Northern Ireland.

The only circumstances in which UK criminal law will apply outside UK will be in relation to sexual offences.

30.7 Summary tables

In the UK legal system the role of the competent authorities are the following:

- authorised police officers and (as of 1 April 2009) vehicle examiners from the Vehicle Operator Services Agency (VOSA) impose fines;
- the Judiciary Authority executes fines;
- the Department of Transport and the Health & Safety Executive (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 UK legal system for infringements of the EU commercial road transport Regulations and Directives.

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
<p>Regulation 561/06/EC</p> <p>&</p> <p>Directive 2006/26/EC</p>	<p><u>Driving Times</u></p> <p><u>Transport Act 1968</u></p>	<p>Section 96 (11A) for fixed penalty & 96(1)</p>	<p>Exceeding 9 hours daily driving time in contravention of Article 6(1) of Regulation 561/06/EC</p>	<p>-Driver</p> <p>- any other person (being that driver's employer or a person to whose orders that driver was subject) who caused or permitted the contravention</p>	<p>Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009</p> <p>£60 - More than 9 hours but less than 10 hours driving;</p> <p>£120 - 10 hours or more but less than 11 hours driving</p>	<p>On summary conviction to a fine not exceeding level 4 (£2,500)</p>

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					£200 - 11 hours or more driving	
		Section 96 (11A) for fixed penalty & 96(1)	Exceeding 10 hours daily driving time in contravention of paragraph 2 of Article 6(1) of Regulation 561/06/EC	-Driver - any other person (being that driver's employer or a person to whose orders that driver was subject) who caused or	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 £60 - More than 10 hours but less than 11 hours driving; £120 - 11 hours or	

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
				permitted the contravention	more but less than 12 hours driving £200 - 12 hours or more driving	
		Section 96 (11A) & section 96(6)	Exceeding the weekly driving time of 56 hours in contravention of Article 6(2) of Regulation 561/06/EC	-Driver - any other person (being that driver's employer or a person to whose orders that driver was	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 £60 - More than 56 hours but less than	On summary conviction to a fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
				subject) who caused or permitted the contravention	58 hours driving; £120 - 58 hours or more but less than 59 hours driving £200 - 59 hours or more driving	
		Section 96(11A)	Exceeding 90 hours accumulated driving time in any two consecutive weeks in contravention of Article 6(3) of Regulation 561/06/EC	-Driver - any other person (being that driver's employer or a person to	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009	On summary conviction to a fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
				whose orders that driver was subject) who caused or permitted the contravention	<p>£60 - More than 90 hours but less than 93 hours driving;</p> <p>£120 - 93 hours or more but less than 94 hours driving</p> <p>£200 - 94 hours or more driving</p>	

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
		Section 96(11A)	Exceeding 4.5 hours driving without a break in contravention of Article 7 of Regulation 561/06/EC	-Driver - any other person (being that driver's employer or a person to whose orders that driver was subject) who caused or permitted the contravention	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 £60 - More than 4.5 hours but less than 5.5 hours driving; £120 – 5.5 hours or more but less than 6.5 hours	On summary conviction to a fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					driving £200 – 6.5 hours or more driving	
		Section 96(11A)	Insufficient daily rest period in 24 hour period in contravention of articles 8(1) and (2) of Regulation 561/06/EC	-Driver - any other person (being that driver’s employer or a person to whose orders that driver was subject) who	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 £60 – less than 11 hours but more than 10 hours	On summary conviction to a fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
				caused or permitted the contravention	daily rest; £120 – less than 10 hours but more than 9 hours daily rest £200 – less than 9 hours daily rest	
		Section 96(11A)	Insufficient reduced daily rest period in 24 hour period in contravention of articles 8(1) and (2) of Regulation 561/06/EC	-Driver - any other person (being that driver's employer or a	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009	On summary conviction to a fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
				person to whose orders that driver was subject) who caused or permitted the contravention	<p>£60 – less than 9 hours but more than 8 hours daily rest;</p> <p>£120 – less than 8 hours but more than 7 hours daily rest</p> <p>£200 – less than 7 hours daily rest</p>	

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
		Section 96(11A)	Failure to take first rest of at least 3 consecutive hours where daily rest period is split, as required by article 4(g) and in contravention of articles 8(1) and (2) of Regulation 561/06/EC	-Driver - any other person (being that driver's employer or a person to whose orders that driver was subject) who caused or permitted the contravention	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 £60 – less than 3 hours but more than 2 hours rest; £120 – less than 2 hours but more than 1 hours rest £200 – less than 1	On summary conviction to a fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					hour rest	
		Section 96(11A)	Failure to take second rest of at least 9 consecutive hours where daily rest period is split, as required by article 4(g) and in contravention of articles 8(1) and (2) of Regulation 561/06/EC	-Driver - any other person (being that driver's employer or a person to whose orders that driver was subject) who caused or permitted the	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 £60 – less than 9 hours but more than 8 hours rest; £120 – less than 8 hours but more	On summary conviction to a fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
				contravention	than 7 hours rest £200 – less than 7 hours rest	
		Section 96(11A)	Failure to take daily rest period of at least 12 hours in total where daily rest period is split, as required by article 4(g) and in contravention of articles 8(1) and (2) of Regulation 561/06/EC	-Driver - any other person (being that driver's employer or a person to whose orders that driver was subject) who	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 £60 – less than 12 hours but more	On summary conviction to a fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
				caused or permitted the contravention	<p>than 11 hours rest; £120 – less than 11 hours but more than 10 hours rest £200 – less than 10 hours rest</p>	
		Section 96(11A)	Insufficient rest in a 30 hour period by a driver engaged in multi-manning in contravention of articles 8(1) and (5) of Regulation 561/06/EC	<p>-Driver - any other person (being that driver's employer or a person to</p>	<p>Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009</p>	<p>On summary conviction to a fine not exceeding level 4 (£2,500)</p>

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
				whose orders that driver was subject) who caused or permitted the contravention	<p>£60 – less than 9 hours but more than 8 hours rest;</p> <p>£120 – less than 8 hours but more than 7 hours rest</p> <p>£200 – less than 7 hours rest</p>	
		Section 96(11A)	Insufficient weekly regular rest period in contravention of articles	-Driver - any other	Fixed penalties are set out in the Fixed Penalty	On summary conviction to a fine not exceeding level 4

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
			8(1) and (6) of Regulation 561/06/EC	person (being that driver's employer or a person to whose orders that driver was subject) who caused or permitted the contravention	(Amendment Order 2009 £60 – less than 9 hours but more than 8 hours rest; £120 – less than 8 hours but more than 7 hours rest £200 – less than 7 hours rest	(£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
		Section 96 (4)	Not respecting the rules on rest periods for two successive working days of a driver	-Driver - any other person (being that driver's employer or a person to whose orders that driver was subject) who caused or permitted the contravention	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 £60 - Less than 11 hours but more than 10 hours daily rest; £120 - 10 hours or less but more than 9 hours daily rest;	A fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					£200 - 9 hours or less	
		Section 96 (2)	Not respecting the daily rules on rest periods for daily driving	-Driver - any other person (being that driver's employer or a person to whose orders that driver was subject) who caused or	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 £60 - Being on duty for up to 1 hour beyond the required break	A fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
				permitted the contravention	<p>£120 - Being on duty for 1 hour or more, but less than 2 hours, beyond the required break;</p> <p>£200 - Being on duty for 2 hours or more beyond the required break.</p>	
		Section 96 (11C)	Failure to ensure that contractually agreed	Transport Undertaking		A fine not exceeding level 4 (£2,500)

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
			transport time schedules respect EU Regulation			
		Section 97	Failure to deliver documents or failure to ensure driver of a transport undertaking complies with obligation to deliver documents	-Transport Undertaking -Driver		A fine not exceeding level 4 (£2,500)
		Section 97	Altering or forging the seals on recording equipment with intent to deceive	-Transport Undertaking -Driver		On summary conviction to a fine not exceeding £5,000 OR on indictment 2

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
						years' imprisonment
		Section 99	Failure to make records or keep records in driver's possession or refusal to permit authorised person to inspect such records	-Driver		On summary conviction to a fine not exceeding £1,000
		Section 99(A)	In relation to the vehicle or its driver there has been (or will be, if the vehicle is driven on a road) a contravention of sections	-Driver - any other person (being that driver's employer or a	Police and vehicle examination officers have the power to prohibit the driving of a	

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
			96 to 98 of the Transport Act 1968 or of the applicable Community rules under Regulation 561/06/EC	person to whose orders that driver was subject) who caused or permitted the contravention	UK registered passenger or goods vehicle ie. prohibition of driving of vehicle.	
Directive 2002/15/EC	<u>Working time and rest periods</u> <u>The Road Transport (Working Time)</u>	Regulation 17 and 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	Where accused does not comply with either a Prohibition Notice or an Improvement Notice, on summary conviction to

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
	Regulations 2005				<p>served requiring the accused to remedy the contravention.</p> <p>Where Inspector is of opinion that activities contravening legislation pose a serious risk of injury a Prohibition Notice will be served</p>	<p>imprisonment not exceeding 3 months or a fine not exceeding £5,000.</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 UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					prohibiting accused from taking part in activity.	
		Regulation 17 and 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	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

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					<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 taking part in</p>	<p>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 UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					activity.	
		Regulation 17	Failure to meet requirements under the Road Transport (Working Time) Regulations 2005	-Any person		On summary conviction to a fine up to £5000
		Regulation 17 and Schedule 2 paragraph 3&4	Rest periods	Worker Employer	Where an Inspector feels legislation not being complied with, an Improvement Notice will be served requiring	Where accused does not comply with either a Prohibition Notice or an Improvement Notice, on summary conviction to imprisonment not

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					<p>the accused to remedy the 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</p>	<p>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 UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					accused from taking part in activity.	
		Regulation 17 and Schedule 2 paragraph 3&4	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 agreement	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.

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					<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>	<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 UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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 17 and Schedule 2 paragraph 3&4	Information and record of the drivers' working time	Worker Employer	<p>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 Inspector is of opinion that activities</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.</p> <p>On conviction on indictment to</p>

Table UK 1

SOCIAL RULES ON ROAD TRANSPORT
Rules on Driving Time, 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)
					<p>contravening legislation pose a serious risk of injury a Prohibition Notice will be served prohibiting accused from taking part in activity.</p>	<p>imprisonment for a term not exceeding 2 years or a fine at the Judge's discretion or both</p>

Table UK 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	Transport Act 1968 as amended	Section 97	<p>Tachograph:</p> <ul style="list-style-type: none"> - not installed or used in accordance with Article 3(1) of Regulation 3821/1985/EC; - non responding to the standards; -malfunctioning <p>Non-insertion of:</p>		<p>Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009</p> <p>Fixed Penalty of £200</p>	<p>On summary conviction to a Fine not exceeding £5000</p>

Table UK 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)
			- record sheets, or - the driver's card			
		Section 97(A)	Failure to deliver record sheet within 21 days or failure on part of employer to ensure this requirement complied with	-Driver -Employer		On summary conviction to a fine not exceeding £2500
		Section 97(AA)	- Alteration, or	-Any person found guilty		On summary conviction to a fine not exceeding £5000.

Table UK 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)
			-damage to the seals of the tachograph			On indictment to imprisonment of a term not exceeding 2 years.
		Section 97	Speed control equipment: - not installed, - non responding to the standards, or			On summary conviction to a Fine not exceeding £5000

Table UK 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)
			- malfunctioning -			
		Section 98	Obligation to keep and maintain books and registers to ensure compliance with Community rules	-Driver -Employer		On summary conviction to a Fine not exceeding £2500
		Section 97	-Non-delivery of record sheets or manual records and printouts not made in accordance with the Community Recording	-Driver -Employer		On summary conviction to a Fine not exceeding £2500

Table UK 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 Regulation -Failure of employer to ensure delivery obligation complied with			
		Section 97(D)-(F)	Downloading and retaining data	-Transport undertaking		On summary conviction to a Fine not exceeding £5000

Table UK 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)
		Section 97(1)	Failure to ensure correct functioning of recording equipment or driver card in accordance with article 13 of Regulation 3821/1985/EC		<p>Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009</p> <p>Fixed Penalty of £60</p>	<p>On summary conviction to a Fine not exceeding £5000</p>

Table UK 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)
		Section 97(1)	Failure to ensure proper use of recording equipment in accordance with article 13 of Regulation 3821/1985/EC		Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 Fixed Penalty of £120	On summary conviction to a Fine not exceeding £5000
		Section 97(1)	Failure to ensure proper use of the driver card in accordance with article 13 of Regulation		Fixed penalties are set out in the Fixed Penalty (Amendment)	On summary conviction to a Fine not exceeding £5000

Table UK 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)
			3821/1985/EC		Order 2009 Fixed Penalty of £200	
		Section 97(1)	Failure to ensure printing can be carried out correctly in the event of an inspection (other than a failure to provide sufficient printing material) in accordance with article 14(1) of Regulation		Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 Fixed Penalty of	On summary conviction to a Fine not exceeding £5000

Table UK 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)
			3821/1985/EC		£120	
		Section 97(1)	Failure to ensure printing can be carried out correctly in the event of an inspection by a failure to provide sufficient printing material in accordance with article 14 of Regulation 3821/1985/EC		Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 Fixed Penalty of £60	On summary conviction to a Fine not exceeding £5000
		Section 97(1)	Using driver card of which driver is not a		Fixed penalties are set out in the Fixed	On summary conviction to a Fine

Table UK 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)
			holder in accordance with article 14(1) of Regulation 3821/1985/EC		Penalty (Amendment) Order 2009 Fixed Penalty of £200	not exceeding £5000
		Section 97(1)	Using defective driver card otherwise than in accordance with article 14(4) of Regulation 3821/1985/EC		Fixed penalties are set out in the Fixed Penalty Order 2000 as amended Fixed Penalty of	On summary conviction to a Fine not exceeding £5000

Table UK 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)
					£60	
		Section 97(1)	Failure at start of journey to print out information required in accordance with article 15(1)(a) of Regulation 3821/1985/EC		Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 Fixed Penalty of £120	On summary conviction to a Fine not exceeding £5000
		Section 97(1)	Failure at start of journey to print out information		Fixed penalties are set out in the Fixed	On summary conviction to a Fine

Table UK 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)
			required in accordance with article 15(1)(b) of Regulation 3821/1985/EC		Penalty (Amendment) Order 2009 Fixed Penalty of £120	not exceeding £5000
		Section 97(1)	Failure to use record sheets or driver card in accordance with article 15(2) of Regulation 3821/1985/EC		Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009	On summary conviction to a Fine not exceeding £5000

Table UK 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)
					Fixed Penalty of £200	
		Section 97(1)	Unauthorised withdrawal of record sheet or driver card, contrary to article 15(2) of Regulation 3821/1985/EC		Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 Fixed Penalty of £120	On summary conviction to a Fine not exceeding £5000

Table UK 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)
		Section 97(1)	Failure to enter legibly on the record sheet, when away from the vehicle, periods of time, in accordance with article 15(2) of Regulation 3821/1985/EC		<p>Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009</p> <p>Fixed Penalty of £120</p>	On summary conviction to a Fine not exceeding £5000
		Section 97(1)	Failure to amend record sheet or driver card as necessary when more than one driver on board the vehicle, in		<p>Fixed penalties are set out in the Fixed Penalty (Amendment)</p>	On summary conviction to a Fine not exceeding £5000

Table UK 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)
			accordance with article 15(2) of Regulation 3821/1985/EC		Order 2009 Fixed Penalty of £120	
		Section 99(A)	In relation to the vehicle or its driver there has been (or will be, if the vehicle is driven on a road) a contravention of sections 96 to 98 of the Transport Act 1968 or of the applicable Community rules under	-Driver	Police and vehicle examination officers have the power to prohibit the driving of a UK registered passenger or goods vehicle ie. prohibition of	

Table UK 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		driving of vehicle.	

Table UK 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 No. 1071/2009/EC	The Goods Vehicles (Community Licences) Regulations 2011	Section 7	Guilty of infringement which may lead to loss of good repute under Article 6(1) & (2) of Regulation 1071/2009	Holder of a Community Licence	(a) temporary or permanent withdrawal of some or all of the certified true copies of the Community licence; (b) temporary or permanent withdrawal of Community licence.	

Table UK 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	The Goods Vehicles (Licensing of Operators) Act 1995	Section 38	Forgery of documents, false statements etc.	-Any person guilty		<p>On summary conviction, to a fine not exceeding £5000;</p> <p>On conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.</p>
		Section 9	Non communication of/failure to	-Any person		<p>On summary conviction to a Fine not exceeding £2500</p>

Table UK 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
	Public Passengers Vehicle Act 1981		conform with duty to inform traffic commissioners of relevant convictions etc. which will impact upon loss of good repute, financial standing, professional competence etc.			
		Section 19	Non communication to	Transport manager		On summary conviction to a Fine

Table UK 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			the competent Authority, within 28 days, of the prosecution of the transport activity management or any change in the identity of the transport manager, due to death, physical incapacity, disappearance and diminishing of the legal capacity of the person entitled			not exceeding £1000

Table UK 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 running of the transport activity.			
	<p><u>Goods Vehicles (Licensing of Operators) Act 1995</u></p>	Section 2	Contravention of obligation to hold an operator's licence	<p>-any person using a goods vehicle on a road for the carriage of goods—</p> <p>(a)for hire or reward,</p> <p>or</p> <p>(b)for or in connection with any trade or business carried on by him</p>	<p>Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009</p> <p>Fixed Penalty - £200</p>	<p>Liable on summary conviction to a fine not exceeding £5000</p>

Table UK 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Schedule 1a	Vehicles used without operator's licence	-Any person	Detention of vehicle or fixing of immobilization device to vehicle	

Table UK 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
		Section 6	Exceeding the maximum numbers of vehicles permitted	-The licence-holder		On summary conviction to a fine not exceeding £2500

Table UK 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			under an operator's licence.			(level 4).
		Section 3	A restricted operator's licence may not be used for the carriage of goods for hire or reward unless the goods concerned are the property of a company which is (a) a subsidiary of the first company (b) a	-Any person		On summary conviction to a fine not exceeding £500.

Table UK 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
			holding company for the first company (c) a subsidiary of a company which is a holding company for that subsidiary and for the first company			
Regulation No. 1072/2009/EC	<u>The Goods Vehicles (Licensing of Operators) Act 1995</u>	Section 38	Forgery of documents, false statements etc.	-Any person		On summary conviction, to a fine not exceeding £5000; On conviction on indictment, to

Table UK 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
						imprisonment for a term not exceeding two years or to a fine or to both.
		Section 7	Guilty of infringement involving any misuse of driver attestations under Article 12(2) of Regulation 1072/2009	Holder of a Community licence	(a) temporary or permanent withdrawal of some or all of the certified copies of driver attestations; (b) temporary or permanent withdrawal of	On summary conviction, to a fine not exceeding £5000; On conviction on indictment, to imprisonment for a term not exceeding two years or to a

Table UK 3

Road Package

EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
					driver attestation.	fine or to both.
	<u>The Goods Vehicles (Community Licences) Regulations 2011</u>	Regulation 4	Use of goods vehicle without Community licence in contravention of Article 3 of Regulation 1072/2009	Any person	Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 Fixed Penalty - £60	Liable on summary conviction to a Fine not exceeding £2,500.
Regulation No. 1073/2009/EC	<u>Public Passenger Vehicles Act 1981 as amended</u>	Section 65	Forgery and Misuse of documents	-Any person	Fixed penalties are set out in the Fixed Penalty	Upon summary conviction, a fine not exceeding

Table UK 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>(Amendment) Order 2009</p> <p>Fixed Penalty - £60</p>	<p>£5,000.</p> <p>On indictment to Imprisonment for a term not exceeding 2 years.</p>
	<p><u>The Public Service Vehicles (Community Licences) Regulations 2011</u></p>	<p>Section 9</p>	<p>Infringement of the rules on cabotage (obligation to carry copy of the Community</p>	<p>Any person</p>	<p>Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009</p>	<p>Liable on summary conviction to a Fine not exceeding £2,500.</p>

Table UK 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, or control document)		Fixed Penalty - £60	

Table UK 4

Rules and Standards of Vehicles and 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><u>Transport of Dangerous goods</u></p> <p><u>The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009</u></p>	Regulation 5	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.	-Carrier of goods		Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act 1974. On summary conviction to imprisonment for a term not exceeding 12 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

Table UK 4

Rules and Standards of Vehicles and 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)
						both.
		Regulation 6	Non-compliance with placarding requirements	-Carrier of goods		Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act 1974. On summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2

Table UK 4

Rules and Standards of Vehicles and 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)
						years or a fine at discretion of court, or both.
		Regulation 7	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 premises;	Carrier Driver		Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act 1974. On summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a

Table UK 4

Rules and Standards of Vehicles and 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)
			-unloading requirements			term not exceeding 2 years or a fine at discretion of court, or both.
		Regulation 13	Non-compliance with reference temperatures and standards set by competent authority	Carrier		Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act1974. On summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding £20,000 or both. On conviction on indictment to

Table UK 4

Rules and Standards of Vehicles and 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)
						imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.
		Regulation 14	Non-compliance with obligations relating to old pressure receptacles used for carriage	Carrier		Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act1974. On summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding £20,000 or both. On conviction

Table UK 4

Rules and Standards of Vehicles and 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)
						on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.
		Regulation 19	Equipment not meeting standards of Directive 2008/68/EC (including storage and transportation requirements) and conformity assessment procedures of regulation 1999/36/EC (including marking requirements) and required maintenance of	Manufacturers Importers Distributors Owners Operators		Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act 1974. On summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding £20,000 or

Table UK 4

Rules and Standards of Vehicles and 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>technical documentation and records of non-compliance under Directive 2008/68/EC;</p> <p>Non-compliance of manufacturers, importers, 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</p>			<p>both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</p>

Table UK 4

Rules and Standards of Vehicles and 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)
			Directives;			
		Regulation 22	Non-compliance with marking requirements of Directive 1999/36/EC	Carrier		Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act 1974. On summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding £20,000 or both. On conviction on indictment to imprisonment for a term not exceeding 2

Table UK 4

Rules and Standards of Vehicles and 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)
						years or a fine at discretion of court, or both.
		Regulation 23	Misleading and other markings	Carrier		Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act1974. On summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding £20,000 or both. On conviction on indictment to

Table UK 4

Rules and Standards of Vehicles and 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>imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.</p>
		Regulation 24	Non-compliance with radiological emergencies procedure	Consignor Carrier		<p>Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act 1974. On summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding £20,000 or</p>

Table UK 4

Rules and Standards of Vehicles and 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)
						both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine at discretion of court, or both.
		Regulation 31	Non-compliance with obligation to keep and provide information			Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act1974. On summary conviction to imprisonment for a term not exceeding 12 months or a fine not

Table UK 4

Rules and Standards of Vehicles and 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)
						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.
		Regulation 9	Non-compliance with ADR and exceeding the maximum authorised weight when carriage by private individuals			Sanction set down by Article 31 and Schedule 3 of the Health & Safety at Work Act1974. On summary conviction to imprisonment for a term not exceeding 12

Table UK 4

Rules and Standards of Vehicles and 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>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.</p>
		Regulation 14	Non-compliance with obligations relating to old pressure receptacles used for carriage			<p>Sanction set down by Article 31 of the Health & Safety at Work (NI) Order 1978. On summary conviction to imprisonment for a</p>

Table UK 4

Rules and Standards of Vehicles and 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)
						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.
Directive 2009/40/EC	<u>Road Traffic Act 1988</u>	Section 175	False roadworthiness certificate or driving documents	Driver		On summary conviction to a fine not exceeding £2500
		Section 173	Alteration of the roadworthiness certificate	Driver		On summary conviction to the

Table UK 4

Rules and Standards of Vehicles and 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)
			or driving documents			statutory maximum (£5000) and on indictment to imprisonment for a term not exceeding 2 years
		Section 94	Failure to inform Secretary of State of information relating to nature and extent of disability	Driver		On summary conviction to a fine not exceeding £1000
		Section 94	Driving after refusal or revocation of licence	Driver	Discretionary disqualification.	On summary conviction to imprisonment for no more than 6 months

Table UK 4

Rules and Standards of Vehicles and 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)
			Driving with uncorrected defective eyesight and refusal to submit to test for such		<p>3 - 6 penalty points</p> <p>Discretionary disqualification.</p> <p>3 penalty points.</p>	<p>or a fine not exceeding £5000 or both.</p> <p>On summary conviction to a fine not exceeding £1000.</p>

Table UK 4

Rules and Standards of Vehicles and 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 96/53/EC	<u>Road Traffic Act 1988, as amended</u>	Section 41B	Exceeding maximum authorised weight of a vehicle, contrary to regulation 4(1)(a) of, and Schedule 1 to, the Roads Vehicles (Authorised Weight) Regulations 1998		<p>Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009</p> <p>£60 – exceeding weight by up to 10%;</p> <p>£120 – exceeding weight by 10% or more but less than 15%;</p> <p>£200 – exceeding weight by 15% or</p>	On summary conviction to a fine not exceeding £5000

Table UK 4

Rules and Standards of Vehicles and 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)
					more	
		Section 41B	Exceeding maximum authorised weight of vehicle combination, contrary to regulation 4(1)(b) of, and Schedule 2 to, the Roads Vehicles (Authorised Weight) Regulations 1998		<p>Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009</p> <p>£60 – exceeding weight by up to 10%;</p> <p>£120 – exceeding weight by 10% or more but less than</p>	<p>On summary conviction to a fine not exceeding £5000</p>

Table UK 4

Rules and Standards of Vehicles and 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)
					15%; £200 – exceeding weight by 15% or more	
		Section 41B	Exceeding maximum authorised weight of vehicle combination, contrary to regulation 4(1)(c) of, and Schedule 3 to, the Roads Vehicles (Authorised Weight) Regulations 1998		Fixed penalties are set out in the Fixed Penalty (Amendment) Order 2009 £60 – exceeding weight by up to 10%;	On summary conviction to a fine not exceeding £5000

Table UK 4

Rules and Standards of Vehicles and 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>£120 – exceeding weight by 10% or more but less than 15%;</p> <p>£200 – exceeding weight by 15% or more</p>	
<p>Directive 2006/126/EC</p>	<p><u>Road Traffic Act 1988, as amended</u></p> <p><u>The Vehicle Drivers</u></p>	Section 87	Causing or permitting a person to drive otherwise than in accordance with a licence.	Keeper of the vehicle	<p>3 – 6 penalty points under Schedule 3 of the Road Traffic Offenders Act 1988.</p>	<p>Upon summary conviction to a fine not exceeding £1000</p>

Table UK 4

Rules and Standards of Vehicles and 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><u>(Certificates of Professional Competence) Regulations 2007</u></p>				<p>Discretionary disqualification in a case where the offender's driving would not have been in accordance with any licence that could have been granted to him.</p>	
		<p>Section 101</p>	<p>Disqualification of persons under age</p>	<p>Driver</p>	<p>A person is disqualified for holding or obtaining a licence to drive a motor vehicle of a class</p>	

Table UK 4

Rules and Standards of Vehicles and 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>as specified if he is under the age required as follows:</p> <p>Invalid carriage: 16yrs</p> <p>Moped: 16yrs</p> <p>Motor bicycle: 17yrs</p> <p>Agricultural or forestry tractor: 17yrs</p> <p>Small vehicle:</p>	

Table UK 4

Rules and Standards of Vehicles and 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>17yrs</p> <p>Medium-sized goods vehicle:</p> <p>18yrs</p> <p>Other motor vehicle: 21yrs</p>	
		Section 117	Lack of fitness to hold a large goods vehicle or passenger-carrying vehicles licence	Holder of licence	<p>Discretionary revocation or suspension by traffic commissioner.</p> <p>Discretionary</p>	

Table UK 4

Rules and Standards of Vehicles and 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)
					disqualification.	
		Section 114	Failing to comply with conditions of LGV PCV licence or LGV Community licence, or causing or permitting person under 21 to drive LGV or PCV in contravention of such conditions.	Any person		On summary conviction to a fine not more than £1000
		Regulation 10	Driving without having taken and passed CPC test	-Any Person required to hold CPC licence		Upon summary conviction to a Fine not exceeding £1000

Table UK 4

Rules and Standards of Vehicles and 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 required to hold CPC licence		Upon summary conviction to a Fine not exceeding £1000
		Regulation 13	Forgery or alteration of document authorising a person to drive within a Member State OR knowingly making a false statement for purpose of obtaining issue of driver qualification card	-Any person		On summary conviction to a fine not exceeding £5000 and/or imprisonment for a term not exceeding 3 months. On conviction on

Table UK 4						
<u>Rules and Standards of Vehicles and Load and Necessary Licences</u>						
EU legislation	Relevant National Legislation for infringement	Article of reference	Type of infringement(s)	Author	Administrative sanction(s)	Criminal sanction(s)
						indictment to a fine not exceeding £5000 and/or imprisonment for a term not exceeding 2 years.

Please note that most of the infringements of commercial road transport legislation can be sanctioned with criminal sanctions in UK. It is posited in agreements that such sanctions are not dissuasive.

Table UK 5

Infringements of commercial road transport legislation

Type of infringement(s) and Article of reference in national legislation

Criminal sanction

Is it dissuasive?

Corresponding EU legislation

Please note that pursuant to UK law most of the infringements on commercial road transport are sanctioned with criminal sanctions (for exception see above).

30.8 Sanctions which could be considered substantially criminal in the UK legal system

Please note that most of the infringements of the rules on commercial road transport are sanctioned in UK with criminal sanctions, therefore we could not identify infringements sanctioned with administrative sanctions that are substantially criminal sanctions.

As to the fixed penalties, in consideration of the amount of the fines they have to be qualified as administrative sanctions.

Table UK 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

Type of infringement and Article of reference in national legislation Corresponding EU legislation	Administrative sanctions 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?
N.A.			

30.9 Effectiveness of the sanctions system

The tables below include figures that have been provided by the UK Authority (VOSA) concerning most of the infringements object of this Study (Annex UK. 1).

Please note that figures on infringements of the rules contained in the Road Package are not available to the VOSA.

It is posited in agreement that the figures below show that a in UK a substantial number of infringements of the rules on working and driving times is committed.

It should also be pointed out that the number of serious infringements is particularly high (see the number of tachograph frauds detected).

We also notice that the number of infringements committed by non GB Registered Vehicles is substantial.

On the other hand and from a qualitative standpoint we notice that fines for infringements of tachographs rules and on rules on driving times and rest periods are not very dissuasive.

This applies to the fixed penalties foreseen and to the criminal sanctions abstractly applicable.

On the other hand the system has some positive features in terms of proportionality (see above the Fixed Penalties for infringements of the rules on driving times and rest periods are tailored to the seriousness of the infringement), and of its capacity to take into account the repetition of infringements by the same offender (see above: 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 conclusion, it could be argued that the UK system is not effective to the extent that sanctions should be more dissuasive.

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
Table 1				
Art. 5.1 Not respecting minimum ages for conductors	0	0	0	0
Art. 6.1				
<input type="checkbox"/> Exceed daily driving time of 9 h if possibilities to extend to 10 h not allowed				
<input type="checkbox"/> Exceed extended daily driving time of 10 h if extension allowed	43	35	704	501
Art. 6.2 Exceed weekly driving time	2	0	18	18
Art. 6.3 Exceed accumulated driving time during 2 consecutive week	11	9	477	463
Art. 7 Exceed uninterrupted driving time	440	308	462	312
Art. 8.2				
<input type="checkbox"/> Insufficient daily rest period of less than 11 h if reduced daily rest	280	252	3191	2059

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
period not allowed;				
<input type="checkbox"/> Insufficient reduced daily rest period of less than 9 h if reduce allowed;				
<input type="checkbox"/> Insufficient split daily rest period of less than 3 h+9 h				
Art. 8.5 Insufficient daily rest period of less than 9 h for multi-manning	0	0	0	0
Art. 8.6				

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
<input type="checkbox"/> Insufficient reduced weekly resting period of less than 24 h				
<input type="checkbox"/> Insufficient weekly resting period of less than 45 h if reduced weekly resting period not allowed	409	282	2041	1312
Table 2				
Regulation (EEC) No 3821/85	2010	2011	2010	2011
Art. 3.1 No type approved recording equipment installed and used				
Art. 13				
<input type="checkbox"/> Recording equipment not correctly functioning (for example: recording equipment not properly inspected, calibrated and sealed)	987	686	1087	959
<input type="checkbox"/> Recording equipment improperly used (not using a valid driver card,	61	53	1609	1277

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
voluntary abuse, ...)				
Art. 14.1				
<input type="checkbox"/> Not carrying a sufficient number of record sheets X				
<input type="checkbox"/> Model of record sheet not approved X				
<input type="checkbox"/> Not carrying enough paper for printouts	1346	1215	1076	895
Art. 14.2 Undertaking not keeping record sheets, printouts and downloaded data	4970	3580	0	0
Art. 14.4				
<input type="checkbox"/> Driver holding more than one valid driver car	3	2	3	3
<input type="checkbox"/> Use of driver card which is not the driver's own valid card				
<input type="checkbox"/> Use of defective or expired driver card	130	139	540	444

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
Art. 14.5 Recorded and stored data not available for at least 365 days	0	0	0	0
Art. 15.1				
<input type="checkbox"/> Use dirty or damaged sheets or driver cards and data legible				
<input type="checkbox"/> Use dirty or damaged sheets or driver cards and data not legible				
<input type="checkbox"/> Failure to apply for replacement of damaged, malfunctioning, lost or stolen driver card within 7 calendar days	0	0	0	0
Art. 15.2				
<input type="checkbox"/> Incorrect use of record sheets/driver cards				
<input type="checkbox"/> Unauthorised withdrawal of sheets or driver card which has an impact on the record of relevant data				
<input type="checkbox"/> Unauthorised withdrawal of sheets or driver card without any impact on data recorded	0	0	0	0

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
<input type="checkbox"/> Record sheet or driver card used to cover a period longer than that for which it is intended but no data is lost				
<input type="checkbox"/> Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost				
<input type="checkbox"/> Not using manual input when required to do so X				
<input type="checkbox"/> Not using correct sheet or driver card not in the correct slot (multi-manning)				
Art. 15.3				
<input type="checkbox"/> Time recorded on the sheet does not agree with official time of country of registration of the vehicle	95	116	84	49
<input type="checkbox"/> Incorrect use of switch mechanism	279	253	93	82
Art. 15.5				

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
<input type="checkbox"/> Surname missing on record sheet				
<input type="checkbox"/> First name missing on record sheet				
<input type="checkbox"/> Date of begin or end of use of the sheet missing				
<input type="checkbox"/> Place of begin or end of use of the sheet missing				
<input type="checkbox"/> Registration number missing on record sheet				
<input type="checkbox"/> Odometer reading (start) missing on record sheet				
<input type="checkbox"/> Odometer reading (end) missing on record sheet				
<input type="checkbox"/> Time of change of vehicle missing on record sheet	0	0	0	0
Art. 15.5a Symbol of country not entered in recording equipment	0	0	0	0
Art. 15.7 Refuse to be checked	14	5	37	25
Art. 15.7				

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
<input type="checkbox"/> Unable to produce records of current day				
<input type="checkbox"/> Unable to produce records of previous 28 days				
<input type="checkbox"/> Unable to produce records of the driver card if the driver holds one				
<input type="checkbox"/> Unable to produce manual records and printouts made during the current day and the previous 28 days				
<input type="checkbox"/> Unable to produce driver card X				
<input type="checkbox"/> Unable to produce printouts made during the current day and the previous 28 days	4970	3580	2248	1725
Art. 15.8				
<input type="checkbox"/> Falsify, suppress, destroy data recorded on record sheets, stored in the recording equipment or on the driver card or print-outs from the recording equipment	806	623	1609	1277

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
<input type="checkbox"/> Manipulation of recording equipment, record sheet or driver card which may result in data and/or printouts information being falsified				
<input type="checkbox"/> Manipulation device that could be used to falsify data and/or printouts information present on vehicle (switch/wire ...)				
Art. 16.1				
<input type="checkbox"/> Not repaired by an approved fitter or workshop				
<input type="checkbox"/> Not repaired en route	0	0	0	0
Art. 16.2				
<input type="checkbox"/> Driver not marking all information for the periods of time which are no longer recorded while recording equipment is unserviceable or malfunctioning				
<input type="checkbox"/> Driver card number and/or name and/or driving licence number missing on temporary sheet	0	0	0	0

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
<input type="checkbox"/> Signature missing on temporary sheet				
Art. 16.3 Lost or theft of driver card not formally declared to the competent authorities of the Member State where the theft occurred	0	0	0	0
Table 3				
<u>Directive 2002/15/EC</u>				
Art. 4	2010	2011	2010	2011
<input type="checkbox"/> Exceeding the maximum average weekly working time fixed in 48 hours or in 60 hours only if, over four months, an average of 48 hours a week is not exceeded				
<input type="checkbox"/> Failure to ask to the mobile worker to provide in writing for an account of time worked for another employer				
<input type="checkbox"/> Failure of the mobile worker to provide in writing for an account of time worked for another employer	0	0	0	0

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
Art. 5				
<input type="checkbox"/> Working six consecutive hours without a break				
<input type="checkbox"/> Working time not interrupted by a break of at least 30 minutes, if working hours total between six and nine hours				
<input type="checkbox"/> Working time not interrupted by a break of at least 45 minutes, if working hours total more than nine hours				
Art. 7 Exceeding the maximum limit of daily working time of ten hours in each 24 period if night work is performed				
Art. 9				

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
<input type="checkbox"/> Failure to inform mobile workers 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, concerning the working time of mobile workers				
<input type="checkbox"/> Failure of the employer to record the working time of persons performing mobile road transport				
<input type="checkbox"/> Failure to keep the records of the working time of persons performing mobile road transport for at least two years after the end of the period covered				
Table 4				
<u>Regulation (EC) No 1071/2009</u>	2010	2011	2010	2011
Art. 3	0	0	0	0

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
<input type="checkbox"/> Submission of fake documents aimed at proving the establishment in a Member State				
<input type="checkbox"/> Submission of fake documents aimed at proving appropriate financial standing				
<input type="checkbox"/> Failure to communicate loss of appropriate financial standing				
<input type="checkbox"/> Failure to communicate the loss of good repute requirement				
<input type="checkbox"/> Failure to communicate loss of the requisite of professional competence				
<input type="checkbox"/> Submission of fake documents aimed at proving the requisite of professional competence				
<input type="checkbox"/> Submission of fake documents aimed at proving appropriate financial standing				

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
Art. 4 Failure to communicate death or inability of the transport manager				
Table 5				
<u>Regulation (EC) No 1072/2009</u>	2010	2011	2010	2011
Art. 3 Carrying out international carriage without possession of a Community licence				
Article 5 Driving without a driving attestation when necessary				
Article 7 Supplying incorrect information in relation to an application for a Community licence or for a driver attestation	0	0	0	0

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
Table 6				
<u>Regulation (EC) No 1073/2009</u>				
Art. 3	2010	2011	2010	2011
<input type="checkbox"/> Carrying out international carriage of passengers by coach and bus without complying with the requirements regarding the standards for drivers and vehicles				
<input type="checkbox"/> Carrying out international carriage of passengers by coach and bus without the necessary authorization or with an expired authorization				
Art. 4 Carrying out international carriage of passengers by coach and bus without the Community licence, or with an expired Community licence	0	0	0	0

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
Art. 6				
<input type="checkbox"/> Carrying out services which are not included in the authorization				
<input type="checkbox"/> Carrying out international carriage of passengers by coach and bus with an expired authorization				
In case of additional vehicles:				
<input type="checkbox"/> Carrying out international carriage of passengers by coach and bus without:				
<input type="checkbox"/> the copy of the necessary authorization or with an expired authorization				

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
<input type="checkbox"/> a copy of the contract between the operator of the regular service and the undertaking providing the additional vehicles or an equivalent document				
<input type="checkbox"/> a certified true copy of the Community licence issued to the operator providing the additional vehicles for the service				
Table 7				
<i>Directive 2009/40/EC</i>	2010	2011	2010	2011
Art. 1				
<input type="checkbox"/> Driving without a valid roadworthiness certificate or with an expired certificate a vehicle for which roadworthiness tests are mandatory	49	50	4	10

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
<input type="checkbox"/> Driving with a fake roadworthiness certificate	0	0	0	0
Table 8				
<i>Directive 2006/126/EC</i>				
Art. 1	2010	2011	2010	2011
<input type="checkbox"/> Transport of people or of goods carried out by a driver who has:				
<input type="checkbox"/> a fake driving licence,				
<input type="checkbox"/> not a driving licence,				
<input type="checkbox"/> a revoked driving licence	67	128	8	11
Art. 4 Transport of people or of goods carried out by a driver driving a vehicle falling in a category not covered by driving licence	0	0	0	0

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
Art. 5 Transport of people or of goods carried out by a driver driving a vehicle in conditions non authorised in the driving licence	0	0	0	0
Table 9				
<i>Directive 2008/68/EC</i>				
Art. 3	2010	2011	2010	2011
<input type="checkbox"/> Transport of dangerous goods whose transport is not admitted pursuant to the Annex A and B of the ADR				
<input type="checkbox"/> Transport of dangerous goods not complying to the conditions laid down in Annex A of the ADR for the goods in question, in particular as regards their packaging and labeling, conditions of carriage, loading, unloading and handling				
<input type="checkbox"/> Transport of dangerous goods not complying to the conditions laid down in Annex B, of ADR in particular as regards the construction, equipment and operation of the vehicle carrying the goods in question	23	21	38	16

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
Art. 4 Transport of dangerous goods between Member States and third countries not carried out in compliance with the relevant requirements				
Art. 5 Transport of dangerous goods in non compliance with the provisions of the relevant authorization				
Art. 6 Transport of dangerous goods not complying with the relevant authorization where necessary, or in non compliance with the provisions of such authorization				
Table 10				
<i>Council Directive 96/53/EC</i>	2010	2011	2010	2011

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
	2010	2011	2010	2011
Art. 4				
<input type="checkbox"/> Vehicles or vehicle combinations for the national transport of goods which are not in conformity with the characteristics set out in points 1.1, 1.2, 1.4, 1.5, 1.6, 1.7, 1.8, 4.2 and 4.4 of Annex I (e.g. maximum length, maximum width)	0	0	0	0
<input type="checkbox"/> Vehicles for national passenger transport, which are not in conformity with the characteristics set out in points 1.1, 1.2, 1.4a, 1.5 and 1.5a of Annex I g. (e.g. maximum length, maximum width)	0	0	0	0
<input type="checkbox"/> Vehicles or vehicle combinations which exceed the maximum dimensions not provided with permits issued by the competent authorities	0	0	0	0
Table 11				
<u>Most serious infringements of EU rules foreseen in Annex IV of Regulation (EC) No 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</u>	2010	2011	2010	2011

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
exceeding the maximum 6-day or fortnightly driving time limits by margins of 25% or more				
exceeding, during a daily working period, the maximum daily driving time limit by a margin of 50% or more without taking a break or without an uninterrupted rest period of at least 4,5 hours				
not having a tachograph and/or speed limiter, or using a fraudulent device able to modify the records of the recording equipment and/or the speed limiter or falsifying record sheets or data downloaded from the tachograph and/or the driver card				
driving without a valid roadworthiness certificate if such a document is required under Community law and/or driving with a very serious deficiency of, inter alia, the braking system, the steering linkages, the wheels/tyres, the suspension or chassis that would create such an immediate risk to road safety that it leads to a decision to immobilise the vehicle	0	0	0	0

Table UK 7

	GB Registered Vehicles		Non GB Registered Vehicles	
<p>transporting dangerous goods that are prohibited for transport or transporting such goods in a prohibited or non-approved means of containment or without identifying them on the vehicle as dangerous goods, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle</p>				
<p>carrying passengers or goods without holding a valid driving licence or carrying by an undertaking not holding a valid Community licence</p>				
<p>driving with a driver card that has been falsified, or with a card of which the driver is not the holder, or which has been obtained on the basis of false declarations and/or forged documents</p>				
<p>carrying goods exceeding the maximum permissible laden mass by 20% or more for vehicles the permissible laden weight of which exceeds 12 tonnes, and by 25% or more for vehicles the permissible laden weight of which does not exceed 12 tonnes</p>				