



Brussels, 29.4.2020
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COMMISSION DECISION

of 29.4.2020

authorising the Kingdom of Belgium to grant exceptions from the application of Articles 6 and 8 of Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport

(Only the French and Dutch texts are authentic)

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85¹, and in particular Article 14(1) thereof,

Whereas:

- (1) Article 14(2) of Regulation (EC) No 561/2006 allows Member States in urgent cases to grant a temporary exception from the application of Articles 6 to 9 of that Regulation for a period not exceeding 30 days, which must be notified immediately to the Commission.
- (2) The COVID-19 outbreak in Europe has led to major disruptions to the transport and supply chains in Member States and third-countries, in particular due to the introduction of controls at internal borders, which have led to significant waiting times for drivers when crossing borders. Important parts of the economy have also slowed down or shut down, leading to disruption in the supply chains, while other sectors are under increased pressure and are facing a significant increase in demand of some products.
- (3) In its Guidelines for border management measures to protect health and ensure the availability of goods and essential services² adopted on 16 March 2020, the Commission stressed the principle that all Union internal borders should stay open to freight and that the supply chains for essential products should be guaranteed.
- (4) On 18 March 2020, Belgium notified the Commission of the temporary exceptions to Article 6(2) and (3), and to Article 8(6) of Regulation (EC) No 561/2006 granted for the period from 19 March until 31 March 2020, then renewed until 12 April 2020, pursuant to Article 14(2) of that Regulation in view of the exceptional circumstances caused by the COVID-19 outbreak. That flexibility for driving time and rest periods was considered necessary to ensure the national supply of essential goods in Belgium.

¹ *OJ L 102, 11.4.2006, p. 1.*

² Guidelines for border management measures to protect health and ensure the availability of goods and essential services, C(2020) 1753 final, OJ C 86I, 16.3.2020, p.1. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200316_covid-19-guidelines-for-border-management.pdf

- (5) On 30 March 2020, the Belgian authorities decided to grant a temporary exception to Article 8(8) of Regulation (EC) No 561/2006 for drivers transporting goods, allowing them to take the regular weekly rest in the vehicle, as long as it has suitable sleeping facilities for each driver and the vehicle is stationary.
- (6) In its Communication on the implementation of the Green Lanes under the Guidelines for border management measures to protect health and ensure the availability of goods and essential services of 23 March 2020³, the Commission recognised that land supply chains and in particular road which accounts for 75% of freight transport had been severely affected by the introduction of entry bans at internal land border and by restrictions on professional drivers accessing certain Member States. This situation created excessive waiting times on some days at certain internal Union borders.
- (7) Even though some improvement in the waiting times at borders could be noted over the intervening weeks, controls are still in place at many internal borders of the Union. Given the unpredictability of waiting times, this factor cannot be anticipated in a precise manner by transport operators and drivers when planning transport operations. Furthermore, some Member States have also introduced the obligation for trucks not established on their territory to leave the country within 24 hours after delivering their cargo. These circumstances were identified by Member States as justification for the granting of additional flexibility for driving time, breaks and rest periods, to allow road transport operators and drivers to adjust to these constraints.
- (8) In addition, some drivers have been infected by the COVID-19 virus, thereby further contributing to the current shortage of drivers in the Union. While some drivers are working in sectors affected by reductions in wider economic activity could be temporarily redeployed into parts of the road transport sector that have come under severe pressure, such measures could only constitute temporary solutions in view of the need to prepare for the re-start of the economic activity which is already underway in some Member States.
- (9) In the European Roadmap towards lifting coronavirus containment measures⁴, transport is identified as one of the sectors essential to facilitate economic activity and which should be prioritised for the re-start of the economic activity. A redeployment of drivers may therefore not be suitable from subsectors where the drivers should be quickly mobilised in case of a re-launching of the economic activity. This further justifies the need for Member States to grant flexibility in driving times, breaks and rest periods to guarantee the continuity of transport operations.
- (10) As set out in its second notification of 7 April 2020, Belgium considers that the exceptional circumstances arising from the COVID-19 pandemic continue to prevail and thus request, under Article 14(1) of Regulation (EC) No 561/2006, the authorisation to grant exceptions to Articles 6(2) and (3), and Article 8(6) and (8) of that Regulation. This would justify exceptions applying until 31 May 2020.
- (11) Given the continuous disruptive impact of COVID-19 on European transport and mobility, the Commission accepts that exceptional circumstances continue to prevail in Belgium.

³ C(2020) 1897 final Communication from the Commission on the implementation of the Green Lanes under the Guidelines for border management measures to protect health and ensure the availability of goods and essential services, OJ C 96I , 24.3.2020, p. 1

⁴ Communication - A European roadmap to lifting coronavirus containment measures https://ec.europa.eu/info/sites/info/files/communication_-_a_european_roadmap_to_lifting_coronavirus_containment_measures_0.pdf

- (12) According to the notification, the exceptions to Articles 6(2) and (3) on weekly and fortnightly driving time limits and to Article 8(6) on weekly rest periods would be limited to the transport of essential goods on the Belgian territory. The exception to Article 8(8) allowing drivers to take the regular weekly rest in the vehicle as long as it has suitable sleeping facilities for each driver and the vehicle is stationary, would apply to drivers involved in the transport of goods.
- (13) The Commission indicated in its Guidelines for border management measures to protect health and ensure the availability of goods and essential services, that Member States should ensure constant provisioning to meet social needs, to avoid panic buying and the risk of dangerous overcrowding of shops, which will require proactive commitment from the entire supply chain. In its notification, Belgium has identified an exhaustive list of essential goods to which all temporary exceptions should apply as it considers that the transport of such goods should be prioritised. However, given that most hotels and accommodation are closed on its territory, Belgium considers it necessary to exempt drivers involved in all types of freight transport from the ban to take the regular weekly rest in the cabin.
- (14) In view of the continuous impact of the COVID-19 pandemic on road transport, some flexibility on the maximum driving time limits was thus considered necessary by Belgium to allow drivers to adapt the organisation of their activities, in particular because of unpredictable waiting times at borders. The increase in the maximum driving time limits should allow drivers to occasionally drive longer hours on some days when they have been impacted by delays during their trip. This should enable them to drive more to complete their transport operations, including for loading or unloading the goods, or to drive back to their Member State of establishment within the prescribed time limit, when they are required to do so. The provisions of Article 6(1) continue to apply and drivers are still required to comply with the maximum driving time limit of 9 hours which may be increased to 10 hours twice a week.
- (15) Belgium therefore requests the maximum weekly driving time limit to be increased to 59 hours and the maximum fortnightly driving time limit to be increased to 96 hours.
- (16) According to Belgium, the maximum fortnightly driving time limit of 96 hours should ensure that a driver who would drive up to 59 hours in the first week would be obliged to drive less in the second week - up to 37 hours - thereby avoiding accumulated fatigue.
- (17) Transport activities under severe pressure need to benefit from flexibility in the organisation of driving and rest times to respond to the high demand they are facing. This includes the need for drivers to occasionally work during weekends and in particular on Sundays.
- (18) The current requirements on weekly rest periods do not offer enough flexibility for such a quick adaptation of weekly schedule when needed. The temporary exceptions requested by Belgium aim to remedy to this issue.
- (19) On the one hand, Belgium considers that the possibility to postpone the weekly rest period for one more 24-hour period should allow drivers to work for seven days in a row and be available on Sundays when necessary. On the other hand, the flexibility to take reduced weekly rest periods will also allow drivers to spend a shorter rest period on the road and benefit from a longer rest at home thanks to the compensation rules. Moreover, the possibility for drivers to take two consecutive reduced weekly rests is subject to strict conditions as drivers are to take at least four weekly rest periods in any

four consecutive weeks, of which at least two shall be regular weekly rest periods. The reduction should also be compensated by an equivalent period of rest taken *en bloc* before the end of the fourth week following the week in question to avoid drivers from accumulating fatigue.

- (20) Belgium confirms the rules on breaks set out in Article 7 and rules on daily rest periods in Article 8(2) of Regulation (EC) No 561/2006 remain unchanged. Drivers are still required to take an uninterrupted break of not less than 45 minutes after a driving period of four and a half hours a driver and daily rest periods of at least 11 hours.
- (21) In addition, Belgium requests the obligation for drivers to take their regular weekly rests in suitable accommodation outside the cabin of the truck to be temporarily suspended to limit contacts and possible infections with COVID-19 and to provide an acceptable alternative in view of the closing down of most hotels and other accommodation during the pandemic, in line with the recommendation made by the Commission in its Communication on the implementation of the Green Lanes under the Guidelines for border management measures to protect health and ensure the availability of goods and essential services issued on 23 March 2020⁵.
- (22) In its notification to the Commission, Belgium has made it clear that working conditions of drivers and road safety must not be compromised. Drivers should not be expected to drive whilst tired. Employers remain responsible for the health and safety of their employees.
- (23) Drivers should note on the back of their tachograph charts or printouts the reasons of exceeding normally permitted limits by Regulation (EC) No 561/2006.
- (24) Therefore, the exceptions requested do not as such prejudice the objectives of Regulation (EC) No 561/2006.
- (25) The request of Belgium to be authorised to grant exception to Articles 6(2), 6(3), 8(6) and 8(8) of Regulation (EC) No 561/2006 should therefore be approved.

HAS ADOPTED THIS DECISION:

Article 1

- 1. The exceptions granted under this Article are without prejudice to the provisions on the maximum working time limit set out in Article 4 of Directive 2002/15/EC⁶.
- 2. For the purpose of this Decision, ‘transport of essential goods’ means the transport of food for human consumption, medicines, medical equipment and fuel.
- 3. Belgium is authorised to grant the following exceptions from the application of Articles 6(2) and (3), and Article 8(6) of Regulation (EC) No 561/2006 in respect of drivers involved in the transport of essential goods:
 - (a) increase of the maximum permissible weekly driving limit up to 59 hours;
 - (b) increase of the maximum fortnightly driving limit up to 96 hours;

⁵ C(2020) 1897 final

⁶ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (*OJ L 80, 23.3.2002, p. 35*).

- (c) postponement of weekly rest periods so that each such rest period can be taken up to seven 24-hour periods from the end of the previous weekly rest period.
 - (d) possibility of taking two consecutive reduced weekly rest periods provided that:
 - the driver takes at least four weekly rest periods in these four consecutive weeks, of which at least two shall be regular weekly rest periods and;
 - the reduction should be compensated by an equivalent period of rest taken *en bloc* before the end of the fourth week following the week in question.
4. Belgium is authorised to grant the following exception from the application of Article 8(8) of Regulation (EC) No 561/2006 in respect of drivers involved in the transport of goods: possibility for the driver to take the regular weekly rest in the vehicle, as long as it has suitable sleeping facilities for each driver and the vehicle is stationary.

Article 2

This authorisation is valid until 31 May 2020.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 29.4.2020

For the Commission
Adina-Ioana VĂLEAN
Member of the Commission