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Penalties for serious infringements against the social rules in road transport

European Parliament resolution of 18 May 2010 on penalties for serious infringements against the social rules in road transport (2009/2154(INI))

The European Parliament,

- having regard to the report from the Commission analysing the penalties for serious infringements against the social rules in road transport, as provided for in the legislation of the Member States (COM(2009)0225),
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A7-0130/2010),
- A. whereas in recent years the European Union has created a system of social rules in road transport by adopting Regulation (EEC) No 3821/85 and Regulation (EC) No 561/2006, together with Directive 2006/22/EC, in order to increase safety on the roads and to ensure fair competition,
- B. whereas the penalty systems in the Member States of the European Union have evolved historically, and therefore show wide disparities, with fines in extreme cases that can be as much as ten times higher in one country than in another,
- C. whereas the legal position with regard to international transport operations has become very hard for undertakings and especially for drivers to understand; whereas the Member States face major challenges in transposing the regulations as required and whereas the current situation is not compatible with the single market,
- D. concerned at the reports of shortcomings affecting digital tachographs which make them highly vulnerable to tampering,

General

1. Welcomes the Commission report on analysing the penalties for serious infringements against the social rules in road transport, as provided for in the legislation of the Member States; regrets, however, that because of incomplete data from some Member States the report does not constitute a comprehensive analysis of the current situation in Europe; asks the Commission to call on the Member States to supply the missing data;
2. Notes that the Commission report is based on the categorisation of infringements according to the new Annex III to Directive 2006/22/EC, without taking account of the deadline for implementation laid down in Article 2(1) of Commission Directive 2009/5/EC;
3. Calls therefore on the Commission to submit an updated and complete report on the implementation of the new Annex III to Directive 2006/22/EC before the end of 2010;
4. Points out that in past reporting periods there have been significant delays, so that, for

example, the current report of 3 August 2009 (the 24th report from the Commission analysing the penalties for serious infringements against the social rules in road transport) deals only with data from 2005 and 2006, and hence can draw hardly any conclusions about the current state of harmonisation of the social rules for road transport users;

5. Calls on the Commission and the Member States to do their utmost to ensure that the objectives set out in Article 17 of Regulation (EC) No 561/2006 are fulfilled more quickly, so that more recent statistics are available for future harmonisation measures;
6. Points out that Annex IV to Regulation (EC) No 1071/2009 also contains a list of serious infringements within the meaning of this Regulation; therefore considers that a harmonised categorisation of serious infringements against the social rules is extremely necessary;

Significant differences between Member States

7. Notes that the differences in penalties for serious infringements against the social rules in road transport as provided for in the legislation of the Member States concern not only the level of fines, but also the types and the categorisation of the penalties;
8. Points out that these differences can be explained by economic and geographical factors, as well as the Member States' differing legal systems in criminal matters and their differing policy approaches to road safety;
9. Notes that the social rules in road transport, in particular Regulation (EEC) No 3821/85 and Regulation (EC) No 561/2006, together with Directive 2006/22/EC, afford the Member States a great deal of scope for interpretation; regrets that the many imprecise formulations in the European rules necessarily result in a failure to achieve uniform transposition into national law in the Member States; takes the view that to achieve further harmonisation we first need uniform and binding interpretation of these Regulations and the Directive;
10. Regrets that some Member States do not provide for differentiation of penalties according to the seriousness of the infringement; calls on the Member States to adopt national legislation that has an effective, proportionate and dissuasive effect and that takes due account of how serious an infringement is;

Further harmonisation

11. Emphasises that an effective, balanced and dissuasive penalty system can only be based on clear, transparent and comparable penalties across the Member States; calls on the Member States to find legislative and practical ways of reducing the in some cases very substantial differences in the type and level of penalties applied;
12. Calls on the European Commission, after consulting inspection bodies and representatives of the transport sector, to come up with a uniform and binding interpretation of the Regulation on driving and resting hours. The inspection bodies should take this interpretation into account;
13. Takes the view that to achieve further approximation of the types of penalties and of the levels of fines, a categorization of fines linked to a categorization of penalties is needed, and minimum and maximum penalties for each infringement against the social rules in road transport should be laid down; stresses that in streamlining penalties the need for fair fines

to be proportionate in the different Member States in accordance with objective criteria (such as GNP or geographical factors) must be balanced by an effective deterrent against serious infringements;

14. Points out that the new Annex III to Directive 2006/22/EC introduced by Commission Directive 2009/5/EC should be evaluated as the foundation for a uniform approach to categorising infringements against the social rules in road transport as laid down in the legislation of the Member States; urges the Member States to adopt the laws, regulations and administrative provisions necessary for rapid transposition of Commission Directive 2009/5/EC;
15. Also recalls that the Treaty of Lisbon has inserted in the Treaty on the Functioning of the European Union a new Article 83(2) on the approximation of criminal laws and regulations of the Member States; calls on the Commission to examine these new legislative means in the field of judicial cooperation in criminal matters and to submit, within twelve months, a report to the Council and the European Parliament on the possible harmonisation measures, including aspects relating to road safety and the cross-border application of fines, if it has not already done so;
16. Welcomes the fact that pursuant to Article 22(4) of Regulation (EC) No 561/2006 the Commission has prepared 'guidelines' to support the Member States in the national interpretation and application of this Regulation; notes, however, that the guidelines are not legally binding and have therefore not achieved their aim of uniform transposition in the Member States;
17. Considers that, in order to achieve an internal market in transport and to increase legal certainty for drivers and hauliers, the interpretation of the application of social legislation should be harmonised; with this in mind calls on the Commission, in cooperation with Corte, Tispol and Euro Contrôle Route, to submit proposals seeking to put an end to the discriminatory application of social legislation in road transport; highlights in this connection the need for a common, article-by-article interpretation of the application of Regulation (EC) No 561/2006 and Regulation (EEC) No 3821/85;
18. Calls on the Member States to take account of these guidelines in implementing the social rules so as to ensure that harmonised transposition is achieved;

Checks

19. Stresses that unfair competition can be avoided and road transport safety guaranteed only by consistent and non-discriminatory enforcement of the applicable legislation; emphasises that a harmonised and effective approach to checks is essential for the transposition of the social rules in road transport;
20. Points out that the traffic situation, in terms of infrastructure, volume of traffic and congestion, varies widely between the Member States and therefore considers that these factors, inter alia, could be taken into account in determining the frequency of checks, bearing in mind that one of their main purposes is to ensure compliance with social welfare rules;
21. Believes that the Commission should develop and promote such harmonised approaches to checks and take regulatory action so as to remove obstacles to the European single market

and improve road safety; calls on the Commission, in order to achieve these objectives, to create an effective and appropriate coordination instrument at the European level;

22. Calls on the Commission to draw up recommendations and European minimum standards for the training of inspection bodies and for coordinating cooperation between the inspection bodies; asks the Commission to improve the collection of statistical information so as to enable more meaningful analysis of the effectiveness of enforcement and promote a harmonised approach by the Member States to enforcement issues;
23. Calls on the Member States always to train their enforcement staff in the latest developments in data collection and, in implementing common standards, to work closely with the European Commission in order to promote a harmonised approach to checks, thus creating legal certainty;
24. Takes the view that more frequent and thorough checks must be made both at the roadside and at the premises of undertakings; calls on the Commission to ensure that the Member States respect the amount of checks to be organised, as referred to in Article 2(3) of Directive 2006/22/EC; calls on the Commission to inform the European Parliament of the further steps it intends to take with regard to these checks;
25. Calls on the Commission to submit, as soon as possible, a report on the checks made on the shortcomings affecting digital tachographs and the steps taken to prevent their vulnerability;
26. Underlines that the digital tachograph, based on Regulation (EEC) No 3821/85, should be improved as an instrument for checking; the Commission should investigate how to achieve faster downloading of data from the digital tachograph by the controlling authorities;
27. Draws attention to the Disproportionate Fines Complaint Desk set up by Euro Contrôle Route, and calls on drivers and hauliers to apply to this complaint desk in the event of disproportionate application of social legislation for road transport;

Other initiatives

28. Considers that an easily understandable brochure in all official languages of the European Union would be useful for undertakings and for lorry drivers; stresses that this brochure should give the drivers and undertakings concerned more information about the relevant social rules and the penalties applicable to infringements in the various Member States; considers that such information should also be made available to undertakings and drivers from third countries; draws attention to the value of using intelligent transport systems to provide drivers with such information in real time;
29. Is convinced that in the context of using modern information and communication technologies and intelligent transport systems, the possibility should exist for businesses and drivers to obtain information on the social rules in force and the penalties for infringing them;
30. Calls on all the Member States to reinforce cooperation on the basis of existing structures such as Euro Contrôle Route and in this way to improve coordination of common checks, exchange of best practice and joint organisation of training programmes for control bodies;
31. Considers that all available technology should be used to inform lorry drivers, including

those coming from neighbouring countries, in real time about the relevant social rules and the penalties applicable to infringements in the various Member States, for example with the use of GPS or other tools available;

32. Calls on the Member States to establish an appropriate infrastructure, including a sufficient number of safe parking spaces and services, on the European road network so that drivers can in fact comply with the provisions on driving times and rest periods and so that checks can be carried out efficiently; points out that the security aspect must be of particular importance in the case of these facilities; calls on the Commission periodically to publish, in the most appropriate format, the facilities available, both public and private, across the European road network, providing information on the services on offer for road sector professionals;
33. Calls on the Commission and the Member States to encourage and finance schemes for the construction of secure parking areas, since these are indispensable if drivers are to respect the provisions of Regulation (EC) No 561/2006;

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34. Instructs its President to forward this resolution to the Council and the Commission.