Council of Ministers

ROAD TRANSPORT

SOCIAL ASPECTS

RESOLUTION

on the Establishment of a System for Monitoring the Implementation of Driving Time and Rest periods

Ministers have approved this Resolution during the Brussels session of the Council of Ministers.

JT00143626
1. Background

Since the Copenhagen Council of Ministers in May 1998, the harmonisation of the control of driving times and rest periods of international road haulage drivers has been a major concern of ECMT activities on road transport.

On this issue, Resolution No. 2001/2 adopted by the 85th Ministerial Council, held in Lisbon on 29/30 May 2001, stressed the need to set up a mutual assistance and information system between Member countries themselves, as well as between each Member country and the ECMT Secretariat, with regard to infringements of AETR or equivalent regulations, namely EEC Regulation 3820/85. Despite the general reservation of Austria on this Resolution and the reticence some Delegations expressed concerning the confidentiality of data, it is nevertheless necessary to try to establish a link between the observance of social regulations and a potential increase of the ECMT multilateral quota. A step toward social harmonisation could then mean a step toward greater liberalisation of the international road transport market [Resolution N°95/1 on "Access to European Transport Markets"].

According to the guidelines laid down by the said Resolution, the Bucharest Ministerial Council mandated the Committee of Deputies to submit to the Brussels Council of Ministers a Draft Resolution defining the structure of that information system [CEMT/CM(2002)12/Final, p. 6].

2. Main elements for a pragmatic approach

A system for the collection and exchange of data on infringements to the regulatory framework on maximum driving and minimum rest periods in the road transport sector is already an element of the Community acquis.

On one hand, the objective of the EU system is to provide each EU Member State with the data it requires to take the necessary measures to sanction infringements committed by its road transport operators on the territories of other Member States.

On the other hand, the report to be supplied by EU Member States every two years is intended to enable the European Commission to take an overall view of the levels of compliance both with respect to EEC Regulations 3820/85 and 3821/85 and with the minimum levels of control set up by EEC Directive 88/599.

Since the contents and the scope of the mutual assistance and information system to be implemented at ECMT level are similar, the system to be implemented at ECMT level should be based on the EU model in order to avoid duplication. It would even have been wise to collect data on the basis of a harmonised model between the three Organisations concerned (EU, UNECE, ECMT).

Due to the problems raised by the confidentiality of data, it will however not be possible to have exactly the same questionnaire as used by EU, in ECMT and UNECE. Nevertheless, as in the EU, the report to the ECMT Secretariat, as well as the information exchanged between ECMT Member countries, should cover all infringements to AETR or equivalent regulations because, from a cost-benefit point of view, there is no justification for a separate system based exclusively on the collection of data on infringements committed during international road freight operations under cover of ECMT multilateral permits.

Otherwise, for each undertaking, the level of compliance with the regulatory framework on social harmonisation should be globally evaluated in reference to infringements committed in all international
road freight operations, regardless of the circumstance of the operation being liberalised or submitted to a permit regime. The proposed exchange of information system is an essential tool for monitoring the application of the regulatory framework on maximum driving times and minimum rest periods of international road haulage drivers.

In practical terms, this system should allow the evaluation of the level of compliance of each undertaking in the said framework, as an element to be taken into consideration in the criteria for the distribution of the ECMT multilateral permit quota share allotted to each member country. To satisfy those concerned with data confidentiality, the tables reproduced in the Annex require neither mention of the name of the driver, nor the number of the licence plate of the vehicle, although such information could always be obtained on a bilateral basis. The name of the company is nevertheless necessary if actions are to be taken later as far as further granting of ECMT licences is concerned. There should not be any objection to use these questionnaires also at UNECE level when the amendment concerning Article 12 of AETR comes into force.

As for an increase in the quota, it will essentially depend on the evaluation of progress in the field of harmonisation of conditions of competition, and the levels of compliance with the road transport regulatory framework as a whole.
RESOLUTION ON THE ESTABLISHMENT OF A SYSTEM FOR MONITORING THE IMPLEMENTATION OF DRIVING TIME AND REST PERIOD REGULATIONS

The Council of Ministers, meeting in Brussels, on 23 and 24 April 2003,

RECALLS its request, expressed at the last Ministerial session, that a Draft Resolution be presented to the Council of Ministers, defining the structure of the exchange of information system related to monitoring of the proper implementation of the AETR or equivalent Regulations;

TAKES NOTE of the approach described above;

DECIDES that:

• the structure of the ECMT system for exchange of information on infringements to AETR, substantially in line with the procedures laid down in EEC Directive 88/599, will comprise the following elements:

  ♦ a yearly exchange of information on infringements between ECMT Member countries, with a copy to the ECMT Secretariat -- to be, as in the EU, exclusively provided to the competent Authority of the country where the hauliers are established --, using the standard form in Annex 1, which is a modified version of the form established by the EEC Decision 93/172 of 22 February 1993;

  ♦ every two years:

    – each non-EU member country should supply the ECMT Secretariat with a report on the implementation of AETR, using the standard form in Annex 2;

    – EU and European Economic Area (EEA) Member States, as well as those States which, under specific agreements, have the same obligations, should supply the ECMT Secretariat with a copy of the report transmitted, for the same period, to the European Commission.

• The standard form for exchange of information between member countries should contain data exclusively on infringements to AETR, as this is the sole regulatory framework applicable not only to all international road transport operations carried out by undertakings of non EU Member countries, but also to the same operations carried out by EU transport undertakings whenever the territory of a third country is involved.

• When the procedure concerning the amendment of Article 12 of AETR is completed, both UNECE and ECMT should use the same questionnaire.

• Annual controls should cover at least 1% of the working days of drivers of road freight vehicles falling within the scope of AETR or equivalent Regulations.
INSTRUCTS the Committee of Deputies:

– to monitor the implementation of this Resolution;

– to report in due time on the results of this Resolution, with a view to considering at a later stage the possibility to increase the ECMT multilateral quota if an effective harmonisation of the social conditions of competition in the road transport sector is reached;

– to pursue its work on social conditions in road transport, taking into account the developments occurring on the same subject in other international Organisations.
ANNEX 1

STANDARD REPORTING FORM FOR THE EXCHANGE OF INFORMATION BETWEEN ECMT MEMBER COUNTRIES ON AETR OFFENCES AND PENALTIES IMPOSED

1. OFFENSES COMMITTED BY NON-RESIDENT HAULIERS AND PENALTIES IMPOSED

<table>
<thead>
<tr>
<th>Name and address of undertaking</th>
<th>Date of report</th>
<th>Place where offence was committed</th>
<th>Author of report</th>
<th>Breaches to(^1) AETR</th>
<th>Penalty imposed (or imposable)(^2)</th>
<th>Comments</th>
</tr>
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<tbody>
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1. Mention the articles infringed.

2. For cases where, at the date of dispatch of this list, a final decision had not yet been taken.
### 2. ACTION TAKEN BY STATE OF ORIGIN WITH REGARD TO TRANSPORT OPERATORS WHO HAVE COMMITTED OFFENCES IN OTHER MEMBER COUNTRIES

<table>
<thead>
<tr>
<th>Name and address of the undertaking</th>
<th>Date of receipt of dossier</th>
<th>Date and place of offence</th>
<th>Breaches to AETR</th>
<th>Penalty A - In the country where the offence was committed</th>
<th>Penalty B - In the offender's country of origin</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
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</table>

**Person responsible for this communication:**

Surname: ................................................................. Forename: .................................................................
Position: .................................................................................................................................
Administrative address: ....................................................................................................................
Tel.: ...........................................................................................................................
Date: ................................................................. Signature: .................................................................
Model of the standard form which Member countries should use to communicate to the ECMT Secretariat the necessary information for drawing up, every two years, a report concerning the implementation on their territory of AETR or equivalent Regulations

1. **REFERENCE PERIOD**

   Period:  
   From: ..................................................  
   To: .....................................................

2. **CALCULATION OF MINIMUM CHECKS**

   a) Number of days worked per driver during the reference period: .............................................
   b) Total number of vehicles subject to AETR: ..............................................................................
   c) Total number of days worked [(a) x (b)]: ............................................................................... 
   d) Minimum checks (1% of c): ....................................................................................................

3. **CHECKS**

3.1 **Number of checks at the roadside**

<table>
<thead>
<tr>
<th>Nationals</th>
<th>Other ECMT Member countries</th>
<th>Third countries</th>
</tr>
</thead>
</table>

3.2 **Number of checks at the premises of undertakings**

   a) Carriage of hire or reward: ................................................................................................. 
   b) Carriage of own account: ..................................................................................................... 

3.3 **Number of working days checked at the roadside**

<table>
<thead>
<tr>
<th>Nationals</th>
<th>Other ECMT Member countries</th>
<th>Third countries</th>
</tr>
</thead>
</table>

3.4 **Number of working days checked at premises of undertakings**

   a) Carriage of hire or reward: ................................................................................................. 
   b) Carriage of own account: ..................................................................................................... 

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1. This form is to be used exclusively by ECMT Member countries. Member States of the EU may supply the ECMT Secretariat with a copy of the same report as transmitted to the European Commission.
4. OFFENCES - NUMBER OF OFFENSES RECORDED (AETR)

<table>
<thead>
<tr>
<th>Article</th>
<th>Type of offence</th>
<th>Nationals</th>
<th>Other ECMT Member countries</th>
<th>Third countries</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Driving period</strong></td>
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<tr>
<td>- Daily driving period</td>
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<tr>
<td>- Six days maximum</td>
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<tr>
<td>- Fortnight</td>
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<tr>
<td><strong>Breaks</strong></td>
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<tr>
<td>- Driving for more than 4½ hours without a break</td>
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<tr>
<td>- Breaks too short</td>
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<tr>
<td><strong>Rest periods</strong></td>
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<tr>
<td>- Daily</td>
<td></td>
<td></td>
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<tr>
<td>- Weekly</td>
<td></td>
<td></td>
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<tr>
<td><strong>Service timetable and duty roster</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>- Faulty</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
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<tr>
<td>- Incorrectly applied</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
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</tbody>
</table>

* not applicable

5. NATIONAL INITIATIVES

Regulatory: ........................................................................................................................................
Administrative: .................................................................................................................................
Other: ..................................................................................................................................................

6. PENALTIES

6.1 Scales

6.2 Changes

Date of most recent changes: ................................................................................................................

Administrative or legal references: ......................................................................................................

7. CONCLUSIONS AND COMMENTS, INCLUDING ANY DEVELOPMENTS IN THE FIELDS IN QUESTION

Person responsible for this report:

Surname: .............................................................................................................................................
Position: ...............................................................................................................................................
Administrative address: .........................................................................................................................
Tel.: ......................................................................................................................................................
Date: .....................................................................................................................................................