



Mr Fotis Karamitsos
Acting Deputy Director-General
Directorates C and D
DG MOVE
The European Commission
Rue Demot 24-28
1040 Brussels
Belgium

15 January 2015

Re: Resting time truck drivers – new French and Belgian legislation

Dear Mr Karamitsos,

As you know, transport is a key pillar of the single market, allowing for the free movement of goods and people across borders. The cost and efficiency of transport services and the quality of Europe's infrastructure networks directly affect trade flows, mobility and the competitiveness of European companies. Therefore, BUSINESSEUROPE aims to remove remaining regulatory, administrative and technical barriers in all modes of transport and avoid the introduction of new restrictions.

In this context, BUSINESSEUROPE is concerned about some national developments, and in particular about regulation adopted in June last year in France and Belgium that impacts road hauliers and the wider functioning of the European single market. The legislation forbids truck drivers to take their weekly rest in the cabin of their vehicles.

Regulation (EC) 561/2006 provides a common set of EU rules for maximum daily and fortnightly driving times, as well as daily and weekly minimum rest periods for all drivers of road haulage and passenger transport vehicles, subject to specified exceptions and national derogations. While the European Regulation explicitly authorises rest in cabins for daily rest periods and reduced weekly rest periods as long as the vehicle has suitable sleeping facilities for each driver and the vehicle is stationary (Article 8.8), it neither forbids nor authorises rest times in cabins for **regular weekly rest times**. Hence, it leaves room for diverse national interpretation.

As you know, the French authorities state that the new law is meant to fight social dumping in road transport, fining transport companies up to €30.000 if the weekly rest is taken in the cabin, even if the vehicle is equipped with adequate sleeping facilities. Belgium has adopted similar provisions.

We would like to highlight some of our concerns regarding the new national laws:

- **The impact on the single market:** Diverse national rules that complement EU legislation or diverse interpretation of EU law cause problems for business. It causes legal uncertainty and disrupts the level playing field that European companies need to compete fairly within the single market.



- **Lack of infrastructure:** The lack of secured parking space *with* accommodation is one of the big obstacles to comply with the French and Belgian regulation. In both countries there are limited secured parking spaces that also offer accommodation.
- **Proportionality of sanctions:** It is necessary to assess whether the French sanction (€30.000 and possible one year imprisonment) is proportional, effective and dissuasive.
- **Lack of practical guidance:** Uncertainty exists about the practical enforcement of the regulations, for example concerning the question which documents should be provided.
- **Need for legal certainty:** The European Commission should clarify whether these national regulations comply with Regulation (EC) 561/2006, where it is stipulated that: "*a driver should have a possibility, should he / she choose, to spend the regular weekly rest at the home base or somewhere else, and not in the vehicle*", while the Belgian and French legislation eliminate the driver's right of choice.

We appreciate that the Commission has already requested France and Belgium for more information about the adopted national rules and is investigating the case. However, as the current situation is causing a lot of uncertainty amongst business and is negatively impacting the functioning of the single market, BUSINESSEUROPE calls on the Commission to speed up this process, while ensuring it is done thoroughly.

Furthermore, the Commission should issue a clear interpretative opinion or guidance document on where one is allowed to spend obligatory resting time, including its enforcement.

We remain at your disposal should you wish to discuss the above further with us.

Yours sincerely,

Jérôme F. Chauvin
Deputy Director General