



NOTE

on enforcement practices of Article 8(8) of Regulation (EC) No 561/2006 on the ban to take regular weekly rest in a vehicle

This note concerns the implementation of the measures prohibiting drivers from spending regular weekly rest periods in the cabin of the vehicle, as laid down in Article 8(8) of Regulation (EC) No 561/2006 ¹.

Context

The Commission has been informed on several occasions that, some national authorities were requiring drivers to provide evidence, such as hotel bills, to prove that they spent their regular weekly rest in adequate accommodation outside the vehicle.

Legal framework

Article 36 of Regulation (EU) No 165/2014 ² on recording equipment in road transport provides an exhaustive list of records to be produced by the driver on a request of control officer. These are: the records sheets (in case of analogue tachograph), any manual records and printouts and the driver card (in case of digital tachograph). When carrying out such checks, Member States' authorities may not require documents other than those referred to in Article 36 of this Regulation.

Article 34(3) of Regulation (EU) No 165/2014 specifies that Member States shall not impose on drivers a requirement to present any forms attesting for drivers' activities

Article 4(6) of Directive 2006/22/EC lays down the obligation for assistance between Member States as regards checking compliance with the rules on driving and rest times.

“If, in a Member State, the findings of a roadside check on the driver of a vehicle registered in another Member State afford grounds for believing that infringements have been committed which cannot be established during the check owing to a lack of necessary data, the competent authorities of the Member States concerned shall assist each other in clarifying the situation.”

¹ 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 3820/85

² Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport

Clarification

As explained in Questions and Answers on driving and rest time rules³ (Question 6), drivers or employers can be fined for non-compliance with the prohibition of taking the regular weekly rest (or rest of more than 45 hours taken in compensation) in the vehicle when they/their drivers are caught having a regular weekly rest inside the vehicle at the time of the control.

In the same time, Article 34(3) of Regulation 165/2014 does not preclude the possibility for national authorities to perform controls regarding previous weekly rests that might have been taken in another Member State. Hence, national authorities may perform such controls at any time. However, as specified in that Article, drivers shall not be obliged to attest for their activities when they are away from the vehicle. This covers also a situation of taking a regular weekly rest outside the vehicle. Thus, enforcers cannot require from drivers documents proving that their regular weekly rest preceding the roadside inspection was not spent in the vehicle.

In cases where the Member States' legislation recognises an oral admission of the driver as a valid proof for establishing a breach of Article 8(8) of Regulation 561/2006, nothing in Regulation (EC) No 561/2006 nor Regulation (EU) 165/2014 prevents the national authorities to issue a fine on this basis.

Where there is a suspicion of infringement to the prohibition of taking a regular weekly rest in the cabin, which cannot be established due to a lack of data at the roadside control, national authorities are encouraged to use the possibility of mutual assistance.

³ https://transport.ec.europa.eu/system/files/2022-02/qa_mobipack_part_i_en.pdf