

# **Conference on Social Rules in Road Transport**

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## **SPEECH**

### **“Reality Check”**

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#### ***Introduction***

Good afternoon ladies and gentlemen,  
First of all I would like to thank Mrs. Ranner and Mr. Van Dalen for their kind invitation to take part in this conference.

We are pleased to give our contribution in the debate and provide our view on the subject.

UETR European Road Haulers Association represents around 200.000 European freight transport SMEs from Western and Eastern EU Member States.

UETR is a sectoral member of UEAPME the European Association of Craft, Small and Medium-sized Enterprises, and chairs the UEAPME Transport Forum, the co-operation platform dealing with all transport-related issues.

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#### ***General statement***

In the past decade a number of EU regulatory interventions strongly influenced the activity of road hauliers. Regulation 2006/561, the introduction of the digital tachograph and Directive 2002/15 certainly have many merits.

However, we believe that recent developments in the internal market have led to some undesired consequences and counter-productive effects.

The strong difference in sanctions within the Union is a big concern for all of us: the other speakers already highlighted this problem.

Discussing about sanctions I would like to go back a bit further and focus on the **liability**.

### ***Supply chain and shared liability***

Road hauler is not the only “actor” of transport: on the contrary, it is just only one link of a chain, the so-called “supply chain”.

We have also the contractor, supplier, the freight forwarder, the retailer, the client-us, at the end of the day.

Regulation 561 says that “*A transport undertaking shall be liable for infringements committed by drivers of the undertaking*”.

The question is **what about the other subjects, the other “players” ?**

Well, in this case the Regulation takes more nuanced tones over the matter. We read that “[*Undertakings, consignors, freight forwarders, tour operators, principal contractors, subcontractors and driver employment agencies shall ensure that contractually agreed transport time schedules respect this Regulation*”]. That’s it. There’s no explicit mention of liability.

You can easily understand that legally speaking, one thing is saying that you are responsible, other thing is saying that you shall ensure...

If, as undertaking, I organize the work of my drivers in such a way that they are not able to comply with driving times and rest periods etc, I will be responsible and consequently sanctioned. That’s fair.

But what if the instructions given to the carrier **by the contractor do not make the undertaking able to comply with social rules ?**

The easiest answer is: the undertaking should refuse to work for these bad guys. Right. But reality is a different thing....

First of all, small haulers have weak contractual power.

Then, for one single small haulers refusing, unfortunately there are hundreds ready to accept.

What happens if the undertaking delivers not in *requested* time, according to the contractors’ instructions? in too many cases the company is not paid. Sometimes I’ve been informed that it is even not allowed to unload the goods- “I expected these goods one-two-three hours ago- I don’t want them anymore- take them back”.

That’s the price to pay for the just in time. We want goods delivered here there and everywhere-and as soon as possible.

That’s one point.

Second point: costs.

In some EU member states current transport rates are much lower than the actual cost of the service, which is in other words the minimum sufficient tariff allowing the company to cover all the transportation costs + a minimum of income. I am not talking about big money, I am talking about survival, about the minimum to make the business go on.

So, the contractor refuses to pay the minimum. Take it or lose it. The faster I drive, the quicker I will be able to cover my transportation costs.

**That's why UETR has always remarked the link between the matter of transportation costs and road safety (and social protection of course).**

*So, for all these reasons at the end of the day the undertaking can decide to run the gauntlet, substantially forced to accept the contractors' instructions and tariffs.*

*Now you can easily see that in road transport sector, for social rules issue we cannot have a compartmentalized approach but we must take into account a number of different aspects.*

*It is a complex matter. Things are not simple.*

**If we want to ensure 100 % social protection and road safety we need to introduce (and implement) a clear and general principle of shared liability in the supply chain.**

**Consequently, sanctions should apply also to the contractor, shipper, goods owner etc providing instructions not allowing the road hauler to respect EU social provisions.**

This should be done at EU level, on the basis of the subsidiarity principle: whereas professional associations call national authorities to check the chain liability, too often national authorities in some Member States do not investigate what's behind the infringements committed by the undertaking, do not require the driver / undertaking the documentation which demonstrates the compatibility of the instructions sent to the carrier with EU social provisions.

### ***Infrastructure***

The provision of sufficient parking areas at reasonable distance is another issue of paramount importance; moreover, police forces must be able to control and enforce the legislation in the best conditions, and as you can understand a place where trucks can be stopped and controlled facilitate the work of control officers responsible for the control of community law concerning international road transport.

I said before that truck drivers must stay in the possibility to respect rest and driving periods. I add that, as corollary, they must stay in the possibility to respect rest and driving periods AND work. AND transport goods. Here we come to the congestion issue.

### ***Congestion***

In congested roads, tachograph continues to record of course, but the vehicle is stuck in the traffic- and also in accident. But I am not doing my job, very likely I will deliver goods not in time.

So initiatives and strategies to tackle congestion (and the best initiative would be of course to build new road infrastructures....) are of paramount importance for the economic activity of transporters- and for the EU GNP.

## ***Training***

Control is carried out sometimes in different ways in the different Member States as regards procedures and application of Community law

So the training of control officers responsible for the control of community law concerning international road transport must be harmonized.

As a road haulers I have the right to expect the same application of social provisions across all European member states.

The previous speakers highlighted very well the issue of harmonized training to police forces- the TRACE project, etc....

Drivers and entrepreneurs must also be trained.

It is not just a matter of regulation: we need also special policies to educate them (e. g. driver fatigue countermeasures, etc).

The new regulation on access to profession will provide a framework for (hopefully) new skilled transport managers.

There should be a financial support both at national and EU level- very often smaller companies willing to participate in training courses must stop working to attend them...

Professional organizations can play a key role in this process, promoting training courses, providing skilled teachers, raising awareness of the importance of complying with EU social provisions.

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## ***Conclusions***

To conclude, a single infringements/sanctions system together with an harmonized enforcement framework are of paramount importance for the functioning of the internal market and would increase legal certainty and decrease significantly costs for business and citizens.

We are for a concrete and realistic approach: the goals of drivers' health and road safety must be absolutely tackled. However, companies' experience on the field (that I tried to highlight here today) and recent trends in the EU road transport policy should be taken into account for a different look at the social rules issue in road transport.

The overall efficiency that should be ensured by the EU means that freight transport SMEs must stay in the possibility to respect driving time etc AND work. No "trade off" must be made.

Thank you.