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ETF Position Paper on the Proposed revision of driving and rest time rules for occasional bus and coach operations

Policy Position Paper



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On the 24th of May, 2023, the European Commission proposed a revision to the driving and rest time rules in Regulation 561/2006; for the occasional passenger transport sector. The aim of this initiative is to develop specific rules in driving and rest time concerning occasional bus and coach operations with a view to provide more flexibility in organizing the work and rest schedule.

The Commission's proposals include:

- ▶ Extension of the '12-day derogation' to occasional domestic passenger transport, which basically means 12 consecutive days of driving without any weekly rest whatsoever in both domestic and international trips.
- ▶ The possibility for operators to split daily breaks into three periods of a minimum of 15 minutes.
- ▶ The possibility to postpone daily rest by 1 or 2 hours, depending on the total daily driving period.

The current driving and rest time rules in bus and coach sector are set out in Regulation (EC) No 561/2006 which was amended by Regulation (EU) 2020/1054, applied equally in freight and passenger transport. However, the existing rules already fall short of improving the working conditions of bus and coach drivers due to specificities of the sector which enable easy circumvention of rules and create persistent problems with enforcement. The 2021 ETF Study on driver fatigue showcases the prevalence of fatigue experienced by bus and coach drivers, proving that existing rules do not effectively address driver fatigue which is a major risk for drivers as well as for passenger and road safety.

In the ETF Study on driver fatigue,¹ 66% of bus and coach drivers said they had to drive while fatigued on a regular basis. The specificities of the bus and coach sector exacerbate the fatigue and stress experienced by drivers. The profession entails extra responsibilities such as communicating with passengers, assisting with luggage and addressing passenger needs; other specific characteristics are increased levels of noise in the vehicle and extra pressure in the timing of the trip due to passenger requests.

Furthermore, bus and coach drivers have responsibilities such as cleaning and refueling the vehicle. These activities are usually performed during rest or break time. In some Member States, couch tourism drivers have to function as tourist guides, give presentations and plan tours, leaving them with little control over how they spend their free time.

On the other hand, industry pressure which results in tight and intense schedules often has a negative influence on breaks and rest time. These conditions cause a significant danger for road safety which is inherently linked with drivers' wellbeing.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023SC0137>



Amendments in the Commission proposal:

1. Flexibility in daily breaks

The existing split-break option (15 + 30 minutes) already results in short and ineffective breaks for bus and coach drivers. With the additional burdens linked to the existence of passengers, a 15-minute break is practically a non-break. The Commission proposal introduces the following formulation;

15 + 15 + 15 minutes, distributed throughout the day.

Three slots of 15-minute breaks will result in no effective recovery time for drivers in occasional passenger transport services. Drivers will not have adequate time to have food or fulfill other needs. There will not be sufficient time for recovery after long and stressful driving and working hours, especially given that there are more and more passengers on board coaches and drivers are burdened with many additional responsibilities.

The existing option to split the daily break in Regulation 561/2006 (15+30) already provides sufficient flexibility.

2. Extension of the 12-day derogation

The 12-day derogation is an exceptional modification of rules to enable 12 consecutive days of driving without any day of rest in international occasional transport with a single group of passengers. The Commission proposal entails the extension of this derogation to domestic operations.

The 12-day derogation already leads to poor quality of rest and creates tremendous work pressure and fatigue among bus and coach drivers. More importantly, some of the conditions which need to be fulfilled to take advantage of the derogation can already be easily breached by the industry. If introduced, the extension of the 12-day derogation would exacerbate the circumvention of rules, standardize the exception, and undermine enforcement capabilities which are already inadequate.

The enforcement of the 12-day derogation is problematic, with inspectors reporting that there are major difficulties in controlling this derogation, due to lack of digital enforcement tools and difficulty in ensuring that there is only one group of passengers and it only applies to a single trip.

Furthermore, 12-derogation is combined with shorter trips of 3 or 4 days, with drivers going on longer tours after concluding a shorter trip. This creates a situation in which there is accumulated fatigue which negatively affects road safety, and long working arrangements are the norm in the sector.

3. Postponement of the daily rest by 1 or 2 hours

The Commission proposal includes the postponement of the start of the daily rest period by 1 hour or 2 hours, depending on the total driving time. Adding more flexibility to the organization of daily



breaks on top of the existing problems with enforcement can only lead to further deterioration of the sector.

Despite the consideration given to the total driving time, total working time will be affected by the proposed flexibility due to the additional responsibilities of drivers. As an example, a driver may drive during the morning, spend time with other work such as a guided tour on foot in the afternoon, and then drive more in the evening. If the daily rest at the end of the day is postponed, the total driving time is taken into account while other work is not. Currently, working time is not adequately recorded and controlled in the sector.

It should also be noted that the postponement of daily rest will be added on top of the existing option for reduced daily rest, as defined in the Article 4 of Regulation 561/2006.

Enforcement problems are persistent in the sector

Enforcement problems are persistent in the bus and coach sector. This is due to the inadequacies in controls and inspections and lack of digital tools. Efficient, practical and timely enforcement is essential to improve drivers' working conditions, tackle fatigue and ensure road safety. Frequent and thorough checking and controls specifically for the bus and coach sector are necessary, to ensure that rules are followed regarding driving/rest time as well as working time.

Driving and rest time rules do not apply for bus and coach operations within a radius of less than 50 kms. The activities which come under this exception are called “out-of-scope” due to the non-application of the law. In contradiction with the intent of the law, operators often combine in-scope and out-of-scope activities within one day or week. This results in the accumulation of daily and weekly driving time and exacerbates driver stress and fatigue linked to workload.

For example, drivers are scheduled to carry out school transport in one part of the day. This activity cannot be manually entered as driving time on the tachograph. The activity must be recorded as working time; however, this rule is not complied with in most cases. This results in a situation where drivers, within the same day, are scheduled to carry out a mix of in-scope and out-of-scope journeys. Consequently, there is an accumulation of daily and weekly working and driving time, adding to the chronic fatigue widely experienced among bus and coach drivers. Furthermore, the calculation of 50 kms vary across the sector, as operators apply different interpretations concerning the starting point and the ending of the operation. It is therefore crucial that policymakers introduce modern and efficient enforcement tools to prevent the mix of out-of-scope activities and in-scope activities.

There are serious issues with properly calculating working time in the bus and coach sector. Drivers have many additional responsibilities and other work which are not properly recorded and controlled. The ETF study on driver fatigue identifies occupational demands and occupational stress, with little control by drivers over their capacity to make decisions to help cope with the demands of the job, as factors aggravating fatigue. In coach tourism, it is common for drivers to be required to act also as tourist guides in some Member States.

This means that, besides transporting the passengers, the drivers – often during breaks or at rest times – have to plan the tours, give presentations and lead excursions. Furthermore, leaving the vehicle at the end of shift or taking charge of the vehicle at the start of the shift, are not recorded as working time in the majority of cases. Some of the other examples are cleaning the inside and the



outside of the coach and refueling the vehicle. Drivers have the responsibility of keeping the coach clean at all times, to ensure a clean environment for the passengers.

Crisis in the bus and coach sector

The initiative to allow further flexibilization for driving and rest time in occasional bus and coach services will only lead to further abuse by the industry.

Staff shortages in the sector are becoming increasingly acute and threaten the future of the sector. The increasing average age of drivers highlights the need to make the sector more attractive. Inaction and the gradual retirement of drivers will only exacerbate the problems observed. Targeting regulatory changes to improve conditions for professional drivers could make the sector more attractive and increase interest in the job, particularly among younger people. This is because analyses show that working conditions and long periods away from home are a factor in the lack of interest in working in the sector.

According to the IRU study on driver shortage, the shortage in bus and coach sector “increased from 5% to 7% in 2021, and is expected to further increase to 8% in 2022”. Reports and studies reveal that older drivers who retire are not replaced by young drivers entering the profession. This trend is demonstrated by figures in age distribution, as “only 3% of bus and coach drivers are below 25 years old in Europe.” As a larger proportion of older drivers retire in the next decade, it is inevitable that the driver shortage will only increase if no action is taken to address the root causes.

Bus drivers from across Europe are reporting excessively difficult working conditions. According to the French national federation for passenger transport (FNTV), there’s a shortage of 7,000 school bus drivers in France due to many drivers leaving the profession. To address the crisis, the government is working on making driver permits easier to obtain, which is the opposite of what should be done to address the root of the problem.

Reducing such significant staff shortages in the sector will also be possible by supporting all those who would be interested in starting to work in the area of occasional passenger transport. In this respect, the perspective of gender-inclusivity may be particularly important to ensure adequately safe and healthy working conditions with access to decent facilities.

ETF calls for better enforcement, no further flexibility

To address these widespread problems, ETF calls on policymakers to maintain the existing rules for driving and rest time in the bus and coach sector.

We further call on policymakers to adopt additional rules and develop new instruments for better enforcement. The initiative to ensure better enforcement in the bus and coach sector must target the major areas of rule circumvention:

- ▶ Application of the 12-day derogation
- ▶ Compliance with the daily and weekly driving time rules



- ▶ Mix of in-scope and out-of-scope services
- ▶ Effectively measuring working time in addition to driving time.

There is an increasing focus in the transport community on digital and smart enforcement. The bus and coach sector would benefit greatly from technological solutions to its persistent problems. Some of our suggestions are electronic forms, digital platforms and portals, and online collection of information for compliance with certain provisions.

Poor work organization, difficult working conditions, stress and fatigue due to ineffective breaks, increased workload due to additional tasks, and lack of enforcement are the main causes of driver shortage in the bus and coach sector. It is essential that policymakers properly address the loopholes in enforcement and improve existing rules in consultation with trade unions to ensure decent jobs for bus and coach drivers.