

The end of the tachograph saga

After almost three years of legislative procedure, there is finally a light at the end of the tunnel – and some relief – on the issue of tachographs

The Regulation (EC) No 561/2006 of 15 March 2006, on the harmonisation of certain social legislation relating to road transport, applies to the carriage by road of “goods where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 3,5 tonnes”. It regulates driving time and rest periods of road transport drivers. This regulation is linked to the use of tachographs on-board vehicles checking rules are respected at individual levels.

2011

The original exemption provided for a 50km radius, but at the occasion of the previous revision of this legislation, back in 2011, FIEC fought for and obtained an extension of this radius to 100km. However, it appeared in a certain number of EU countries, that the legislation was applied more extensively and included “construction drivers”, as if they would belong to the transport industry.

This represents a significant investment for companies - fees for legislation breach can be high.

In principle, these rules do not apply to construction companies’ drivers and light trucks. However, the scope of the legislation is formulated in such a broad way it was necessary to introduce a series of exemptions.

The current general exemption

covers construction companies.

It says: “[This Regulation shall not apply to carriage by road by] vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7.5 tonnes used for carrying materials, equipment, or machinery for the driver’s use in the course of his work and which are used only within a

100km radius from the base of the undertaking and on the condition that driving the vehicle does not constitute the driver’s main activity.”

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2017

In May 2017, the European Commission proposed a further revision with the aim of strengthening the driving time rules and the related positioning by means of tachographs. FIEC seized this opportunity to call for a further extension of the existing exemption. Together with its counterparts the European Builders Confederation (EBC), FIEC advocated that construction companies can be considered to be small mobile factories which are covering a limited perimeter. In specific cases, they also transport perishable goods (i.e. ready-mixed concrete or asphalt), which can clearly not be treated as “normal” merchandise.

2018

Discussions on this issue started very slowly and the Council of the European Union only adopted its position in December 2018. It did not touch upon the existing exemption but, in addition to it, introduced a new possibility for Member States (i.e. discretionary power of each Member State to apply it at national level or not) to exclude “vehicles used for the delivery of ready-mixed concrete” from the scope of the regulation.

2019

In the European Parliament, discussions were much more chaotic, due to a strong divergence of views. The European Parliament eventually adopted its negotiating position on 4 April 2019. This position entailed both negative and positive aspects. In particular, FIEC and EBC vigorously criticised the extension of the scope of the legislation to light commercial vehicles from 2.5 tonnes involved in international transport.

At the same time, the European Parliament recognised the specific circumstances of construction enterprises and related crafts; introducing for them new exemptions, one covering the newly introduced light commercial vehicles, one extending the perimeter covered by the existing exemption and one for heavier construction vehicles, up to 44 tonnes.

Then the procedure was at a standstill again, due to the European elections of May 2019. In September, the newly elected Members of the European Parliament agreed to enter into political negotiations with the Council on the basis of the position adopted by their predecessors.

At this point of the process, negotiations between the three EU Institutions became completely opaque and FIEC and EBC could do little, in terms of lobbying activities, but simply

recall their messages on a regular basis, without guarantee that this work wouldn’t be smashed down by some mysterious political bargain.

This is why the announcement of the political deal, before Christmas, came as a relief. In the end construction companies will benefit from the following series of exemptions:

- the newly introduced light commercial vehicles will be exempt from the legislation, provided that the transport is undertaken on the own account of the company or the driver and where driving is not the main activity of the person behind the wheel;
- the current exemption is safeguarded as such (no extension of the perimeter);
- Member States will have the possibility to introduce a new exemption for heavier vehicles carrying “construction machinery”;
- Member States will also have the possibility to introduce a new exemption for vehicles delivering “ready-mixed concrete” (but not asphalt).

As very last steps to this long story, the European Parliament and the Council have to formally validate this political deal. We expect that it should be done in the next few weeks. These new rules will then apply 20 days after publication of the act in the Official Journal of the EU.



FIEC

Avenue Louise 225,
B - 1050 Brussels, Belgium.
Tel: +32 2 514 55 35;
e-mail: info@fiiec.eu
www.fiiec.eu



@FIEC_Brussels



FIEC EU

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