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EFTA Surveillance Authority
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Reykjavík April 11, 2008
Reference: SAM08040021/619

Subject:

Request by the Ministry of Transport, Communications and Municipal Affairs of Iceland to apply for exemptions from certain requirements of EC Regulation No. 561/2006 regarding driving times, breaks and rest periods for drivers engaged in the carriage of goods and passengers by road. Request

The Confederation of Icelandic Employers (Samtök atvinnulífsins, SA), together with three of its constituent federations, the Icelandic Travel Industry Association (Samtök ferðaþjónustunnar), the Special Workers in Iceland (Starfsgreinasambandið) and the Icelandic Confederation of Labour (Alþýðusamband Íslands) regarding exemptions from EC Regulation No. 561/2006 on driving times, breaks and rest periods for drivers engaged in the carriage of goods and passengers by road (hereinafter referred to as "the Regulation").

Following their discussions the above federations requested the Ministry of Transport, Communications and Municipal Affairs and the Ministry for Foreign Affairs to apply for certain exemptions for Iceland under Article 14 of the above mentioned Regulation.

It should be noted that Member States of EU were obliged to implement the regulation before 17 April 2007. This does not however apply to the EFTA States, since Norwegian authorities invoked Article 103 of the Agreement on the European Economic Area (EEA) regarding certain aspects of the Regulation. As a consequence, the Regulation has still not entered into force as regards Iceland, Norway and Lichtenstein.

Reason for exemptions – Safety considerations

Under Article 14 of Regulation, Member States may, after authorisation by the Commission (or by the EFTA Surveillance Authority, ESA, in the case of Iceland), grant exemptions from

the application of Articles 6 to 9 to transport operations carried out in exceptional circumstances, provided that the objectives set out in Article 1 are not pre-empted. "Carriage by road" is defined in Article 4 of the Regulation as "any journey made entirely or in part on roads open to the public by a vehicle, whether laden or not, used for the carriage of passengers or goods."

In the view of the Ministry, implementation of the Regulation must take account of the particular circumstances pertaining in Iceland. One of the principal objectives of the Regulation, to improve road safety, would be better secured by granting the exemptions described below.

It should be stated that no interference with the provisions of the Regulation regarding drivers' rest periods is proposed. The proposed exemptions would not mean that the total accumulated driving time during any two consecutive weeks will be exceeded. Thus, granting the exemptions would not allow Icelandic professional drivers to work for longer periods than professional drivers on the European mainland. The main benefit envisaged is that necessary flexibility would be introduced into the present system that would take account of the working environment of professional drivers in Iceland that is unique in the EEA Area.

The carriage of goods and passengers by road under Icelandic conditions

Iceland is a sparsely populated island with a rugged terrain which makes the construction and upkeep of transport infrastructure costly for authorities. The land area is approximately 103,000 km², but with a total population of only about 300,000, the average density of population is only 2.95 inhabitants per km². Iceland's road system is also different from the typical systems found on the European mainland. Route 1 (the Ring Road) circles Iceland is 1339 kilometers and connects all habitable parts of the country together. It is the main goods carriage route, but most of Route 1 has just one lane in each direction and part of it is still a dirt road, at times in rather poor condition. The transport infrastructure is different from that found in most parts of Europe: Iceland has no railways or navigable inland waterways. Consequently the only possible means of goods transport is via the country's road system. Rail transport and underground passenger trains are not available to the public as they are in most parts of the European mainland. In comparison with most countries on the European mainland, transport distances are relatively short: the longest route which a driver may be expected to drive in a single day is just over 700 km. Being an island, Iceland has no land border with any other countries.

Rest facilities available to drivers are not on the same level as those generally found on the European mainland. There are no service centres specially tailored for professional drivers along Route 1. Thus, drivers do not have access to rest and refreshment facilities or lay-bys. For breaks, drivers therefore have to rely to a large extent on ordinary public facilities: they take breaks at shops, sales kiosks and other places intended for the general public where no special arrangements are made for large long-distance transport vehicles. In many parts of Iceland, these stopping places are separated by substantial distances, sometimes over uninhabited highlands. Most of them are closed during the evening and overnight. In many places, parking vehicles used for the carriage of goods and passengers by the side of the Route 1 in order to comply with the mandatory rest requirements can be hazardous for adjacent traffic as well as those in the stationary vehicle.

Rules on driving time and rest periods for drivers in Iceland must take account of these local conditions. It is desirable that drivers stop and rest where facilities and conditions make this possible. The strict rules on driving time and rest periods under the Regulation is in fact more likely to increase traffic hazards than to reduce them under present circumstances.

The greatest distances covered by transport vehicles in Iceland on a daily basis include the following routes:

Reykjavik - Akureyri - 389 km
Reykjavik - Egilsstaðir - 654 km
Reykjavik - Höfn í Hornafirði - 458 km
Reykjavik - Isafjörður - 456 km
Reykjavik - Neskaupstaður - 715 km

Under normal circumstances, most of these routes can be covered within the daily driving time limits specified in Articles 6-9 of the Regulation. But conditions during the winter time can at times make it impossible. Examples are in the event of ice on the road, or road closures or slow traffic conditions caused by the weather.

With reference to the arguments put forward in this letter, The Ministry of Transport, Communications and Municipal Affairs requests derogations from following requirements of the Regulation.

- The daily driving time on long-distance routes exceeding 400 km may would be up to 10 hours, this constituting an exemption to item 1 of Article 6 of the Regulation. This time may be extended to a maximum of 11 hours, although not more often than twice a week. The total accumulated driving time on long-distance routes during any two consecutive weeks shall not exceed 90 hours.

Lengthening the permitted daily driving time on these longer routes would ensure that drivers would be able to reach the main transport vehicle destinations in the rural areas in both winter and summer. At the same time, the total accumulated driving time permitted in two consecutive weeks would not be lengthened, so ensuring that, overall, drivers in Iceland would enjoy the same weekly rest time as drivers on the European mainland. The additional flexibility permitted on long-distance routes would be for the purpose of increased traffic- and occupational safety taking into account the circumstances in which professional drivers work in Iceland.

- It is proposed that the maximum driving period permitted before the driver is obliged to a break be five hours on the route between Reykjavik and Freysnes in the east of Iceland (see enclosed map).

Article 7 of the Regulation allows for a driving period of four and a half hours before the driver is obliged to take a break. With reference to the special conditions that have been described above (i.e. the lack of rest and refreshment facilities on the transport routes), it is requested that drivers on the route between the east of Iceland and Reykjavik be [redacted] in Freysnes (see map) before taking a break, since otherwise they would have to stop their vehicles on Breiðamerkursandur, an expanse of barren sandflats far from the nearest human habitation, with no designated

stopping place and without any access to meals, snacks or toilets.

- Drivers of vehicles used for the carriage of passengers, other than those used on regular passenger transport services, would be granted an exemption from the provision of item 6 of Article 8 of the Regulation regarding weekly rest periods, so enabling them to postpone the weekly 24-hour rest period until after the completion of twelve 24-hour periods.

Due to the same geographical factors that have been described above, the Icelandic tourist industry is in a different position from that on the European mainland. The tourist season in Iceland is restricted to the months of June, July and August, during which the bulk of tourists from abroad visit the country. The effect of the Regulation would amendment have particularly unfortunate consequences for the tourist industry in Iceland, especially services of those involved in running trips in the uninhabited interior of the country, which is the very area which most tourists are interested in visiting. Access to the uninhabited mountainous areas in the interior involves travelling over difficult gravel roads and tracks which can only be negotiated by modified or specially equipped vehicles. Due to the conditions of these mountain roads, it is only possible to drive on them while exercising extreme caution, which necessitates driving at very slow speeds. There are few mountain huts and emergency shelters in the interior, but these generally offer no services or facilities for drivers or tourists unless they also purchase accommodations. Very few of the mountain huts are staffed. If it were necessary to change drivers in the middle of a trip, a separate vehicle would be necessary for the new driver to make his way to the tourist vehicle situated in the interior of the country, and if he drove there himself he would have used up most of his daily driving time for that day permitted under the regulation. Furthermore, the facilities in the typical mountain huts in the interior of Iceland are not such as would enable drivers to rest there or wait to take over the driving on the second part of these trips. Also, it should be borne in mind that on most of these trips, the distances covered each day, with the exception of the first and last days, are very short. On the other hand, the conditions are such that the driver is not able to dispose of his time between driving periods freely in any way he might wish, since he has to wait, generally in very remote places, for the tourist party to return to the vehicle. Waiting periods of this type therefore do not qualify as rest periods in terms of the definition given in the Regulation, even though the driver is often able to lie down and relax in the vehicle. If the Regulation is applied as is, the result would be that trips by parties of tourists in the popular tourist areas in Iceland would have to be shortened to a maximum of seven days' duration, since otherwise it would be necessary to change drivers on the seventh day of the trip.


- It is proposed that an exemption be granted from Article 8 of the Regulation in the case of the carriage of passengers by coach between points outside the metropolitan area and the international airport at Keflavik during the night so that the maximum driving time permitted before taking a break in such cases should be six hours instead of four and a half hours permitted under the Regulation.

Night-time coach transfers from points outside the metropolitan area, e.g. from the town of Akureyri in the north of the country, to the international airport at Keflavik have been operated for many years. No stopping places or service centres with refreshment and toilet facilities are open on this route during the night which have made this service very difficult to operate. In this connection it should be pointed out that Keflavik Airport is the

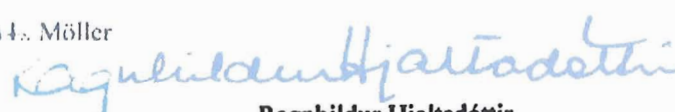
only airport in Iceland with regular scheduled international flights, and that the majority of the aircraft using the airport leave Keflavik early in the morning due to the timing of stops in Iceland on international air routes between the USA and Europe.

This request is submitted in the confidence that the EFTA Surveillance Authority (ESA) will grant exemptions to the Regulation, taking into account the benefit of Icelandic interests in securing the interests of transport undertakings while fully safeguarding the drivers's working conditions and road traffic safety in general. Finally, it should be underlined that transport by road is the only mode of inland transport in Iceland, exemptions from the Regulation would by no means affect the conditions of competition between modes of inland transport in Iceland.

Sincerely,



Kristján L. Möller



Ragnhildur Hjaltadóttir

Encl.: Map of driving routes in Iceland
Sample pictures of the road system in Iceland