

Provisions banning the fact of taking daily and weekly rest periods in light commercial vehicles (LCVs) in France
– courtesy translation –

The French authorities have adopted new provisions sanctioning the fact that an employer makes its employees who drive light commercial vehicles (LCVs) take their daily and weekly rest periods in the vehicle.

Employers must provide the drivers they employ with accommodation conditions outside the vehicle that are compatible with human dignity and respect their health.

In application of the law¹ of 24 December 2019, on the French territory, the employer must from now on provide the employee driver of a vehicle not exceeding 3.5 tons with accommodation that is compatible with human dignity and hygienic conditions that respect his health, outside the vehicle.

The employer has to comply with this obligation when the employee driver of a LCV carries out a road transport operation sufficiently far from the operational center of the company, so that he is unable to return there at the end of his working day or to return home. **This obligation applies equally to companies established in France or in a Member State of the European Union. It applies equally to transport operations for own account or for hire and reward.**

Consequently, it is now prohibited, for an employee driver, to take his daily or weekly rest periods inside the LCV, whether in an overcab located above the driver's compartment (sleeper dome / capucine), at the rear of the vehicle, in the passenger compartment or elsewhere on board the vehicle.

These rests must be taken outside the vehicle, in conditions compatible with human dignity, which requires **a minimal level of comfort and access to sanitary facilities in good conditions**. For example, resting in a tent, next to the vehicle, or in a sleeping bag close to the vehicle, is prohibited.

This is an **obligation of result**: in the event that a driver spends the sum of money entrusted by his employer for purposes other than accommodation for taking rest, enforcement officers may in any event establish the offence. Furthermore, **the employer cannot avoid being liable by invoking the employee's freedom of choice in determining the place where he takes his daily or weekly rest period**. The employer must ensure, if necessary thanks to preventive and control measures, that the employees take their rest in conditions that comply with those rules.

The employer must enable the driver to prove, by any means, that daily or weekly rest periods taken in the context of this transport operation have been taken in compliance with the conditions set out above. Enforcement officers may therefore require the driver, during an inspection, to provide evidence or documents to prove that the rest period has been taken outside the vehicle and in good conditions. Proof can be provided by any means, for example a hotel bill or roadside truck stop bill, paid by the company.

Failure by an employer to provide the driver with decent accommodation conditions is an infringement of the French road transport labour law.

¹ Article 102 of the law of 24 December 2019.

The transport code punishes a breach of this obligation with fifth class fine, i.e. a fine of up to **1 500 euros**², which may be increased to 3 000 euros in the event of a repeated offence. The competent judicial authority also may impose alternative penalties, such as temporary suspension of the driving license, temporary immobilization of the vehicle used to commit the offence, if the convicted person is the owner, or confiscation³.

The offence is characterized when the employee takes his rest in the vehicle weighing less than 3.5 tons, or is unable to justify that he has taken a rest outside the vehicle, under the conditions mentioned above. In the event of a check, if it is established that the driver on daily or weekly rest period, his mere presence on board the vehicle is sufficient to establish that he does not take his rest outside the vehicle.

If the employer is unable to provide a proof of residence or employment in France, the vehicle used to commit the offence may be detained until a deposit has been paid. Thus, the payment of a deposit of 750 euros per offence may be required to authorize the vehicle to leave⁴. **The employer established outside France must therefore ensure the employee to pay the deposit, otherwise the vehicle may be withheld.**

Organizing, on a regular basis, the work of the aforementioned drivers without ensuring that they are provided with accommodation outside the vehicle that is compatible with human dignity and sufficient hygienic conditions, **is also an offence, which is punishable by one year imprisonment and a fine of 30 000 euros**⁵. The offence may in particular be established by repeating the above-mentioned offence, which would prove that the employer organizes the work of his salaried drivers without guaranteeing them decent accommodation conditions.

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The French authorities are mindful of the proper implementation of these rules and intend to allow sufficient time for the stakeholders to be informed.

Consequently, the enforcement officers are instructed to give priority, as a first step, to information and raising awareness.

² Art. R. 3315-11 of the French Transport Code.

³ Art. 131-14 of the French Criminal Code.

⁴ Art. L. 121-4 of the French Road Code.

⁵ Art. L. 3315-4-1 of the French Transport Code.