

The authorization regime in passenger transportation under the laws of the Republic of Moldova

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Abstract

Passenger road transportation in Republic of Moldova is carried out in two ways, by regular and occasional services. Road transport operator shall transport by scheduled services in local traffic, regional, interdistrict, international or municipal only on the basis of authorizations and road transport services by irregular (casual) shall be based on Interbus book and Roadmap book. The public authority responsible for issuing authorizations, Roadmap book and Interbus book is Administrative Authority "National Road Transport Agency". The documents making road transport regular and irregular passengers are acts of strict nominal records. Failure by road transport operators of the conditions set out in the transport documents or activity without authorization of road transport, shall be penalized in accordance with the provisions of the Contraventional Code and Criminal Code.

Keywords: *road transport operator, transport authorization, Interbus book, Roadmap book, regular and irregular transport, timetable, transport services in national and international traffic.*

Concepts. In accordance with the Code Road Transport of the Republic of Moldova [1], the authorization of road passenger transport regular services is the document certifying the right haulage operator to carry out road transport people surcharge regular services in national and international traffic on a particular route according to the preset timetable and program of road, during its term (Article 5). The authorization is an act of strict registration (form), which is awarded the series and number; it is a nominal act, which cannot be transferred another carrier (Article 38 paragraph (19) and Article 39 paragraph (2)). The term of validity of the authorization is 8 years (Article 38 paragraph (16)).

Road transport authorization of persons by regular services shall be issued only for the routes included in the programs of road transport. According to the Code of road transport, road transport program is the program that sets routes and routes needed, graphs of circulation, the heads of the route, bus stations, public stations, the required number of vehicles and their minimum capacity to carry out road transport surcharge

people regular services (Article 5). In the Republic of Moldova there are five types of programs of road transport: a) local; b) municipal; c) district; d) interdistrict and e) international (Article 33). The development, approval and amendment interdistrict programs and international road transport is performed by the central body [2], the district – by the district councils, local – by local and municipal – by municipal councils. In order to correlate interdistrict road programs with the district, approval and modification is made only after obtaining the positive opinion of the specialized central body (Article 35).

Road transport of persons by regular services in local, district, interdistrict and municipal traffic. The passes to road transport of persons by regular services shall be awarded by competition, in public meeting, by commissions specially designed. Competition committee on awarding of regular road transport is established, according to competence by the central body, local councils (villages, communes or city), municipal or district. If a route has been filed for a single request, the race is awarded road transport operator respectively. If several requests have been submitted, transport operators will be based on scores they shoot a route is assigned to the applicant who will meet the highest score (Article 38). The procedure for certification of road transport operators, their evaluation criteria and scoring methodology laid down in Regulation road transport of passengers and luggage.

Road passenger transport by scheduled services in international traffic is carried by domestic carriers based on the authorizations of road passenger transport by scheduled services in international traffic, issued by the Administrative Authority “National Road Transport Agency” (AA “ANTA”), a specialized central body decision, as well as authorizations to end and transit issued by competent authorities of other countries (Article 39 paragraph (1) of the Road transport code). In order to open a regular international passenger routes, the carrier must first identify a partner carrier in the country of destination, to sign agreements on cooperation (for making transport in parity). Parity gives certainty that passes will be carried out without interruption, because in exceptional cases (accidents, bus failures, natural disasters etc.), the foreign partner steps in to save the situation [3]. Partners must sign a number of documents, such as: time schedule, route scheme, working conditions and rest of drivers, tariffs, on

the basis of which concerned ministries in the Republic of Moldova and of the member state of destination shall issue authorizations for the route required. If the route crosses the territory of other states, will require authorization for passage.

Opening new international routes, modification or closure of existing ones shall be made by the decision of the Ministry of Transport and Road Infrastructure of the Republic of Moldova (MTRI) in collaboration with the ministry in partner countries. Currently, the Republic of Moldova has concluded bilateral agreements on international road transport of passengers with multiple states, such as Romania, Ukraine, Bulgaria, Denmark, Lithuania, Czech Republic, Armenia, Netherlands, Germany, Uzbekistan, Kazakhstan, Azerbaijan, Turkey, Belgium, Estonia, Switzerland, Spain, Slovakia, Macedonia, Slovenia and Poland [4].

The transport system based on the bilateral agreements has advantages, because any company can obtain in their own country authorization for access to the public road use of another state. Periodically, the contracting states shall determine the conditions of authorization, task being on joint committees (Moldovan-Romanian, Moldovan-Ukrainian etc.) that negotiates the exchange of authorization (pct.1.1 (a) of the Provisional instruction on how to release and evidence unit authorizations for international road traffic, approved by order issued by MTRI no. 11 of 16.01.2010) [5]. Issue of permits for the transport on regular services in international traffic shall be made for payment, the size of tax being laid down in the Annex no. 3 to the Road Fund Law nr.720/1996 [6]. The authorization may be used only by the carrier in whose name it was issued, that can not be transmitted to another person. Moreover, the authorization is part of the registration number of the vehicle with which to perform route that reason, take more permits carriers (4-5) to each vehicle individually. The authorization of road passenger transport by scheduled services in international traffic (including transit) is approved by order MTID no. 3 of 26.01.2015 and the control of the use of the authorisations shall be made by AA "ANTA" [7].

In order to get the license for carrying out scheduled passengers in international traffic, the operator of road transport operator shall submit to the address MTID a folder that will contain: (a) the application, in the form determined by the specialized central body; (b) copies of the certificates of registration of road vehicles required for carrying

out courses; c) the schedule of movement proposed, with an indication of the places of embarkation/disembarkation of persons; d) the scheme route, with an indication of the places of passage of borders; e) duration of management that would allow for compliance with control of driving and rest periods of their drivers auto; f) the contract, in Romanian, concluded with a foreign road transport operator in the state where the other end of the route in case the international or bilateral agreements provide for the making racing at par, for performing flights on the requested route; g) the tariff for transporting people, coordinated by both road transport operator partners (Article 39 paragraph (7)). Receiving the dossier, MTRI shall submit to the competent authorities of the member of destination and transit decision concerning the opening stroke and relevant copies of documents, in accordance with the provisions of the agreements and international conventions to which the Republic of Moldova is a party.

The basic requirement imposed on the transport operators to obtain authorizations for regular road transport passengers in international traffic shall consist in the possession required number of motor vehicles. For this purpose, the applicant must have owned or rented by coach, written on behalf of the undertaking at the Department for the registration of transport and qualification of drivers of the Ministry of Information Technology R.M., as well as in the information system automated search "The Car" [8]. We note that according to the Code of road, central body may reject the file of permit if the applicant is unable to provide off road vehicles owned, comfort, or if the number of such vehicles is not sufficient (Article 39 paragraph (10) and (11)).

There are problems with the system of work and rest periods for drivers. Importance of the problem is explained by major responsibility incumbent on the driver's seat for the life and health of passengers during travel [9]. The vehicles are considered high-risk sources and according to art.1410 of the Civil Code, persons whose activity is linked to the source of increased danger (operation of vehicles) are required to repair the damage. This justifies the introduction of special requirements for drivers, such as age, possession of driving license and a driver's sovereignty and a driver in international traffic, obligation to respect the regime of work and rest [10].

In accordance with Article 294 of the Labor Code, working conditions and the rest of the employees whose work is linked to directly from the movement of means of

transport shall be determined by normative acts, as well as international agreements to which the Republic of Moldova is a party. By analysing the provisions of the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) of 01.07.1970 [11], from this we can infer that the period averaging daily driver at the steering wheel must not exceed 9 hours, and after 4 and a half hours of driving, the driver must make a break of at least 45 minutes. As an exception, permit twice a week daily driving period should be extended for up to 10 hours (Article 6 and Article 7).

With regret, in the Republic of Moldova is missing a normative document which should apply the regime of work and rest periods for drivers. In accordance with section 3.3.2 of Regulation on ensuring road safety at enterprises, institutions and organizations engaged in transport of passengers and goods no.9/12 of 09.12.1999 [12], working conditions and drivers' rest periods shall be drawn up in accordance with the rules of labor legislation and regulation with regard to working hours and rest time of drivers. The paradox is that although legislative acts refer to the Regulation on working time and rest of drivers, such a law into national law is not yet approved.

National law does not require equipping road vehicles with tachographs, which is why the current mechanism for tracking and control of working time and rest of drivers in Republic of Moldova is inefficient. In accordance with Article 144 of the Code road transport, record of working time and rest periods shall be carried out by each member of the crew, in writing, on the record sheet, using appropriate graphic symbols and with indication of the periods of driving and rest. For comparison, in the majority of member there is the obligation equip vehicles with digital tachographs, and written record on record sheets is not practiced since 1990.

Practice proves that drivers often violate the regime of work and rest while performing international routes traffic over long distances. For example, to perform the route Chisinau - Paris, in accordance with the rules AETR road transport operator must lead to five drivers, a condition difficult to observe for domestic carriers. Combating this phenomenon becomes difficult to be carried out in reason that transport operators and drivers reach a mutual consent, in which the operator wants to hire as few of the employees, and the driver, to receive his full remuneration of completion of the journey

[13]. In the European Union such a problem does not exist, because road transport of passengers is accepted at distances relatively small, as an alternative is to use air transport [14].

Some difficulties for road transport operators arising in connection with compliance timetable, which must contain the starting point and destination, are provided halts settlements, parking duration, distance, time to destination and starting points crossing the border. The graph need to be prepared accurately and the drivers do not admit delay, otherwise, the smallest deviation (even up to 20 minutes) may be penalized by the control of European Union states. Because of unfairness traffic graphs, and the procrastination border state, drivers are not within the limits driving time and timetable, and control bodies fines route. Consequently, many road transport operators have given up regular passenger routes, opting for irregular routes that have fewer formalities.

Road transport of passengers by occasional services (irregular). Road transport of passengers by occasional services in international traffic shall be performed in accordance with the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement) signed in Brussels on 28.09.2000 and implemented in Republic of Moldova by Government nr.456 of 24.04.2007 [15]. Occasional passenger road transport vehicles that have the number of seats between 6-9 shall be carried out on the basis of a membership roadmap. Interbus and Carnet Booklet roadmap issued by A.A. "ANTA".

Interbus Agreement allows transport subject to certain conditions, namely: a) behind closed doors-the same group of passengers is transported towards the tour and return; b) journey round loaded and return empty; c) to travel round the empty and loaded return. Compliance with such requirements is ensured by the National Police Inspectorate, the Customs Service of the Republic of Moldova and A.A. "ANTA".

From the structural point of view, the Interbus Carnet is comprised of a set of sheets to be filled in before starting drivers in accordance with the provisional Statement concerning the release and use of Carnets with roadmaps (Interbus), approved by order No. 43 of MTID 20.02.2012 [16]. The Interbus Carnet shall be attached to the contract of carriage concluded with group travel and proof of payment in company accounts to

travel fee. The practical problem is that the carriers to use Interbus and roadmaps for regular routes, so occasional transport acquires the character of regular service, in violation of the provisions of the Interbus Agreement.

By 2014, the occasional carriage of passengers towards ex-soviet states (Russian Federation, Ukraine, Belarus, etc.) to be carried out on the basis of a membership roadmap issued by A.A. "ANTA" in accordance with the provisions of the Provisional Instruction concerning the issue, use and control of the complete book of the journey form (CFP) for the international transport of passengers, as approved by the order no.42 of MTRI by 20.02.2012 (repealed) [17]. Subsequently, by order no.45 of MTRI by 27.03.2014 regarding changes to the procedure for issuing a membership roadmap, it was established that the irregular passenger transport towards ex-soviet states will perform under Interbus. The book Roadmap needs to be issued only to individuals engaged in the carriage of passengers in international traffic motor vehicles with a carrying capacity of embarkation is 6-9 places [18].

Conclusions and recommendations. 1. Carriage of persons in the Republic of Moldova shall be carried out in two ways, through regular or occasional services. Road transport operator can perform operations on regular services in local traffic, district, interdistrict, international or only in the core of municipal permits. The service road by irregular (casual) applies Interbus and booklet Roadmap. The public authority responsible for issuing authorisations, the Interbus Carnets and Carnet roadmap is A.A. "ANTA".

2. Authorisations to carry out regular passenger road transport are rated acts strictly accountable. Failure by road transport operators of the conditions stated in the permit activity without authorization transport vehicles, constitutes a contravention and is punishable by a fine according to Article 197 paragraph (4), Article 197 (1) paragraph (2) and Article 263 paragraph (4) of the Contravention Code of the Republic of Moldova.

3. The legislation contains certain inconsistencies of terminology. Article 197 (1) paragraph (2) of the Contravention Code refers to "route license certifying the right to transport on regular routes", but under the law of transport, document called "transport authorization for carrying out regular passenger routes". The explanation is that the Contravention Code is not brought into line with the provisions of the Code of transport

road and did not take into account that MTRI order no.41 of 20.02.2012 on "The provisional approval of Instruction on how to issue and use permit activity the route" [19] was repealed.

4. Interbus system is detrimental to carriers providing regular transport services. Practice proves that the holders of the transport of passengers by Interbus violation of the Interbus Agreement. By essentially Interbus card can only be used for making custom routes. De facto, holders of these cards on order simulates transport, systematic efetuând regular routes in Romania, Ukraine, Russian Federation and European Union countries. Consequently, road transport operators who work legally, have a reduced boarding share, do not cover costs and reach insolvency process. The only solution in this case would be the establishment by MTRI a moratorium on the release of Interbus books for the changes to be made to Regulation auto transport of passengers and luggage nr.854/2006.

The main condition imposed on road transport operators to obtain Interbus book consists of holding a bank account 5000-9000 euros, but this, admittedly, does not contribute to solving the problem. Solution would be to introduce enhanced requirement to obtain books Interbus, the main condition being that serve the road transport operator, the request Interbus book at least 3 regular routes in national or international traffic and a training activity for 5 years. In this context we propose to amend Regulation road transport of passengers and luggage nr.854/2006 by exposing paragraph 59 as follows: "The occasional international transport (based on the book Interbus) can be performed only by road transport operators which were awarded to maintenance at least three (3) regular international passenger routes in national or international traffic and a stint working in the field for at least five (5) years".

5. Road transport operators carrying out international routes under the Interbus carnet should be obliged to hold digital tachograph for each vehicle, as well as the graph and the rest of the drivers, completed for the entire distance of the race. Before the race start, the vehicle to undergo technical and testing drivers to undergo medical checks. Note that currently, the rules are observed only by road transport operators carrying out regular routes, while the carrier voyages under the Interbus carnets, daily threaten the life and health of passengers.

6. Taking into consideration the practice of the European Union, we recommend that at the opening of the regular international passenger routes to be required the written consent of all road transport operators on the same route that hold authorisations for regular services road transport in international traffic.

7. We suggest that regular international road transport permits travelers to be granted to a limited number of carriers that have experience working in the transport of passengers router for at least seven years and have material and technical base. Carriers that do not meet these requirements are advised to enter into contracts with carriers authorized under the name of their company to transport passengers. The scheme works effectively given the European Union, where road passenger transport network is owned by "Eurolines", "Deutsche Touring", "Atlassib" etc., transport companies notorious guaranteeing comfort and security of passengers.

8. In the current version, article 153 paragraph (c) of the Code establishes the obligation of holding road transport by road transport operators of at least 1/3 of road vehicles with proprietary or financial leasing. Taking into account that this norm put in financial difficulty, we encourage transport operators to amend it by excluding the proportion of 1/3, with road transport operators the obligation to hold property or leases at least 2 (two) vehicles.

9. We recommend the exclusion of the use of certificates of conformity, since their presence in the legislation is complemented by other similar document, called the report the technical verification of the vehicle. At the same time, we propose that the transport manager (s) and driver in international traffic (it shall be valid for the driver) should be issued for a term of 5 years. Moreover, certificates of professional competence for carrying out international passenger routes to be issued only to drivers who hold a job in the field of road passenger transport in national traffic of at least 3 (three) years.

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