



TIR EXECUTIVE BOARD (TIRExB)

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COMMISSION DE CONTROLE TIR (TIRExB)

18 May 2011

ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (ИСМДП)

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Administrative Committee for the TIR Convention, 1975

TIR Executive Board (TIRExB)

Forty-seventh session

Geneva, 6 June 2011

Agenda item 6

Issues raised by the Bulgarian national association

Note by the secretariat

I. Background and mandate

1. At its previous session, TIRExB shortly discussed a letter by AEBTRI with numerous annexes, in which it asked for the Board's attention with regard to – in a nutshell – the following three issues:

- (i) The reception by AEBTRI of notifications that Turkish authorities have decided to exclude several Bulgarian holders after the decision had entered into force and the absence of any information on possible appeal procedures, as recommended by the example of best practice on the application of Article 38 of the Convention;
- (ii) The fact that in one situation a Bulgarian company had been excluded from the TIR procedure, although no infringement under the TIR procedure had been committed;
- (iii) The situation where vehicles from company B were detained in Turkey, although the company was not excluded, because the vehicles used had been officially hired from company A, which was excluded.

2. Having received a preliminary but extensive reply from Mr Köseoğlu (Turkey), TIRExB recognized that not all information was available to consider the issues in full. Thus, TIRExB requested the secretariat to send a letter to AEBTRI acknowledging receipt of the letter and asking, at the same time, more information on the cases, in particular with regard to the correspondence addressed by the Turkish authorities to the excluded holders, as well as to send a letter to the Turkish authorities, passing on the file and, equally, asking for clarifying information on the situation. TIRExB decided to revert to the issue once more information would be received (TIRExB/REP/2011/46draft, paras. 30–33).

3. Further to this request, the secretariat reproduces in this Informal document the original letter by AEBTRI (without annexes), together with the requests for clarification sent to the Turkish authorities and AEBTRI, for information of the Board.

4. The Board is invited to continue discussing the issue, based on additional information provided by the Government of Turkey and/or AEBTRI.



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TO
TIR Executive Board

COPY: Mr. Konstantin Glukhenkiy
TIR Secretary
Economic Affairs Officer
UNECE Transport Division

Dear Sirs,

I would like to turn to you with a request concerning the following problems related to the application of the TIR Convention and the use of TIR carnets by the Bulgarian hauliers.

During the past year it became a common practice in Turkey to exclude Bulgarian hauliers on a temporary basis according to Art.38 of the TIR Convention. The Administrative Committee has adopted as a recommendation document ECE/TRANS/WP.30/AC.2/93 with the examples of best practices, which implementation can only lead to a better and more correct use of the TIR Convention. In this regard, I would like to point your attention on the difficulties endured by the Bulgarian hauliers as a result of the notifications for temporary exclusion from the TIR regime sent according to Art.38 of the TIR Convention.

- First of all, it is already too late when the Bulgarian hauliers are receiving from the guaranteeing association AEBTRI the notification for their exclusion according to Art.38. In the table below you can see the dates of the exchanged letters for every case of exclusion according to Art.38, with the ID number of the haulier, the reference number of the TIR Carnet and the date when the infraction has been established by the Turkish customs administration, the date of entry into force and the period of the exclusion as well as the date when the notification has been received in the guaranteeing association AEBTRI.

№	ID number of the haulier	TIR Carnet reference number and date of the infringement	Period of exclusion	Ref. № and date of receiving the notification at AEBTRI
1	BGR/046/119528361	YX 63116335/07.06.2010	60 days from 24.07.2010	3173/03.08.2010
2	BGR/046/119672301	XB 63116336/07.06.2010	60 days from 24.07.2010	3267/13.08.2010
3	BGR/046/825030653	YX 63608420/30.07.2010	60 days from 01.11.2010	4482/17.11.2010
4	BGR/046/115536179	JX 64707861/29.09.2010	60 days from 03.01.2011	247/18.01.2011
5	BGR/046/126109762	GX 63605654/27.07.2010	60 days from 06.01.2011	5009/30.12.2010
6	BGR/046/121448424	XK 65438166/11.03.2010	60 days from 31.12.2010	246/18.01.2011
7	BGR/046/125572437	AX 65475736/21.02.2011	60 days from 18.03.2011	1016/14.03.2011

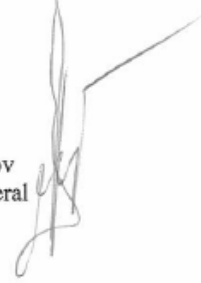
You can easily see that in most cases the notification for the exclusion has been received in the guaranteeing association after the entry into force of the exclusion according to Art.38 of the TIR Convention.

- The examples of best practices recommend that the notification for such exclusion contain also information on possible appeal procedures – deadline and appeal bodies, possible suspension of the exclusion in case of appeal. These procedures for launching an appeal are not mentioned in the letters received by AEBTRI, which is a major obstacle for the hauliers to defend legally their interest. The letters of the Turkish guaranteeing association TOBB to AEBTRI are written on the basis of the letters of the Turkish customs administration and also don't contain any data concerning the deadline for launching an appeal or the appeal bodies.
- In one of the cases the haulier has been excluded from the TIR regime for an infraction, occurred during a transport, which has not been effectuated under the cover of TIR carnet. As a proof I enclose a copy of the unused TIR Carnet No YX 63 608 420 and copies of the letters of the Turkish association and the Turkish customs authority. I kindly ask for your position concerning the exclusion of the haulier with ID number BGR/046/825030653 having in mind that the infraction established by the Turkish customs administration does not affect a transport under the cover of a TIR carnet.
- Another example for the difficulties endured by the Bulgarian hauliers is the exclusion for 60 days starting from January 3rd 2011 of the haulier "PIMK" Ltd with ID number BGR/046/115536179. The infringement established by the customs authorities has been committed by the driver during a transport with TIR Carnet JX 64707861, but without the knowledge of the transport company. According to the decision of the Turkish Court, a copy of which you will find enclosed, the transport company is considered as "a third well-intentioned person" to this case. On January 2nd 2011 the Turkish customs authorities detained at the border crossing point of Ipsala, between Turkey and Greece, 9 loaded vehicles, property of PIMK Ltd, which have been hired out to IP Trans AD. The TIR Carnets №№ XB 64 872 064, XZ 64 877 707, GX 64 877 738, XW 64 877 706, XT 64 877 705, XH 64 872 066, XC 877 708, UX 64 877 711, RX 64 877 710 used for these transports were issued by AEBTRI to IP Trans AD. Despite the certificate sent by AEBTRI to the Turkish customs administration stating that IP Trans AD has a valid Euro license and has been admitted to the TIR regime, the vehicles were not released for completing the transports under cover of the TIR carnets enumerated above. The explanation given by the Turkish authorities for detaining the vehicles was that they are property of PIMK Ltd, which is excluded from the TIR regime for 60 days starting from January 3rd 2011. Please also note that the vehicles have been detained one day before the entry into force of the decision for exclusion. IP Trans has presented valid contracts for hiring the vehicles, copies of which are also enclosed here. As a result of the imposed delay, the haulier has paid a forfeit of 23 387 euro. You can find here enclosed also the letter with which AEBTRI has informed IRU about this case.

In conclusion, I kindly ask for the position of the TIR Executive Board concerning the application of Art.38 of the TIR Convention in Turkey when the infringement has not been committed under cover of a TIR carnet or is committed by the driver of the vehicle, but the transport company has been found by the Turkish Court as being related to the case only as “a third well-intentioned person”.

Respectfully yours,

Plamen Tzalkov
Secretary General
AEBTRI

A handwritten signature in black ink, appearing to be 'Plamen Tzalkov', written over a faint, illegible stamp or background.



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REF. N°: KG/AB 87/2011
(à rappeler dans la réponse)

18 April 2011

Dear Mr. Akçin,

The TIR Executive Board (TIRExB), at its forty-sixth session, which took place on 5-6 April 2011, was informed of a letter by the Association of the Bulgarian Enterprises for International Road Transport and the Roads (ABTRI) of 31 March 2011, in which it sought the attention of TIRExB with regard to a number of issues related to the exclusion of some Bulgarian hauliers by Turkish Customs authorities under application of Article 38 of the TIR Convention, 1975.

At the session, TIRExB held a first, preliminary discussion, based on the extensive documentation provided by AEBTRI to substantiate the cases. Also, Mr. Köseoğlu, TIRExB member from Turkey, provided a first, provisional reaction from the side of the Turkish Customs authorities, indicating that there were more issues at stake than had provided in the documentation from AEBTRI. Thus, TIRExB decided that in order to get a full picture of the cases, more information from both the Turkish and Bulgarian side is required.

For that reason, I transmit to you a copy of the file, with a request to:

- i) study the documentation and provide me with your considerations;
- ii) provide me, if possible, with copies of the notifications sent out by Turkish Customs authorities to the concerned TIR Carnet holders;
- iii) provide me with your observations about the application of the example of best practices on Article 38, as prepared by TIRExB and adopted by the TIR Administrative Committee (AC.2) at its forty-fifth session (ECE/TRANS/WP.30/AC.2/93, Annex III).

TIRExB will equally send a letter to the AEBTRI asking for more clarification, including correspondence, from their side. I will keep you informed of further developments of these cases.

I would like to thank you for your kind assistance in this matter and look forward to our continued cooperation.

Yours sincerely,

Konstantin Glukhenkiy
TIR Secretary
Economic Affairs Officer
Transport Division

United Nations Economic Commission for Europe

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REF. N°: KG/AB 86/2011
(à rappeler dans la réponse)

18 April 2011

Dear Mr. Tzalkov,

On behalf of the TIR Executive Board (TIRExB), I would like to thank you for your letter No. 952 of 31 March 2011, in which you asked for the attention of TIRExB with regard to a number of issues related to the exclusion of some Bulgarian hauliers by the Turkish Customs authorities under application of Article 38 of the TIR Convention, 1975.

At its forty-sixth session, which took place on 5-6 April 2011, TIRExB had a first, preliminary discussion, based on the extensive documentation you provided to substantiate the cases. Also there was a provisional reaction from the side of the Turkish Customs authorities. TIRExB decided that it will continue its discussions at the first opportunity, depending on the availability of some more information to get a complete picture of the cases. For that purpose, I would like to ask you if it would be possible to also provide copies of the letters sent by the Turkish Customs authorities directly to the TIR Carnet holders concerned, because these might shed more light on the time of the notification of the holder on the entry into force of the exclusion as well as any additional information (on possible appeal procedures) given to them, as recommended by the example of best practices on Article 38.

With regard to the situation, where a TIR Carnet holder was excluded from the TIR procedure although no infringement under cover of a TIR Carnet had supposedly taken place, I would like to refer to the provisions of Article 38, which stipulate that the right of exclusion is related to a serious offence against Customs laws or regulations applicable to the international transport in general and, thus, not necessary limited to offences committed under the TIR procedure. It would be useful if you could also provide additional information on this situation as well.

TIRExB will equally send a letter to the Turkish Customs authorities asking for clarification from their side. I will keep you informed of further developments of these cases.

Thanks again for having contacting TIRExB and looking forward to our continued cooperation.

Yours sincerely,

Konstantin Glukhenkiy
TIR Secretary
Economic Affairs Officer
Transport Division

United Nations Economic Commission for Europe

Mr. Plamen Tzalkov
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