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Transport company control authorities ⁶

Introduction

Along with the development of the Polish economy, it has began to form a new company forwarding and transport. Their role and development dynamics has increased even after signing in Athens on 16 April 2003 of the Accession Treaty, which is the basis for accession on 1 May 2004 of the Republic of Poland for membership in the European Union. The signing of the Accession Treaty meant that Poland, as one of the most populous and the largest EU countries, with a very large potential not only economic has become a very important member of the European Union. As a result Poland gained the ability to use with all kinds of European funds. Thanks to grants from the European funds, transport companies and shipping which have facilitated opportunities for the purchase and replacement of old to modern transport fleet, as well as the expansion of its transport bases. Polish membership in the EU resulted in a significant way that has facilitated trade between Member States and beyond. The development of trade has contributed to an increase in production, which in turn caused an increase in gross domestic product (GDP). The inflow of foreign capital contributed to the emergence of many new businesses, and the modernization of many sectors of the economy, making transport and shipping companies started to transport much more loads (goods) beyond the borders and the territory of the country. Thus become necessary to transform and modernize the already existing government bodies whose task was to observe correct performance of business related to road transport. This applies both to control the transport and shipping companies, as well as roadside checks. Brought to life, as one of the EU accession requirements, specialized uniformed and armed formation – Road Transport Inspectorate. Its purpose is to monitor compliance with the provisions of the road transport and non-commercial national and international road transport of motor vehicles over 3.5 tones.

In repealed Ordinance of the Minister of Infrastructure [3] dated 2 September 2009, on the control in the field of road transport on the basis of art. 89 paragraph. 5 Section 2-4 of the act of September 6, 2001 about road transport (Dz. U. of 2007. No. 125, item. 874, as amended. D.) [3], have given two very important definitions that define in detail - who is the person who controls, and who is controlled. Under the repealed Regulation shall be understood as the controlling entities referred to in Art. 89 paragraph. 1 of the act of 6 September 2001. On road transport, namely: Police officer, inspector of the Road Transport Inspectorate, the customs officer, an officer of the Border Guard, an authorized employee of the public

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road manager, inspector of the State Labour Inspectorate, an authorized officer of the relevant licensing authority for regular transport or special regular services referred to in art. 18 paragraph. 1 of the act, and authorized member of the Chief Inspectorate of Road Transport, referred to in art. 76a of the act.

On the other hand, a controlled is an entity, referred to in Art. 68 paragraph. 1 of the Act of 6 September 2001 on road transport, and so: the entrepreneur or other entity engaged in road transport or other activities associated with the transport or the driver.

The current regulation of the Minister of Transport, Construction and Maritime Economy of 23 July 2013 on the control of road transportation [5], this provision does not appear. The current regulation sets:

- models of documents used during the inspection,
- the method of inspection on compliance with regulations pertaining to driver activities,
- required standard equipment of verifying person,
- a list of basic factors to be checked,
- the type of statistical data collected from monitoring and recorded by the control authorities,
- mode, method and sample documents submitted to the Chief Inspector of Road Transport.

Regulation contained in Art. 89 of the Road Transport Act sets out the general principles of control by the Police, Customs and Border Guard and road managers authorized employees and the licensing authority for regular services and regular special services. The provision of Art. 89 point b Road Transport Act therefore specifies three main responsibilities for the above-mentioned inspectors [20]:

- show official ID and receipt of authorization to carry out inspections (this obligation does not apply to police officers),
- controlled acquainted with its rights and obligations under the act,
- carrying out their duties in the presence of a controlled or a person authorized by him.

This article provides an overview of institutions authorized to control with whom may meet an entrepreneur conducting business activities related to road transport. The analysis shows the duties and powers of the various bodies, which result from the law.

As economic activity in the transport industry should be understood gainful manufacturing, construction, trading, services and prospecting, exploration and exploitation of minerals from deposits, as well as the professional activity carried in an organized and continuous - in accordance with the definition contained in [19].

Road Transport Inspection

Road Transport Inspection (Fig. 1) has been established by the Act [20]. The creation of this service resulted from the need to ensure fair competition in road transport, improving safety and environmental protection. Appointment of ITD was also a fulfilment of one of the European Union accession requirements and a guarantee of credibility Polish as a country bordering with the EU and applying for membership in the Community.

On 1 October 2002 80 ITD inspectors have started working on the roads across the Poland. Since the founding ITD gradually increased its powers and responsibilities. To the tasks of ITD added controlling the marketed transportable pressure equipment (2004), controlling the type of fuel used (2005). In 2007, ITD has obtained whereas new tasks related to the implementation in Poland Directive [1], becoming the primary body performing control tasks provided in the Directive. In October 2004, ITD has acceded to the European Road Control (Euro Contrôle Route), an international organization of currently 14 European Union countries. Its main tasks include the exchange of information, coordination of control activities and conducting joint training of inspectors. January 1, 2011 ITD received authorization to control passenger cars in case of reasonable suspicion against the driver that drives the vehicle in a state of intoxication, or in a state after the use of alcohol or substance acting similarly to alcohol, in the case of registration of the violation of traffic rules by using the measurement and control instruments or recording equipment or in the case of gross violation of traffic rules, or cause security risks.



Fig. 1. The graphic symbol of Road Transport Inspection

Source: <http://www.gitd.gov.pl/>

Ordinance of the Prime Minister [21] has been given a new statute for the Chief Inspectorate of Road Transport and established new offices – Automatic Centre Road Traffic Supervision (CANARD) and the Office. Electronic Toll Collection (BEPO). To the tasks of Centre include the implementation of new tasks concerning the disclosure by a stationary recording traffic violations involving speeding and not applying light signals. The ordinance also specifies the creation of 10 delegations fields GITD that regardless of the implementation of the basic tasks ITD also perform tasks related to the operation and maintenance of equipment. BEPO whereas designated control supervision covered road sections within an electronic toll collection.

According to the art. 13l 1 point 2 of the act [9] authorized to control the accuracy of electronic payment, including checks on using equipment in the vehicle, referred to in art. 13i paragraph. 3 of the act [9] and to impose and collect fines referred to in art. 13k act [9] are road transport inspectors.

The statutory task of ITD is to control the compliance in the field of road transport and non-commercial road transport. The provision of art. 50 of the act [20] clarifies the scope of activities of control, which entitled and obliged at the same time ITD authorities. Beyond the control of documents relating to the execution of road transport and the conditions specified therein and transport documents ITD also monitors compliance with the rules on driving periods and mandatory breaks and rest periods of the driver. The method of inspection as regards compliance with the rules on driving periods, mandatory breaks and rest periods of the driver during roadside checks and controls in the enterprise, as well as the required standard equipment on people carrying out the inspections and a list of essential items that are subject to it, determines the Regulation of the Minister of Infrastructure of 30 April 2008 on controls in the field of road gastrointestinal [4]

The Police

Police powers (Fig. 2) in relation to traffic control arise directly from the act [15], the ordinance [3] and [4].



Fig. 2. The graphic symbol of Police

Source: <http://www.policja.pl/pol/aktualnosci/87159,dok.html>

Art. 129, paragraph 1 of the act [15] authorizes the police to carry out roadside checks to drivers traveling on public roads. The basis of the actual vehicle stop for inspection is the actual situation in connection with:

- criminal offense or misconduct by the driver of the vehicle,
- control of the vehicle, for which there is reasonable suspicion that it might endanger the safety of road users due e.g. to its technical condition,
- the performance of official duties at the scene of road,
- application of intervention by citizens,
- a reaction to the behaviour of the person driving the vehicle.

Police in connection with the vigil over traffic safety and order on the roads, traffic management and controlling, pursuant to art. 129 paragraph. 2 of the act [15] is entitled to:

- traffic participant ID inspection and issue binding instructions to him on how to use the road or use of a vehicle,
- check the documents required in relation of steering the vehicle and its use, license, referred to in art. 106 paragraph. 1 pt. 5 of the act [10], as well as a document confirming the conclusion of compulsory insurance of civil liability the vehicle owner or proof of payment of the premium for this insurance,
- require to exhibit the document confirming the right to use the vehicle, referred to in art. 71 paragraph. 5 [10], if the vehicle is not registered in the name of the person in charge of it,
- checking permits, referred to in art. 64 paragraph. 1 pt. 1 [10], or extract from that license,
- requesting the submission by the vehicle driver or by any other person with respect to whom there is reasonable suspicion that could drive the vehicle inspected to determine the content of alcohol in the body or substance acting similarly to alcohol,
- checking the condition, equipment, cargo, dimensions, weight or axle load on its way,
- checking the recording device automatically subscriptions of driving speed, driving and parking time, mandatory breaks and rest periods,
- detention, in the cases provided for in the act, documents confirming the right to drive the vehicle or its use, and the driver card in the cases provided for in art. 14 paragraph. 4 point c regulation [6],
- give instructions to the person who caused an obstacle to traffic or threatening its security, or the person responsible for maintenance of the road and controlled traffic participant as to the way it behaves,
- prevent driving a person in a state of intoxication or in a state after use of alcohol or substance acting similarly to alcohol; use of a vehicle whose technical condition, cargo, weight or axle load endanger the safety or traffic order, cause damage to roads or violate the requirements of environmental protection; use of a vehicle registered in a non-member state, if has not proven control document confirming conclusion of an agreement of compulsory insurance of civil liability by the vehicle owner or proof of payment the premium for this insurance; driving by a person not holding the required documents authorizing to drive or use the vehicle,
- the use of measurement and control instruments and recording, and in particular to examine the vehicle, determining its weight, axle load or speed, determination of violating environmental protection requirements and to infer the state of sobriety of the driver,
- deleting or moving vehicle in the cases referred to in art. 130a paragraph. 1-3 [10]
- control of carriage dangerous goods by road and the requirements associated with this transport,
- occurrence in justified cases with a request for an assessment of the health status of the vehicle operator,
- applying to the district governor with a request for referral to the driver or person holding an authorization to direct tram to the examination testing qualifications, if there are legitimate and serious concerns as to the qualifications of the person,
- piloting vehicles, except for oversize vehicles piloted in accordance with art. 64 paragraph. 1 pt. 3 [10].

National Labour Inspectorate

National Labour Inspectorate (PIP) (Fig. 3) is the supervisory and control authority over compliance with labour law, particularly the principles of safety and health at work and employment regulations.



Fig. 3. The graphic symbol of National Labour Inspectorate

Source: <https://www.pip.gov.pl/>

The tasks of the PIP is to oversee and monitoring of compliance of labour laws, in particular the rules and principles of occupational health and safety, the provisions on employment, salary and other benefits arising out of employment, hours of work, vacations, rights of employees related to parenthood, employment of adolescents and people with disabilities.

PIP may take action in the field of research and measurements and analysis of the risks posed by harmful and burdensome factors in the work environment.

The proceedings undertaken by the PIP aims to establish the facts in terms of compliance with labour law, in particular the rules and principles of occupational health and safety, as well as rules on the legality of employment and documenting its findings. Inspections carried out by labour inspectors operating within the territorial jurisdiction of district labour inspectorates.

In the course of the audit procedure PIP inspector has the right to [13]:

- free access to the area, to facilities and the premises,
- carrying out inspection of facilities, premises, workplaces, machinery and equipment and technological processes and work,
- requesting from the auditee and all employees or people who are or have been employed, or who perform or performed work in its favour on a basis other than employment, including those for self-employed economic activity, as well as people using the service employment agencies, written and oral information on matters under control and to summon and question these people in connection with the ongoing control,
- requiring the submission of personal records and any documents related to the performance of work by employees or persons providing work on a basis other than an employment relationship,
- familiarize themselves with decisions taken by other bodies of control and supervision of working conditions and their implementation,
- performing needed for control copies or extracts from documents, as well as summaries and calculations drawn up on the basis of records and, if necessary, requesting them from the controlled entity,
- checking the identity of persons working or residing in the controlled entity, as well as people using the services of an employment agency, their questioning and requests for statements on the legality of employment or other gainful activities.

National Sanitary Inspectorate

The National Sanitary Inspection (PIS) (Fig. 4) is a specialized institution conducting tasks related to public health by exercising control and supervision of the hygiene conditions in different areas of life.



Fig. 4. The graphic symbol of National Sanitary Inspectorate

Source: <https://www.pip.gov.pl/>

The tasks of the audit from the point of view of PIS oversees transport [14]:

- conditions of hygiene in the workplace,
- the conditions of production, transport, storage and sale of food and catering conditions,
- the health conditions of the working environment and notably the prevention of occupational diseases and other diseases related to working conditions.

PIS has the right to enter the workplace, and the facilities in this workplace in the event of a suspected or confirmed infectious disease, environmental factors, health risks. The inspector may also inspect motor vehicles. If any breach of hygiene and health requirements, state sanitary inspector shall order, by way of decision, removing the deadline set identified deficiencies. If the violation of the requirements referred to above has created an imminent threat to human life or health, PIS requires immobilization plant or a part thereof, the closure of a public facility or even decommissioning means of transport. Such a decision is immediately enforceable.

Border Guards

The Border Guard (Fig. 5) was established May 16, 1991 by an act [18].



Fig. 5. The graphic symbol of Border Guards

Source: <https://www.msw.gov.pl/pl/ministerstwo/grupa-msw/90,Komenda-Glowna-Strazy-Granicznej.html>

The Border Guard is the formation designed to protect the state border on land and at sea and to organize and conduct border traffic control. The tasks of the Border Guard should [18]:

- protection of the state border on land and sea,
- organizing and carrying out border traffic control,
- preventing and combating illegal migration,
- identification, prevention and detection of offenses and prosecution of their perpetrators, the jurisdiction of the Border Guard, and in particular:

- offenses in connection with the crossing of the state border or across the state border movement of goods and excisable goods subject to marking with excise stamps, as well as the items specified in the regulations on arms and ammunition, explosives, protection of cultural assets, on National Archival Resources, on preventing drug addiction and the population registration and identity cards,
- offenses against public safety and security offenses in communication, in connection with the performance of air transport services,
- ensuring security in international traffic and public order within the territorial border crossing, in the jurisdiction of the Border Guard - also in the frontier zone,
- carrying out security checks:
 - in means of transport in international traffic,
 - within the territorial road, rail, sea and river border crossing,
 - at airports in terms of the provisions relating to civil aviation security,
- ensuring safety on board aircraft engaged in the carriage by air of passengers,
- cooperation with other authorities and services in the field recognize the risk of terrorism and counter these threats,
- supervision over the operation of Polish marine areas and compliance by vessels with the rules in force in those areas.
- protection of the state border of the Republic of Poland airspace by aircraft observation and flying objects, flying across the state border at low altitudes, and to inform about these overflights appropriate units of the Air Force of the Armed Forces of the Republic of Poland,
- prevention of transporting without the authorization required under separate regulations, across the state border of waste, harmful chemicals and nuclear and radioactive materials, as well as trans boundary pollution,
- preventing movement without the authorization required under separate regulations across the state border of narcotic drugs and psychotropic substances and weapons, ammunition and explosives,
- carrying out the legality of work by foreigners, doing business by foreigners, entrusting the job to foreigners.

Customs Service

Customs Service (fig. 6) is a formation created to ensure the safety and security of the customs territory of the European Community, including the legality of the importation of goods into the area and the export of goods from this area, as well as the obligations set out in separate regulations, in particular in excise duty and tax on games [16].



Fig. 6. The graphic symbol of Customs Service

Source: http://www.szkolnictwo.pl/szukaj/szukaj,S%C5%82u%C5%BCba_Celna

After stopping the means of transport the officer may [16]:

- control the documents and data concerning the means of transport and the person in charge of transport, as well as other people using the carrier,

- check the documents relating to transported goods,
- check the official closings if the evidence shows that they have been imposed,
- conduct a review of baggage carried by the driver and passenger,
- inspect the fuel by taking samples of fuel from the vehicle tank or other means of carriage,
- inspect the road to the rules specified in separate regulations,
- carry out examination of the goods, products and means of transport, including the use of technical equipment and service dogs,
- impose official closing devices, premises, vessels and vehicles.

Stopping means of transport other than means of transport traveling along a public road or inner carried out with the participation of other departments or institutions, in particular the Police, Border Guard, aviation services, Railway Protection Guard.

The Municipal Police (Communal)

Municipal guards (Fig. 7) is an institution established to maintain public order and safety, which is subject to local self-government rather than the central government. Typically, municipal guard has more limited powers compared with the state police. In Poland, communal and municipal police are uniformed formation created by the city council (municipalities), aimed at protecting public order in the city (municipality). The basis of their activity is the act [17].



Fig. 7. The graphic symbol of the Municipal Police

Source: <http://www.strazmiejska.waw.pl/aktualnosci/pozostale/3491-swieto-wojska-polskiego-zmiany-w-organizacji-ruchu.html>

The guard should in particular [17]:

- to protect peace and order in public places,
- to ensure the order and traffic control - to the extent specified in the road traffic regulations,
- to cooperate with relevant entities in the field of saving lives and health of citizens, help in removing technical failures and consequences of natural disasters and other local threats,
- to secure of crime, disaster, or other similar event, or places at risk of such an event against access by unauthorized persons or damage of traces and evidence, until the arrival of the competent departments, as well as to determine, if possible, witnesses,
- to protect of municipal buildings and public facilities,
- to cooperate with the organizers and other services in order during public meetings and events,
- to lead the intoxicated person to the sobering-up centre or place of residence, if they conduct their give cause for scandal in a public place, located in the circumstances threatening their life or health or threaten the lives and health of other persons,
- to inform the local community about the condition and the types of threats, as well as initiating and participating in efforts to prevent the perpetration of offenses and criminal phenomena and cooperation in this field with state agencies, local governments and social organizations,

- to escort documents, valuables or cash value for the municipality.

The guard has, among others, right to [17]:

- the provision of instruction, pay attention, warning or other measures the educational,
- identity documents of persons where appropriate, in order to establish their identity,
- recognition of people posing clearly direct threat to human life or health, as well as for property and immediately bring to the nearest unit of the Police,
- control of personal, handheld viewing the contents of luggage among people in the case of a justified suspicion of a criminal offense,
- the imposition of fines in proceedings for offenses mandate,
- removal vehicles and their immobilization by blocking the wheels in the cases, scope and procedure laid down in the road traffic regulations.

Forest guards

Forest guards (Fig. 8) is a unit in the organizational structure superintendence, which deals with combating and prevention of damaging the forest. All the powers of the Forest Guard are included in the act [12]. These include the right to inspect vehicles transporting timber, wood processing points, carrying out searches of premises etc.



Fig. 8. The graphic symbol of Forest Guards

Source: <http://www.resko.szczecin.lasy.gov.pl/historia-strazy-lesnej#.VTLD65Ncq74>

Forest Guards in the performance of their duties shall have the right, among others, [12]:

- identity documents of persons suspected of committing offenses as well as offenses witnesses in order to establish their identity,
- the imposition and collection of fines by way of a penalty ticket,
- stopping and making a check of means of transport in forest areas and in their immediate vicinity, in order to check the load and browse the contents of luggage, if there is a reasonable suspicion of a criminal offense,
- searching of premises and other places, in cases of reasonable suspicion of a crime,
- apprehended the perpetrator of the offense or in pursuit taken immediately after the commission of the offense and to bring it to the Police.

Fiscal control

Inspectors and employees of Fiscal Control (Fig. 9) are entitled, among others, to [11]:

- identity documents of persons in order to establish their identity,
- stop and search persons and search: premises, baggage and cargo in the manner and cases stipulated by laws [7] and [8],

- stop vehicles and other means of transport the purpose of inspecting transported goods or transport documents relating to those goods, as well as the examination of the goods and collect their samples and to carry out checks on the fuel used by the sampling of fuel from the tank of a motor vehicle.



Fig. 2. The graphic symbol of Fiscal Control

Source: <http://www.abc.com.pl/du-akt/-/akt/dz-u-2011-22-115>

If at the time of official duties was necessary to remove previously imposed seals inspectors are required to re-use of seals and recording of that fact in the body of the relevant document. Person holding the goods is required, at its expense, to perform the operations allow an inspection, and in particular discharge and loading of shown goods when finished.

Stop motor vehicles and other means of transport can only be done by uniformed inspectors and workers in the vicinity of an official vehicle marked.

Conclusion

Control is one of the most important tasks of the public administration. In Poland, in accordance with the provisions of art. 89 of the act [20] authorized to control the scope of the infinite are:

- the officers of the Police,
- Road Transport Inspection inspectors,
- customs officers,
- Border Guard officers.

In contrast to the control group of limited scope control include:

- the National Labour Inspectorate inspectors,
- authorized employees of road managers,
- authorized employees of the licensing authority for regular services and regular special services.

It is assumed the two general principles from the scope of roadside inspections [20]:

- the principle of proper selection of the place and time of the audit,
- the principle of non-discrimination.

The duration of the roadside checks and checkpoints should be chosen to obstruct drivers to bypassing controls. In contrast, the same road checks should be carried out without discrimination on the basis of criteria such as country of registration of the vehicle, the driver's country of residence, country of incorporation, business, origin and destination of the trip, or type of tachograph.

The fiscal control is designed to protect the interests and property rights of the Treasury and to ensure effective enforcement of tax liabilities and other receivables of the proceeds of the state budget or state funds. The scope of fiscal control in the transport sector include:

- control of reliability of the stated tax bases and accuracy of the calculation and payment of income taxes constituting the state budget and other monies due the state or state-appropriated funds,

- disclosure and control undeclared taxable economic activity,
- control of assets and sources of income that are not covered in the disclosed sources or from sources not disclosed,
- preventing and detecting infringements of national customs regulations and to prosecute infringements of national or Community customs provisions by making cross-border supervision of people, places, means of transport and goods and controlled delivery, within the meaning of the convention [2].

The adoption of the full European Union legislation significantly improved the level of transport services, as well as the role and competence of state bodies authorized to control the transport industry. The existing government agencies, namely the Border Guard, Customs Service, National Labour Inspectorate, the Tax Inspectorate, Police, the National Sanitary Inspection etc., whose task was to observe the correct performance of economic activity related to transport (conditions for the implementation of road transport), roadside and sanitary inspections had to be transformed and modernized. A necessary condition has also become a specialized appointment formation – Road Transport Inspectorate. All these changes were aimed at improving the safety performing the road transport, improving the quality of services provided, preventing the degradation of roads, improving road infrastructure, economic development and regulation of the transport sector, improve working conditions and environmental protection. Also affected the entrepreneurs involved in the carriage of goods and people to respect their rights and preventing unfair competition in road transport.

Abstract

Conducting business in the field of road transport you can meet with a number of institutions authorized to carry out various types of control. This article presents an overview, stating the duties and powers of the various bodies that result from the law. Such inspections can have negative consequences in the form of imposing a fine or jail, or even – in extreme cases – lead to the need for cessation of activities in the transport industry. Therefore, it seems important to know the authorities having the power to control the transport industry.

Organy kontroli firmy transportowej

Streszczenie

Prowadząc działalność gospodarczą w zakresie transportu drogowego można się spotkać z szeregiem instytucji uprawnionych do przeprowadzania różnego typu kontroli. W artykule przedstawiono ich przegląd, podając obowiązki oraz uprawnienia poszczególnych organów, które wynikają z przepisów prawa. Przeprowadzane kontrole mogą mieć negatywne skutki w postaci wymierzenia kary grzywny, czy też aresztu, a nawet – w skrajnym przypadku – doprowadzić do konieczności zakończenia działalności w branży transportowej. Dlatego też wydaje się istotnym znać organy mające uprawnienia do kontroli w branży transportowej.

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