## Basic information

**COD - Ordinary legislative procedure (ex-codecision procedure)**  
**Regulation**

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

Amending Regulation (EC) No 2135/98 1994/0187(SYN)  
Amended by 2007/0097(COD)  
Amended by 2011/0196(COD)  
Amended by 2017/0122(COD)

Subject  
3.20.05 Road transport: passengers and freight  
3.20.10 Transport undertakings, transport industry employees  
4.15.03 Arrangement of working time, work schedules

## Key players

**European Parliament**  
Committee responsible:  
COD EP Delegation to Conciliation Committee  
Rapporteur:  
CODE EP Delegation to Conciliation Committee  
Appointed:

Former committee responsible  
RETT Regional Policy, Transport and Tourism  
20/11/2001  
GUE/NGL MARKOV Helmuth

Former committee for opinion  
EMPL Employment and Social Affairs  
23/10/2001  
PSE ANDERSSON Jan

**Council of the European Union**  
Council configuration  
Meeting  
Date  
Transport, Telecommunications and Energy  
2629  
09/12/2004  
Transport, Telecommunications and Energy  
2589  
10/06/2004  
Transport, Telecommunications and Energy  
2420  
25/03/2002  
Transport, Telecommunications and Energy  
2374  
15/10/2001

**European Commission**  
Commission DG  
Energy and Transport  
Commissioner

## Key events

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/10/2001</td>
<td>Legislative proposal published</td>
<td>COM(2001)0573</td>
</tr>
<tr>
<td>15/10/2001</td>
<td>Debate in Council</td>
<td>2374</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
<td>Reference</td>
</tr>
<tr>
<td>-----------</td>
<td>------------------------------------------------------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>22/10/2001</td>
<td>Committee referral announced in Parliament, 1st reading</td>
<td></td>
</tr>
<tr>
<td>25/03/2002</td>
<td>Debate in Council</td>
<td>2420</td>
</tr>
<tr>
<td>05/11/2002</td>
<td>Vote in committee, 1st reading</td>
<td></td>
</tr>
<tr>
<td>05/11/2002</td>
<td>Committee report tabled for plenary, 1st reading</td>
<td>A5-0388/2002</td>
</tr>
<tr>
<td>14/01/2003</td>
<td>Debate in Parliament</td>
<td></td>
</tr>
<tr>
<td>14/01/2003</td>
<td>Decision by Parliament, 1st reading</td>
<td>T5-0008/2003</td>
</tr>
<tr>
<td>09/12/2004</td>
<td>Council position published</td>
<td>11337/2/2004</td>
</tr>
<tr>
<td>16/12/2004</td>
<td>Committee referral announced in Parliament, 2nd reading</td>
<td></td>
</tr>
<tr>
<td>15/03/2005</td>
<td>Vote in committee, 2nd reading</td>
<td></td>
</tr>
<tr>
<td>23/03/2005</td>
<td>Committee recommendation tabled for plenary, 2nd reading</td>
<td>A6-0076/2005</td>
</tr>
<tr>
<td>13/04/2005</td>
<td>Decision by Parliament, 2nd reading</td>
<td>T6-0122/2005</td>
</tr>
<tr>
<td>09/09/2005</td>
<td>Parliament's amendments rejected by Council</td>
<td></td>
</tr>
<tr>
<td>12/10/2005</td>
<td>Formal meeting of Conciliation Committee</td>
<td></td>
</tr>
<tr>
<td>06/12/2005</td>
<td>Final decision by Conciliation Committee</td>
<td></td>
</tr>
<tr>
<td>08/12/2005</td>
<td>Joint text approved by Conciliation Committee co-chairs</td>
<td>03671/2005</td>
</tr>
<tr>
<td>01/02/2006</td>
<td>Committee referral announced in Parliament, 1st reading</td>
<td></td>
</tr>
<tr>
<td>02/02/2006</td>
<td>Debate in Parliament</td>
<td></td>
</tr>
<tr>
<td>02/02/2006</td>
<td>Decision by Parliament, 3rd reading</td>
<td>T6-0035/2006</td>
</tr>
<tr>
<td>02/02/2006</td>
<td>Decision by Council, 3rd reading</td>
<td></td>
</tr>
<tr>
<td>15/03/2006</td>
<td>Final act signed</td>
<td></td>
</tr>
<tr>
<td>15/03/2006</td>
<td>End of procedure in Parliament</td>
<td></td>
</tr>
<tr>
<td>11/04/2006</td>
<td>Final act published in Official Journal</td>
<td></td>
</tr>
</tbody>
</table>

**Technical information**

- Procedure reference: 2001/0241(COD)
- Procedure type: COD - Ordinary legislative procedure (ex-codecision procedure)
- Procedure subtype: Legislation
- Legislative instrument: Regulation

Amending Regulation (EC) No 2135/98 [1994/0187(SYN)]
Amended by [2007/0097(COD)]
### Documentation gateway

<table>
<thead>
<tr>
<th>Document Type</th>
<th>Reference</th>
<th>Date</th>
<th>Institution</th>
<th>Stage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislative proposal</td>
<td>COM(2001)0573</td>
<td>12/10/2001</td>
<td>EC</td>
<td>Summary</td>
</tr>
<tr>
<td>Economic and Social Committee: opinion, report</td>
<td>CES0678/2002</td>
<td>29/05/2002</td>
<td>ESC</td>
<td></td>
</tr>
<tr>
<td></td>
<td>OJ C 221 17.09.2002, p. 0019</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>OJ C 038 12.02.2004, p. 0017-0152 E</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Council position</td>
<td>113372/2004</td>
<td>09/12/2004</td>
<td>CSL</td>
<td>Summary</td>
</tr>
<tr>
<td></td>
<td>OJ C 063 15.03.2005, p. 0011-0025 E</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Committee recommendation tabled for plenary, 2nd reading</td>
<td>A6-0076/2005</td>
<td>23/03/2005</td>
<td>EP</td>
<td></td>
</tr>
<tr>
<td></td>
<td>OJ C 033 09.02.2006, p. 0324-0424 E</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Joint text approved by Conciliation Committee co-chairs</td>
<td>03671/2005</td>
<td>08/12/2005</td>
<td>CSL/EP</td>
<td></td>
</tr>
<tr>
<td>Draft final act</td>
<td>03671/4/2005</td>
<td>15/03/2006</td>
<td>CSL</td>
<td></td>
</tr>
<tr>
<td>Follow-up document</td>
<td>COM(2009)0225</td>
<td>15/05/2009</td>
<td>EC</td>
<td>Summary</td>
</tr>
<tr>
<td>Follow-up document</td>
<td>SEC(2011)0052</td>
<td>07/01/2011</td>
<td>EC</td>
<td>Summary</td>
</tr>
<tr>
<td>Follow-up document</td>
<td>SWD(2012)0270</td>
<td>12/09/2012</td>
<td>EC</td>
<td>Summary</td>
</tr>
<tr>
<td>Follow-up document</td>
<td>COM(2014)0337</td>
<td>06/06/2014</td>
<td>EC</td>
<td>Summary</td>
</tr>
<tr>
<td>Follow-up document</td>
<td>COM(2014)0709</td>
<td>21/11/2014</td>
<td>EC</td>
<td>Summary</td>
</tr>
<tr>
<td>Follow-up document</td>
<td>SWD(2014)0342</td>
<td>21/11/2014</td>
<td>EC</td>
<td></td>
</tr>
<tr>
<td>Follow-up document</td>
<td>COM(2017)0117</td>
<td>07/03/2017</td>
<td>EC</td>
<td>Summary</td>
</tr>
</tbody>
</table>

Amended by **2011/0196(COD)**
Amended by **2017/0122(COD)**

**Legal basis**: EC Treaty (after Amsterdam) EC 071; Rules of Procedure EP 57

**Stage reached in procedure**: Procedure completed

**Committee dossier**: CODE/6/32136
Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

PURPOSE: to harmonise certain social legislation relating to road transport. CONTENT: the current proposal abrogates Regulation 3820/85/EEC and replaces it with a new Regulation primarily in order to provide a clear, coherent text within which rules currently contained in Regulation 3820/85/EEC may be clarified, simplified and updated. The Commission has been aware for some considerable time that there have been difficulties in interpreting and applying the provisions within Regulation 3820/85/EEC. In the course of meeting with national experts, correspondence with individuals, road haulage and passenger transport associations and competent authorities over the years since the Regulation's introduction, the clear message has been that a common understanding of its provisions has remained elusive. The proposal aims to clarify and simplify the current legislation making it easier to comprehend and enforce. The scope has been clearly defined, firstly, by setting out more comprehensively when European Agreement concerning the Work of Crews of Vehicles engaged in International Road transport (AETR) or the Regulation should apply; and secondly, by setting out the category of goods and passenger vehicles affected - goods vehicles over 3.5 tonnes; and passenger vehicles suitable for carrying over 9 persons - based on the two current major exemptions. The proposal also seeks to update the other current exemptions and derogations to reflect changes in the road transport sector and, in doing so, to broaden the scope of the application of the Regulation within the road transport sector in the Union. Regulation 3820/85/EEC already provides considerable flexibility in driving times, rest periods and breaks. This type of flexibility has nevertheless been at the expense of effective enforcement. The proposal withdraws the current compensation arrangements, which were generally unable to be accurately computed and could easily be ignored. While flexibility is still retained, it is now within more computable, enforceable, understandable and simple boundaries. Increases in the standard daily rest period and a predefined enforceable timeframe for any reduced rest periods are balanced by an allowance of certain reduced daily and weekly rest periods without compensation. The proposal also seeks to clarify in a definitive way all the terms used within the Regulation, so that there is little opportunity for individual interpretations of the norm which have in the past to a considerable number of cases before the European Court of Justice, as well as variations in the way enforcement is applied to drivers of vehicles travelling throughout the Union. More specific provisions on "adequate rest" for mobile workers in the road transport sector are also proposed. On the other hand, the proposal does not include the current special derogation for occasional international passenger transport services, under which the driver's weekly rest may be postponed until 13 days after his previous weekly rest. Such an arrangement neither lends itself to adequate enforcement arrangements nor promotes good road safety nor adequate working conditions. In addition, the possible extension of the derogation to national passenger transport introduces a further complicating factor in any calculation. However, the revised rules on weekly rest do provide for a reduced weekly rest period of 24 hours with a normal weekly rest period of 45 hours after 13 days. Lastly, the proposal will provide enforce and the industry alike with a clearer view of the Regulation's provisions and enable these provisions to be computable for the new digital tachograph.

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

The committee adopted the report by Helmut MARKOV (EUL/NGL, D) amending the Commission proposal under the codecision procedure
The main amendments were as follows: - the Commission's concept of a "flexible week" (defined as "the period of time between the end of one weekly rest period and the beginning of the next weekly rest period") should be replaced with a fixed calendar week as defined in Directive 2002/15/EC on the organisation of working time for persons performing mobile road transport activities (i.e. the period between 00.00 hours on Monday and 24.00 hours on Sunday). The committee argued that, if a calendar week is used, it is easier to enforce the rules and protect employees from weekend work; - Article 1 should be amended to ensure that improved monitoring and enforcement and the promotion of safe working practices are specifically mentioned as being among the objectives of the regulation; - the Commission's definition of a "regular daily rest period" (any uninterrupted period of at least 12 hours per day) should be made more flexible; the committee wanted it to be possible for the daily rest to be taken in two periods, the first of at least three hours and the second of at least nine hours. Other amendments also sought to ensure a more flexible organisation of rest periods, such as splitting the 30-minute breaks during driving time into breaks of 15 minutes each; - introduction of a new definition of "driving time", meaning the duration of the activity in which the driver controls the vehicle as an active road user, plus the time needed for the driver to make his way to the place of assignment or to the vehicle if that journey is made in a vehicle driven by the driver himself, but excluding the journey from his place of residence to his place of work; - the new legislation should apply to entire journeys made by vehicles from third countries which are not contracting parties to the AETR agreement, in order to prevent distortions of competition; - all vehicles used for courier and express delivery services should be covered by the regulation because accidents involving these vehicles are increasing sharply; - exemptions to the scope of the directive should be extended to include, for example, vintage or historic vehicles, vehicles used for transporting humanitarian aid and specialised breakdown vehicles operating within a 100km radius of their base (as opposed to a 50 km radius as proposed by the Commission); - the Commission should submit a proposal providing for vehicles covered by the regulation to be fitted with a digital tachograph by a specified date. The new proposal should also provide for roadside checks on driving times to be extended to cover the check day and the preceding 27 days, whether vehicles are fitted with a digital tachograph or conventional recording equipment, and for roadside checks to cover not only daily driving times, rest periods and breaks, but also weekly rest periods in accordance with the regulation.?

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

The European Parliament adopted a resolution drafted by Helmut MARKOV (EUL/NGL, Germany) and made several amendments to the Commission's proposal. (Please refer to the document dated 05/11/02.) The following amendments were also made: - the definition of "reduced weekly rest period" is any uninterrupted period of rest of less than 45 hours which may be shortened to a minimum of 36 consecutive hours if taken at the place where the vehicle is based or in the drivers' place of residence or to a minimum of 24 consecutive hours if taken outside those places. Long-distance drivers may take compensation within three weeks; - for the first hour of multi-manning, the presence of another driver is optional but for the remainder of the period it is compulsory; - the minimum age of drivers is 18 for vehicles not exceeding 7.5 tonnes. For other vehicles, the minimum age is 21 or 18 if he holds the relevant certificate. The minimum age for drivers carrying passengers is 21. If such a driver is carrying passengers for a distance of more than 50 miles, he must fulfil, in addition, one of several prescribed conditions; - within every 24 hour period, a driver must take a daily rest period of at least 12 consecutive hours which may, not more than three times a week, be shortened to not less than 9 consecutive hours; - a weekly rest period that falls in two weeks may be counted in either week but not in both; - a driver taking a reduced weekly rest period must take an additional period of rest corresponding to the difference between 45 hours and the length of the reduced weekly rest taken. This additional period of rest must conform to certain conditions; - a new clause states that the minimum number of days of rest to be set in the Member States will be set at not less than 2% of the total number of days worked; - the Commission must submit proposals by 31 December 2006 on the national interpretation and application of the provisions of the Regulation - the Commission must also submit proposals on adjusting Directive 88/599/EEC and Regulation 3281/85/EEC (both as amended by Regulation 2135/98/EC) on roadside checks.?

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

Out of the 69 amendments adopted by the European Parliament, the Commission has accepted 47. The following are the principal amendments accepted: - the Regulation's objectives now include the promotion of improved monitoring and enforcement practice as well as improved working practices within the industry; - the scope of application is widened to include international point to point delivery services, where the permissible maximum weight of the vehicle exceeds 2.8 tonnes; - the provisions of the Regulation will apply to vehicles registered in a non-AETR third country. The need to ensure no distortion of competition within the EU is pre-eminent; - the proposed radius within which the exemption for breakdown vehicles can operate has been extended from 50km to 100km; - a new exemption for historic commercial vehicles is inserted to clarify the current application of exemptions to this area; - those journeys made entirely on site are excluded from the scope. The Regulation will apply to those journeys that either start or finish on site but otherwise use a public road; - the Commission accepts the need for a definition of driving time. The activity of driving to a location to take up a vehicle is not included, as this activity is 'other work'; - the definition of 'break' has been extended to clarify its primary purpose of recuperation; - the definition of the regular daily rest period has been revised to re-introduce the possibility of a limited split daily rest; - the definition of a weekly rest period is modified to correspond to the re-introduction of a fixed calendar week basis for calculations where a weekly rest period can straddle two calendar weeks. The Commission has decided to reintroduce the possibility of a reduction to 36 consecutive hours at base or in the driver's hometown and of 24 hours away from base with compensation. However, in order to ensure that enforcement is facilitated and that sufficient account is taken of accumulated fatigue, compensation is to be taken en bloc by the end of the week following that in which the reduced weekly rest commenced; - as regards the definition of multi-manning, the Commission accepts that in practice there may be occasions where the second driver is picked up shortly after the journey is started. As this only relates to a short time at the start of the journey, there should be no difficulty in enforcement; - in the specific situations outlined in the relevant Article only, a maximum of two interruptions in a regular daily rest period may be permitted; - the Commission feels that an obligatory four-week period check at the roadside is excessive. Inspectors conducting roadside checks should continue to have a measure of discretion. The number of days to be checked should, however, be adjusted to ensure that the fortnightly driving time limit of 90 hours may be checked at the roadside. The main amendments not accepted by the Commission were as follows: - the sectoral working time Directive 2002/15/EC already places an obligation on employers to acquaint themselves with total time worked by drivers. As regards the minimum ages for drivers these are now in the driver training proposal. Parliament has notobjected in first reading to its logical presence there; - the Commission maintains its view that a more focussed approach to exemptions and derogations is required. Humanitarian aid is too broad a concept and can be subcontracted to commercial undertakings; - the requirement for national bus services to
fit digital tachograph is impracticable; The Commission has made some new amendments to the initial proposal: - the definition of 'break' has been further refined to clarify the nature of a break by explicitly excluding any possibility that it includes any driving activity; - the definition of 'other work' has been linked to the definition of 'work' in the sectoral working time Directive; - the definition of daily driving time has been clarified to make it more precise; - the definition of transport undertaking has been clarified to indicate that it includes both companies which undertake transport for hire and reward as well as those who carry out own account operations; - discussions in the Council have indicated a consensus on a clearer and more comprehensive text concerning out of scope driving, which can be taken into account in driving time. The Commission can agree with this approach for road safety grounds and hence takes up this consensus in its amended proposal; - the Commission continues to consider 45 minutes as a reasonable break after 4.5 hours of driving. The aim of the Commission's original proposal regarding breaks was to avoid an abuse of current facility to split the 45-minute break into 15-minute periods. The aim of Parliament's amendment is to ensure that any reintroduction of a 15-minute split should only be permitted if it precedes a rest of at least 30 minutes. The Commission has redrafted the text to reflect this objective; - the Commission takes account of the anomaly in a calendar week system that driving the last three days of one week and the first three days of the following week can allow a continuous use of reduced daily rest over this 6-day period, a situation that would go against the spirit of what the Regulation intends. - the possibility of taking reduced weekly rest periods consecutively is reintroduced - the road safety implications are recognised through the shorter period required for compensatory rest, a period that also facilitates enforcement checks. Secondly, it means that with a weekly rest period at the start of the first week and the second weekly rest period at the end of the following week, drivers can operate for longer periods within an overall driving time limit of 90 hours; - there is the reinstatement of a compensation regime for weekly rest. Compensation given the following week for a 24-hour reduced weekly rest period will add up to a minimum of 45 hours in total (if the subsequent weekly rest period is also reduced) or to 66 hours (if a regular weekly rest period is taken); - currently drivers are obliged to make a printout of their driving and other activities at the end of the day and then sign and identify the printout. The Commission places a further requirement on a driver who does not have a driver card prior to starting his journey to make a printout. This will prevent end-of-day printouts being juggled prior to signature by unscrupulous companies to ensure records of driving time-activities are legal, and will link a driver with a vehicle for a particular journey. Moreover drivers are likely to make this printout because of the risk of a roadside check. The potential benefits in enforcement are deemed to outweigh the burden of the additional requirement and will encourage drivers to take care of their driver cards.

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

The common position, adopted by unanimity, includes some general changes relative to the Commission's proposal. Council holds the view that its common position provides a considerable added value as compared to the legislation currently in force. Among the elements which provide such added value are the following:

- the minimum uninterrupted daily rest period is increased from 8 to 9 hours;
- the maximum driving time per calendar week is reduced to 56 hours (currently it is possible to drive up to 74 hours in one calendar week);
- during two consecutive weeks, a driver must take at least one regular weekly rest period consisting of an uninterrupted period of at least 45 hours;
- the legal framework is created for Member States, subject to certain conditions: to immobilise temporarily a vehicle; to withdraw, suspend or restrict an undertaking's licence; to withdraw, suspend or restrict a driver's driving licence. In addition, guidelines with a view to promoting a harmonised application of these provisions will be developed in accordance with the Comitology procedure;
- the time period which can effectively be checked by enforcement officers is increased significantly, from "the current week and the last driving day of the previous week" to "the current week and the previous 15 days". After 1 January 2008 this period is increased even further, to "the current day and the previous 28 days". These provisions enable enforcers to benefit from the capabilities of the digital tachograph;
- the number and scope of the general exemptions is reduced;
- competent authorities in the Member States will be empowered to impose a sanction for an infringement detected on its territory, even when the infringement has been committed outside its territory;
- other actors in the transport chain can, under certain conditions, be held co liable for infringements.

The Council also recalls that, as concerns the introduction of the digital tachograph (i.e. the fitting of this equipment to all new heavy goods vehicles), it has extended the deadline for this by 1 year, to 5 August 2005 (cf. Article 27) due to practical considerations. Furthermore, the Council common position, through the amendment of the relevant instrument (Regulation 3821/85/EEC), provides for a number of improvements when it comes to operating this device.

The Commission accepted wholly or in part 47 of the 69 amendments proposed by the European Parliament at its first reading. Of these, the Council included 34, either literally or in principle, in its common position.

Amendments accepted by the Commission and incorporated in full or in part in the common position aim in particular to:

- return to the calendar week system of calculation;
- bring useful clarifications to the text and are reflected in the common position;
- add a general exemption for historic vehicles used for non-commercial purposes appears logical and is included in the common position. Likewise local postal services could continue to be excluded, on the understanding that driving is not the main activity;
- introduce a greater degree of flexibility for the industry;
- form part of the compromise package on daily and weekly rest;
- introduce co-liability for the entire transport chain. The common position in Article 10(4) amplifies the list of those potentially co liable and
concentrates on contractually agreed time schedules;

Other amendments rejected by the Commission are incorporated in the common position, these aim to:

- return to the broader general exemption for specialised vehicles for medical purposes and is included in the common position;
- reinsert general exemptions for vehicles for milk collection and delivery from farms as well as the current Regulation?is extensive list of public utility vehicles. The common position confirms all as optional national derogations, while maintaining the Commission?is reduced list of public utility vehicles;
- replace a transport undertaking?s defence against liability for infringements with two further requirements for record keeping and an obligation to verify a driver?s total working time. The common position has incorporated the substance of these additions in Article 19(bis);

The amendments not incorporated in the common position aimed to:

- oblige roadside checks to cover the current day and the previous 27 days. The common position continues to allow a measure of discretion to enforcement staff, but gives them the option from 1.1.2008 onwards of checking the previous 28 days;
- introduce a deadline for retrofitting all vehicles in operation with a digital tachograph. However not all these vehicles are so constructed as to be able to be fitted with a digital tachograph;
- include the maximum weekly working time limits of the sectoral working time Directive, Directive 2002/15/EC, within the body of the Regulation. The common position does not include the form of this amendment, but nevertheless in Art. 6(2) it retains the substance, specifying that the maximum working time limit may not be exceeded;
- introduce a general exemption for vehicles used for humanitarian aid;
- exempt vehicles not exceeding 3.5 tonnes used for non-commercial purposes. However all vehicles not exceeding 3.5 tonnes are already excluded from the scope of the proposal;
- reinsert all of Article 5 of Regulation 3820/85/EEC concerning minimum ages of drivers of large goods or passenger vehicles. However these provisions have already been taken up in Art. 5 of Directive 2003/59/EC;
- limit the obligation for the driver to record driving time undertaken on vehicles outside the scope of the Regulation to urban passenger transport vehicles. The common position includes driving on all commercial vehicles outside the scope, but stipulates that this driving be recorded as ?other work.?
- limit the obligation for the driver to record driving time undertaken on vehicles outside the scope of the Regulation to urban passenger transport vehicles.
- propose a break of 30 minutes every four and a half hours, which can be divided into two periods of 15 minutes. The common position retains the 45 minutes break but does not allow this break to be split into at least 15 minute intervals;
- reinsert as national derogations certain vehicle groups that the Commission proposal was removed;
- introduce legal provisions, which run counter to the comitology rules;
- invite the Commission to submit a proposal for the uniform interpretation of these rules.

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

The Commission considers that the common position unanimously adopted by the Council does not alter the aims and approach of its proposal and so can support it.

The first change introduced by the Council concerns the insertion of an Article postponing the date for the introduction of the digital tachograph until 5 August 2005. The Council considered that this would provide legal certainty, given that no vehicles equipped with such tachographs would be available by the current deadline of 5 August 2004. The Commission could not accept this provision, but to guarantee complete legal certainty, the text should specify that the date of 5 August 2005 replaces that of 5 August 2004 as from that latter date.

Secondly, the common position sets out a compromise text on a daily and weekly rest package. Compared with the current Regulation, this text balances a more restrictive split daily rest provision of 3 hours plus 9 hours, with the elimination of compensation arrangements for a reduction in daily rest from 11 hours to 9 hours three times between any two weekly rest periods. For weekly rest, the current compensation arrangements by the end of a three week period are maintained, but with the possibility of a longer period for checking on the road (up to 15 previous days until 1.1.2008 and up to 28 days thereafter). In addition, every two consecutive weeks, a driver must take a normal weekly rest of at least 45 hours. The common position also sets out a more detailed table on breaks.

The Commission welcomes the simplicity of the new split daily rest but finds the arrangement for reduced daily rest a retrograde step in terms of road safety and working conditions. While it accepts the continuation of the lengthy compensation period for weekly rest, it considers the new provision on a minimum regular weekly rest requirement over a two week period an advance, with the option of checking up to 28 days records at the roadside an advantage for enforcement staff.

Thirdly, the common position incorporates the majority of Article 9 on offences and sanctions from the sister proposal on road transport enforcement for which a political agreement was also obtained on 11 June 2004, although the Commission is disappointed that the list of common serious offences has been omitted. These provisions will therefore have direct effect.

Lastly, while the list of national derogations has been slightly extended, overall the majority of general exemptions and national derogations in the common position remain more restrictive than in Regulation 3820/85/EC.
The European Parliament adopted a resolution, based on the draft by Helmuth MARKOV (GUE/NGL, DE) making several amendments to the Council’s common position, the principal ones being the following:

- the introduction of digital tachographs in lorries should be postponed. Parliament proposed deadlines of August 5, 2006 for all new vehicles and August 5, 2007 for all vehicles put into service for the first time, whereas the Council set a final deadline of August 5, 2005;
- Parliament has extended the daily rest period to twelve hours (compared with eleven hours in the Council’s common position);
- it has reviewed the manner in which the Council proposed to organise drivers? breaks. Parliament proposes maintaining the current rules: mandatory 45 minute break after a driving period of four and a half hours, which scope for dividing this break into periods of fifteen minutes. Parliament recommends a weekly rest period of at least 45 hours whilst providing under certain conditions for the reduction of this period to 36 hours (the Council proposing 24 hours);
- the definition of driving time is also altered in order to take account of the time taken by drivers to travel to their place of work, in the event of their driving themselves to work (and if their journey is over 100 kilometres).
- scope for drivers taking a reduced weekly rest period in their vehicle is withdrawn;
- Parliament has made more stringent the provision barring transport enterprises from remunerating drivers on the basis of distance travelled and/or the volume of goods carried, and from allocating bonuses;
- the article concerning the penalties available to Member States in the event of violation of the regulation is also made more stringent;
- the minimum number of checks to be carried out in the Member States shall be set at least 2% of the total of days worked from 1 January 2007. 3% from 1 January 2009 and 4% from 1 January 2011. The last phase shall only enter into force when the statistics indicate that on average more than 90% of all inspected vehicles are equipped with a digital tachograph.

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

The Commission can accept 14 amendments out of a total of 43. They aim in particular to:

- call upon the AETR signatory states and Community to align the AETR agreement with the new Regulation as soon as possible. While the Commission agrees with this objective, the recital should not prejudice the respective competence of the Community and the Member States;
- indicate that enforcement of the fortnightly driving time provision should be checkable at the roadside. The Commission prefers a staged approach to a 28-day check at the roadside, which should be reflected in the text;
- sets out a definition of ?driving time?. The Commission would prefer a less complex definition, which simply links this period of time with what is recorded as ?driving? by the tachograph.
- clarify that while the Commission accepts that efforts should be made to ensure a clarification and uniform implementation of the rules through the proposed comitology committee, a definitive uniform interpretation could only be achieved through the European Court of Justice;
- provide transitional measures concerning common minimum age limit provisions for drivers. The measures should refer only to the minimum age for drivers and not to driver’s mates;
- introduce a direct reference to the current Directive on minimum enforcement levels for this Regulation and indicates the Parliament?s preferred shorter timeframe for the proposed increase in the percentage of checks to be performed as well as the need to include enforcement of working time rules. The Commission could accept inclusion of a reference to the enforcement directive, with the proposed increase in percentages and a reference to enforcement of working time, but would prefer to keep to the less ambitious but achievable Council deadlines;
- advocate that the provisions regarding digital tachograph and its introduction should be coordinated with those of the proposed Regulation. The Commission shares this aim and considers that the current introduction date of 5 August 2005 will ensure that digital tachograph equipped vehicles are on the market in time to be used in conjunction with the proposed rules;
- exempt tractors with a maximum speed of 40-km per hour. The Commission can accept that agricultural or forestry tractors with this maximum speed limit are exempt;
- remove the national derogation for specialised vehicles transporting circus and funfair equipment. The Commission could accept this in principle, on the basis that a general exemption might be more appropriate than a national derogation for such vehicles, as some may cross national frontiers in the course of their work. It notes however that Parliament did not provide a general exemption and hence wishes to remove any exemption or derogation from these vehicles. The Commission would be opposed to this approach on practical grounds, as carriage by road by these specialised vehicles is an ancillary activity; such transport must of necessity be relatively slow and will not be subject to competitive pressure. The Commission therefore reinserts this category as a general exemption;
- call on the Commission firstly to support dialogue between Member States concerning national interpretation and application of the Regulation and secondly to submit a proposal on uniform rules for the interpretation and application of the Regulation. The Commission can accept the first part of the amendment, as this dialogue will be within the framework of the new comitology committee to be established. However it will not commit itself to proposing a uniform interpretation of the Regulation, as this would restrict the Commission’s right of initiative under the Treaty.
As regards the amendments rejected by the Commission, they concern the following issues: general exemptions and national derogations; rest and break provisions; the principle of the Commission might support the amendments raising regular daily rest to 12 hours, in practice it recognises that the Council's common position is a delicate compromise between Member States and for this reason will reject these two amendments. The Commission acknowledges the road safety concerns of permitting drivers of all passenger transport vehicles to drive for 12 consecutive days without a weekly rest. In terms of rest taken in a stationary vehicle, the Commission continues to consider that a reduced weekly rest period may be taken in a suitably equipped vehicle, as vehicle design has improved considerably over the past 20 years. The Commission rejects the amendment on breaks as this does not address the issue of potential abuse of the split break periods.

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

The European Parliament adopted a resolution approving the joint text and drew attention to the Commission statement on the text. (For details of the agreement reached, please see the summary of 06/12/2005.)

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

PURPOSE: to harmonise certain social legislation relating to road transport.


CONTENT: the aim of the regulation on driving times, breaks and rest periods, which will abrogate and replace Regulation 3820/85/EC is to update, clarify and simplify the EU legislation for drivers engaged in the carriage of goods and passengers by road. It also aims to promote improved monitoring and enforcement practices by Member States and improved working practices in the road transport industry.

The salient issues of this Regulation are as follows:

Digital tachographs: as from May 2006, all new vehicles will have to be fitted with digital tachographs and drivers should be in possession of driver cards which records the drivers? driving and rest times;

Limited duration of driving times: the daily driving time shall not exceed 9 hours. However, the daily driving time may be extended to a maximum of 10 hours not more than twice during the week. The weekly driving time shall not exceed 56 hours. The total accumulated driving time during any two consecutive weeks shall not exceed 90 hours;

Rest periods: after a driving period of four and a half hours a driver shall take an uninterrupted break of not less than 45 minutes, unless he takes a rest period. This break may be replaced by a break of at least 15 minutes followed by a break of at least 30 minutes each distributed over the period. Moreover,

any time spent travelling to a location to take charge of a vehicle falling within the scope of this Regulation, or to return from that location, when the vehicle is neither at the driver's home nor at the employer’s operational centre where the driver is normally based, shall not be counted as a rest or break unless the driver is on a ferry or train and has access to a bunk or couchette;

Daily and weekly rest periods: a driver shall take daily and weekly rest periods. Within each period of 24 hours after the end of the previous daily rest period or weekly rest period a driver shall have taken a new daily rest period. If the portion of the daily rest period which falls within 24 hour period is at least nine hours but less than 11 hours, then the daily rest period in question shall be regarded as a reduced daily rest period. A daily rest period may be extended to make a regular weekly rest period or a reduced weekly rest period. A driver may have at most three reduced daily rest periods between any two weekly rest periods. Within 30 hours of the end of a daily or weekly rest period, a driver engaged in multi-manning must have taken a new daily rest period of at least nine hours. In any two consecutive weeks a driver shall take at least two regular weekly rest periods, or one regular weekly rest period and one reduced weekly rest period of at least 24 hours. However, the reduction shall be compensated by an equivalent period of rest taken en bloc before the end of the third week following the week in question;

A weekly rest period shall start no later than at the end of six 24-hour periods from the end of the previous weekly rest period. Any rest taken as compensation for a reduced weekly rest period shall be attached to another rest period of at least nine hours. Where a driver chooses to do this, daily rest periods and reduced weekly rest periods away from base may be taken in a vehicle, as long as it has suitable sleeping facilities for each driver and the vehicle is stationary. Where a driver accompanies a vehicle which is transported by ferry or train, and takes a regular daily rest period, that period may be interrupted not more than twice by other activities not exceeding one hour in total. Any time spent by a driver driving a vehicle which falls outside the scope of this Regulation to or from a vehicle which falls within the scope of this Regulation, which is not at the driver's home or at the employer's operational centre where the driver is normally based, shall count as other work.

Interpretation policy and uniform application of the Regulation: through a standing committee, Member State enforcement authorities should strive to reach a common understanding of the implementation of this Regulation. The Commission shall support dialogue between Member States concerning national interpretation and application of this Regulation through the Committee.

Control procedures and sanctions: a Member State shall enable the competent authorities to impose a penalty on an undertaking and/or a driver for an infringement of this Regulation detected on its territory and for which a penalty has not already been imposed, even where that infringement has been committed on the territory of another Member State or of a third country. The Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that they are implemented. To address cases where a Member State considers that there has been an infringement of this Regulation which is of a kind that is clearly liable to endanger road safety, it shall empower the relevant competent authority to proceed with immobilisation of the vehicle concerned until such time as the cause of the infringement has been rectified. Member States may compel the driver to take a daily rest period. Member States shall, where appropriate also withdraw, suspend or restrict an undertaking's licence, if the undertaking is established in that Member State, or withdraw, suspend or restrict a driver's driving licence.
Liability of transport undertakings: a transport undertaking shall not give drivers it employs or who are put at its disposal any payment, even in the form of a bonus or wage supplement, related to distances travelled and/or the amount of goods carried if that payment is of such a kind as to endanger road safety and/or encourages infringement of this Regulation. A transport undertaking shall be liable for infringements committed by drivers of the undertaking, even if the infringement was committed on the territory of another Member State or a third country.

ENTRY INTO FORCE: 11.04.2007, with the exception of Article 10, paragraph 5, Article 26, paragraphs 3 and 4 and Article 27, which will enter into force on the 01.05.2006.

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

This report analyses the penalties for serious infringements against the social rules in road transport provided for in the legislation of the Member States, as required by Directive 2006/22/EC on minimum conditions for the implementation of social legislation relating to road transport activities. The infringements concern two regulations. Regulation (EC) No 561/2006 contains very precise rules on the maximum driving times and the minimum rest periods and breaks for drivers engaged in professional transport. Regulation (EEC) No 3821/85 concerns the installation and use of the tachograph.

The report examines the types of penalties imposed by Member States, including financial penalties, and immobilisation of the vehicle, and the national penalty systems. With regard to the latter, it points out that national systems of penalties differ widely. A basic distinction can be made between Member States whose legislation does not specify any differences between the different infringements and Member States whose legislation distinguishes between specific infringements and applies different levels of penalties to these infringements.

The Commission concludes that rules on penalties applicable to serious infringements of the social legislation vary appreciably between Member States as regards the types of penalties, the level of fines and the categorisation of infringements.

While all Member States use fines as a penalty, not all of them provide for the immobilisation of vehicles or imprisonment, for example. In some Member States, withdrawal of a driver’s driving licence (Bulgaria, Denmark, Greece, Italy and the United Kingdom) or driver card is possible (Slovakia).

When looking at how Member States grade the different types or levels of infringements, the situation becomes even more complex. The amounts of the fines vary significantly between Member States, in extreme cases by as much as 1:10. This disparity can partly be explained by the socio-economic differences between the Member States, which make the same fine dissuasive and proportionate for drivers and undertakings in one country, but not necessarily in another. However, this reasoning cannot be applied, for example, to the relatively high penalties in Spain or Hungary.

For infringements against rules on driving times and rest periods (Regulation (EC) No 561/2006), it is clear which infringements must be considered more serious than others. However, for infringements against Regulation (EEC) No 3821/85, the categorisation of infringements varies considerably between Member States. Some infringements are seen as serious infringements in one country, but not necessarily in another. Only for infringements involving fraud to the tachograph and cases of undertakings not keeping record sheets is categorisation similar in a majority of Member States, the highest level of penalties being applied to these very serious infringements.


For drivers and undertakings engaged in international transport, it is therefore very difficult to send a clear message concerning the gravity of possible infringements when they do not comply with certain provisions of Regulation (EC) No 561/2006 and Regulation (EEC) No 3821/85, as the penalties they risk in different Member States give contradictory feedback.

The Commission considers this situation to be unsatisfactory in terms of equal conditions for drivers and undertakings. The new Annex to Directive 2006/22/EC, introduced by Commission Directive 2009/5/EC, provides a basis for a common understanding of what should be considered as serious infringement. Member States are encouraged to take the necessary steps to provide for more harmonised application of the social rules in road transport and thus to improve observance of the social rules in road transport.

The Commission will continue to work on this issue, in particular by supporting dialogue between Member States concerning national interpretation and application of the social rules in road transport through comitology, and taking into account the limits of the competence that Member States and the legislators have decided to give to the Commission.

Road transport: harmonisation of social legislation, driving times, breaks and rest periods for drivers

The Commission has presented a report on the application of the derogation provided in Article 8(6a) of Regulation (EC) No 561/2006 of the European Parliament and of the Council (12-day rule).

Regulation (EC) No 561/2006 provides in its Article 8 that a driver should start a weekly rest period no later than at the end of six 24-hour periods from the end of the previous weekly rest.

However, Regulation (EC) No 1073/2009 introduced a derogation from this weekly rest provision. The new Article 8(6a) allows drivers, who are engaged in a single occasional service of international carriage of passengers, to postpone the weekly rest period for up to 12 consecutive 24-hour periods (hereinafter called the 12-day rule) following a previous regular weekly rest, provided that specific conditions are met. The Regulation specifies that the Commission should closely monitor the use made of this derogation.

This report follows this monitoring obligation and provides an overview of the use of the 12-day rule derogation in the Member States and its perceived impacts in the context of the Regulation’s main objectives.
In order to collect the necessary information for this report, the Commission addressed a number of questions to the Member States in July 2012. The same questionnaire was also sent to the EU social partners in road transport, namely to the International Road Union (IRU) as the employers' organization and to the European Transport Workers' Federation (ETF) representing the workers in the sector.

The questions dealt with the following aspects in particular: (i) the statistics or other sources of information used by Member States to check the use of the derogation; (ii) road safety and the impact of the derogation on it; (iii) tourism promotion and the use of environmentally friendly means of transport; (iv) impact of the derogation on fair competition in the road transport sector, and (v) an assessment of drivers wellbeing.

Of the 23 Member States that provided answers to the questionnaire, eight did not provide figures, on the grounds of lack of information to support a quantifiable answer. The limited amount of quantifiable data received (15 cases) does not allow for an in-depth statistical analysis.

Despite the lack of factual data, following the analysis presented above, certain conclusions can be drawn:

1. There is no concrete indication of a real negative effect on road safety: The workers have expressed the view that the 12 consecutive daily driving periods create accumulated and disproportionate fatigue of the driver. However, no factual evidence was provided proving the worsening of road safety due to the use of derogation.

2. Tourism, the environment, undistorted competition and the well-being of drivers: the responses received include both positive and negative assessments, with predominance of positive aspects indicated, except on the issue of the driver's quality of life. On the latter one, both sides of the industry indicated the negative consequences, but for different reasons and affecting different aspects of a driver's well-being.

   The positive aspects of the derogation included: the reduction of costs for tourists, the use of better vehicles for such long, international trips, the increased opportunities for undertakings, including small ones and the better organisation of drivers rest periods, with the possibility of spending more time at home. Much of the criticism concerned the restrictive character of the 12-day rule, whilst the concept of derogation was acknowledged as valuable.

3. Contradictory nature of the answers received: both sides of the industry expressed very different points of view on most of the questions. While the representatives of the employers identify the additional requirements of the derogation as being the main obstacle to its proper implementation, the representative of drivers considers any attempt to water down these provisions or extending the scope of the derogation as being unacceptable.

In conclusion, having analysed the points of view expressed by the Member States and the social partners and bearing in mind certain needs of the market such as simplification of the rules and cost-effective enforcement, the Commission does not consider it appropriate to propose any amendments to the relevant legislation.

The Commission will continue its efforts, in cooperation with Member States, to further enhance enforcement of the existing rules, and in particular with regard to the proper application of the derogations. It may revert to the issue should the need arise.