



# Procedure file

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 <a href="#">1994/0187(SYN)</a> Amended by <a href="#">2007/0097(COD)</a> Amended by <a href="#">2011/0196(COD)</a> Amended by <a href="#">2017/0122(COD)</a> Amended by <a href="#">2023/0155(COD)</a>	Procedure completed
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	Rapporteur	Appointed
	<b>CODE</b> EP Delegation to Conciliation Committee		
	Former committee responsible		
	<b>RETT</b> Regional Policy, Transport and Tourism		20/11/2001
		GUE/NGL <a href="#">MARKOV Helmuth</a>	
	<b>TRAN</b> Transport and Tourism		
Council of the European Union	Former committee for opinion		
	<b>EMPL</b> Employment and Social Affairs (Associated committee)		23/10/2001
		PSE <a href="#">ANDERSSON Jan</a>	
	<b>BUDG</b> Budgets		
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2629</a>	09/12/2004
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2589</a>	10/06/2004
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2420</a>	25/03/2002
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2374</a>	15/10/2001
European Commission	Commission DG Energy and Transport	Commissioner	

Key events			
12/10/2001	Legislative proposal published	COM(2001)0573	Summary
15/10/2001	Debate in Council	<a href="#">2374</a>	

22/10/2001	Committee referral announced in Parliament, 1st reading		
25/03/2002	Debate in Council	<a href="#">2420</a>	
05/11/2002	Vote in committee, 1st reading		Summary
05/11/2002	Committee report tabled for plenary, 1st reading	<a href="#">A5-0388/2002</a>	
14/01/2003	Debate in Parliament		
14/01/2003	Decision by Parliament, 1st reading	<a href="#">T5-0008/2003</a>	Summary
11/08/2003	Modified legislative proposal published	<a href="#">COM(2003)0490</a>	Summary
09/12/2004	Council position published	<a href="#">11337/2/2004</a>	Summary
16/12/2004	Committee referral announced in Parliament, 2nd reading		
15/03/2005	Vote in committee, 2nd reading		
23/03/2005	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A6-0076/2005</a>	
13/04/2005	Decision by Parliament, 2nd reading	<a href="#">T6-0122/2005</a>	Summary
09/09/2005	Parliament's amendments rejected by Council		
12/10/2005	Formal meeting of Conciliation Committee		
06/12/2005	Final decision by Conciliation Committee		
08/12/2005	Joint text approved by Conciliation Committee co-chairs	<a href="#">03671/2005</a>	
24/01/2006	Report tabled for plenary, 3rd reading	<a href="#">A6-0006/2006</a>	
01/02/2006	Committee referral announced in Parliament, 1st reading		
02/02/2006	Debate in Parliament		
02/02/2006	Decision by Parliament, 3rd reading	<a href="#">T6-0035/2006</a>	Summary
02/02/2006	Decision by Council, 3rd reading		
15/03/2006	Final act signed		
15/03/2006	End of procedure in Parliament		
11/04/2006	Final act published in Official Journal		

### 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 <a href="#">1994/0187(SYN)</a> Amended by <a href="#">2007/0097(COD)</a>

	Amended by <a href="#">2011/0196(COD)</a> Amended by <a href="#">2017/0122(COD)</a> Amended by <a href="#">2023/0155(COD)</a>
Legal basis	Rules of Procedure EP 57; EC Treaty (after Amsterdam) EC 071
Stage reached in procedure	Procedure completed
Committee dossier	CODE/6/32136

## Documentation gateway

Legislative proposal	<a href="#">COM(2001)0573</a> , OJ C 051 26.02.2002, p. 0234 E	12/10/2001	EC	Summary
Economic and Social Committee: opinion, report	<a href="#">CES0678/2002</a> <a href="#">OJ C 221 17.09.2002, p. 0019</a>	29/05/2002	ESC	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0388/2002</a>	05/11/2002	EP	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T5-0008/2003</a> OJ C 038 12.02.2004, p. 0017-0152 E	14/01/2003	EP	Summary
Modified legislative proposal	<a href="#">COM(2003)0490</a>	11/08/2003	EC	Summary
Council statement on its position	<a href="#">14780/1/2004</a>	26/11/2004	CSL	
Council position	<a href="#">11337/2/2004</a> OJ C 063 15.03.2005, p. 0011-0025 E	09/12/2004	CSL	Summary
Commission communication on Council's position	<a href="#">COM(2004)0817</a>	21/12/2004	EC	Summary
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A6-0076/2005</a>	23/03/2005	EP	
Text adopted by Parliament, 2nd reading	<a href="#">T6-0122/2005</a> OJ C 033 09.02.2006, p. 0324-0424 E	13/04/2005	EP	Summary
Commission opinion on Parliament's position at 2nd reading	<a href="#">COM(2005)0301</a>	27/06/2005	EC	Summary
Joint text approved by Conciliation Committee co-chairs	<a href="#">03671/2005</a>	08/12/2005	CSL/EP	
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading	<a href="#">A6-0006/2006</a>	24/01/2006	EP	
Text adopted by Parliament, 3rd reading	<a href="#">T6-0035/2006</a>	02/02/2006	EP	Summary
Draft final act	<a href="#">03671/4/2005</a>	15/03/2006	CSL	
Non-legislative basic document	<a href="#">COM(2009)0225</a>	15/05/2009	EC	Summary
Follow-up document	<a href="#">SEC(2011)0052</a>	07/01/2011	EC	Summary
Follow-up document	SWD(2012)0270	12/09/2012	EC	Summary
Follow-up document	COM(2014)0337	06/06/2014	EC	Summary
Follow-up document	<a href="#">COM(2014)0709</a>	21/11/2014	EC	Summary
Follow-up document	SWD(2014)0342	21/11/2014	EC	

Follow-up document		<a href="#">COM(2017)0117</a>	07/03/2017	EC	Summary
Follow-up document		SWD(2017)0100	07/03/2017	EC	
Follow-up document		<a href="#">COM(2018)0698</a>	18/10/2018	EC	Summary
Follow-up document		<a href="#">COM(2021)0610</a>	30/09/2021	EC	
Follow-up document		SWD(2021)0278	30/09/2021	EC	
Follow-up document		<a href="#">COM(2023)0183</a>	04/04/2023	EC	
Follow-up document		SWD(2023)0074	04/04/2023	EC	

#### Additional information

European Commission

[EUR-Lex](#)

#### Final act

[Regulation 2006/561](#)

[OJ L 102 11.04.2006, p. 0001-0013](#) Summary

[Corrigendum to final act 32006R0561R\(07\)](#)

[OJ L 195 20.07.2016, p. 0083](#)

#### Delegated acts

[2022/2636\(DEA\)](#)

Examination of delegated act

## 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 enforces 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 (1st reading). 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 tachygraph 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

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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 checks to be carried out 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 88/559/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

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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 not objected 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 on 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 timeactivities 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

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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-liaible 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's extensive list of public utility vehicles. The common position confirms all as optional national derogations, while maintaining the Commission's 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

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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.

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

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The European Parliament adopted a resolution, based on the draft by Helmut 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

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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 : while in principle 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

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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

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

**LEGISLATIVE ACT :** Regulation 561/2006/EC of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport and amending Council Regulations 3821/85/EEC and 2135/98/EC and repealing Council Regulation 3820/85/EEC.

**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 at most 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 that 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

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The Commission presents a Staff Working Document which reports on the implementation in 2007-2008 of four complementary legislative acts establishing social rules in road transport. They are: i) Regulation (EC) No 561/2006 which establishes rules on driving times, breaks and rest periods for professional drivers; ii) Directive 2006/22/EC, which determines minimum requirements for enforcement of these rules; iii) Regulation (EEC) No 3821/85 on recording equipment and iv) Directive 2002/15/EC (the Working Time Directive).

The report covers the two-year period 2007-2008 and is based on the information submitted by Member States.

Much of the report covers certain aspects of the application of Regulation (EC) No 561/2006 with regard to the rules on driving time and enforcement of compliance with these rules. It provides a general overview of the way in which Member States have implemented the driving time rules. The report also deals with the practical implementation of the Working Time Directive 2002/15/EC on the basis of the information provided by Member States.

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

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The Commission presents a report on the implementation of four interrelated and complementary legislative acts establishing social rules in road transport. These four legislative acts are: (i) Regulation (EC) No 561/2006, which establishes rules on driving times, breaks and rest periods for professional drivers; (ii) Directive 2006/22/EC, which determines minimum requirements for enforcement of these rules; (iii) Regulation (EEC) No 3821/853 on recording equipment; and (iv) Directive 2002/15/EC, which sets out complementary provisions on the organisation of the working time of persons performing mobile road transport activities.

The report covers the two-year period 2009-2010. The report is of a technical nature and its primary aim is to provide a general overview of how Member States have enforced the applicable social rules. Even though the information provided to the Commission services does not allow for in-depth analysis of impacts of the legislation on health and safety of drivers or on road safety, a general conclusion could be drawn that better enforcement of and compliance with the social rules can indirectly contribute to well-being of drivers and to improving road safety.

The detailed observations show two main types of improvements in implementation of the legislation:

- improvements in enforcement by Member States, in particular as regards reaching the thresholds set in the legislation, data collection and reporting discipline;
- improvements in application of the rules by professional drivers and transport undertakings.

During the reporting period 2009-2010, Member States increased the number of checks performed. All except for five Member States reached or even exceeded the required minimum number of checks. However, the vast majority of checks took place at the roadside and most Member States failed to reach the threshold of having at least 50 % of the total working days checked at premises.

The frequency of offences detected has decreased but the types of offences detected are more or less the same as compared to 2007-2008. Offences against breaks (29%) and rest periods (24%) are still the ones most frequently detected, followed by driving time (19%). There are still considerable differences in the detection rate among the Member States. It is important to ensure that this is not due to incorrect implementation or interpretation of the rules.

National authorities should ensure that checks are being performed without discrimination on the basis of the nationality of the drivers/country of registration of vehicles. Member States should thoroughly examine their data and instruct their control authorities accordingly in order to avoid unequal treatment of non-nationals.

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

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The Commission has presented a report on the application of the derogation provided in Article 8(6a) of Regulation (EC) N° 561/2006 of the European Parliament and of the Council (12-day rule).

Regulation (EC) N° 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.

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

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The Commission presented a report on the implementation in 2011-2012 of Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport.

This report covers the 2011-2012 timeframe. It is based mainly on the national reports, for which the submission deadline expired on 30 September 2013. Its aim is to provide an overview of how Member States have implemented the above-mentioned set of legislative acts and to highlight the key challenges in enforcement and application of the rules in force.

The report contains both quantitative and qualitative data on checks carried out at roadside and premises, offences detected as well as information on the implementation of Road Transport Working Time Directive.

The Commission report is complemented by a Commission Staff Working Document that contains supplementary information on penalties, cooperation between Member States, comments from enforcement authorities and detailed statistical data.

Implementation of Regulation (EC) No 561/2006 on checks: on average the total number of working days checked in the EU noted an increase of 8.7% from almost 146 million to around 158.6 million working days checked. This rise confirms the general commitment among Member States to enhance the controls of compliance with the social rules in road transport. On average 80% of all controls took place at the roadside, which shows slight improvement from 82% in the previous reporting period. Only Ireland was below the threshold for roadside checks. In total over the period of 2011 and 2012 more than 8.6 million vehicles and approximately 8.7 million drivers were controlled during checks at the roadside. These values stand for a decrease of respectively 11.3% and 19.4% in relation to the previous reporting period and are caused by corresponding increases in the checks at premises. The reason for a higher number of drivers than a number of vehicles is twofold: the double manning as well as missing data on this matter from Denmark on the number of vehicles checked at roadside.

Offences: after a significant and constant growth of offences reported over the previous 6 years at the European level, which is tied with increases of minimum working days to be checked, there is a reversed tendency for the current reporting period which marked a decrease of 14% versus the last period in the number of offences detected.

This number should be seen together with the increase of 8.7% in the number of working days checked. In real values it shows a decline from 4.5 million offences reported in 2009-2010 to approximately 3.9 million in the current reporting period. This change could be interpreted as an improved compliance with the provisions of social legislation thanks to well-established enforcement practices and greater awareness of social rules among drivers. This is based on an assumption that tachograph manipulation practices did not distort significantly the findings from the controls.

On average there is a distinctive decrease in the number of offences reported, which is even more distinguishable when taking into account the increase in number of working days checked.

These discrepancies in detection rates reveal that the European Union is far from establishing a harmonised enforcement area because of

diverging enforcement resources and practices in controlling compliance with road transport legislation, as well as diverging penalty systems.

In the period 2011-2012, 2.2 million roadside offences were detected at European level, which constituted 58% of all detected offences both at roadside and premises. This indicates a decline in quantitative terms by almost 50 thousand, which means by 2% as compared to the previous reporting period.

On average 64% of offences were detected on national vehicles, which correlates with the 69% rate of national vehicles checked in Europe.

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

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This report from the Commission to the European Parliament and the Council concerns on the implementation in 2013-2014 of Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport and of Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities.

This is the 28th report of the Commission on the implementation of social legislation in the field of road transport. It reviews the implementation by Member States of the four interrelated legislative acts establishing social rules in road transport and their enforcement regime. These legislative acts are:

1. this Regulation (EC) No 561/2006, which establishes rules on driving times, breaks and rest periods for professional drivers;
2. [Directive 2006/22/EC](#), which determines minimum requirements for enforcement of these rules;
3. Council Regulation (EEC) No 3821/85 on recording equipment, i.e. main tool to control the drivers' compliance with social rules;
4. [Directive 2002/15/EC](#), which sets out complementary provisions on the organisation of the working time of persons performing mobile road transport activities.

The Commission is currently evaluating the Regulation (EC) No 561/2006 and intends to table a proposal for a targeted revision in 2017 as part of the Road Initiative. Article 17 of Regulation (EC) No 561/2006 requires Member States to communicate every two years the necessary information to enable the Commission to draw up a report on the application of that Regulation and the developments in the fields in question. Article 13 of Directive 2002/15/EC provides that Member States should report to the Commission on the implementation of the Directive, indicating the views of the two sides of the industry.

The reports on Directive 2002/15/EC and Regulation (EC) No 561/2006 can be presented in one single document as both legislative acts cover the same two-year reporting period and establish complementary rules for professional drivers engaged in the carriage of goods or passengers.

Period covered by the report: this report covers the period of 1 January 2013 to 31 December 2014. Its aim is to provide an overview of how Member States have implemented the above-mentioned set of legislative acts and to highlight the key challenges in enforcement and application of the rules in force. The report contains both quantitative and qualitative data on checks carried out at roadside and premises, offences detected as well as information on the implementation of Road Transport Working Time Directive.

Main findings:

- the majority of Member States have met the minimum threshold of working days checked required by Directive 2006/22/EC and have often exceeded it significantly. However, a few of them have not met this minimum threshold. Furthermore, only half of the Member States have complied with the minimum number of concerted checks, which shows a deterioration in the number of international initiatives compared to the previous period. Cooperation takes place mainly between neighbouring Member States and is complemented by actions undertaken within the framework of Euro Contrôle Route (ECR) which has established cooperation on a larger scale. In order to create a level playing field in the transport sector, it is necessary to improve and align the enforcement of transport-related social legislation across the EU. Therefore, the Commission envisages taking measures aiming at strengthening the enforcement of the social rules in road transport;
- some Member States have not met the target of having at least 50% of the total working days checked at premises and the vast majority of inspections took place on the road. The Commission will monitor developments in this respect. In the absence of improvements in the various Member States during the next reporting period, the Commission will launch a formal enquiry with those Member States failing to comply with the requirements for checks at premises;
- according to Directive 2006/22/EC, the threshold of minimum checks of number of days worked by drivers of vehicles should be raised to 4% once 90% of all vehicles checked are equipped with a digital tachograph. In this reporting period 64% vehicles checked at roadside were equipped with the digital tachograph. Hence, there is no base for raising the minimum threshold of checks to 4% of days worked by drivers.

The report also stressed that:

- the national authorities should ensure that checks are carried out without discrimination on the basis of nationality of drivers/Member State of registration of vehicles;
- the downward trend in the number of offences that began to develop during 2011-2012 has been maintained;
- the analysis of detection rates at roadside and at premises indicates that checks at premises remain more efficient than ad-hoc roadside controls. Discrepancies in detection rates between Member States reveal that the European Union is far from establishing a harmonised enforcement area because of diverging enforcement resources and practices in controlling compliance with road transport legislation;
- there has been a notable increase in the number of infringements involving the manipulation of recording equipment. Therefore, the appropriate enforcement techniques, equipment, training of control officers, etc. enabling targeted controls and detecting manipulation devices and fraud became more needed than ever. In order to address this issue, the Commission is preparing an

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

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The Commission presents a report on the implementation of Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport and of [Directive 2002/15/EC](#) on the organisation of the working time of persons performing mobile road transport activities. The report gives an overview of the implementation of the EU social rules in road transport in the Member States for the period of 1 January 2015 until 31 December 2016. Regulation (EC) No 561/2006 (the Driving Time Regulation) establishes the minimum requirements on daily and weekly driving times, breaks and daily and weekly rest periods.

### Checks

[Directive 2006/22/EC](#) (the Enforcement Directive) establishes minimum levels of roadside checks and controls at the premises of transport undertakings to verify compliance with the provisions of the Driving Time Regulation. Over the 2015-2016 period, all but three Member States (Greece, Malta and the Netherlands) have met the minimum threshold of working days to be checked. The national data submitted to the Commission shows that a total number of working days checked in the EU dropped by around 12.8%, meaning a decrease from 151 million to 131.7 million of working days checked. This is a sharper decrease compared to the decrease of 4.8% between the previous reporting periods 2011-2012 and 2013-2014. However, it seems that this decrease can be mainly explained by a drop of working days checked in three Member States (Germany, Romania and France). The overall EU average of working days checked is 6.3% (it was 7% in 2013-2014), which is twice what is required under the Directive.

The largest share of working days checked is still performed during roadside checks and even though the share at premises is growing, only six out of 28 Member States have reached the required distribution of at least 50% of checks at premises and at least 30% at the roadside.

### Offences

Even though the number of working days checked has sharply decreased, the number of offences detected has increased slightly. The total number of offences reported was around 3.46 million, which constitutes an increase by 6% compared to the last report (3.3 million). The slight increase may be explained by the fact that Latvia has provided for the first time the number of offences, which would almost offset the difference with the last report. Whereas offences detected at the premises rose by 19%, offences detected at the roadside decreased by 3%. The share of roadside offences decreased from 63% to 58% of total offences detected compared to the last report.

### Offence rates

The average offence rate has increased from 2.17 in 2013-2014 to 2.6. The detection rate at premises remains twice as high as the detection rate at the roadside, which illustrates that checks at the premises are much more efficient than ad hoc roadside controls. The detection rate per transport undertaking checked has tripled. The report states that this may be a combined effect of more effective enforcement and more offences committed. Detection rate varies significantly throughout the EU and only a small group of Member States (Germany, Poland, Austria, Latvia and Italy) have reported over two thirds of offences detected in the EU. The report emphasizes that some Member States, which have very low offence rates, are among the top seven

Member States with the highest percentage of working days checked.

### Different types of infringements

The shares of the different types of infringements remain similar compared to the last reporting period. Offences regarding breaks and driving time respectively decreased from 23% to 21% and 16% to 13%, whereas offences of the driving time records rose from 17% to 24%. Out of all offences detected throughout the EU at both roadside and premises, offences for rest periods constitute 24% (25% in the last report), recording equipment represent 11% (10% in the last report) and the lack/availability of records for other work constitute 7% (8% in the last report).

However, the Commission points to two developments to be noted.

1) The number offences detected on manipulation of the tachograph has risen compared to the other types of offences detected at the roadside. The increase in offences detected on misuse and manipulation of the tachograph also shows that there is a need to deploy, as soon as possible, a more tamper proof version of the recording equipment, namely the smart tachograph, which will be mandatory in new vehicles from 15 June 2019 onwards. The smart tachograph will have a new set of communication capabilities that are more advanced than the current digital tachograph, such as satellite geolocalisation or short-range communication for the transmission of information to enforcement authorities.

2) Checks at premises show that there is a significant increase in offences related to driving time records, which are either incomplete or incorrect. This may indicate that undertakings and/or drivers experience difficulties with storing the relevant data appropriately. Enforcers also reported that significantly lower fines for missing time records compared to the fines for excessive driving times or insufficient rest periods could encourage drivers and operators to hide the records which could reveal infringements leading to higher penalties. The entry into force of Commission Regulation (EU) 2016/403 on 1 January 2017 with regard to the classification of serious infringements of the Union rules may deter developments as missing driving time records are classified as a very serious infringement and thus should lead to fines that are proportionate to the level of seriousness.

### Concerted checks

15 Member States fulfilled the requirement of six concerted joint checks per year, which is similar to the findings of the last report. Overall, Member States stressed that concerted checks were a valuable way to share, maintain and improve expertise and knowledge. The Commission is therefore encouraging Member States to further strengthen their efforts in improving international cooperation. The Commission proposal tabled as part of Mobility Package I envisages boosting administrative cooperation between Member States, which should also lead to a better exchange of best practices and expertise in the field of enforcement.

