

# Procedure file

Basic information			
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2003/0255(COD)	Procedure completed	
Road transport, working time: enforcing social legislation (implem. Regulations (EEC) No 3820/85 and (EEC) No 3821/85/EEC, repeal. Directive 88/599/EEC)			
See also <a href="#">2014/2859(RPS)</a> Amended by <a href="#">2017/0121(COD)</a>			
<p>Subject</p> <p>3.20.05 Road transport: passengers and freight      3.20.06 Transport regulations, road safety, roadworthiness tests, driving licence      3.20.10 Transport undertakings, transport industry employees      4.15.03 Arrangement of working time, work schedules      4.15.04 Workforce, occupational mobility, job conversion, working conditions</p>			
Key players			
European Parliament	<p>Committee responsible</p> <p><b>CODE</b> EP Delegation to Conciliation Committee</p> <p>Former committee responsible</p> <p><b>TRAN</b> Transport and Tourism</p> <p><b>RETT</b> Regional Policy, Transport and Tourism</p>	Rapporteur	Appointed
			21/01/2004
		GUE/NGL <a href="#">MARKOV Helmuth</a>	
	<p>Former committee for opinion</p> <p><b>EMPL</b> Employment and Social Affairs (Associated committee)</p>	V/ALE <a href="#">SCHROEDTER Elisabeth</a>	17/12/2003
Council of the European Union	<p>Council configuration</p> <p><a href="#">Transport, Telecommunications and Energy</a></p> <p><a href="#">Transport, Telecommunications and Energy</a></p> <p><a href="#">Transport, Telecommunications and Energy</a></p>	Meeting	Date
	<a href="#">2629</a>	09/12/2004	
	<a href="#">2589</a>	10/06/2004	
	<a href="#">2551</a>	05/12/2003	
European Commission	<p>Commission DG</p> <p>Energy and Transport</p>	Commissioner	
Key events			
21/10/2003	Legislative proposal published	<a href="#">COM(2003)0628</a>	Summary
	Committee referral announced in		

03/12/2003	Parliament, 1st reading		
05/12/2003	Debate in Council	<a href="#">2551</a>	
17/03/2004	Vote in committee, 1st reading		Summary
17/03/2004	Committee report tabled for plenary, 1st reading	<a href="#">A5-0216/2004</a>	
20/04/2004	Debate in Parliament		
20/04/2004	Decision by Parliament, 1st reading	<a href="#">T5-0306/2004</a>	Summary
09/12/2004	Council position published	<a href="#">11336/1/2004</a>	Summary
16/12/2004	Committee referral announced in Parliament, 2nd reading		
15/03/2005	Vote in committee, 2nd reading		
22/03/2005	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A6-0073/2005</a>	
11/04/2005	Debate in Parliament		
13/04/2005	Decision by Parliament, 2nd reading	<a href="#">T6-0121/2005</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="#">03672/2005</a>	
24/01/2006	Report tabled for plenary, 3rd reading	<a href="#">A6-0005/2006</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="#">T6-0034/2006</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	2003/0255(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	See also <a href="#">2014/2859(RPS)</a>
	Amended by <a href="#">2017/0121(COD)</a>

Legal basis	Rules of Procedure EP 57_o; EC Treaty (after Amsterdam) EC 071-p1			
Stage reached in procedure	Procedure completed			
Committee dossier	CODE/6/32135			

Documentation gateway					
Legislative proposal		<a href="#">COM(2003)0628</a>	21/10/2003	EC	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A5-0216/2004</a>	17/03/2004	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T5-0306/2004 OJ C 104 30.04.2004, p. 0038-0385 E</a>	20/04/2004	EP	Summary
Economic and Social Committee: opinion, report		<a href="#">CES0857/2004 OJ C 241 28.09.2004, p. 0065-0067</a>	02/06/2004	ESC	
Council statement on its position		<a href="#">14781/1/2004</a>	26/11/2004	CSL	
Council position		<a href="#">11336/1/2004 OJ C 063 15.03.2005, p. 0001-0010 E</a>	09/12/2004	CSL	Summary
Commission communication on Council's position		<a href="#">COM(2004)0815</a>	15/12/2004	EC	Summary
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A6-0073/2005</a>	22/03/2005	EP	
Text adopted by Parliament, 2nd reading		<a href="#">T6-0121/2005 OJ C 033 09.02.2006, p. 0324-0415 E</a>	13/04/2005	EP	Summary
Commission opinion on Parliament's position at 2nd reading		<a href="#">COM(2005)0302</a>	27/06/2005	EC	Summary
Joint text approved by Conciliation Committee co-chairs		<a href="#">03672/2005</a>	08/12/2005	CSL/EP	
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		<a href="#">A6-0005/2006</a>	24/01/2006	EP	
Text adopted by Parliament, 3rd reading		<a href="#">T6-0034/2006</a>	02/02/2006	EP	Summary
Draft final act		<a href="#">03672/3/2005</a>	15/03/2006	CSL	
Follow-up document		<a href="#">COM(2009)0225</a>	15/05/2009	EC	Summary

Additional information					
European Commission		<a href="#">EUR-Lex</a>			
Final act					
<a href="#">Directive 2006/22 OJ L 102 11.04.2006, p. 0035-0043</a>	Summary				

Road transport, working time: enforcing social legislation (implem. Regulations (EEC) No 3820/85 and (EEC) No 3821/85/EEC, repeal. Directive 88/599/EEC)

PURPOSE : to lay down minimum conditions for the implementation of Directive 2002/15/EC and Council Regulations 3820/85/EEC and 3821/85/EEC concerning social legislation relating to road transport activities. PROPOSED ACT : Directive of the European Parliament and of the Council. CONTENT : this proposal abrogates Directive 88/599/EC and replaces it with a new set of rules. It follows on from the Commission's White Paper on European transport policy for 2010: time to decide, in which the Commission indicated that it would tighten up on checks and penalties. It also responds to the generally perceived view - expressed consistently by the European Parliament - that an improvement in enforcement of Community law concerning road transport operations within the Union is imperative. The proposal aims to update and enhance the quantity and quality of enforcement operations. From the statistics provided for the Commission's biennial reports, it appears that some Member States have already reached or exceeded the proposed increase in checks on a regular basis. The introduction of the digital tachograph without retro-fitting will initially cause difficulties in enforcement given the need to check a mixture of old tachograph discs and the new electronic data to obtain a coherent picture. Hence it is proposed that the rise in quantity of checks is introduced in stages, reflecting the gradual replacement of vehicle fleets and the consequent predominance of the new tachograph. Deterrence is not only the potential fine imposed, it is also the likelihood of being detected. An increase in the number of checks can therefore encourage greater compliance. In order to enhance the quality of checks, it is essential that enforcement officers from all the relevant competent authorities be given sufficient training and equipment. Whereas it is in the first place up to Member States themselves to ensure that officers receive the necessary training in a national context, the proposal places a requirement on Member States to establish joint training programmes and exchanges with other Member States and to provide officers with a standard set of equipment. Only when enforcement officers have the means to address the increasing problem of offences against Community rules, can the Community rightly expect results. The list of equipment may be updated by the Commission acting on advice from the committee of national representatives. It is often the case that a number of competent authorities within a Member State are responsible for enforcing European road transport social legislation. This leads to a lack of coordination of checks within the Member State as well as difficulties for the enforcement authorities of neighbouring Member States to identify correctly the competent authority with which they should be maintaining dialogue. It can also mean that differing priorities are assigned to checks and that liaison between those checking at the premises and at the roadside is variable. Instead of a coherent enforcement strategy in road transport, separate agencies may pursue their own activities to enforce compliance, perhaps to the detriment of an effective and efficient use of the overall resources. The Commission's related proposal on enforcement in the field of roadsafety also recognises this as a problem and in both instances a common approach is proposed, namely via the designation by the Member States of an enforcement co-ordination point as explained below. The Commission proposal requires Member States to designate an enforcement coordination point and places upon the relevant competent authority the requirement to co-ordinate not only statistical returns but also the development and implementation, in consultation with other internal competent authorities, of a coherent enforcement strategy, to be communicated regularly to the Commission and other Member States. The Commission is aware that dialogue between enforcement agencies in different Member States is currently variable and recognises that a system should be put in place for a regular exchange of information and best practice between Member States. To that end it proposes four measures: - the promotion of electronic data exchange systems between enforcement coordinating points; and in any case the revision of the current Community common format data exchange document as set out in Commission Decision 93/172/EEC; - an increase in the minimum number of concerted checks by Member State competent authorities; - the setting up of a standing committee comprising representatives of enforcement agencies from all Member States to exchange experience, information and best practice and to address jointly any enforcement issues arising at a European level; and - encouragement of joint training initiatives between enforcement authorities, such as that currently undertaken by Euro Control Route. FINANCIAL IMPLICATIONS : - Budget line : B2-704A. - Total allocation for action : EUR 40 000. - Staff and administrative expenditure : EUR 43 200. - Total : EUR 83 200.?

## Road transport, working time: enforcing social legislation (implem. Regulations (EEC) No 3820/85 and (EEC) No 3821/85/EEC, repeal. Directive 88/599/EEC)

---

The committee adopted the report by Helmut MARKOV (EUL/NGL, D) amending the proposal under the 1st reading of the codecision procedure. Although the committee welcomed the directive in principle, it adopted a range of amendments demanding tighter checks on the implementation of the directive and aligning its provisions with that of the proposed regulation on the harmonisation of certain social legislation relating to road transport, which Parliament amended at 1st reading in January 2003. Whereas the Commission was proposing that each Member State should organise checks in such a way that they cover at least 3% of days worked by drivers of vehicles each year, MEPs felt that a figure of 2% was enough. Where the Commission had proposed that not less than 30% of the working days checked should be checked at the roadside, the committee wanted to change this figure to 15%. And it added that at least 50% of inspections on the premises of companies should be conducted in very small undertakings (i.e. those having not more than three vehicles), to ensure that inspectors did not focus mainly on large undertakings and dispense with controls on small businesses. With regard to what counts as offences (listed in Article 9), the committee said that the margin set by the Commission for exceeding the maximum weekly working time of 60 hours (20% or more) was too generous and would encourage widespread abuse of the maximum driving periods. It therefore proposed that it should be an offence to exceed the 60-hour maximum working week by a margin of 10% or more. It also wanted the offences to apply equally to self-employed and drivers of goods vehicles of less than 3.5 tonnes. A number of amendments sought to improve record-keeping and ensure that more information was provided regarding inspection locations, the number of vehicles owned by the undertaking to which the inspected vehicle belongs, etc. MEPs also suggested that hospitality and parking areas and other safe locations along motorways and service areas could be used as checkpoints. Lastly, the committee called on the Commission to put forward a proposal, within three years of the directive's entry into force, on harmonising the sanctions imposed for defined offences. Given that the fines imposed in the various Member States differed quite significantly, harmonisation was urgently needed to prevent distortions of competition. ?

## Road transport, working time: enforcing social legislation (implem. Regulations (EEC) No 3820/85 and (EEC) No 3821/85/EEC, repeal. Directive 88/599/EEC)

---

The European Parliament adopted a resolution drafted by Helmut MARKOV (EUL/NGL, D) making several amendments to the proposal: - Parliament inserted a new clause on the scope of the directive and the vehicles coming within the scope; - in so far as this is not already the case, Member States shall, not later than 1 January 2005, provide authorized inspecting officers with all necessary legal powers to enable them correctly to discharge their inspection obligations as required by the Directive; - where the Commission had proposed that not less than 30% of the working days checked should be checked at the roadside, Parliament wanted to change this figure to 15%. And it added that at least 50% of inspections on the premises of companies should be conducted in very small undertakings; - in order to counteract discrimination, records shall be kept of the Member State of origin of vehicles, drivers and undertakings subjected to roadside inspections; - hospitality and

parking areas and other safe locations along motorways and service areas could be used as checkpoints; - Parliament agreed with the committee that the margin set by the Commission for exceeding the maximum weekly working time of 60 hours (20% or more) was too generous and would encourage widespread abuse of the maximum driving periods. It therefore proposed that it should be an offence to exceed the 60-hour maximum working week by a margin of 10% or more; - offences equally apply to self-employed drivers and drivers of goods vehicles with a permissible maximum weight exceeding 3.5 tonnes inclusive of trailer or semi-trailer; - within three years, the Commission shall submit a proposal for a directive on the harmonisation of the sanctions.?

## Road transport, working time: enforcing social legislation (implem. Regulations (EEC) No 3820/85 and (EEC) No 3821/85/EEC, repeal. Directive 88/599/EEC)

---

The Council made some substantive changes relative to the Commission's proposal that are for the most part acceptable because they ensure its aims are ultimately met.

The first concerns the provisions on sanctions and serious infringements. The Council has taken the provisions relating to vehicle immobilisation, the range of sanctions available to competent authorities, as well as co-liability and appropriate financial sanctions for the transport chain for infringements and inserted them in the sister proposal for a Regulation on driving times and rest periods which will replace the current Regulation 3820/85/EEC. As these issues relate more to infringements of the Regulation's provisions and sit better in this proposal, the Commission is content that they are put there. Moreover as the Regulation's provisions are directly applicable, there will be a greater measure of uniformity in implementation. The Commission regrets that the Council did not see fit however to include a common definition of serious infringements of the social rules. This renders less focused the subsequent Article requiring the Commission to report on Member State's sanctions for serious offences.

The second change is the linkage of an increase in the overall minimum percentage of checks, as well as the greater minimum proportion of checks to be conducted on the premises or at the roadside, with the introduction of the digital tachograph. For this reason the Council has proposed a staged increase, firstly in the proportion of the minimum checks to be taken at the roadside and on the premises as from 1.1.2008, and secondly in terms of an increase in minimum checking levels from 1.1.2009 onwards. The move to a minimum of 3% is no longer immediate, as the Commission proposed, but only by 2011, with an interim stage of 2% only from 1.1.2009. Given that several Member States currently already check more than 2% without the benefit of the digital tachograph, this demonstrates a lack of ambition by the Member States. However the Commission is prepared to live with the long delay, in the knowledge that given this long lead-in period, all Member States should be able to organise themselves to easily meet the increased minimum requirements. The Council also limited to 4% any further possible increase in the minimum percentage of checks through comitology, on condition that it could only come about from 2013 onwards, and if over 90% of vehicles checked were equipped with a digital tachograph.

In order to secure a good balance of checks at roadside and at premises of undertakings the common position contains a provision fixing the total number of working days checked at the roadside at 30% (minimum) and the total number of working days checked at premises at 50% (minimum) as of 1 January 2008.

Council rejected the inclusion of Directive 2002/15/EC, the "Working Time Directive" into the scope of this draft Directive, as it wanted to focus on the enforcement of actual driving and resting times. Moreover, "working time" can not be checked with any degree of certainty through the use of the digital tachograph and would therefore render roadside checks rather difficult.

Furthermore, the Council distinguished between on the one hand designating a co-ordinating body for international liaison to gather enforcement statistics from the relevant competent authorities and liaise with their opposite numbers in other Member States and on the other hand an optional co-ordinating body to develop and oversee the implementation of a national enforcement strategy. For some Member States these two functions might be undertaken by two different organisations. The Commission welcomes the commitment to a national enforcement strategy and a measure of coordination between competent authorities, at least in relations with other Member States and the Commission.

However it indicates Council's willingness to consider higher enforcement levels and to that extent is to be welcomed as a positive, if delayed, signal regarding commitment to enforcement. It is likely that by 2013, the condition concerning digital tachographs will have been fulfilled. For this reason, within Article 3, Member States have added that statistics on type of tachograph used should be collected during checks and that checks should not discriminate on the basis of tachograph used.

The final major change is the exclusion of the enforcement of the sectoral working time rules in Directive 2002/15/EC from the scope of the proposed Directive. It should be noted that while the Commission could not see the logic of a Directive aimed at enhanced enforcement of Community social rules which nevertheless excluded some core social elements, in the face of opposition from the majority of Member States, and to facilitate agreement on the dossier within the Council, the Commission agreed to the exclusion of these rules from the proposal.

The Commission accepted wholly or in part 21 out of the 38 amendments proposed by the European Parliament at its first reading. The Council has included 7, as they stand, in principle, or in part, in its common position.

Council could accept Parliament's request to reduce the minimum number of working days checked at roadside down to 15%. In this context it may be noted that Council fixed the number of days checked at premises at 25% and introduced a transitional period (until 1 January 2008) for an increase to 30% (roadside) and 50% (premises of undertakings).

In addition, statistics collected on checks will now also include the type of tachograph used to avoid discrimination and will help determine whether the condition for a further increase in the percentage of checks set out has been fulfilled.

On the other hand, the Council rejected the amendments which aimed to :

- include a definition of "driver" and a provision concerning vehicles from third countries; set as a goal interoperability in national monitoring systems; reinforce the aim of the proposal through the use of more definite language; place a requirement on Member State enforcement authorities to ensure a balanced approach to checks at the premises of enterprises, by stipulating that at least 50 % of checks cover SMEs; propose various examples where provision for checkpoints should be made; ensure that sleeping drivers are not unnecessarily disturbed by checks; emphasize that in terms of mutual assistance between Member States, potential infringements will be investigated by the Member State of establishment by means of a check on the relevant undertaking's premises; place an obligation on Member States to publish the data collected. The Council considered that the Commission's biennial report, incorporating specific data from Member States, was sufficient; ensure that any sanction, including the temporary immobilisation of a vehicle will be carried out without discrimination; be more inclusive in

what constitutes a serious offence against the maximum working time provision within Directive 2002/15/EC; elaborate the nature of the Commission report on sanctions. The common position retains the bare requirement for a report on serious sanctions while eliminating the common list of serious sanctions; allow the Commission the flexibility of publishing guidelines on enforcement practice in a separate document from its current biennial report.

## Road transport, working time: enforcing social legislation (implem. Regulations (EEC) No 3820/85 and (EEC) No 3821/85/EEC, repeal. Directive 88/599/EEC)

---

While it would have preferred the inclusion of enforcement of working time rules, a common list of serious infringements and an earlier increase in minimum checking levels, the Commission considers that the common position adopted by qualified majority largely follows the aims and approach of its proposal and so can support it.

## Road transport, working time: enforcing social legislation (implem. Regulations (EEC) No 3820/85 and (EEC) No 3821/85/EEC, repeal. Directive 88/599/EEC)

---

The European Parliament adopted a resolution drafted by Helmuth MARKOV (GUE/NGL, DE) making several amendments to the Council's common position, the principal ones being the following:

- Parliament incorporated Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities;
- a stronger co-ordinating enforcement body should be designated, acting as a national centre for enforcement, with responsibility for overseeing and implementing a coherent national enforcement strategy and achieving European interoperability of monitoring systems in consultation with other relevant competent authorities;
- checks will begin with 1% and will increase to 2 % from 1 January 2007 and to 3 % from 1 January 2009;
- from 1 January 2011 (instead of 2013) this minimum percentage may be increased to 4 % by the Commission;
- not less than of the total number of the working days checked shall be checked at the roadside and not less than 50 % (instead of 25%) of the total number of the working days shall be checked at the premises of undertakings;
- there are amendments on matters which have to be checked at the road;
- if infringements are repeatedly detected, they shall be more heavily penalised;
- where a Member State becomes aware of an infringement of Regulations 3820/85/EEC or 3821/85/EEC or of Directive 2002/15/EC committed on the territory of another Member State, it shall bring it to the attention of that Member State to enable the latter to impose penalties;
- there is inserted a list of serious infringements, such as exceeding the maximum daily, six-day or fortnightly driving time limits by a margin of 20 % or more;
- the Commission shall submit a proposal for a directive on the harmonisation of penalties on serious infringements.

## Road transport, working time: enforcing social legislation (implem. Regulations (EEC) No 3820/85 and (EEC) No 3821/85/EEC, repeal. Directive 88/599/EEC)

---

Overall, the Commission can accept 26 amendments to the common position out of a total of 35. They aim in particular to:

- advocate interoperability and practicability in monitoring systems. In terms of enforcement officer equipment and electronic exchange of intelligence, interoperability is highly desirable. The objective would need redrafting to highlight the need for coordination at EU level through the proposed comitology procedure;
- include checks on weekly and fortnightly driving limits at the roadside, which the Commission strongly supports, particularly as a logical consequence of the introduction of the digital tachograph. Mention of checks of the preceding 28 days would have to be redrafted to take account of the staged approach to this provision;
- highlight that repeated offences should be more heavily penalised;
- set out in detail what the Commission's report on penalties for serious infringements should include. The issue raised in the amendment could form part of a more general aim of the report, but should not restrict it to this aspect;
- require enforcement staff at roadside checks to specify where their checks are carried out which might compromise their inspection regime. Moreover they are to demand information from the driver that he might not know (number of vehicles owned by the company). However the Commission could support noting the country of registration of the vehicle and country of origin of the driver and undertaking which could help inform enforcement operations, and serve to ensure non-discrimination;
- list a series of places for checks. The Commission could accept ?service stations? and ?other safe locations? which could indeed cover the other examples given.

On the other hand, the amendments rejected by the Commission aim to: set out the type of journeys to which this Directive should apply; introduce more ambitious deadlines for the staged increase in the percentage of checks; The Commission prefers a set of more realistic and achievable deadlines to enable all Member States to respect the rules; seek an immediate increase in the number of checks at company premises from 25% to 50% of all checks undertaken, the Commission prefers a more managed approach and one that includes an increase in

the minimum percentage of roadside checks from 15% to 30%; introduce an unnecessary burden on undertakings and enforcement officers respectively; run counter to the principle of extraterritoriality in terms of sanctions introduced by the proposed new Regulation on driving times and rest periods. It returns to the largely ineffective and rarely used current system of exchange of information on infringements detected; advocate that the Commission make a proposal to harmonise penalties for serious infringements following its report on this issue. The Commission considers that this amendment would unduly restrict the right of initiative of the Commission; remove the provision enabling the Community to negotiate primarily within the context of the AETR agreement to ensure similar enforcement standards are also applied beyond the Union's borders.

## Road transport, working time: enforcing social legislation (implem. Regulations (EEC) No 3820/85 and (EEC) No 3821/85/EEC, repeal. Directive 88/599/EEC)

---

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, working time: enforcing social legislation (implem. Regulations (EEC) No 3820/85 and (EEC) No 3821/85/EEC, repeal. Directive 88/599/EEC)

---

**PURPOSE:** to set out minimum conditions for the implementation of legislation relating to road transport activities.

**LEGISLATIVE ACT:** Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulation 3820/85/EC, 3821/85/EC and repealing Council Directive 88/599/EEC.

**CONTENT:** the purpose of this Directive is to lay down minimum conditions for implementing:

- Regulation 3820/85/EEC on the harmonisation of certain social legislation relating to road transport; and
- Regulation 3821/85/EEC on recording equipment in road Transport.

In adopting this Act the previous implementing Directive (88/599/EEC) has been repealed. The Directive seeks to achieve two objectives. Firstly, to improve road safety. Secondly, to harmonise working conditions that can be uniformly applied across the EU.

It intends to achieve these objectives by stepping up checks on lorries as well as improving cross-border inspections. This Directive, has been adopted alongside, and complements, Regulation 561/2006/EC on the harmonisation of certain social legislation relating to road transport. The two legislative acts were adopted on the same day. (For a summary of Regulation 561/2006/EC see COD/2001/0241)

In summary, the Directive, sets out the following provisions:

**Checking systems:** Member States will be obliged to set up a system of appropriate and regular checks, both at the roadside and on the premises of transport undertakings. The number of checks will increase gradually from 1% to 3% of days worked by drivers. As from 1 January 2012, this minimum percentage could be increased to 4% by the Commission, provided that statistics indicate that, on average, more than 90% of all vehicles checked are equipped with a digital tachograph.

**Roadside checks:** Roadside checks will be organised in various places and at any time. They will cover a sufficiently extensive part of the road network. In a new development, it will be possible for inspectors to check the driving time of drivers over the previous 28 days and to take the vehicle off the road immediately in the case of a serious infringement.

**Checks at the premises of undertakings:** Checks at an undertaking will take place based on past experience and in cases where a serious infringement of the two Regulations has been detected at the roadside. In future, at least 50% of all checks must take place on the premises of an undertaking.

**Improved quality control:** The Member States must ensure that the enforcement units carrying out the checks are properly equipped. They must carry with them equipment capable of downloading data from the vehicles unit and the driver card of the digital tachograph. They must be able to analyse and transmit their findings to a central database.

**Concerted Checks and intra-Community liaison:** At least six times a year the Member States must undertake concerted roadside checks on drivers and vehicles. They should be taken at the same time by two or more Member States, each operating in its own territory. A new designated body will be created to ensure coordination with equivalent bodies in the other Member States. The exchange of data and intelligence will be actively promoted through the establishment of a new electronic data and transmission system.

**Risk rating system:** the Member States must introduce a risk-rating system for undertakings based on the relative number and severity of any infringement. Undertakings with a high risk rating will be checked more closely and more often.

**ENTRY INTO FORCE:** 1 May 2006

**TRANSPOSITION:** 1 April 2007.