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#### COVER NOTE

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| From:            | European Commission  |
| date of receipt: | 27 November 2015   |
| To:              | General Secretariat of the Council   |
| Subject:         | Annexes to the Commission Regulation (EU) No .../.. of XXX supplementing Regulation (EC) No 1071/2009 of the European Parliament and of the Council with regard to the classification of serious infringements of the Union rules, which may lead to the loss of good repute by the road transport operator and amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council (text with EEA relevance) |

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Delegations will find attached document D041992/02 ANNEXES 1 to 3.

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Encl.: D041992/02 ANNEXES 1 to 3



Brussels, **XXX**  
[...] (2015) **XXX** draft

ANNEXES 1 to 3

**ANNEXES**

*to the*

**COMMISSION REGULATION (EU) No.../..**

**of XXX**

**supplementing Regulation (EC) No 1071/2009 of the European Parliament and of the Council with regard to the classification of serious infringements of the Union rules, which may lead to the loss of good repute by the road transport operator and amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council**

## ANNEX I

### CATEGORISATION OF SERIOUS INFRINGEMENTS

(REFERRED TO IN ARTICLE 1)

The following table contains categories and types of serious infringements against the Union rules in the commercial road transport, divided into three categories of seriousness according to their potential to create a risk of fatalities or serious injuries.

#### 1. Groups of infringements against Regulation (EC) No 561/2006<sup>1</sup> (Driving and resting time)

| No                     | LEGAL BASIS                               | TYPE OF INFRINGEMENT  | LEVEL OF SERIOUSNESS <sup>2</sup> |             |    |
|------------------------|---|---|-----------------------------------|-------------|----|
|                        |   |   | MSI                               | VSI         | SI |
| <b>Crew</b>            |   |   |                                   |             |    |
| 1.                     | Art. 5.1                                  | Not respecting minimum ages for conductors  |                                   |             | X  |
| <b>Driving periods</b> |   |   |                                   |             |    |
| 2.                     | Art. 6.1                                  | Exceed daily driving time of 9h if possibilities to extend to 10h not allowed                                       | 10h≤...<11h                       |             | X  |
| 3.                     |   |   | 11h≤...                           |             | X  |
| 4.                     |   | Exceed daily driving time of 9h by 50% or more without taking a break or without any rest of at least 4,5 hours     | 13h30≤...<br>and no break / rest  | X           |    |
| 5.                     |   | Exceed extended daily driving time of 10h if extension allowed  | 11h≤...<12h                       |             | X  |
| 6.                     |   |   | 12h≤ ...                          |             | X  |
| 7.                     |   | Exceed daily driving time of 10h by 50% or more without taking a break of or without any rest of at least 4,5 hours | 15h≤...<br>and no break / rest    | X           |    |
| 8.                     |   | Art. 6.2  | Exceed weekly driving time        | 60h≤...<65h |    |
| 9.                     | 65h≤...<70                                |   |                                   |             | X  |
| 10.                    | Exceed weekly driving time by 25% or more |   | 70h≤ ...                          | X           |    |
| 11.                    | Art. 6.3                                  | Exceed maximum total driving time during 2 consecutive weeks  | 100h≤...<105h                     |             | X  |
| 12.                    |   |   | 105h≤ ...<112h30                  |             | X  |
| 13.                    |   | Exceed maximum total driving time during 2 consecutive weeks by 25% or more   | 112h30≤ ...                       | X           |    |
| <b>Breaks</b>          |   |   |                                   |             |    |
| 14.                    | Art. 7                                    | Exceed uninterrupted driving time of 4,5 hours before taking the break  | 5h≤ ...<6h                        |             | X  |
| 15.                    |   |   | 6h≤...                            |             | X  |
| <b>Rest Periods</b>    |   |   |                                   |             |    |
| 16.                    | Art. 8.2                                  | Insufficient daily rest period of less than 11h if reduced daily rest period not allowed                            | 8h30≤...<10h                      |             | X  |
| 17.                    |   |   | ...<8h30                          |             | X  |

<sup>1</sup> Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).

<sup>2</sup> MSI= Most Serious Infringements / VSI = Very Serious Infringement / SI = Serious Infringement.

|                               |                    |   |                |          |   |   |
|-------------------------------|--------------------|---|----------------|----------|---|---|
| 18.                           |                    | Insufficient reduced daily rest period of less than 9h if reduce allowed  | 7h≤...<8h      |          |   | X |
| 19.                           |                    |   | ...<7h         |          | X |   |
| 20.                           |                    | Insufficient split daily rest period of less than 3h+9h   | 3h+[7h≤...<8h] |          |   | X |
| 21.                           |                    |   | 3h+[...<7h]    |          | X |   |
| 22.                           | Art. 8.5           | Insufficient daily rest period of less than 9h for multi-manning  | 7h≤...<8h      |          |   | X |
| 23.                           |                    |   |                | ...<7h   |   | X |
| 24.                           | Art. 8.6           | Insufficient reduced weekly resting period of less than 24 h  | 20h≤ ...< 22h  |          |   | X |
| 25.                           |                    |   |                | ...< 20h |   | X |
| 26.                           |                    | Insufficient weekly resting period of less than 45 h if reduced weekly resting period not allowed                             | 36h≤ ...<42h   |          |   | X |
| 27.                           |                    |   |                | ...<36h  |   | X |
| 28.                           | Art. 8.6           | Exceeding 6 consecutive 24-hour periods following the previous weekly rest period   | 3h≤...<12h     |          |   | X |
|                               |                    |   |                | 12h≤...  |   | X |
| <b>12-day rule derogation</b> |                    |   |                |          |   |   |
| 29.                           | Art. 8.6a.         | Exceeding 12 consecutive 24-hours periods following a previous regular weekly rest  | 3h≤...<12h     |          |   | X |
|                               |                    |   | 12h≤...        |          | X |   |
| 30.                           | Art. 8.6a. (b)(ii) | Weekly rest period taken following 12 consecutive 24-hours periods  | 65h<...≤67h    |          |   | X |
|                               |                    |   |                | ...≤65h  |   | X |
| 31.                           | Art. 8.6a. (d)     | Driving period, between 22.00 and 6.00, of more than 3 hours before the break, if the vehicle is not multi-manned             | 3h<...<4,5h    |          |   | X |
|                               |                    |   |                | 4,5h≤... |   | X |
| <b>Work organisation</b>      |                    |   |                |          |   |   |
| 32.                           | Art. 10.1          | Link between wage and distance travelled or amount of goods carried   |                |          | X |   |
| 33.                           | Art. 10.2          | No or improper organisation of driver's work, no or improper instructions given to driver enabling him to comply with the law |                |          | X |   |

## 2. Groups of infringements against Regulation (EU) No 165/2014<sup>3</sup> (Tachograph)

| No  | LEGAL BASIS          | TYPE OF INFRINGEMENTS   | LEVEL OF SERIOUSNESS                               |     |    |
|---|----------------------|---|--|-----|----|
|   |                      |   | MSI  | VSI | SI |
| <b>Installation of tachograph</b>                     |                      |   |  |     |    |
| 1.  | Art. 3.1 and Art. 22 | Not having type approved tachograph installed and used (e.g.: <i>not having a tachograph installed by fitters, workshops or vehicle manufacturers approved by the competent authorities of the Member States, using a tachograph without the necessary seals placed or replaced by an approved fitter, workshop or vehicle manufacturer or using a tachograph without the installation plaque</i> ) | X  |     |    |
| <b>Use of tachograph, driver card or record sheet</b> |                      |   |  |     |    |
| 2.  | Art. 23.1            | Using a tachograph not inspected by an approved workshop  |  | X   |    |
| 3.  | Art. 27              | Driver holding and/or using more than one own driver card   |  | X   |    |
| 4.  |                      |   | Driving with a driver card that has been falsified | X   |    |

<sup>3</sup> Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport (OJ L 60, 28.2.2014, p.1).

|                              |                         |  |   |   |   |
|------------------------------|-------------------------|--|---|---|---|
|                              |                         | <i>(considered as driving without driver card)</i>   |   |   |   |
| 5.                           |                         | Driving with a driver card of which the driver is not the holder <i>(considered as driving without driver card)</i>  | X |   |   |
| 6.                           |                         | Driving with a driver card which has been obtained on the basis of false declarations and/or forged documents <i>(considered as driving without driver card)</i> | X |   |   |
| 7.                           | Art. 32.1               | Tachograph not correctly functioning (e.g.: tachograph not properly inspected, calibrated and sealed)  |   | X |   |
| 8.                           | Art. 32.1 and Art. 33.1 | Tachograph improperly used (e.g.: deliberate, voluntary or imposed misuse, lack of instructions on correct use, etc.)  |   | X |   |
| 9.                           | Art. 32.3               | Using a fraudulent device able to modify the records of the tachograph   | X |   |   |
| 10.                          |                         | Falsifying, concealing, suppressing or destroying data recorded on the record sheets or stored and downloaded from the tachograph and/or the driver card         | X |   |   |
| 11.                          | Art. 33.2               | Undertaking not keeping record sheets, printouts and downloaded data   |   | X |   |
| 12.                          |                         | Recorded and stored data not available for at least a year   |   | X |   |
| 13.                          | Art. 34.1               | Incorrect use of record sheets/driver card   |   | X |   |
| 14.                          |                         | Unauthorized withdrawal of record sheets or driver card which has an impact on the record of relevant data   |   | X |   |
| 15.                          |                         | Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost  |   | X |   |
| 16.                          | Art. 34.2               | Use dirty or damaged record sheets or drivers card and data not legible  |   | X |   |
| 17.                          | Art. 34.3               | Not using manual input when required to do so  |   | X |   |
| 18.                          | Art. 34.4               | Not using correct record sheet or driver card not in the correct slot (multi-manning)  |   |   | X |
| 19.                          | Art. 34.5               | Incorrect use of switch mechanism  |   | X |   |
| <b>Producing information</b> |                         |  |   |   |   |
| 20.                          | Art. 36                 | Refuse to be checked   |   | X |   |
| 21.                          | Art. 36                 | Unable to produce records of current day and the previous 28 days  |   | X |   |
| 22.                          |                         | Unable to produce records of the driver card if the driver holds one   |   | X |   |
| 23.                          | Art. 36                 | Unable to produce manual records and printouts made during the current day and the previous 28 days  |   | X |   |
| 24.                          | Art. 36                 | Unable to produce a driver card, if the driver holds one   |   | X |   |
| <b>Malfunctioning</b>        |                         |  |   |   |   |
| 25.                          | Art. 37.1 and Art. 22.1 | Tachograph not repaired by an approved fitter or workshop  |   | X |   |
| 26.                          | Art. 37.2               | Driver not marking all required information for the periods of time, which are no longer recorded while tachograph is unserviceable or malfunctioning            |   | X |   |

### 3. Groups of infringements against Directive 2002/15/EC<sup>4</sup> (Working time rules)

| No                                 | LEGAL BASIS | TYPE OF INFRINGEMENT   | LEVEL OF SERIOUSNESS |     |    |   |
|------------------------------------|-------------|--|----------------------|-----|----|---|
|                                    |             |  | MSI                  | VSI | SI |   |
| <b>Maximum weekly working time</b> |             |  |                      |     |    |   |
| 1.                                 | Art. 4      | Exceeding maximum weekly working time of 48h if possibilities to extend to 60h already consumed        | 56h ≤ ... 60h        |     |    | X |
| 2.                                 |             |  | 60h ≤ ...            |     | X  |   |
| 3.                                 |             | Exceeding maximum weekly working time of 60h if no derogation under Art.8 granted                      | 65 ≤ ... < 70h       |     |    | X |
| 4.                                 |             |  | 70h ≤ ...            |     | X  |   |
| <b>Breaks</b>                      |             |  |                      |     |    |   |
| 5.                                 | Art. 5.1    | Insufficient obligatory break taken when working time between 6 and 9 hours                            | 10 < ... ≤ 20 min    |     |    | X |
| 6.                                 |             |  | ... ≤ 10 min         |     | X  |   |
| 7.                                 |             | Insufficient obligatory break taken when working time over 9 hours                                     | 20 < ... ≤ 30min     |     |    | X |
| 8.                                 |             |  | ... ≤ 20 min         |     | X  |   |
| <b>Night work</b>                  |             |  |                      |     |    |   |
| 9.                                 | Art. 7.1    | Daily working time in each 24h when night work performed if no derogation under Art.8 granted          | 11h ≤ ... < 13h      |     |    | X |
| 10.                                |             |  | 13h ≤ ...            |     | X  |   |
| <b>Records</b>                     |             |  |                      |     |    |   |
| 11.                                | Art. 9      | Employers falsifying working time records or refusing to provide records to inspection officer         |                      | X   |    |   |
| 12.                                |             | Employed/self-employed drivers falsifying records or refusing to provide records to inspection officer |                      | X   |    |   |

### 4. Groups of infringements against Directive 96/53/EC<sup>5</sup> (Weight and dimension rules)

| No             | LEGAL BASIS | TYPE OF INFRINGEMENT                              | LEVEL OF SERIOUSNESS |     |    |   |
|----------------|-------------|---|----------------------|-----|----|---|
|                |             |   | MSI                  | VSI | SI |   |
| <b>Weights</b> |             |   |                      |     |    |   |
| 1.             | Art. 1      | Exceed maximum permissible weight for N3 vehicles | 5% ≤ ... < 10%       |     |    | X |
| 2.             |             |   | 10% ≤ ... < 20%      |     | X  |   |
| 3.             |             |   | 20% ≤ ...            | X   |    |   |
| 4.             |             | Exceed maximum permissible weight                 | 5% ≤ ... < 15%       |     |    | X |
| 5.             |             |   | 15% ≤ ... < 25%      |     | X  |   |

<sup>4</sup> Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).

<sup>5</sup> Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic (OJ L 235, 17.9.1996, p. 59). The Directive has been amended by Directive (EU) 2015/719 of the European Parliament and of the Council of 29 April 2015 [title], which shall be transposed by Member States by 7 May 2017 (OJ L 115, 6.5.2015, p.1).

|                |        |                    |                                 |   |   |   |
|----------------|--------|--------------------|---------------------------------|---|---|---|
| 6.             |        | for N2 vehicles    | $25\% \leq \dots$               | X |   |   |
| <b>Lengths</b> |        |                    |                                 |   |   |   |
| 7.             | Art. 1 | Exceed maximum     | $2\% < \dots < 20\%$            |   |   | X |
| 8.             |        | permissible length | $20\% \leq \dots$               |   | X |   |
| <b>Width</b>   |        |                    |                                 |   |   |   |
| 9.             | Art. 1 | Exceed maximum     | $2,65 \leq \dots < 3,10$ meters |   |   | X |
| 10.            |        | permissible width  | $3,10$ meters $\leq \dots$      |   | X |   |

**5. Groups of infringements against Directive 2014/45/EU<sup>6</sup>  
(Periodic roadworthiness tests) and Directive 2014/47/EU<sup>7</sup> (Technical roadside inspection)**

| No                    | LEGAL BASIS  | TYPE OF INFRINGEMENT   | LEVEL OF SERIOUSNESS |     |    |
|-----------------------|--|--|----------------------|-----|----|
|                       |  |  | MSI                  | VSI | SI |
| <b>Roadworthiness</b> |  |  |                      |     |    |
| 1.                    | Art. 8 and 10 Directive 2014/45 and Art. 7.1 of Directive 2014/47/EU | Driving without a valid proof of roadworthiness tests passed, as required by the EU law  | X                    |     |    |
| 2.                    | Art. 12.2 of Directive 2014/47/EU                                    | Not keeping a vehicle in a safe and roadworthy condition resulting in a very serious deficiency of the braking system, the steering linkages, the wheels/tires, the suspension or chassis or other equipment that would create such an immediate risk to road safety that it leads to a decision to immobilize the vehicle | X                    |     |    |

Directive 2014/47/EU on technical roadside inspection of the roadworthiness of commercial vehicles contains in its Annex II a detailed classification of technical deficiencies divided, according to their level of severity, into minor, major and dangerous deficiencies. Article 12.2 of this Directive provides for the following definitions:

- (a) **minor** deficiencies having no significant effect on the safety of the vehicle or impact on the environment, and other minor non-compliances;
- (b) **major** deficiencies that may prejudice the safety of the vehicle or have an impact on the environment or put other road users at risk, or other more significant non-compliances;
- (c) **dangerous** deficiencies constituting a direct and immediate risk to road safety or having an impact on the environment.

The level of infringements against the provisions of the roadworthiness directives shall reflect the classification of deficiencies contained in Annex II of Directive 2014/47/EU, namely: SI = Major deficiencies, VSI = dangerous deficiencies, MSI = driving with deficiencies, which creates immediate risk to road safety, Minor deficiencies would be equal to the level of minor infringements.

<sup>6</sup> Directive 2014/45/EU of the European Parliament and of the Council of 3 April 2014 on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC (OJ L 127, 29.4.2014, p. 51).

<sup>7</sup> Directive 2014/47/EU of the European Parliament and of the Council of 3 April 2014 on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Union and repealing Directive 2000/30/EC (OJ L 127, 29.4.2014, p. 134).

**6. Groups of infringements against Council Directive 92/6/EEC<sup>8</sup>  
(Speed limitation devices)**

| No | LEGAL BASIS  | TYPE OF INFRINGEMENTS   | LEVEL OF SERIOUSNESS |     |    |
|----|--------------|---|----------------------|-----|----|
|    |              |   | MSI                  | VSI | SI |
| 1. | Art. 2 and 3 | Speed limitation device not fitted  | X                    |     |    |
| 2. | Art. 5       | Speed limitation device not satisfying the applicable technical requirements  |                      | X   |    |
| 3. | Art. 5       | Speed limitation device not fitted by an approved workshop  |                      |     | X  |
| 4. |              | Using a fraudulent device able to falsify data of speed limitation device or using a fraudulent speed limitation device | X                    |     |    |

**7. Groups of infringements against Directive 2003/59/EC<sup>9</sup>  
(Initial qualification and periodic training of drivers)**

| No                          | LEGAL BASIS          | TYPE OF INFRINGEMENTS  | LEVEL OF SERIOUSNESS |     |    |
|-----------------------------|----------------------|--|----------------------|-----|----|
|                             |                      |  | MSI                  | VSI | SI |
| <b>Training and licence</b> |                      |  |                      |     |    |
| 1.                          | Art. 3               | Carrying goods or passengers without a compulsory initial qualification and/or compulsory periodic training  |                      | X   |    |
| 2.                          | Art. 10 and Annex II | Driver unable to present the valid qualification card or the driving licence with the marking, as required by the national law ( <i>e.g.: lost, forgotten, damaged, unreadable</i> ) |                      |     | X  |

**8. Groups of infringements Directive 2006/126/EC<sup>10</sup>  
(Driving licences requirements)**

| No | LEGAL BASIS                        | TYPE OF INFRINGEMENTS   | LEVEL OF SERIOUSNESS |     |    |
|----|------------------------------------|---|----------------------|-----|----|
|    |                                    |   | MSI                  | VSI | SI |
| 1. | Art. 1 and 4 of Directive 2006/126 | Carrying passengers or goods without holding a valid driving licence                    | X                    |     |    |
| 2. | Art. 1 Annex I                     | Using a driving licence which is damaged or unreadable or not in line with common model |                      |     | X  |

<sup>8</sup> Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ L 57, 2.3.1992, p.27).

<sup>9</sup> Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC (OJ L 226, 10.9.2003, p. 4).

<sup>10</sup> Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (OJ L 403, 30.12.2006, p. 18).



**9. Groups of infringements against Directive 2008/68/EC<sup>11)</sup>  
(Transport of dangerous goods by road)**

| No  | LEGAL BASIS                                  | TYPE OF INFRINGEMENTS   | LEVEL OF SERIOUSNESS |     |    |
|-----|--|---|----------------------|-----|----|
|     |  |   | MSI                  | VSI | SI |
| 1.  | Annex I, Section I.1 to Directive 2008/68/EC | Transporting dangerous goods that are prohibited for transport  | X                    |     |    |
| 2.  |  | Transporting dangerous goods in a prohibited or non-approved means of containment, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle       | X                    |     |    |
| 3.  |  | Transporting dangerous goods without identifying them on the vehicle as dangerous goods, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle | X                    |     |    |
| 4.  |  | Leakage of dangerous substances   |                      | X   |    |
| 5.  |  | Carriage in bulk in a container which is not structurally serviceable   |                      | X   |    |
| 6.  |  | Carriage in a vehicle without an appropriate certificate of approval  |                      | X   |    |
| 7.  |  | Vehicle no longer complies with the approval standards and presents an immediate danger   |                      | X   |    |
| 8.  |  | The rules governing the securing and stowage of the load have not been complied with  |                      | X   |    |
| 9.  |  | The rules governing mixed loading of packages have not been complied with   |                      | X   |    |
| 10. |  | The provisions limiting the quantities carried in one transport unit have not been complied with, including permissible degrees of filling tanks or packages;   |                      | X   |    |
| 11. |  | Information relevant to the substance being carried enabling determination of level of seriousness of offence is missing ( <i>e.g. UN number, proper shipping name, packing group</i> )                 |                      | X   |    |
| 12. |  | Driver does not hold a valid vocational training certificate  |                      | X   |    |
| 13. |  | Fire or an unprotected light is being used  |                      | X   |    |
| 14. |  | The ban on smoking is not being observed.   |                      | X   |    |
| 15. |  | The vehicle is not properly supervised or parked  |                      |     | X  |
| 16. |  | The transport unit comprises more than one trailer/semi-trailer   |                      |     | X  |
| 17. |  | Vehicle no longer complies with the approval standards but does not present an immediate danger   |                      |     | X  |
| 18. |  | The vehicle is not carrying operational fire extinguishers as required  |                      |     | X  |
| 19. |  | The vehicle does not carry the equipment required in the ADR or in the instructions in writing  |                      |     | X  |
| 20. |  | Packages with damaged packaging, IBCs or large packaging or damaged uncleaned empty packaging are being carried   |                      |     | X  |
| 21. |  | Carriage of packaged goods in a container which is not structurally serviceable   |                      |     | X  |

<sup>11</sup> Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13).

|     |  |  |  |  |   |
|-----|--|--|--|--|---|
| 22. |  | Tanks/tank containers (including ones that are empty and uncleaned) have not been closed properly                                |  |  | X |
| 23. |  | Incorrect labelling, marking or placarding on the vehicle and/or containment   |  |  | X |
| 24. |  | There are no instructions in writing conforming to the ADR, or the instructions in writing are not relevant to the goods carried |  |  | X |

Commission Directive 2004/112/EC, adapting Council Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road, contains in its Annex II a detailed classification of infringements against the relevant provisions, divided, according to their level of severity, into three risk categories: Risk category I, Risk category II, Risk category III.

The level of infringements against the provisions shall reflect the risk categories provided in Annex II to Directive 2004/112/EC, in such a way that **Risk category I = VSI** (except those infringements which are already defined as MSI in Annex IV to Regulation (EC) No 1071/2009), **Risk category II = SI**. Risk category III is equal to the level of minor infringement.

**This table covers only those infringements for which a carrier shall be held fully or partially liable. The level of liability of a carrier for the infringement shall be assessed in accordance with the Member State's national enforcement procedure.**

#### 10. Groups of infringements against Regulation (EC) No 1072/2009<sup>12</sup> (Access to the international road haulage market)

| No                        | LEGAL BASIS  | TYPE OF INFRINGEMENTS  | LEVEL OF SERIOUSNESS |     |    |
|---------------------------|--------------|--|----------------------|-----|----|
|                           |              |  | MSI                  | VSI | SI |
| <b>Community licence</b>  |              |  |                      |     |    |
| 1.                        | Art. 3       | Carrying goods without holding a valid Community licence ( <i>i.e.: a license is non-existent, falsified, withdrawn, expired etc.</i> )  | X                    |     |    |
| 2.                        | Art. 4       | The haulage undertaking or the driver unable to present a valid Community licence or a valid certified true copy of the Community licence to the inspecting officer ( <i>i.e.: Community licence or certified true copy of the Community licence lost, forgotten, damaged, etc.</i> )    |                      | X   |    |
| <b>Driver attestation</b> |              |  |                      |     |    |
| 3.                        | Art. 3 and 5 | Carrying goods without holding a valid driver attestation ( <i>i.e. driver's attestation is non-existent, falsified; withdrawn, expired etc.</i> )   |                      | X   |    |
| 4.                        |              | The driver or the haulage undertaking unable to present a valid driver attestation or a valid certified true copy of the driver attestation to the inspecting officer ( <i>i.e. driver attestation or certified true copy of the driver attestation lost, forgotten, damaged, etc.</i> ) |                      |     | X  |

<sup>12</sup> Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (OJ L 300, 14.11.2009, p. 72).

**11. Groups of infringements against Regulation (EC) No 1073/2009<sup>13</sup>  
(Access to the market for coach and bus services)**

| No   | LEGAL BASIS  | TYPE OF INFRINGEMENTS   | LEVEL OF SERIOUSNESS |     |    |
|--|--------------|---|----------------------|-----|----|
|  |              |   | MSI                  | VSI | SI |
| <b>Community licence</b>   |              |   |                      |     |    |
| 1.   | Art. 4       | Carrying passengers without holding a valid Community licence ( <i>i.e.: a license is non-existent, falsified, withdrawn, expired etc.</i> )  | X                    |     |    |
| 2.   | Art. 4.3     | The carrier or the driver unable to present a valid Community licence or a valid certified true copy of the Community licence to the inspecting officer ( <i>i.e. licence or certified true copy lost, forgotten, damaged, etc.</i> ) |                      | X   |    |
| <b>Authorisation for regular services</b>  |              |   |                      |     |    |
| 3.   | Art. 5 and 6 | Regular services without a valid authorisation ( <i>i.e.: authorisation is non-existent, falsified, withdrawn, expired, misused etc.</i> )  |                      | X   |    |
| 4.   | Art. 19      | The driver unable to present the authorisation to the inspecting officer ( <i>i.e. authorisation is lost, forgotten, damaged, etc.</i> )  |                      |     | X  |
| 5.   | Art. 5 and 6 | Stops of regular services in a Member State do not correspond to the issued authorisation   |                      |     | X  |
| <b>Journey form for occasional services and other services exempt from authorisation</b> |              |   |                      |     |    |
| 6.   | Art. 12      | Driving without holding a required journey form ( <i>i.e. journey form is non-existent, falsified, not containing the required information, etc.</i> )  |                      |     | X  |

**12. Groups of infringements against Regulation (EC) No 1/2005<sup>14</sup>  
(Animal transport)**

| No | LEGAL BASIS          | TYPE OF INFRINGEMENTS  | LEVEL OF SERIOUSNESS |     |    |
|----|----------------------|--|----------------------|-----|----|
|    |                      |  | MSI                  | VSI | SI |
| 1. | Annex I, Chapter II, | Partitions are not strong enough to withstand the weight of animals  |                      | X   |    |
| 2. | Annex I, Chapter III | Using loading or unloading ramps that has slippery surfaces, that lack lateral protections or that are too steep   |                      |     | X  |
| 3. |                      | Using lifting platforms or upper floors that do not have safety barriers preventing animals from falling or escaping during loading and unloading operations |                      |     | X  |
| 4. | Art. 7               | Means of transport not approved for long journeys, or not approved for the type of animals being transported.  |                      |     | X  |
| 5. | Art. 4, 5 and 6      | Transporting without valid required documentation, journey log or transporter authorisation or certificate of competence                                     |                      |     | X  |

<sup>13</sup> Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (OJ L 300, 14.11.2009, p. 88).

<sup>14</sup> Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ L 3, 5.1.2005, p. 1).

## ANNEX II

### **FREQUENCY OF OCCURRENCE OF SERIOUS INFRINGEMENTS**

1. The serious (SI) and very serious (VSI) infringements listed in Annex I, when committed repeatedly shall be regarded as more serious by the competent authority of a Member State of establishment. When calculating the frequency of occurrence of repeated infringements Member States shall take into account the following factors:
  - (a) seriousness of infringement (SI or VSI)
  - (b) time (at least one rolling year from the date of a control)
  - (c) number of drivers used for the transport activities managed by the transport manager (average per year)
2. Taking into account the potential of creating a risk to road safety the maximum frequency of serious infringements beyond which they should be considered as more serious shall be established as follows:  
  
$$3 \text{ SI / per driver / per year} = 1 \text{ VSI}$$
  
$$3 \text{ VSI / per driver / per year} = \text{launch of a national procedure on good repute}$$
3. The number of infringements per driver per year is an average figure calculated by dividing the total number of all infringements of the same level of seriousness (SI or VSI) by the average number of drivers employed during the year. The frequency formula provides for a maximum threshold for occurrence of serious infringements beyond which they shall be considered more serious. Member States may establish stricter thresholds if envisaged in their national administrative procedure for assessing good repute.

### ANNEX III

Annex III to Directive 2006/22/EC is replaced by the following:

#### (1) GROUPS OF INFRINGEMENTS AGAINST REGULATION (EC) NO 561/2006

| No       | LEGAL BASIS            | TYPE OF INFRINGEMENT  | LEVEL OF SERIOUSNESS <sup>15</sup> |     |    |    |
|----------|------------------------|---|------------------------------------|-----|----|----|
|          |                        |   | MSI                                | VSI | SI | MI |
| <b>A</b> | <b>Crew</b>            |   |                                    |     |    |    |
| A1       | Art 5.1                | Not respecting minimum ages for conductors  |                                    |     | X  |    |
| <b>B</b> | <b>Driving periods</b> |   |                                    |     |    |    |
| B1       | Art. 6.1               | Exceed daily driving time of 9h if possibilities to extend to 10h not allowed                                       | 9h<...<10h                         |     |    | X  |
| B2       |                        |   | 10h≤...<11h                        |     |    | X  |
| B3       |                        |   | 11h≤...                            |     | X  |    |
| B4       |                        | Exceed daily driving time of 9h by 50% or more without taking a break or without any rest of at least 4,5 hours     | 13h30≤...<br>and no break / rest   | X   |    |    |
| B5       |                        | Exceed extended daily driving time of 10h if extension allowed  | 10h<...<11h                        |     |    | X  |
| B6       |                        |   | 11h≤...<12h                        |     |    | X  |
| B7       |                        |   | 12h≤...                            |     | X  |    |
| B8       |                        | Exceed daily driving time of 10h by 50% or more without taking a break of or without any rest of at least 4,5 hours | 15h≤...<br>and no break / rest     | X   |    |    |
| B9       | Art. 6.2               | Exceed weekly driving time  | 56h<...<60h                        |     |    | X  |
| B10      |                        |   | 60h≤...<65h                        |     |    | X  |
| B11      |                        |   | 65h≤...<70h                        |     | X  |    |
| B12      |                        | Exceed weekly driving time by 25% or more   | 70h≤...                            | X   |    |    |
| B13      | Art 6.3                | Exceed maximum total  | 90h<...<100h                       |     |    | X  |

<sup>15</sup> MSI= Most Serious Infringements/ VSI = Very Serious Infringement / SI = Serious Infringement  
MI = Minor Infringement

|          |                     |   |                 |                |   |   |   |  |
|----------|---------------------|---|-----------------|----------------|---|---|---|--|
| B14      |                     | driving time during 2 consecutive weeks   | 100h≤...<105h   |                |   | X |   |  |
| B15      |                     |   | 105h≤...<112h30 |                | X |   |   |  |
| B16      |                     | Exceed maximum total driving time during 2 consecutive weeks by 25% or more                       | 112h30≤...      | X              |   |   |   |  |
| <b>C</b> | <b>Breaks</b>       |   |                 |                |   |   |   |  |
| C1       | Art. 7              | Exceed uninterrupted driving time of 4,5 hours before taking the break                            | 4h30<...<5h     |                |   |   | X |  |
| C2       |                     |   | 5h≤...<6h       |                |   | X |   |  |
| C3       |                     |   | 6h≤...          |                | X |   |   |  |
| <b>D</b> | <b>Rest Periods</b> |   |                 |                |   |   |   |  |
| D1       | Art. 8.2            | Insufficient daily rest period of less than 11h if reduced daily rest period not allowed          | 10h≤...<11h     |                |   |   | X |  |
| D2       |                     |   |                 | 8h30≤...<10h   |   |   | X |  |
| D3       |                     |   |                 | ...<8h30       |   | X |   |  |
| D4       |                     | Insufficient reduced daily rest period of less than 9h if reduce allowed                          | 8h≤...<9h       |                |   |   | X |  |
| D5       |                     |   |                 | 7h≤...<8h      |   |   | X |  |
| D6       |                     |   |                 | ...<7h         |   | X |   |  |
| D7       |                     | Insufficient split daily rest period of less than 3h+9h   | 3h+[8h≤...<9h]  |                |   |   | X |  |
| D8       |                     |   |                 | 3h+[7h≤...<8h] |   |   | X |  |
| D9       |                     |   |                 | 3h+[...<7h]    |   | X |   |  |
| D10      | Art. 8.5            | Insufficient daily rest period of less than 9h for multi-manning                                  | 8h≤...<9h       |                |   |   | X |  |
| D11      |                     |   |                 | 7h≤...<8h      |   |   | X |  |
| D12      |                     |   |                 | ...<7h         |   | X |   |  |
| D13      | Art. 8.6            | Insufficient reduced weekly resting period of less than 24 h                                      | 22h≤...<24h     |                |   |   | X |  |
| D14      |                     |   |                 | 20h≤...<22h    |   |   | X |  |
| D15      |                     |   |                 | ...<20h        |   | X |   |  |
| D16      |                     | Insufficient weekly resting period of less than 45 h if reduced weekly resting period not allowed | 42h≤...<45h     |                |   |   | X |  |
| D17      |                     |   |                 | 36h≤...<42h    |   |   | X |  |
| D18      |                     |   |                 | ...<36h        |   | X |   |  |
| D19      | Art. 8.6            | Exceeding 6 consecutive 24-hour periods following the previous weekly rest period                 | ...<3h          |                |   |   | X |  |
| D20      |                     |   |                 | 3h≤...<12h     |   |   | X |  |
| D21      |                     |   |                 | 12h≤...        |   | X |   |  |

| <b>E</b> |                    | <b>12-day rule derogation</b>   |             |  |   |   |   |
|----------|--------------------|---|-------------|--|---|---|---|
| E1       | Art. 8.6a.         | Exceeding 12 consecutive 24-hours periods following a previous regular weekly rest  | ...<3h      |  |   |   | X |
| E2       |                    |   | 3h≤...<12h  |  |   | X |   |
| E3       |                    |   | 12h≤...     |  | X |   |   |
| E4       | Art. 8.6a. (b)(ii) | Weekly rest period taken following 12 consecutive 24-hours periods  | 65h<...≤67h |  |   | X |   |
| E5       |                    |   | ...≤65h     |  | X |   |   |
| E6       | Art. 8.6a. (d)     | Driving period, between 22.00 and 6.00, of more than 3 hours before the break, if the vehicle is not multi-manned             | 3h<...<4,5h |  |   | X |   |
| E7       |                    |   | 4,5h≤...    |  | X |   |   |
| <b>F</b> |                    | <b>Work organisation</b>  |             |  |   |   |   |
| F1       | Art. 10.1          | Link between wage and distance travelled or amount of goods carried   |             |  | X |   |   |
| F2       | Art. 10.2          | No or improper organisation of driver's work, no or improper instructions given to driver enabling him to comply with the law |             |  | X |   |   |

**(2) GROUPS OF INFRINGEMENTS AGAINST REGULATION (EU) No 165/2014 (Tachograph)**

| No       | LEGAL BASIS            | TYPE OF INFRINGEMENTS  | LEVEL OF SERIOUSNESS |     |    |    |  |
|----------|------------------------|--|----------------------|-----|----|----|--|
|          |                        |  | MSI                  | VSI | SI | MI |  |
| <b>G</b> |                        | <b>Installation of tachograph</b>  |                      |     |    |    |  |
| G1       | Art. 3.1 and Art. 22.2 | Not having type approved tachograph installed and used ( <i>e.g.: not having a tachograph installed by fitters, workshops or vehicle manufacturers approved by the competent authorities of the Member States, using a tachograph without the necessary seals placed or replaced by an approved fitter, workshop or vehicle manufacturer or using a tachograph without the installation plaque</i> ) | X                    |     |    |    |  |
| <b>H</b> |                        | <b>Use of tachograph, driver card or record sheet</b>  |                      |     |    |    |  |
| H1       | Art. 23.1              | Using a tachograph not inspected by an approved workshop   |                      | X   |    |    |  |
| H2       | Art. 27                | Driver holding and/or using more than one own driver card  |                      | X   |    |    |  |
| H3       |                        | Driving with a driver card that has been falsified ( <i>considered as driving without driver card</i> )  | X                    |     |    |    |  |

|          |                              |  |   |   |   |  |
|----------|------------------------------|--|---|---|---|--|
| H4       |                              | Driving with a driver card of which the driver is not the holder ( <i>considered as driving without driver card</i> )  | X |   |   |  |
| H5       |                              | Driving with a driver card which has been obtained on the basis of false declarations and/or forged documents ( <i>considered as driving without driver card</i> ) | X |   |   |  |
| H6       | Art. 32.1                    | Tachograph not correctly functioning ( <i>e.g.: tachograph not properly inspected, calibrated and sealed</i> )   |   | X |   |  |
| H7       | Art.32.1 and Art.33.1        | Tachograph improperly used ( <i>e.g.: deliberate, voluntary or imposed misuse, lack of instructions on correct use, etc.</i> )                                     |   | X |   |  |
| H8       | Art.32.3                     | Using a fraudulent device able to modify the records of the tachograph   | X |   |   |  |
| H9       |                              | Falsifying, concealing, suppressing or destroying data recorded on the record sheets or stored and downloaded from the tachograph and/or the driver card           | X |   |   |  |
| H10      | Art. 33.2                    | Undertaking not keeping record sheets, printouts and downloaded data   |   | X |   |  |
| H11      |                              | Recorded and stored data not available for at least a year   |   | X |   |  |
| H12      | Art 34.1                     | Incorrect use of record sheets/driver card   |   | X |   |  |
| H13      |                              | Unauthorized withdrawal of record sheets or driver card which has an impact on the record of relevant data   |   | X |   |  |
| H14      |                              | Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost  |   | X |   |  |
| H15      | Art.34.2                     | Use dirty or damaged record sheets or drivers card and data not legible  |   | X |   |  |
| H16      | Art.34.3                     | Not using manual input when required to do so  |   | X |   |  |
| H17      | Art.34.4                     | Not using correct record sheet or driver card not in the correct slot (multi-manning)  |   |   | X |  |
| H18      | Art.34.5                     | Incorrect use of switch mechanism  |   | X |   |  |
| <b>I</b> | <b>Producing information</b> |  |   |   |   |  |
| I1       | Art. 36                      | Refuse to be checked   |   | X |   |  |
| I2       | Art. 36                      | Unable to produce records of current day and the previous 28 days  |   | X |   |  |
| I3       |                              | Unable to produce records of the driver card if the driver holds one   |   | X |   |  |



|          |                         |   |  |   |  |  |
|----------|-------------------------|---|--|---|--|--|
| I4       | Art. 36                 | Unable to produce manual records and printouts made during the current day and the previous 28 days   |  | X |  |  |
| I5       | Art. 36                 | Unable to produce a driver card, if the driver holds one  |  | X |  |  |
| <b>J</b> | <b>Malfunctioning</b>   |   |  |   |  |  |
| J1       | Art. 37.1 and Art. 22.1 | Tachograph not repaired by an approved fitter or workshop   |  | X |  |  |
| J2       | Art. 37.2               | Driver not marking all required information for the periods of time, which are no longer recorded while tachograph is unserviceable or malfunctioning |  | X |  |  |

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