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**LIMITE**

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**NOTE**

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	ST 9670/17
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 561/2006 as regards on minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) 165/2014 as regards positioning by means of tachographs – Analysis of the final compromise text with a view to agreement

1. On 31 May 2017, the Commission submitted three legislative proposals as part of the Mobility Package I, on the access to the occupation of road transport operator and to the road haulage market, on, on drivers' rest periods and on tachograph rules, as well as on enforcement provisions for social legislation and posting of drivers. The general objectives of these proposals is to further harmonise and simplify the rules for the European road transport sector, which will result in more consistent enforcement across all Member States, support social fairness and fair competition, and make businesses more efficient.
2. The European Economic and Social Committee adopted two opinions on the three proposals on 18 January 2018, and the European Committee of the Regions one opinion covering those proposals on 1 February 2018.

3. The Council adopted its general approach on all three files on 3 December 2018.<sup>1</sup>
4. The European Parliament adopted its first reading positions on 4 April 2019.
5. The Committee for Transport and Tourism of the European Parliament (TRAN) adopted a decision to open interinstitutional negotiations on 24 September 2019.
6. The institutions held informal trilogues on 3 October, 4 and 5, 25 November, and 11 December 2019. The meetings were prepared by the Working Group on Land Transport and by Coreper mandates for negotiations, given on 25 October and 20 November 2019. The trilogue meeting of 11 December 2019 concluded with a provisional political agreement.
7. The Permanent Representatives Committee is invited to analyse the final compromise text with a view to agreement, as set out in the Annex to the present note.
8. The TRAN committee is expected to vote on the political agreement in January 2020, following which, the TRAN chair will address a letter to the Presidency confirming that, should the Council approve the text in first reading, after legal-linguistic revision, the Parliament would approve the Council's position in their second reading.

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<sup>1</sup> document ST 15084/18.

Proposal for a  
Regulation of the European Parliament and of The Council  
amending Regulation (EC) No 561/2006 as regards on minimum requirements on maximum daily  
and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU)  
165/2014 as regards positioning by means of tachographs

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Having regard to the opinion of the Committee of the Regions<sup>3</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Good working conditions for drivers and fair business conditions for road transport undertakings are of paramount importance to creating a safe, efficient [...] socially accountable road transport sector in order to ensure non-discrimination and attract qualified workers. To facilitate that process it is essential that the Union social rules in road transport are clear, proportionate, fit for purpose, easy to apply and to enforce and implemented in an effective and consistent manner throughout the Union.

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<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ C , , p. .

- (2) Having evaluated the effectiveness and efficiency of the implementation of the existing set of Union social rules in road transport, and in particular Regulation (EC) No 561/2006 of the European Parliament and of the Council<sup>4</sup>, certain deficiencies were identified in the [...] implementation of the legal framework. Unclear [...] rules on weekly rest, resting facilities, breaks in multi-manning and the absence of rules on the return of drivers to their home [...], lead to diverging interpretations and enforcement practices in the Member States. Several Member States recently adopted unilateral measures further increasing legal uncertainty and unequal treatment of drivers and operators. On the other hand, the maximum driving periods per day and per week [...] are effective in improving the social conditions of [...] drivers and road safety in general; unremitting efforts are necessary to ensure compliance.
- (2b) To promote road safety, it is important to encourage transport undertakings to adopt a safety culture which is adhered to at all levels [...]. In particular, in order to avoid infringements of driving and rest rules, or endangering road safety, it should not be permitted to link performance-based pay with the time needed for the transportation of passengers to their destination or for the delivery of goods.
- (3) The ex-post evaluation of Regulation (EC) No 561/2006 confirmed that inconsistent and ineffective enforcement of the Union social rules was mainly due to unclear rules, to inefficient and unequal use of the control tools and insufficient administrative cooperation between the Member States.
- (3a) In order to improve clarity and consistency, the exemption from the scope of Regulation (EC) No 561/2006 for the non-commercial use of a vehicle should be defined.
- (4) Clear, suitable, proportionate and evenly enforced rules are also crucial for achieving the policy objectives of improving working conditions for drivers, and in particular ensuring undistorted and fair competition between operators and contributing to road safety for all road users.

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<sup>4</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).

- (5) The existing requirement on breaks turned out to be unsuitable and impractical for drivers in a team. Therefore, it is appropriate to adapt the requirement on recording breaks to the specificity of the transport operations carried out by drivers driving in a team, without jeopardising the safety of the driver and road safety.
- (6) Drivers engaged in long-distance international transport of goods spend long periods away from their home. The current requirements on the regular weekly rest may prolong those periods unnecessarily. It is thus desirable to adapt the provision on the regular weekly rest in such a way that it is easier for drivers to carry out international transport operations in compliance with the rules and to reach their home for a regular weekly rest, and be fully compensated for all reduced weekly rest periods. Given the differences between goods and passenger transport, this possibility should not apply to drivers when engaged in passenger transport.
- (6a) Any flexibility in the scheduling of the rest periods of drivers should be transparent and predictable for the driver and in no way jeopardize road safety, by increasing the level of fatigue of drivers, or deteriorate the working conditions. This flexibility should therefore not alter the current working time of the driver or the maximum fortnightly driving time and should be subject to stricter rules on the compensation for reduced rests.
- (6aa) Controlling this flexibility is essential, in addition to clearly defining the scope of the provision, to make sure the provision can not be abused. The scope should be therefore limited to those drivers that spend the reduced weekly rests during the reference period outside of the Member States. This can be checked by consulting the tachograph records at the roadside and at the premises, as they contain the location of the beginning and the end of the rest and information relating to individual drivers.
- (6b) In order to guarantee effective enforcement, it is essential that the competent authorities, when carrying out roadside checks, should be able to ascertain that driving times and rest periods have been properly observed on the day of the check and over the preceding 56 days.

- (6c) Rapid technological progress is resulting in the gradual automation of driving systems requiring less or no direct input from a driver[...]. To address those changes, current legislation, including rules on driving and resting times, may need to be adapted in order to guarantee road safety, a level playing field and improve working conditions, whilst enabling the Union to pioneer new innovative technologies and practices [...]. Therefore, the Commission should submit an evaluation report on the use of autonomous driving systems in the Member States, including on the benefits of autonomous driving technologies. That report should be accompanied, if appropriate, by a legislative proposal. [...]
- (7) [...] In order to promote social progress it is appropriate to specify where the weekly rest may be taken ensuring that drivers enjoy adequate rest conditions. The quality of accommodation is particularly important during the regular weekly rest, which the driver should spend away from the vehicle's cabin in a suitable accommodation, at the cost of the employer. In order to ensure good working conditions and the safety of drivers, it is [...] appropriate to clarify the requirement [...] that drivers are provided with [...] quality and gender friendly accommodation [...] for their regular weekly rest periods if they are taken away from home.
- (7a) It is also necessary to provide that operators organise the work of drivers in such a way that periods away from home are not excessively long and that drivers can benefit from long rest periods taken in compensation for reduced weekly rest periods. Organising the return should allow reaching an operational centre of the undertaking in its Member State of establishment or the driver's place of residence, and the drivers are free to choose where to spend their rest period. In order to demonstrate that the operator fulfils its obligations regarding the organisation of the regular return, the operator should be able to use tachograph records, duty rosters of the drivers or other documentation. Such evidence should be available at its premises to be presented if requested by control authorities.

- (7b) While regular weekly rest and longer rest periods cannot be taken in the vehicle or in a parking area, but only in a suitable accommodation, which may be adjacent to a parking area, it is of utmost importance to enable drivers to locate safe and secure parking areas that provide appropriate levels of security and appropriate facilities. The Commission has already studied how to encourage the development of high-quality parking areas, including the necessary minimum requirements. The Commission should therefore develop standards for safe and secure parking areas. Those standards should contribute to promoting high-quality parking areas. The standards may be revised in order to cater for better access to alternative fuels, in line with policies developing that infrastructure. It is also important that parking areas are being kept free from ice and snow.
- (7c) Safe and Secure parking areas should be subject to auditing procedures to be certified in accordance with EU standards which also ensure that they continue to meet these standards. The Commission should thus be tasked with preparing a certification procedure for development of safe and secure parking areas in the Union.
- (7d) It is in the interests of road safety and enforcement that all drivers should be fully aware of the rules on driving and rest times and the dangers of fatigue. Easily accessible information on available rest facilities is of importance in this regard. Therefore, [...] the Commission should provide information on safe and secure parking areas through a user-friendly website. That information should be kept up to date[...].
- (7e) The revised TEN-T guidelines envisage the development of parking areas on motorways approximately every 100 km to provide commercial road users with parking space that has an appropriate level of safety and security. In order to accelerate and promote the construction of adequate parking infrastructure, it is important that sufficient opportunities for co-funding by the Union are available in accordance with current and future Union legal acts establishing the conditions for that financial support.
- (7f) Many road transport operations within the Union involve transport by ferry or by rail for part of the journey. Clear, appropriate provisions regarding rest periods and breaks should therefore be laid down for such operations.

- (8) Drivers are [...] faced with unforeseeable circumstances which make it impossible to reach a desired destination for taking a weekly rest without violating Union rules. It is desirable to make it easier for drivers to cope with those circumstances and enable them to reach their destination for a weekly rest. Such exceptional circumstances are sudden circumstances that are unavoidable and may not be anticipated, where it unexpectedly becomes impossible to apply the Regulation's provisions in their entirety for a short period of time. Therefore, such circumstances cannot be referred to in a systematic manner to avoid compliance with this Regulation. In order to ensure proper enforcement, the driver should document the exceptional circumstances resulting in departing from the rules. In addition, a safeguard should ensure that driving time is not excessive [...].
- (9) To reduce and prevent diverging enforcement practices and to further enhance the effectiveness and efficiency of cross-border enforcement it is crucial to establish clear rules for regular administrative cooperation between Member States.
- (9c) Member States should take all measures necessary to ensure that national rules on penalties applicable to infringements of Regulation (EC) No 561/2006 and Regulation (EU) No 165/2014 are implemented in an effective, proportionate and dissuasive manner. It is important to ensure easy access by professionals to information on penalties applying in Member States. This could be facilitated by the European Labour Authority making the information available through the single Union-wide website acting as a single portal for accessing information sources and services at Union and national level in all official languages of the Union established by Regulation (EU) 2018/1724.
- (10) In order to ensure uniform conditions for the implementation of Regulation (EC) No 561/2006 implementing powers should be conferred on the Commission in order to clarify any of the provisions of that Regulation and to establish common approaches on their application and enforcement. Those powers should be exercised in accordance with Regulation (EU) No- 182/2011<sup>5</sup>.

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<sup>5</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).



- (11) To enhance cost-effectiveness of enforcement of the social rules [...] the current and [...] smart tachograph systems should be fully exploited and the smart tachograph should be made mandatory also for light commercial vehicles above a certain weight which operate in international transport for hire and reward. There the functionalities of the tachograph should be improved to allow for more precise positioning.
- (11a) The cost-effectiveness of enforcement of the social rules, the rapid development of new technologies, the digitalisation throughout the Union economy and the need for a level playing field among companies in international road transport make it necessary to shorten the transitional period for the installation of the smart tachograph in registered vehicles. The smart tachograph will contribute to simplified controls and thus facilitate the work of national authorities.
- (11b) To ensure that drivers, operators and control authorities benefit at the soonest from the advantages of smart tachographs including their automated recording of border crossings, the existing vehicle fleet should be equipped with such devices within an appropriate period after the entry into force of the detailed technical provisions thus ensuring sufficient time for preparation.
- (11c) [...] In vehicles which are not equipped with a smart tachograph, the crossing of Member State borders should be recorded in the tachograph at the nearest possible stopping place at or after the border.
- (11ca) The recording of activities on the tachograph is an important part of drivers' work. Therefore, it is crucial that drivers are provided with the appropriate training on how to use new features of tachographs which are being introduced to the market. Employers should bear the costs related to this training.

- (11cb) Control officers checking compliance with relevant Union law in the road transport sector face challenges due to the variety of tachograph devices in use and the fast evolving sophisticated manipulation techniques. This is particularly the case when those checks are carried out at the roadside. Therefore, it is crucial that control officers receive appropriate training to ensure that they are up-to-date with the latest technological developments and manipulation techniques.
- (11d) To reduce the burden on operators and control authorities in case that a control officer removes the seal of a tachograph for control purposes, the re-sealing by the control officer should be allowed under certain well documented circumstances.
- (11e) Taking into account the continuous technological developments, the Commission is studying the possibility of developing new technical solutions that offer the same benefits and security as those offered by the smart tachograph, at the same or lower associated costs.
- (11f) It is important that road transport operators established in third countries, while performing road transport operations in the territory of the EU, are subject to rules which are equivalent to this legislation. The Commission should assess the fulfilment of this principle at EU level and propose adequate solutions to be negotiated by the EU in the context of AETR.
- (11g) [...] Transporting goods is different from transporting people. [...] Therefore, the Commission should evaluate if more adequate rules for passenger transport should be proposed [...], especially for occasional services as defined in [...] point 4 of Article 1 of Regulation (EC) No 1073/2009 of the European Parliament and the Council of 21 October 2009 on common rules for access to the international market for coach and bus services.
- (12) Regulations (EC) No 561/2006 and (EU) 165/2014 of the European Parliament and of the Council<sup>6</sup> should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

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<sup>6</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 and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).

## Article 1

Regulation (EC) No 561/2006 is amended as follows:

(-1) In Article 2(1), the following point is inserted:

"(-aa) From 1 July 2026, to the carriage by road of goods in international transport operations or in cabotage operations, where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 2,5 tonnes; or"

(-1a) In Article 3, point (aa) is replaced by the following:

"(aa) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7,5 tonnes used for carrying materials, equipment or machinery for the driver's use in the course of his work, or delivering goods produced on a craft basis where the transport is not carried out for hire or reward and which are delivered only within a 100 km radius from the base of the undertaking and on the condition that driving the vehicle does not constitute the driver's main activity;"

(-1aa) In Article 3, the following point is inserted:

"(ha) [...] vehicles with a maximum permissible mass, including any trailer, or semi-trailer of between 2,5 and 3,5 tonnes that are used for the transport of goods, where the transport is not effected for hire or reward, but on the own account of the company or the driver, and where driving does not constitute the main activity of the person driving the vehicle.";

[...]

(1) In Article 4, the following point is added:

"(r) 'non-commercial carriage' means any carriage by road, other than carriage for hire or reward or for own account, for which no direct or indirect remuneration is received and which does not directly or indirectly generate any income- for the driver of the vehicle or others and where there is no link with professional or commercial activity;"

(2) [...] Article 6(5) [...] is replaced by the following:

"A driver shall record as other work any time spent as described in Article 4(e) as well as any time spent driving a vehicle used for commercial operations not falling within the scope of this Regulation, and shall record any periods of availability, as defined in Article 3(b) of Directive 2002/15/EC, in accordance with Article 34(5)(b)(iii) of Regulation (EU) No 165/2014. This record shall be entered either manually on a record sheet, a printout or by use of manual input facilities on recording equipment.";

(3) in Article 7, the following third paragraph is added:

"A driver engaged in multi-manning may take a break of 45 minutes in a vehicle driven by another driver provided that the driver taking the break is not involved in assisting the driver driving the vehicle.";

(4) Article 8 is amended as follows:

(a) paragraph 6 [...] is replaced by the following:

"6. 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.

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.

By way of derogation from the first subparagraph, a driver engaged in international transport of goods may, outside the Member State of establishment, take two consecutive reduced weekly rest periods provided that the driver in any four consecutive weeks takes at least four weekly rest periods, of which at least two shall be regular weekly rest periods.

For the purpose of this paragraph, a driver shall be considered to be engaged in international transport provided that the driver starts the two consecutive reduced weekly rest periods outside the Member State of the employer's establishment and country of the drivers' place of residence.";

(b) the following paragraph is inserted:

"6b. Any reduction in weekly rest shall be compensated by an equivalent period of rest taken en bloc before the end of the third week following the week in question.

Where two reduced weekly rest periods have been taken consecutively in accordance with the third subparagraph of paragraph 6, the weekly rest period following thereafter shall be preceded by a rest period taken as compensation for those two reduced weekly rest periods.";

[...]

(c) [...] paragraph 8 is replaced by the following:

"The regular weekly rest periods and any weekly rest of more than 45 hours taken in compensation for previous reduced weekly rest shall not be taken in a vehicle. They shall be taken in a suitable and gender-friendly accommodation with adequate sleeping and sanitary facilities.

Any costs for accommodation outside the vehicle shall be covered by the employer.";

(d) the following paragraph is inserted:

"8a. A transport undertaking shall organise the work of drivers in such a way that the drivers are able to [...] return to the employer's operational centre where the driver is normally based and where the driver's weekly rest begins, in the Member State of the employer's establishment, or to return to the drivers' place of residence within each period of four consecutive weeks, in order to spend at least one regular weekly rest period or a weekly rest of more than 45 hours taken in compensation for reduced weekly rest.

However, where the driver has taken two consecutive reduced weekly rest periods in accordance with Article 8(6), the transport undertaking shall organise the work of the driver in such a way that the driver is able to return already before the start of the regular weekly rest period of more than 45 hours taken in compensation. The undertaking shall document how it fulfils this obligation and shall keep the documentation at its premises in order to present it on request of control authorities."

(da) the following paragraph is added:

"9a. The Commission shall no later than ... [two years after entry into force of this amending Regulation] evaluate and report to Parliament and Council if more adequate rules for drivers engaged in occasional services of carriage of passengers can be adopted, as defined in Article 2 paragraph 1 number 4 of Regulation (EC) No 1073/2009 of the European Parliament and the Council of 21 October 2009 on common rules for access to the international market for coach and bus services.";

(5) The following Article is inserted:

*Article 8a*  
*Parking areas*

1. The Commission shall ensure that information about safe and secure parking areas is easily accessible to drivers engaged in carriage of goods and passengers by road. To that end the Commission shall publish a list of all parking areas that have been certified, in order to provide drivers with adequate:
  - Intrusion detection and prevention
  - Lighting and visibility
  - Emergency contact point and procedures
  - Gender-friendly sanitary facilities
  - Food and beverage purchase options
  - Connections enabling communication
  - Power supply.

The list of such parking areas shall be made available on a single official website that is regularly updated.
2. The Commission shall adopt delegated acts in accordance with Article XX to establish standards providing further detail concerning the level of service and security with regard to the areas listed in paragraph 1 and concerning the procedures for the certification of parking areas.
3. All parking areas that have been certified may indicate that they are certified according to Union standards and procedures.

In accordance with point (c) of Article 39(2) of the Regulation (EU) No 1315/2013 Member States are to encourage the creation of parking space for commercial road users.

4. By 31 December 2024, the Commission shall present a report to the European Parliament and to the Council on the availability of suitable rest facilities for drivers and of secured parking facilities, as well as on the development of safe and secure parking areas certified in accordance with the delegated acts. That report may list measures to increase the number and quality of safe and secure parking areas.

[ADD at the end of the Regulation:]

*Article XX*  
*Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 8a shall be conferred on the Commission for a period of five years from ... [date of entry into force of this amending Regulation].

The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 8a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.



5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 8a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council."

[Related Recital:]

"(xx) In order to ensure the continued safety and security of parking areas, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of establishing standards for the level of service in safe and secure parking areas and procedures to certify the safety and security of parking areas. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making\*. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts."

(5) in Article 9, paragraph 1 is replaced by the following:

- "1. By way of derogation from Article 8, where a driver accompanies a vehicle which is transported by ferry or train, and takes a regular daily rest period or reduced weekly rest period, that period may be interrupted not more than twice by other activities not exceeding one hour in total. During that regular daily rest or reduced weekly rest period the driver shall have access to a sleeper cabin, bunk or couchette at their disposal.

With regard to regular weekly rest periods, that derogation shall only apply to ferry or train journeys if: (a) the journey is scheduled for 8 hours or more; and (b) the driver has access to a sleeper cabin in the ferry or on the train.";

(5a) The following Article is inserted:

*"Article 9a*

By 31 December 2025, the Commission shall draw up and submit to the European Parliament and to the Council a report evaluating the use of autonomous driving systems in the Member States, focusing in particular on their potential impact on rules on driving and rest times. That report shall be accompanied, if appropriate, by a legislative proposal to amend this Regulation.";

(5a) in Article 10, paragraph 1 is replaced by the following:

"1. 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, the speed of delivery 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.";

(6) in Article 12, the following paragraph is added:

"Provided that road safety is not thereby jeopardised, the driver may, in exceptional circumstances, also depart from Article 6(1) and (2) and Article 8(2) [...] by exceeding the daily and weekly driving time by up to one hour in order to reach the employer's operational centre or the driver's place of residence for taking a weekly rest.

Under the same conditions, the driver may exceed the daily and weekly driving time by up to two hours, provided that an uninterrupted break of 30 minutes was taken immediately prior to the additional driving in order to reach the employer's operational centre or the driver's place of residence for taking a regular weekly rest.

The driver shall indicate the reason for such departure manually on the record sheet of the recording equipment or on a printout from the recording equipment or in the duty roster, at the latest on arrival at the destination or the suitable stopping place.

Any period of extension shall be compensated by an equivalent period of rest taken en bloc with any rest period, by the end of the third week following the week in question.";

(7) Article 13 (1) is amended as follows:

(a) point (e) is replaced by the following:

"(e) vehicles operating exclusively on islands or isolated regions from the rest of the national territory not exceeding 2.300 square kilometres in area which are not linked to the rest of the national territory by a bridge, ford or tunnel open for use by motor vehicle, and which do not border another Member State. ";

(b) the following point is inserted:

"(pa) vehicles or combinations of vehicles [...] carrying construction machinery for a construction undertaking up to a 100 km radius from the base of the undertaking and on condition that driving the vehicles does not constitute the driver's main activity;"

(c) the following point (q) is added:

"(q) vehicles used for the delivery of ready-mixed concrete.";

(8) in Article 14, paragraph 2 is replaced by the following:

"2. In urgent cases Member States may grant, under exceptional circumstances, a temporary exception for a period not exceeding 30 days, which shall be duly justified and notified immediately to the Commission. The Commission shall immediately publish this information on a public website.";

(9) Article 15 is replaced by the following:

*"Article 15*

Member States shall ensure that drivers of vehicles referred to in Article 3(a) are governed by national rules which provide adequate protection in terms of permitted driving times and mandatory breaks and rest periods. Member States shall inform the Commission about the relevant national rules applicable to such drivers.";

(9a) Article 16, paragraph 3, subparagraph (a) is replaced by the following:

"(a) include all the particulars specified in paragraph 2 for a minimum period covering the day of control and the previous 56 [...] days; these particulars must be updated on regular intervals, the duration of which may not exceed one month;"

(10) in Article 19, paragraph 1 is replaced by the following:

- "1. Member States shall lay down rules on penalties applicable to infringements of this Regulation and Regulation (EU) No 165/2014 and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective, and proportionate to [...] the gravity [...] of the infringements, as indicated in Annex III to Directive 2006/22/EC of the European Parliament and of the Council<sup>7</sup>, dissuasive and non-discriminatory. No infringement of this Regulation and of Regulation (EU) No 165/2014 shall be subject to more than one penalty or procedure. The Member States shall [...], by the date specified in the second subparagraph of Article 29, [...] notify the Commission of those rules and measures, along with the method and criteria chosen at national level for assessing their proportionality. [...] The Member States shall notify without delay any subsequent amendment [...] affecting them. The Commission shall inform Member States [...] of those rules and measures, and of any amendments thereto. The Commission shall ensure that this information is published on a dedicated public website in all official languages of the EU, containing detailed information on such penalties applicable in EU Member States.";

(11) Article 22 is amended as follows:

- (a) paragraph 1 is replaced by the following:

"1. Member States shall work in close cooperation and provide each other with mutual assistance without undue delay in order to facilitate the consistent application of this Regulation and its effective enforcement, in line with the requirements set out in Article 8 of Directive 2006/22/EC-.";

- (b) in paragraph 2, the following point (c) is added:

"(c) other specific information, including the risk rating of the undertaking, liable to have consequences for compliance with the provisions of this Regulation.";

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<sup>7</sup> Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC (OJ L 102, 11.4.2006, p. 35).

(c) the following paragraphs 3a and 3b are inserted:

"3a. For the purpose of the exchange of information within the framework of this Regulation, Member States shall use the bodies for intracommunity liaison designated pursuant to Article- 7 of Directive 2006/22/EC.";

3b. Mutual administrative cooperation and assistance shall be provided free of charge.";

(11a) in Article 24, the following paragraph is inserted:

"2a. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.";

(12) in Article 25, paragraph 2 is replaced by the following:

"2. In the cases referred to in point (b) of paragraph 1 the Commission shall adopt implementing acts setting out common approaches in accordance with the [...] examination procedure referred to in Article 24(2a).";

## Article 2

Regulation (EU) No 165/2014 is amended as follows:

(-1) In Article 1, the first subparagraph of paragraph 1 is replaced by the following:

"1. This Regulation sets out obligations and requirements in relation to the construction, installation, use, testing and control of tachographs used in road transport, in order to verify compliance with Regulation (EC) No 561/2006 Council Directive 92/106/EEC<sup>8</sup>, Regulation (EC) No 1071/2009, Regulation (EC) No 1072/2009, Regulation (EC) No 1073/2009, Directive 96/71 and Directive 2002/15/EC of the European Parliament and of the Council<sup>9</sup> and Council Directive 92/6/EEC<sup>10</sup>, Directive 2014/67/EU as far as posting of workers in road transport is concerned, [...] the Directive laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in road transport, and Council Directive 92/6/EEC<sup>9</sup>.";

(-1a) In Article 3, paragraph 4 is replaced by the following:

"4. No later than three years after the end of the year of entry into force of detailed provisions referred to in the second sentence of the first paragraph of Article 11 laying down specifications for the recording of border-crossing and additional activities, the following vehicles operating in a Member State other than their Member State of registration shall be fitted with a smart tachograph as provided in Articles 8, 9 and 10 of this Regulation:

(a) vehicles fitted with an analogue tachograph;

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<sup>8</sup> Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States, OJ L 368, 17.12.1992, p. 38.

<sup>9</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>10</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).

- (b) vehicles fitted with a digital tachograph complying with the specifications in Annex IB to Council Regulation (EEC) No 3821/85 applicable until 30 September 2011;
- (c) vehicles fitted with a digital tachograph complying with the specifications in Annex IB to Council Regulation (EEC) No 3821/85 applicable from 1 October 2011; and
- (d) vehicles fitted with a digital tachograph complying with Annex IB to Council Regulation (EEC) No 3821/85 applicable from 1 October 2012.

4a. No later than four years after the entry into force of detailed provisions referred to in the second sentence of the first paragraph of Article 11 laying down specifications for the recording of border-crossing and additional activities, vehicles which are fitted with a smart tachograph complying with Annex IC to Commission Implementing Regulation (EU) 2016/799 operating in a Member State other than their Member State of registration shall be fitted with a smart tachograph as provided in Articles 8, 9 and 10 of this Regulation.";

(-1b) In Article 4(2), the following indent is inserted:

“- have enough memory capacity to store all of the data required under this Regulation;”;

(-1c) Article 7 is replaced by the following:

#### "Article 7

#### Data protection

1. Member States shall ensure that the processing of personal data in the context of this Regulation is carried out solely for the purpose of verifying compliance with this Regulation and with Regulation (EC) No 561/2006, [...] Regulation (EC) No 1071/2009, Regulation (EC) No 1072/2009, Regulation (EC) No 1073/2009, Directive 96/71 and Directive 2014/67/EU as far as posting of workers in road transport is concerned, [...] the Directive laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in road transport and Council Directive 92/6/EEC.”



2. Member States shall, in particular, ensure that personal data are protected against uses other than those strictly linked to the Union legal acts referred to in paragraph 1, in relation to:
    - the use of a global navigation satellite system (GNSS) for the recording of location data as referred to in Article 8,
    - the use of remote communication for control purposes as referred to in Article 9, the use of tachographs with an interface as referred to in Article 10, the electronic exchange of information on driver cards as referred to in Article 31, and in particular any cross-border exchanges of such data with third countries,
    - the keeping of records by transport undertakings as referred to in Article 33.
  3. Digital tachographs shall be designed in such a way as to ensure privacy. Only data necessary for the purposes referred to in paragraph 1 shall be processed.
  4. Owners of vehicles, transport undertakings and any other entity concerned shall comply, where applicable, with the relevant provisions on the protection of personal data.";
- (1) Article 8(1) is amended as follows:
- (a) the first subparagraph [...] is replaced by the following:
- "In order to facilitate the verification of compliance with the relevant legislation, the position of the vehicle shall be recorded automatically at the following points, or at the closest point to such places where the satellite signal is available:
- the starting place of the daily working period;
  - every time the vehicle crosses the border of a Member State;
  - every time the vehicle performs loading or unloading activities;
  - every three hours of accumulated driving time; and
  - the ending place of the daily working period.";

- (b) the following sentence is added to the second subparagraph:

"However, the recording of the border-crossing and additional activities referred to in the second and third indent of the first subparagraph shall apply to vehicles registered in a Member State for the first time after two years after the entry into force of the detailed provisions referred to in the second sentence of the first paragraph of Article 11, without prejudice to the obligation to retrofit certain vehicles later in accordance with Article 3(4).";

- (-1a) the following subparagraph is inserted:

"In order to facilitate the verification of compliance by control authorities, the smart tachograph shall also record, if the vehicle has been employed for the carriage of goods or passengers, as required by Regulation (EC) No 561/2006.";

- (1a) Article 9 is amended as follows:

- (a) The first sentence of paragraph 2 is amended as follows:

"Three years after the entry into force of detailed provisions referred to in the second sentence of paragraph 1 of Article 11 laying down specifications for the recording of border-crossing and additional activities referred to in the second and third indent of Article 8(1), Member States shall equip their control authorities to an appropriate extent with remote early detection equipment necessary to permit the data communication referred to in this Article, taking into account their specific enforcement requirements and strategies.";

- (b) paragraph 3 is replaced by the following:

"3. The communication referred to in paragraph 1 shall be established with the tachograph only when so requested by the equipment of the control authorities. It shall be secured to ensure data integrity and authentication of the recording and control equipment. Access to the data communicated shall be restricted to control authorities authorised to check infringements of the Union legal acts referred to in Article 7 (1), and of this Regulation and to workshops in so far as it is necessary to verify the correct functioning of the tachograph.";

(c) in paragraph 4 the following indent is added:

"- exceeding maximum driving time.";

(1aa) In Article 10 the following paragraph is added:

"2. The tachographs of vehicles registered for the first time in a Member State two years after the entry into force of detailed provisions referred to in the second sentence of paragraph 1 of Article 11 laying down specifications for the recording of border-crossing and additional activities referred to in the second and third indent of Article 8(1), shall be equipped with the interface referred to in paragraph 1.";

(1ab) In Article 11, the following sentences are inserted after the first sentence of the first paragraph:

"By ... [12 months after the entry into force of this amending Regulation], the Commission shall adopt implementing acts laying down detailed rules for the uniform application of the obligation to record and store data relating to any border crossing of the vehicle and activities referred to in the second and third indent of the first subparagraph of Article 8(1) and in the third subparagraph of Article 8(1).

By... [18 months after entry into force of this amending Regulation], the Commission shall adopt implementing acts laying down detailed rules necessary for the uniform application of rules on data requirements and functions, including Articles 8 to 10, and the installation of, tachographs for vehicles referred to in the second subparagraph of Article 2(1) of Regulation 561/2006.";

(1ac) In Article 22, paragraph 5, the two last subparagraphs shall be replaced by the following:

"The seals removed or broken shall be replaced by an approved fitter or a workshop without undue delay and at the latest within seven days of their removal. When the seals have been removed or broken for control purposes, they may be replaced by a control officer equipped with a sealing equipment and unique special mark without undue delay.

When a control officer removes a seal, the control card shall be inserted in the tachograph from the moment of the removal of the seal until the inspection is finished, including in case of placement of a new seal. The control officer shall issue a written statement containing at least the following information:

- vehicle identification number;
- name of the officer;
- control authority and Member State;
- number of the control card;
- number of the removed seal;
- date and time of seal removal;
- number of the new seal, in case the control officer has placed a new seal.

Before replacing the seals, a check and calibration of the tachograph shall be performed by an approved workshop, except where a seal has been removed or broken for control purposes and replaced by a control officer.";

(1ad) In Article 26, the following paragraph is added:

"(7a) The competent authority of the issuing Member State may require a driver to replace the driver card by a new one if this is necessary to comply with the relevant technical specifications.";


(1b) In Article 34, the first paragraph is replaced by the following:

"Drivers shall use records sheets or driver cards every day on which they are driving, starting from the moment they take over the vehicle. The record sheet or driver card shall not be withdrawn before the end of the daily working period unless its withdrawal is otherwise authorised or is necessary to enter the symbol after having crossed a border. No record sheet or driver card may be used to cover a period longer than that for which it is intended.";

(1c) in Article 34(6), the following point (f) is added:

"(f) the symbols of the countries in which the daily working period started and finished. The driver shall also enter the symbol of the country that the driver enters after crossing a border of a Member State at the beginning of the driver's first stop in that Member State. That first stop shall be made at the nearest possible stopping place at or after the border. Where the crossing of the border of a Member State takes place on a ferry or train, the driver shall enter the symbol of the country at the port or station of arrival.";

(1f) in Article 34(5), point b, point iv is replaced by the following:

"(iv) under the sign  : breaks, rest, annual leave or sick leave,

under the sign "ferry/train": In addition to the sign  : the rest period spending on a ferry or train as required by Article 9 of Regulation (EC) 561/2006.";

(2) in Article 34(7), the first subparagraph is replaced by the following:

"7. The driver shall enter in the digital tachograph the symbols of the countries in which the daily working period started and finished [...].

By [18 months after the entry into force of the Directive laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in road transport,] the driver shall also enter the symbol of the country that the driver enters after crossing a border of a Member State at the beginning of the driver's first stop in that Member State. That first stop shall be made at the nearest possible stopping place at or after the border. Where the crossing of the border of a Member State takes place on a ferry or train, the driver shall enter the symbol of the country at the port or station of arrival.

Member States may require drivers of vehicles engaged in transport operations inside their territory to add more detailed geographic specifications to the country symbol, provided that those Member States have notified those detailed geographic specifications to the Commission before 1 April 1998.";

(3) Article 36 is amended as follows:

(a) paragraph 1(i) is replaced by the following:

"(i) the record sheets for the current day [...] and the preceding 56 days,";

(b) paragraph 1(iii) is replaced by the following:

"(iii) any manual records and printouts made during the current day and the [...] preceding 56 days.";

(c) paragraph 2(ii) is replaced by the following:

"(ii) any manual records and printouts made during the current day and the [...] preceding 56 days.";

### Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Articles 1(9a) and 2(3) shall apply from 31.12.2024. Until that date Article 16, paragraph 3, subparagraph (a) of Regulation (EC) No 561/2006 and Article 36, paragraphs 1(i), 1(ii) and 2(ii) of Regulation (EU) 165/2014 shall apply in their wording prior to the amendments introduced by this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at [...],

For the European Parliament  
*The President*

For the Council  
*The President*