

Tachographs in road transport

2011/0196(COD) - 03/07/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 488 votes to 67, with 129 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council.

The European Parliament's position adopted in first reading, under the ordinary legislative procedure, amends the Commission proposal as follows:

Tachograph: Parliament suggests that this term should replace "recording equipment" throughout the text. It is defined as the equipment intended for installation in road vehicles to display, record, print, store and output automatically or semi automatically details of the movement of such vehicles in relation to the different periods of time being part of the driver's daily working period, and of data referred to in the Regulation. It specifies the definitions of 'weight sensor', 'analogue tachograph' and 'digital tachograph'. Parliament requests that by 2020 all vehicles which are not exempted from the application of this Regulation shall be fitted with a **smart tachograph** within the meaning of this Regulation.

Purpose of the Regulation: Members want to insert into the text of the Regulation the **obligations and requirements** in relation to the construction, installation, use, testing and control of tachographs used.

Requirements: Parliament introduced clauses on essential requirements regarding the construction, installation, use, testing and checking of tachographs, including their functions, the data to be recorded, display, warning and obligations on data protection, so that the Regulation sets these out and the Commission adopts detailed specifications. These specifications will amend and supplement the Annexes and also cover **smart tachographs**, and the **interoperability and compatibility** between the various versions and generations of vehicle units, tachographs cards and equipment of enforcement authorities.

After the publication of the technical specifications, the industry would need at least two years to put the product on the market. As regards the connection of the tachograph to a GNSS, use shall be made only of satellite positioning service connections that exploit a positioning service **free of charge**.

The basic framework of the use of this new technology should be set through the codecision procedure and not entirely by the Commission through delegated acts.

Data protection: after receiving advice from the European Data Protection Supervisor, Parliament inserted some amendments to clarify the modalities of the processing of data, including personal data relating to professional drivers. The data to be communicated for control purposes should be limited to those facts identifying manipulation or misuse of the tachograph. The access to the data communicated shall be restricted to enforcers authorised to control infringements and to workshops insofar as it is necessary to verify the correct functioning of the tachograph. Data may only be stored by the control authorities for the duration of a roadside check, and shall be deleted at the latest two hours after their communication unless the data indicate a possible manipulation or misuse of the tachograph.

Harmonised ITS: an amendment states that priority shall be given to the development of a harmonised ITS application which enables drivers to interpret the data recorded in the tachograph in order to help them comply with social legislation.

Type approval of software: Members suggest that the software used by control authorities should be type approved to guarantee the same results throughout Europe when interpreting data to detect infringements of the legislation. Manufacturers shall submit an application for EU approval of software used by the competent control authorities to interpret data.

The main elements of the type approval process should be set out in the text of the Regulation and not in the Annexes.

The security certificate stating compliance against security targets shall be delivered by a certification body recognised by the Commission. **A functional certificate** shall be delivered to the manufacturer only after all functional tests, certifying that the item tested fulfils the appropriate requirements. A single laboratory under the authority and responsibility of the Commission shall deliver an interoperability certificate.

Sealing: since seals are an important element for detecting fraud, a provision setting out their main characteristics is included in the text of the Regulation and not only in the annexes.

Workshops: workshops play an essential role in relation to the tachograph system. As it seems that in many cases manipulation of the tachograph is not possible without the intervention or agreement of a workshop, the report proposes that controls shall cover at least **20 %** (rather than 10%) of the approved workshops per year.

Parliament calls on Member States to monitor and prosecute the **increasing offer of fraudulent installation** and the installation of manipulation devices for recording equipment on the internet. Member States shall inform the Commission of their activities in this regard and then make the information available to all other EU control authorities in order to make the newest practises in fraudulent installation and manipulation known to all of them.

Driver card: this shall be issued within 15 days of the request being received by the competent authority.

In order to ensure fair competition in international road transport, Parliament considers that individual employment contract of international drivers shall be governed by the law of the country in which, or alternatively, from which, in the light of all the factors which characterise his activities, the driver carries out, on a regular basis, the greater part of his obligation towards his employer, in performance of his contract.

Within 24 months of the entry into force of the Regulation, the Commission is to carry out an Impact Assessment on the feasibility and merits of merging all of the cards used by professional drivers, in particular the driver card with the driver licence.

Transport undertaking: Parliament inserted an amendment clarifying certain obligations with regard to the employees of a transport undertaking. The latter must: (i) give to drivers it employs or who are at its disposal the necessary training and instructions as regards the correct functioning of tachographs; (ii) make regular checks to ensure that the drivers it employs or who are at its disposal make correct use of tachographs and; (iii) not give to drivers it employs or who are at its disposal any direct or indirect incentives that could encourage the misuse of the recording equipment.

An amendment has been proposed to clarify that transport undertakings should be liable not only for the infringements committed by its employees but also for those committed for those drivers who are put at its disposal.

Control officers: sufficient standard equipment and appropriate legal powers shall be available to all certified control officers to enable them to carry out their duties according to the Regulation.

24 months after the date of application of the Regulation, control officers shall pass an examination in order to obtain a **European Enforcement Certificate**. This harmonised certification shall prove that they have the appropriate skills to efficiently execute their control tasks as defined in the Regulation. The Commission shall adopt decisions on the requirements and contents of the examination in accordance with the examination procedure.

The Commission shall present to the European Parliament and the Council a report every two years regarding the number of control officers following the training in each Member State and obtaining the European Enforcement Certificate.

Very serious infringements: Parliament proposes to insert a **category of infringements** of the obligations set out in the Regulation, which shall be considered as very serious infringements in the legislation of Member States. These are the very serious infringement against this Regulation identified by the Commission in Annex III to Directive 2006/22/EC. Efforts should also be taken to ensure that the penalties imposed for any infringements are always 'effective, dissuasive and proportionate'. In particular concrete steps should be taken to eliminate the practice of excessively high fines for minor infringements.

Telephone Hotline: Parliament inserted a clause stating that the Commission shall install a website and an EU-wide hotline telephone number that can be called free of charge and anonymously by drivers or any other concerned stakeholder wishing to report fraud that falls under the scope of the Regulation.