

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

2001/0241(COD) - 09/12/2004 - Council position

The common position, adopted by unanimity, includes some general changes relative to the Commission's proposal. Council holds the view that its common position provides a considerable added value as compared to the legislation currently in force. Among the elements which provide such added value are the following:

- the minimum uninterrupted daily rest period is increased from 8 to 9 hours;
- the maximum driving time per calendar week is reduced to 56 hours (currently it is possible to drive up to 74 hours in one calendar week);
- during two consecutive weeks, a driver must take at least one regular weekly rest period consisting of an uninterrupted period of at least 45 hours;
- the legal framework is created for Member States, subject to certain conditions: to immobilise temporarily a vehicle; to withdraw, suspend or restrict an undertaking's licence; to withdraw, suspend or restrict a driver's driving licence. In addition, guidelines with a view to promoting a harmonised application of these provisions will be developed in accordance with the Comitology procedure;
- the time period which can effectively be checked by enforcement officers is increased significantly, from "the current week and the last driving day of the previous week" to "the current week and the previous 15 days". After 1 January 2008 this period is increased even further, to "the current day and the previous 28 days". These provisions enable enforcers to benefit from the capabilities of the digital tachograph;
- the number and scope of the general exemptions is reduced;
- competent authorities in the Member States will be empowered to impose a sanction for an infringement detected on its territory, even when the infringement has been committed outside its territory;
- other actors in the transport chain can, under certain conditions, be held co-labile for infringements.

The Council also recalls that, as concerns the introduction of the digital tachograph (i.e. the fitting of this equipment to all new heavy goods vehicles), it has extended the deadline for this by 1 year, to 5 August 2005 (cf. Article 27) due to practical considerations. Furthermore, the Council common position, through the amendment of the relevant instrument (Regulation 3821/85/EEC), provides for a number of improvements when it comes to operating this device.

The Commission accepted wholly or in part 47 of the 69 amendments proposed by the European Parliament at its first reading. Of these, the Council included 34, either literally or in principle, in its common position.

Amendments accepted by the Commission and incorporated in full or in part in the common position aim in particular to :

- return to the calendar week system of calculation;
- bring useful clarifications to the text and are reflected in the common position;
- add a general exemption for historic vehicles used for non-commercial purposes appears logical and is included in the common position. Likewise local postal services could continue to be excluded, on the understanding that driving is not the main activity;
- introduce a greater degree of flexibility for the industry;
- form part of the compromise package on daily and weekly rest;
- introduce co-liability for the entire transport chain. The common position in Article 10(4) amplifies the list of those potentially co-liable and concentrates on contractually agreed time schedules;

Other amendments rejected by the Commission are incorporated in the common position, these aim to:

- return to the broader general exemption for specialised vehicles for medical purposes and is included in the common position;
- reinsert general exemptions for vehicles for milk collection and delivery from farms as well as the current Regulation's extensive list of public utility vehicles. The common position confirms all as optional national derogations, while maintaining the Commission's reduced list of public utility vehicles;
- replace a transport undertaking's defence against liability for infringements with two further requirements for record keeping and an obligation to verify a driver's total working time. The common position has incorporated the substance of these additions in Article 19(bis);

The amendments not incorporated in the common position aimed to :

- oblige roadside checks to cover the current day and the previous 27 days. The common position continues to allow a measure of discretion to enforcement staff, but gives them the option from 1.1.2008 onwards of checking the previous 28 days;
- introduce a deadline for retrofitting all vehicles in operation with a digital tachograph. However not all these vehicles are so constructed as to be able to be fitted with a digital tachograph;
- include the maximum weekly working time limits of the sectoral working time Directive, Directive 2002/15/EC, within the body of the Regulation. The common position does not include the form of this amendment, but nevertheless in Art. 6(2) it retains the substance, specifying that the maximum working time limit may not be exceeded;
- introduce a general exemption for vehicles used for humanitarian aid;
- exempt vehicles not exceeding 3.5 tonnes used for non-commercial purposes. However all vehicles not exceeding 3.5 tonnes are already excluded from the scope of the proposal;
- reinsert all of Article 5 of Regulation 3820/85/EEC concerning minimum ages of drivers of large goods or passenger vehicles. However these provisions have already been taken up in Art. 5 of Directive 2003/59/EC;

- limit the obligation for the driver to record driving time undertaken on vehicles outside the scope of the Regulation to urban passenger transport vehicles. The common position includes driving on all commercial vehicles outside the scope, but stipulates that this driving be recorded as 'other work.'
- limit the obligation for the driver to record driving time undertaken on vehicles outside the scope of the Regulation to urban passenger transport vehicles.
- propose a break of 30 minutes every four and a half hours, which can be divided into two periods of 15 minutes. The common position retains the 45 minutes break but does not allow this break to be split into at least 15 minute intervals;
- reinsert as national derogations certain vehicle groups that the Commission proposal was removed;
- introduce legal provisions, which run counter to the comitology rules;
- invite the Commission to submit a proposal for the uniform interpretation of these rules.