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**REPORT FROM THE COMMISSION**

**on the implementation in**

**1993-1994 of Regulation (EEC) No 3820/85  
on the harmonisation of certain social legislation  
relating to road transport**

**(18th report by the Commission on the implementation  
of the social legislation relating to road transport)**



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## EXECUTIVE SUMMARY

This Report sets out trends and statistics on the Member States' inspection and enforcement activities in relation to the provisions of Regulation (EEC) No. 3820/85 on driving times and rest periods during the period 1993-94. The Report is based on statistics provided by the Member States and includes their views on implementation.

More Member States have submitted more detailed information on checks and offences detected during this period. However Austria, Italy and Greece failed to submit data for this period and Belgium and Portugal submitted incomplete statistics. This has delayed the production of the Report and has limited an early and effective comparison of statistics. The Commission services are therefore preparing infringement proceedings against Italy and Greece to ensure such inactivity does not recur, warning Belgium and Portugal to tighten up their statistical co-ordination and advising Austria, as a new Member State, to provide the stipulated data for 1995-96 within the Regulation's required timeframe.

The statistics show that roadside checks generally increased, although this increase was not reflected in checks on working days, except in Spain, Portugal, the Netherlands and Luxembourg. Checks at premises of undertakings increased, in particular on the passenger transport sector. Overall, eight Member States were above the 1% minimum working days checking limit with Denmark, Germany, Ireland and Spain achieving more than 2%. Of the four Member States falling beneath the 1% requirement, Belgium and Portugal have forwarded only partial data, which may mask a true picture of enforcement levels, while Sweden and Finland were in the process of reorganising their enforcement agencies.

The general rise in enforcement levels has led to an increase in the level of offences detected. Overall, offences in respect of rest periods continue to account for the highest number of infringements. However, there has been a general shift of 5% in the nature of offences detected from those relating to rest periods and duty rosters to those in respect of 'breaks', although driving offences still remain a constant and significant proportion (34%) of all reported offences. A significantly higher level of enforcement activity by Spain, particularly in the passenger transport sector, has resulted in a considerable increase in offences detected. Germany has also now supplied figures including data from the Länder which indicate a major enforcement effort and associated high offence detection rate. Indeed the data provided shows that within the Union over 86% of all detected offences are committed in Germany and that it has by far the highest ratio of offences detected against working days checked. The Netherlands has reported a notable decrease in offences especially amongst the national road haulage sector. It is significant that it is also one of the top three countries with a high ratio of offences detected against working days checked.

Member States have taken various initiatives: in particular, France has issued uniform checking instructions to all its enforcement authorities to ensure a common approach, as well as promoting staff exchanges with other Member States to broaden the expertise of its staff and encourage exchanges of views. The Netherlands developed a particular sectoral approach to enforcement which appears to be yielding results in

terms of reduced offences. As regards co-operation, while the French arranged fruitful joint actions, the Germans pointed out that the current reciprocal arrangements were insufficient to deal with the enforcement of the Regulation for foreign nationals. The Commission will further elaborate on this matter in a report to the Council on the effectiveness and uniformity of enforcement practice requested by the Council in its declaration in June 1997. Although the figures provided for penalties are difficult to compare accurately, the available data suggest a wide disparity between different Member States and point to the need for action to ensure that sanctions are effective, proportionate and dissuasive in the context of the Internal Market

Charges of discrimination in enforcement practice between national and non-national road transport operators have been levelled at Member States based on the figures submitted and published in this series of reports. Commission investigations of complaints have not so far revealed any such deliberate policy by a Member State which would contravene the provisions of the Regulation. In this report, Belgium and Luxembourg check and detect considerably more offences amongst non-nationals than nationals - in their defence, they are both transit countries. However the Commission intends to keep this aspect under closer scrutiny to ensure an even handed approach to enforcement throughout the Union.

The Commission intends to

- take the necessary action to improve data provision
- clarify whether enforcement levels in Belgium and Portugal are in accordance with minimum requirements
- review minimum enforcement levels including sanctions and come forward with proposals, as appropriate
- examine whether enforcement activity in some Member States is biased against non-nationals and take action as necessary
- evaluate the effectiveness and uniformity of enforcement practice in a report to be accompanied by proposals where necessary
- study whether further changes to Community enforcement rules are needed particularly with the introduction of the new tachograph
- revise Regulation (EEC) No. 3820/85

## **1. Introduction**

This report, which covers the period 1993-1994, is the second in the new series of Commission reports which exclusively covers Regulation (EEC) No 3820/85<sup>1</sup>. The information provided has been supplied by the Member States on the standard form, introduced by the Decision of 22 February 1993<sup>2</sup>.

This makes it simpler to analyse trends in particular countries and also to compare statistics between the Member States over the past two reports. Unfortunately the data cannot be compared with that supplied for earlier documents.

While most Member States have submitted their data in a format close to the standard form, their returns are still not all uniform and some of the data submitted was fragmentary, incomplete or for the wrong reference period. There were delays in returns and in the case of Austria, Italy and Greece no return was made. The returns for Finland and Sweden reflected the transitional difficulties experienced.

This report is presented in a different format to its predecessor: it highlights the statistical data in summary form for 1993-94, sets out any initiatives communicated by Member States and includes the latest developments at Community level to ensure Member States are aware of the Commission's current concerns, objectives and proposals.

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<sup>1</sup> OJ No L 370, 31.12.1985, p.1.

<sup>2</sup> OJ No L 72, 25.03.1993, p.33

## **2. National initiatives**

### **2.1 Regulatory measures**

In France, Decree No 93/218 of 11 February 1993 and Circular No 93-19 of 2 March 1993 brought into operation most exemptions permitted under Article 13 of Regulation (EEC) No.3820/85.

In Finland, during 1994 enforcement was a matter for the police alone. To enhance enforcement practice, a Regulation was introduced to allow the labour protection inspectors to include this aspect of work within their brief. The Regulation was later approved in 1995.

### **2.2 Administrative Measures**

In France an inter-ministerial circular issued on 14 March 1994 led for the first time to the use of identical instructions by all road traffic enforcement authorities as regards speeding, loading and driving and rest periods. Exchanges have taken place between enforcement staff in France and both the United Kingdom and Spain. Recruitment and assimilation into the enforcement establishment in 1994 surpassed that in 1993. Individual officers received 60 days training, majoring in enforcement psychology and the penal code. There was investment in manual and optical tachograph reading equipment.

In Finland a comprehensive training programme for policemen was introduced to facilitate checking driving times. Plans are in hand to train the labour protection inspectors in enforcement activities.

In the Netherlands, the emphasis has been on developing preventative checking methods as regards undertakings.

In Germany, fines with a caution were meted out to 12,107 passenger carriers and 384,251 road hauliers. 2,528 passenger vehicle operators. 71,159 road hauliers were presented with penalty notices, while 750 and 36,803 respectively were banned from continuing their journey.

In the United Kingdom, enforcement on driver's hours was increased with particular locations being targeted as well as suspect drivers and operators. This included information from 'silent checks', where a vehicle's use and location is recorded without the driver's knowledge and followed by a thorough check of drivers' charts to see whether all information has been recorded. This helps to detect systematic abuse of drivers' hours rules.



### **3. Penalties**

#### **3.1 Scales**

Six Member States submitted information on the scale of penalties imposed for infractions against the Regulations. A summary is set out in Annex A. To facilitate a broader comparison, the Commission has added information submitted more recently by other Member States at a conference of National Experts in 1995. The table indicates the wide range of fines between Member States for both major and minor offences.

While Member States may have differing views on what constitutes a major or a minor offence, divergences such as a maximum penalty of 248 ecu in Belgium and 4,447 ecu in Italy for serious offences appear to exist. In the light of the Commission Communication on the role of sanctions in the Internal Market<sup>1</sup>, which states that penalties should be effective, proportionate and dissuasive, it appears that in some countries, fines might be viewed by some in the road transport industry as an occupational hazard rather than as dissuasive. If they are not dissuasive, ultimately they are not an effective means of enforcement. The Commission will therefore open discussions with the Member States to clarify and complete the data provided to date, with a view to reaching an understanding on this issue.

#### **3.2 Changes**

In France the new penal code in 1994 increased the fine for minor infringements, while abolishing the repeat offence provisions. The commissions for administrative sanctions were reactivated through the circular of 7 January 1994 to better regulate the activities of the profession. In 1994, it heard cases relating to 53 undertakings for serious or repeated omissions concerning transport, conditions of work and road safety regulations. The majority of these offences related to infringements of the Regulations (EEC) Nos. 3820/85 and 3821/85 - inoperative tachographs or multiple offences in relation to driving times and rest periods. Sanctions comprised the temporary or permanent revocation of all or some of the transport authorisations.

In Great Britain the maximum fines were increased in October 1992 by means of the Criminal Justice Act 1991 which lays down the maximum amount for each level of fine. Reference to the level of fine appropriate to each category of driver's hour offence (i.e. Level 1 or 2 etc.) is contained in Part VI of the Transport Act 1968.

Belgium is currently revising the scale of on-the-spot fines for driving times and rest periods.

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<sup>1</sup> COM (95) 162/2

#### **4. Relations and co-operation between Member States**

Although this heading is not included explicitly in the standard form, a number of Member States made comments on two points - checks and exchanges of information.

##### **4.1 Concerted checks**

Directive 88/599/EEC of 23 November 1988 calls for an exchange of information and mutual assistance on the part of the Member States as regards the implementation of the enforcement measures. France mentioned that fruitful joint operations have been undertaken with Belgium, the Netherlands, Germany, Spain and the United Kingdom.

Germany pointed out that offences committed by non-resident drivers were harder to detect than those perpetrated by resident drivers. The co-operation envisaged by the Directive between Member States was insufficient to tackle the problem and hence the number of non-resident drivers checked did not reflect the full extent of offences committed.

##### **4.2 Exchanges of information**

Denmark reported that penalty notices had been exchanged with the Netherlands, France, Germany and Sweden.

The Dutch Traffic Inspectorate arranged through a private consultancy service for an informal working group to be convened at the Hague on 14-15 October 1996 to which representatives from all Member States were invited. Representatives from nine Member States and the Commission attended. The aim of the meeting was to analyse the difficulties in the interpretation of the social legislation in the road transport sector and the problems of checking systems. The group concluded that arriving at a uniform interpretation of the legislation would be a difficult task, given the different political, economic and social aspects which impinged on the subject. More exchanges of information, as well as more basic reference guides on the aims of the regulations were recommended to persuade interested parties of the need to abide by the rules. The group called for an initiative at Community level to reach a consensus on how serious each offence stipulated under the Regulation should be viewed and sanctions aligned accordingly. A framework for conducting a regular dialogue on these issues was recommended with the Commission taking the lead.

## 5.0 Summary tables

### 5.1 Checks: summary

**Number of days actually checked as a proportion of the minimum number of working days to be checked.**

Member State	- a - Minimum number of working days to be checked	- b - Number of working days checked (national)	- c - Number of working days (non-national)	- d - Total number of working days checked	- e - Number of working days checked as a proportion of the minimum number of days to be checked (d/a)
Austria					
Belgium (1)	665,500	194,527	245,898	440,425	66%
Denmark (2)	176,000			449,859	256%
Finland (3)	91,300			40,000	44%
France (4)	1,250,000	1,530,106	244,048	1,774,154	142%
Germany	3,690,466	9,096,571	5,885,704	14,982,275	405%
Greece					
Ireland	243,248	935,125	4,143	939,268	386%
Italy					
Luxembourg	49,496	53,990	36,736	90,726	183%
Netherlands	647,000	651,120	94,814	745,934	115%
Portugal (2)(5)	591,250	57,450	1,638	88,158	15%
Spain	1,680,000	3,035,725	347,927	3,383,652	201%
Sweden (3)	200,000	22,926	1,998	27,048	13%
United Kingdom	2,014,920			3,439,391	171%

#### Note

- (1) In the Table 5.1 above, as in Tables 3.1 to 3.4 in Annex B, figures relating to checks carried out by the gendarmerie, the Ministry of Finance (Customs) and the Ministry of Employment and Labour are absent. Since these bodies have detected more than twice as many offences as the Ministry of Transport (see Table 5.2 overleaf - a total of 21,176 offences as opposed to 8,021) which has provided the main figures used here, it may be assumed that they have carried out more than twice as many checks as the Ministry of Transport. Hence it follows that Belgium has carried out a number of checks well in excess of the required minimum.
- (2) Statistics for checks not disaggregated between nationals/ non-nationals but included in overall total (d)
- (3) From 1 January 1994 to 31 December 1994.
- (4) From 1 January 1993 to 31 December 1993.
- (5) In the Table 5.1 above, as in Tables 3.1 to 3.4 in Annex B, all figures relating to checks carried out by the Labour Inspectorate and gendarmerie are absent. The statistics represent only a partial picture of enforcement activity.

## 5.2 Offences: summary

### Number of offences recorded: Articles 6, 7, 8 and 14 of Regulation (EEC) 3820/85 Overview by Member State

Member State	PASSENGERS				GOODS				Total
	Nationals	EEC	Third countries	Total non-nationals	Nationals	EEC	Third countries	Total non-nationals	
Austria									
Belgium ***	200	258	9	267	2,602	4,818	134	4,952	8,021
Denmark		19				3,247			3,266
Finland					**1,282				1,282
France									*47,642
Germany	44,814	1,978	1,550	3,528	681,460	116,424	61,304	177,728	907,530
Greece									
Ireland	1,541	251		251	9,700	1,001		1,001	12,493
Italy									
Luxembourg	5	3	3	6	222	545		545	778
Netherlands	962	57	6	63	15,706	3,956	137	4,093	20,824
Portugal	258	1	-	1	1,580	18	-	18	1,857
Spain	47,580	725							48,305
Sweden					223	86			309
United Kingdom	**714				**7,087	1,470	65	1,535	9,336

#### Note

\* Figures are from 1 January 1993 and include the first semester of 1994.

\*\* Total figure only available.

\*\*\* The following figures have not been incorporated into the Table above, nor in Tables 4.1 - 4.4 in Annex B, as they were not suitably disaggregated:

	<u>Total</u>
Gendarmerie:	17,329
Ministry of Finance	3,625
Ministry of Employment and Labour:	222 (in 1994 only)
Total	<u>21,176</u>

### Number of offences recorded: Articles 6, 7, 8 and 14 of Regulation (EEC) 3820/85 Overview by category of offence (includes passengers and goods; nationals, EEC and third countries)

Article	Type of offence	Number of offences*
6	Driving periods	356,188
7	Breaks	261,871
8	Rest periods	414,763
14	Service timetable and duty roster	19,738
TOTAL		1,052,560

\* excludes unattributed figures

## **6. Conclusions and comments on all the trends observed in the fields in question**

### **6.1 Conclusions and comments by the Member States**

In France, comparison between the statistics for the first half of 1993 and 1994 indicate a consistency of roadside checks of all vehicles (164,593 for 1993 as opposed to 166,058 for 1994) with a slight increase of 1% in the number of passenger vehicles (9,165 coaches). The number of working days checked at the roadside went up by 1.5% from 544,226 to 552,427. The number of drivers checked at the premises of their undertaking rose by 7% from 23,594 to 25,731 and the number of working days checked at the premises of the enterprise rose by 42% - 402,788 working days in the first half of 1994. The number of offences under the Regulation represents more than 54% of the total number of offences recorded on the road.

Sweden pointed out that due to the reorganisation and reallocation of responsibilities for checking on the roadside and at the premises of enterprises a system was not yet in place to gather a complete set of statistics. Those figures given only represented a proportion of the actual work undertaken. Like Finland, Sweden had only become party to the EEA agreement with effect from 1 January 1994.

Belgium reported that driving and rest period offences were by far the two biggest categories of reported offences committed by drivers of goods transport and passenger transport. By placing an emphasis on the employers' responsibility, it was hoped to reduce the number of offences. Between 1992 and 1993 there had been a decrease of 34% in the number of tachograph infractions coming before the courts, while the number of on-the-spot fines for such offences had risen by 13% for nationals and by 6.7% for non-nationals. 1994 saw an upward trend in all three statistics with an increase in court proceedings of 28.7%, in spot fines for nationals of 115% and for non-nationals of 30.8%.

The Netherlands reported that they had targeted the market sectors where the offences are most frequent by a specific random checking method to maximise impact. Other offences were checked by a signalling system for which the random method was not appropriate. Premises were also selected for checking on this basis.

The introduction of a new Dutch law relating to carriage of goods by road led to an increase in the number of goods transporters and goods vehicles on the road. Notwithstanding this increase, a positive development as far as the number of recorded offences in the Netherlands was noted.

None of the other Member States made any comments under this heading.

## **6.2 Conclusions and comments by the Commission**

Regulation (EEC) No. 3820/85 currently provides an important Community basis for setting maximum driving time and rest periods for road transport operators. Effectively and uniformly applied, it can be an essential part of efforts to enhance road safety, transport efficiency and fair competition. The Commission recognises however that Member States have differing perceptions about the implementation of this legislation. There are differing authorities within Member States to enforce the Regulation's provisions, checks and controls are carried out with varying degrees of frequency and intensity, and infringements are penalised at different levels. The potential for circumvention of the current recording equipment is recognised as is the need for greater co-operation between Member States to ensure a co-ordinated approach to enforcement.

In response, the Commission has adopted a two pronged approach: liaison with national officials to foster administrative co-operation, a common interpretation of the legislation and a consistent approach in its application; and enhanced enforcement through the development and adoption of a digital tachograph - a Common Position was agreed at the Council meeting on 17 June 1997 - and other pending legislative initiatives.

### **6.2.1 Incomplete data continues to present problems for comparisons between states.**

Lack of data from Member States continues to hinder a comprehensive comparison. The reasons vary from country to country: for recent Community entrants, the organisational restructuring to implement the Regulation means that statistics, if available, cannot yet be broken down; for others their current division of responsibilities means the presentation of an incomplete picture of the enforcement efforts carried out; Austria, Italy and Greece simply failed to make a return. The Commission is opening discussions with those Member States who have failed to submit comprehensive statistics to ensure that this does not happen again. Should there be a number of national authorities involved in enforcing the provisions of the legislation, the Commission would strongly suggest that one be nominated to act as co-ordinator for statistical purposes.

The delay in publication of data due to the delay in receipt allows lessons to be drawn only some time after the event. Community measures cannot then take into account any specific national difficulties if they are not communicated. Accordingly, Member States are reminded that they should have submitted their data for the next report, the nineteenth, covering 1995 and 1996, by 30 September 1997 at the latest.

**6.2.2 Increases in the number of vehicles subject to the Regulation from 1991-92 to 1993-94 have been concentrated within the smaller Member States such as Ireland and the Benelux countries.**

The increased activity within the smaller Member States, particularly the Benelux countries which are primarily transit countries, points to the need for a higher level of enforcement activity. This indeed occurred in the Benelux. While it is difficult to accurately compare statistics for Germany between these two periods, the number of vehicles subject to the Regulation dropped significantly in this country, with a consequent downturn in the minimum number of vehicles to be checked during this period. The United Kingdom and, to a lesser extent, Spain also experienced this downturn.

**6.2.3 There has been a general rise in checks undertaken and offences detected**

Overall within the EU, the number of enforcement checks rose. This may also partially explain the general rise in the number of offences detected, although the deterrent effect of increased enforcement activity especially within the Netherlands may have contributed to a downturn in their overall offence rates.

The Netherlands has devised a system of enforcement which targets high risk market sectors and attributes the downturn in its overall offence rate to this approach. The transferability of this approach to the enforcement agencies of other Member States would merit examination by other Member States, given the Dutch success in reducing offence levels.

**6.2.4 There has been a shift in the nature of offences detected towards 'breaks'.**

Since the last report there has been a 5% increase in the number of 'breaks' offences detected, with a consequent decline in those relating to rest periods and duty rosters. Driving time offences have remained a constant and significant proportion (34%) of total offences detected. Nevertheless, overall offences in respect of rest periods continue to account for the highest number of infringements.

**6.2.5 The minimum standard has been reached by an increasing number of those Member States submitting data.**

A larger proportion of Member States which submitted data required to confirm compliance with the minimum check of 1% easily surpassed this basic standard, with Denmark, Germany, Ireland and Spain attaining a check of over 2%. There is generally a noticeably upward trend in the level of enforcement throughout most Member States which provides a reassurance among States that enforcement is continuing to be given priority by their neighbours. In particular, there are noticeably high rates of enforcement activity and consequent infraction detection levels in Germany. The provision of comprehensive statistical data in this instance has helped to indicate the full

extent of Germany's enforcement effort. Recognition of similar efforts in other Member States can only be given if full statistics are made available.

**6.2.6 Interpretation of Regulation (EEC) No 3820/85 continues to be refined through rulings made by the Court of Justice of the European Communities. The period covered is up to the start of 1997.**

In its ruling of 9 November 1995 on case C-235/94, the Court established that Article 12 does not authorise a driver to derogate from the provisions of Articles 6, 7 or 8 of the Regulation for reasons known before the journey was commenced. In reaching its ruling the Court noted that exemptions are authorised under Article 12 only on the condition that road safety is not jeopardised. Before a journey begins, neither drivers nor employers are in a position to say whether that condition will be fulfilled. It is when an unforeseen event occurs capable of justifying a derogation from the regulation that the driver must take into account the requirement of ensuring road safety.

Case C-335/94 dealt with two principal questions: the definition of vehicles used for rubbish collection services, as referred to in Article 4(6) of the Regulation; and secondly, whether the exemption under Article 4(6) for 'vehicles used in connection with...rubbish collection and disposal' overruled the application of national legislation on driving times and rest periods to this category. In its ruling of 25 January 1996 the Court defined vehicles used for rubbish collection services and found that the derogations contained in Article 4(6) do not preclude the ability of Member States to make national regulations in the field of driving time for vehicles in this category.

In case C-29/95 (Eckehard Pastoors, Trans-Cap GmbH v Belgium) the Court ruled on 23 January 1997 that Article 6 of the Treaty disallowed a national regulation, made on the basis of Council Regulations (EEC) Nos 3820/85 and 3821/85, under which only non-resident offenders who do not choose the specified on-the-spot fine but instead opt for their case to be pursued through the courts are obliged under caution to pay for each infraction a predetermined amount which is greater than the amount payable for an on-the-spot fine, otherwise their vehicle is impounded.

**6.2.7 Digital Tachograph gains Council agreement.**

A Commission proposal COM(94) 323 final of 22 July 1994 modifying Council Regulation (EEC) No. 3821/85 on recording equipment in road transport and Council Directive 88/599/EEC on standard checking procedures was presented to the Council on 1 September 1994. The Council has now adopted a political agreement on this issue on 17 June 1997 accepting the introduction of a digital tachograph.



#### **6.2.8 Exchange of views on enforcement promoted**

A meeting of national experts was arranged in 1995 to facilitate an exchange of views on inspection and penalties. The Joint Committee on road transport produced a report in December 1995 on aspects of organisation and enforcement of working and driving time which outlined the differences between the Member States. In addition the Commission is drawing up a report at the request of the Council in relation to the effectiveness and uniformity of enforcement practice.

#### **6.2.9 Success rates in detecting offences vary widely**

The ratio of the total number of offences detected to the total number of working days checked reveals a wide disparity in the success of Member States in targeting potential offenders. During 1993-94 Germany was the most successful with 6 offences detected for every 100 working days checked; Finland (3.2 offences), the Netherlands (2.79 offences) and France (2.68 offences) also show a relatively high detection rate. This contrasts with some other Member States where detection levels are below 1 offence per 100 working days checked and indeed in one instance where only 1 offence comes to light in every 10,000 working days checked. This ratio serves to indicate the benefits to be gained by an exchange of experience and adoption of the most effective and nationally appropriate methods of practice throughout the Union.

#### **6.2.10 Modification of Regulation (EEC) No. 3820/85**

A Commission White Paper on the inclusion of sectors (such as road transport) and activities currently excluded from the Working Time Directive (Directive 93/104/EEC) was adopted on 15 July 1997. The Commission is actively considering how best to revise the Regulation on driving times and rest periods in the light of this document.

#### **6.2.11 Final comments**

Effective application of this legislation is in everyone's interest. The Commission encourages all Member States to take further co-operative initiatives and, as some Member States have already done, promote exchanges of information, particularly on best practice, to enhance enforcement.

The Commission is considering ways in which the interpretation and application of the legislation can be improved. It is also examining an extension of the scope of the Regulation to include other activities which affect public safety.

## Annex A

Member State	Type of penalty	
	Minor Offences	Serious offences
Austria	22-36 ecu	2,181 ecu or up to 6 weeks in prison.
Belgium	62 ecu	248 ecu.
Denmark	Fine of at least 54 ecu for the driver and 135 for the company, the amount depending on the nature and gravity of the offence.	
Finland	Fines are related to income: a 'one day' fine represents 33.3% of a person's daily income, with social exemptions. The severity of one breach is more important than the number of breaches in determining the fine levied. The average penalty for this type of infringement is 120-137 ecu.	
France	<p>Prior to the introduction of the new penal code on 1 March 1994, the fines were as follows:</p> <p>197-455 ecu (455-910 ecu for second offences).</p> <p>After the introduction of the new penal code on 1 March 1994, the fines were amended as follows:</p> <p>759 ecu maximum.</p>	<p>Prior to the introduction of the new penal code on 1 March 1994, the fines were as follows:</p> <p>76-2,276 ecu or an imprisonment of between 15 days and three months. Offenders from other countries could deposit in court a sum of 136 ecu per infringement or between 303 and 1,158 ecu per criminal offence.</p> <p>After the introduction of the new penal code on 1 March 1994, the fines were amended as follows:</p> <p>3,794 ecu and imprisonment for three months.</p>
Ireland		1,365 ecu and/or six months imprisonment
Italy	16 ecu minimum.	4,447 ecu maximum.
Netherlands	There are set fines for each breach of a provision of the Regulation ranging from 45 - 1,365 ecu.	
Spain	30-284 ecu.	284-1,388 ecu (First Category) 1,388-2,414 ecu (Second Category)
Sweden	Fines range from 139 to 231 ecu.	
United Kingdom		Maximum fines for drivers and those who cause or permit driver's hours and tachograph offences range from 1,407 ecu (Level 3) to 7,034 ecu (Level 5), with a lower maximum in Northern Ireland of 2,814 ecu. In addition to a fine, the offences of falsifying a chart and altering or forging a seal on a tachograph carry a penalty of up to two years imprisonment.

### Note

Entries for Austria, Belgium, Italy, Spain and Sweden are based on figures supplied by national experts from these countries in 1995. The ecu conversion rate is that taken at 31 March 1997. Data for other Member States was not supplied.

## Annex B

### Statistical data

#### 1. Reference period

From 1 January 1993 to 31 December 1994.

#### 2. Calculation of minimum checks to be carried out (Article 2 of Directive 88/599/EEC)<sup>1</sup>

Member State	Number of days worked per driver during the reference period.  - a -	Total number of vehicles subject to Regulation (EEC) No. 3820/85 (annual average)  - b -	Total number of days worked a x b  - c -	Minimum checks (1% of c)  - d -
Austria				
Belgium	440	151,250	66,550,000	665,500
Denmark	440	40,000	17,600,000	176,000
Finland (1)	220	41,500	9,130,000	91,300
France (2)	240	521,875	125,250,000	1,250,000
Germany	480	768,847	396,046,560	3,690,465
Greece				
Ireland (3)	460	52,880	24,324,800	243,248
Italy				
Luxembourg	460	10,760	4,949,600	49,496
Netherlands	500	129,400	64,700,000	647,000
Portugal	430	137,500	59,125,000	591,250
Spain	480	350,000	168,000,000	1,680,000
Sweden (1)	200	100,000	20,000,000	200,000
United Kingdom	464	434,250	201,492,000	2,014,920

#### Note

- (1) From 1 January 1994 to 31 December 1994
- (2) Figures relate to one year
- (3) Figures relate to total number of goods vehicles over 1,524 kgs and large public service vehicles registered in the State. A number of these would be exempted from Council Regulation (EEC) No. 3820/85. However there is no breakdown of figures available.

<sup>1</sup> O J No L 325 29.11.88. p. 55

### 3. Checks

#### 3.1 Number of checks at the roadside

Member State	Type of operation	EEC		Third countries	Total non-national (1)
		nationals	other Member States		
Austria	carriage of passengers carriage of goods				
Belgium	carriage of passengers carriage of goods	2,284 36,322	3,826 59,621	151 2,670	62,291
Denmark	carriage of passengers carriage of goods total value	(2) 109,399			
Finland (3)	carriage of passengers carriage of goods total value	13,000	-	-	
France (4)	carriage of passengers carriage of goods	18,810 377,458			7,607 97,236
Germany	carriage of passengers carriage of goods	222,594 3,621,124	81,623 1,957,690	109,176 2,086,348	190,808 4,044,038
Greece	carriage of passengers carriage of goods				
Ireland (5)	carriage of passengers carriage of goods	9,509 33,651	1,539 4,572	210 225	1,749 4,797
Italy	carriage of passengers carriage of goods				
Luxembourg	carriage of passengers carriage of goods	717 6,068	946 10,871	162 388	1,108 11,259
Netherlands	carriage of passengers carriage of goods	7,076 119,959	1,871 39,293	247 5,996	2,118 45,289
Portugal	carriage of passengers carriage of goods	1,341 23,506	40 503	- -	40 503
Spain	carriage of passengers carriage of goods	201,203 963,220	42,142 161,508	5,960 15,935	48,102 177,443
Sweden (3)	carriage of passengers carriage of goods total value	7,642	666	-	666
United Kingdom	carriage of passengers carriage of goods	67,691 469,707			4,874 39,879

#### Note

- (1) Where the Member States were unable to supply more detailed figures.
- (2) EEC total, including nationals.
- (3) From 1 January 1994 to 31 December 1994.
- (4) From 1 January 1993 to 31 June 1994.
- (5) Where it has not been possible to distinguish between the two types of carriage, the following figures apply: nationals: 1,527; other Member States: 1,324; third country: 119.

### 3. Checks

#### 3.2 Number of drivers checked at premises of undertaking

Member State	Carriage of passengers	Carriage of goods	Carriage on own account	Carriage for hire or reward
Austria				
Belgium (1)	157	1,737	28	1,866
Denmark (2)	-	-	-	-
Finland (2)	-	-	-	-
France (3)	7,805	67,821	3,133	72,493
Germany	27,240	104,755	30,184	101,811
Greece				
Ireland (4)	1,123	5,212	2,728	3,607
Italy				
Luxembourg	1,097	5,306	24	1,062
Netherlands	2,148	9,612	2,445	7,167
Portugal (2)	-	-	-	-
Spain (5)		136,269		
Sweden (6)		708		
United Kingdom	4,652	28,697	- (5)	- (5)

#### Note

- (1) These statistics include figures provided by the Ministry of Employment and Labour for 1994 only (Passengers - 24; Goods - 193).
- (2) No statistics supplied
- (3) From 1 January 1993 to 30 June 1994
- (4) From July 1993
- (5) Figures unable to be disaggregated
- (6) From 1 January 1994 to 31 December 1994.

### 3. Checks

#### 3.3 Number of working days checked at the roadside

Member State	Type of transport	EEC		Third countries	Total non nationals (1)
		Nationals	other member states		
Austria	carriage of passengers carriage of goods				
Belgium	carriage of passengers carriage of goods	8,422 124,315	14,116 221,030	569 10,183	14,685 231,213
Denmark	carriage of passengers carriage of goods total number	(2) 437,569			
Finland (3)	carriage of passengers carriage of goods total number (1)	40,000	-	-	
France (4)	carriage of passengers carriage of goods	58,008 1,242,018	-	-	24,188 342,422
Germany	carriage of passengers carriage of goods	417,480 6,894,156	122,054 3,125,922	125,584 2,512,144	247,638 5,638,066
Greece	carriage of passengers carriage of goods				
Ireland	carriage of passengers carriage of goods	3,152 35,974	737 3,175	7 224	744 3,399
Italy	carriage of passengers carriage of goods				
Luxembourg	carriage of passengers carriage of goods	984 17,428	2,147 32,820	487 1,282	2,634 34,102
Netherlands	carriage of passengers carriage of goods	14,152 239,918	3,742 78,586	494 11,992	4,236 90,578
Portugal	carriage of passengers carriage of goods	4,853 52,597	297 1,341	- -	297 1,341
Spain	carriage of passengers carriage of goods	361,273 1,420,907	64,315 247,400	9,585 26,627	73,900 274,027
Sweden (3)	carriage of passengers carriage of goods total number (1)	22,926	1,998		1,998
United Kingdom (5)	carriage of passengers carriage of goods	197,802 1,560,484			

#### Note

- (1) Where the Member States were unable to supply more detailed figures
- (2) EEC total including nationals
- (3) From 1 January 1994 to 31 December 1994.
- (4) From 1 January 1993 to 30 June 1994.
- (5) Figures unable to be disaggregated.

### 3. Checks

#### 3.4 Number of working days checked at premises of undertaking.

Member State	Carriage of Passengers	Carriage of goods	Carriage on own account	Carriage for hire or reward
Austria				
Belgium	4,351	57,439		
Denmark (1)	1,037	11,226		
Finland (2)(3)				
France (4)	112,239	950,494	33,571	1,029,162
Germany	441,019	1,343,916	296,119	1,488,816
Greece				
Ireland	84,227	811,772		
Italy				
Luxembourg	5,249	30,329	6,066	29,512
Netherlands	85,920	225,210	24,450	286,680
Portugal	1,471	27,599		
Spain (5)		1,253,545		
Sweden (3)(5)		2,124		
United Kingdom	253,651	1,427,454		

#### Note

- (1) Estimated figures
- (2) No statistics available.
- (3) From 1 January 1994 to 31 December 1994.
- (4) From 1 January 1993 to 30 June 1994.
- (5) Total number provided.

#### 4. Offences

Number of offences recorded.

##### 4.1 Article 6 of Regulation (EEC) No 3820/85: driving period.

Member State	Type of offence	PASSENGERS				GOODS				PASSENGERS AND GOODS	
		nationals	EEC	third countries	total non-nationals	nationals	EEC	third countries	total non-nationals	nationals	non-nationals
Austria	- daily driving period - six days maximum - fortnight										
Belgium	- daily driving period - six days maximum - fortnight	90 - -	112 - -	4 - -	116 - -	1,266 24 -	2,348 44 -	60 5 -	2,408 49 -	1,356 24 -	2,524 49 -
Denmark	- daily driving period - six days maximum - fortnight		0				628				
Finland	- daily driving period - six days maximum - fortnight										
France*	- daily driving period - six days maximum - fortnight									14,511 169 -	5,034 35 -
Germany	- daily driving period - six days maximum - fortnight	13,946 872 322	1,072 6 -	806 6 -	1,878 12 -	206,042 3,990 5,368	46,128 1,206 1,630	16,298 4,272 22	62,426 5,478 1,652	219,988 4,862 5,690	64,304 5,490 1,652
Greece	- daily driving period - six days maximum - fortnight										



Member State	Type of offence	PASSENGERS				GOODS				PASSENGERS AND GOODS	
		nationals	EEC	third countries	total non-nationals	nationals	EEC	third countries	total non-nationals	nationals	non-nationals
Ireland	- daily driving period	294	54	-	54	2,818	228	-	228	3,112	282
	- six days maximum	86	14	-	14	291	71	-	71	377	85
	- fortnight	91	11	-	11	243	75	-	75	334	86
Italy	- daily driving period										
	- six days maximum										
	- fortnight										
Luxembourg	- daily driving period	-	-	1	1	125	311	-	311	125	312
	- six days maximum	-	-	-	-	-	-	-	-	-	-
	- fortnight	-	-	-	-	-	-	-	-	-	-
Netherlands	- daily driving period	179	4	-	4	4,885	996	28	1,024	5,064	1,028
	- six days maximum	-	-	-	-	-	-	-	-	-	-
	- fortnight	-	-	-	-	-	-	-	-	-	-
Portugal	- daily driving period	118	1	-	1	635	8	-	8	753	9
	- six days maximum	5	-	-	-	19	1	-	1	24	1
	- fortnight	-	-	-	-	38	-	-	-	38	-
Spain	- daily driving period	17,024	352							17,024	352
	- six days maximum	48	-							48	-
	- fortnight	32	-							32	-
Sweden**	- daily driving period					223	86			223	86
	- six days maximum										
	- fortnight										
United Kingdom***	- daily driving period						269	11		269	11
	- six days maximum						173	14		173	14
	- fortnight						10	-		10	-

Note

\*From 1 January 1993 to 30 June 1994

\*\* From 1 January 1994 to 31 December 1994

\*\*\* Data may include figures in respect of a small proportion of passenger vehicles

#### 4. Offences

##### Number of offences recorded

#### 4.2 Article 7 of Regulation (EEC) No. 3820/85: breaks

Member State	Type of offence	PASSENGERS				GOODS				PASSENGERS AND GOODS (1)	
		nationals	EEC	third countries	total non-nationals	nationals	EEC	third countries	total non-nationals	nationals	non-nationals
Austria	- driving for more than 4.5 hours without a break - breaks too short										
Belgium	- driving for more than 4.5 hours without a break - breaks too short	9 4	9 3	1 -	10 3	160 101	331 97	7 2	338 99	169 105	348 102
Denmark (2)	- driving for more than 4.5 hours without a break - breaks too short		6				1,321				
Finland	- driving for more than 4.5 hours without a break - breaks too short										
France (3)	- driving for more than 4.5 hours without a break - breaks too short									6,769	2,382
Germany	- driving for more than 4.5 hours without a break - breaks too short	6,938 9,300	306 312	62 186	368 498	72,424 100,952	16,888 8,142	10,376 8,140	27,264 16,282	79,362 110,252	27,632 16,780
Greece	- driving for more than 4.5 hours without a break - breaks too short	1									

Member State	Type of offence	PASSENGERS				GOODS				PASSENGERS AND GOODS (1)	
		nationals	EEC	third countries	total non-nationals	nationals	EEC	third countries	total non-nationals	nationals	non-nationals
Ireland	- driving for more than 4.5 hours without a break	384	57	-	57	1,715	348	-	348	2,099	405
	- breaks too short	188	23	-	23	643	40	-	40	831	63
Italy	- driving for more than 4.5 hours without a break - breaks too short										
Luxembourg	- driving for more than 4.5 hours without a break	1	1	1	2	81	206	-	206	82	208
	- breaks too short	-	-	1	1	12	21	-	21	12	22
Netherlands	- driving for more than 4.5 hours without a break	105	-	-	-	3,030	203	8	211	3,135	211
	- breaks too short	-	-	-	-	-	-	-	-	-	-
Portugal	- driving for more than 4.5 hours without a break	43	-	-	-	245	4	-	4	288	4
	- breaks too short	-	-	-	-	-	-	-	-	-	-
Spain	- driving for more than 4.5 hours without a break	9,099	154							9,099	154
	- breaks too short	-	-							-	-
Sweden	- driving for more than 4.5 hours without a break - breaks too short										
United Kingdom (4)	- driving for more than 4.5 hours without a break - breaks too short						30				

Note

- (1) Where the Member States were unable to supply more detailed figures.  
(2) Total number provided.  
(3) From 1 January 1993 to 30 June 1994.  
(4) Data may include figures in respect of a small proportion of passenger vehicles.

#### 4. Offences

##### Number of offences recorded

#### 4.3 Article 8 of Regulation (EEC) No 3280/85: rest periods

Member State	Type of offence	PASSENGERS				GOODS				PASSENGERS AND GOODS	
		nationals	EEC	third countries	total non-nationals	nationals	EEC	third countries	total non-nationals	nationals	non-nationals
Austria	- daily - weekly										
Belgium	- daily - weekly	88 9	116 18	4 -	120 18	1,010 41	1,873 125	58 2	1,931 127	1,098 50	2,051 145
Denmark	- daily - weekly		13 -				1,298 -				
Finland	- daily - weekly										
France (1)	- daily - weekly									13,993 64	4,341 62
Germany	- daily - weekly	10,900 1,924	272 2	416 26	688 28	285,816 6,868	41,720 710	21,610 586	63,330 1,296	296,716 8,792	64,018 1,324
Greece	- daily - weekly										
Ireland	- daily - weekly	312 133	56 36	- -	56 36	3,736 254	145 94	- -	145 94	4,048 387	201 130
Italy	- daily - weekly										
Luxembourg	- daily - weekly		1 -							- -	1 -

Member State	Type of Offence	PASSENGERS				GOODS				PASSENGERS AND GOODS	
		nationals	EEC	third countries	total non-nationals	nationals	EEC	third countries	total non-nationals	nationals	non-nationals
Netherlands	- daily	676	53	6	59	7,787	2,756	101	2,857	8,463	2,916
	- weekly	-	-	-	-	4	1	-	1	4	1
Portugal	- daily	71	-	-	-	584	5	-	5	655	5
	- weekly	21	-	-	-	59	-	-	-	80	-
Spain	- daily	2,555									
	- weekly	324									
Sweden	- daily										
	- weekly										
United Kingdom (2)	- daily						844	29			
	- weekly						144	11			

Note

- (1) From 1 January 1993 to 30 June 1994.
- (2) Data may include figures in respect of a small proportion of passenger vehicles.

#### 4. Offences

##### Number of offences recorded

#### 4.4 Article 14 of Regulation (EEC) No. 3820/85: Service timetable and Duty roster.

Member State	Type of offence	Nationals	EEC	Third countries	Total non-nationals
Austria	Faulty Incorrectly applied				
Belgium	Faulty Incorrectly applied				
Denmark	Faulty Incorrectly applied				
Finland	Faulty Incorrectly applied				
France	Faulty Incorrectly applied	} } 215** }	} } 67** }		
Germany	Faulty* Incorrectly applied	528 84	8 -	24 24	32 24
Greece	Faulty Incorrectly applied				
Ireland	Faulty Incorrectly applied	7 46	- -	- -	- -
Italy	Faulty Incorrectly applied				
Luxembourg	Faulty Incorrectly applied	2 6	1 7	- -	- -
Netherlands	Faulty Incorrectly applied	2 -	- -	- -	- -
Portugal	Faulty Incorrectly applied				
Spain	Faulty Incorrectly applied	2,618 15,880	- 219	- -	- -
Sweden	Faulty Incorrectly applied				
United Kingdom	Faulty Incorrectly applied				

#### Note

\* Not to hand.

\*\* Infringements of Article 14 without distinction.



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