

COMMISSION IMPLEMENTING REGULATION (EU) 2022/694**of 2 May 2022****amending Regulation (EU) 2016/403 as regards new serious infringements of the Union rules which may lead to the loss of good repute by the road transport operator**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC ⁽¹⁾, and in particular Article 6(2a) thereof,

Whereas:

- (1) Regulation (EC) No 1071/2009 has been amended by Regulation (EU) 2020/1055 of the European Parliament and of the Council ⁽²⁾ which added new serious infringements with regard to the law applicable to contractual obligations, cabotage and posting of workers in road transport to the list of infringements that may lead to the loss of good repute set out in Article 3(1), point (b), of Regulation (EC) No 1071/2009.
- (2) Regulation (EU) 2020/1055 also introduced an additional criterion to be taken into account by the Commission when defining the degree of seriousness of serious infringements, by adding the reference to the risk to distort competition in the road transport market.
- (3) Regulation (EU) 2020/1055 also amended Regulation (EC) No 1071/2009 in order to provide that, when establishing the frequency of occurrence beyond which repeated infringements are to be regarded as more serious, the Commission should take into account the number of vehicles, and not the number of drivers, used for the transport activities.
- (4) Regulation (EU) 2020/1054 of the European Parliament and of the Council ⁽³⁾ introduced new provisions as regards infringements leading to risks of serious injuries or fatalities or distortion of competition in the road transport market. Those infringements should be added to the list of serious infringements of the Union rules referred to in Article 6(1), third subparagraph, point (b), of Regulation (EC) No 1071/2009, which may affect good repute of the road transport undertaking or the transport manager.
- (5) Therefore, Commission Regulation (EU) 2016/403 ⁽⁴⁾ should be amended to include the new infringements and take into account the new criteria for defining their level of seriousness and frequency of occurrence.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Road Transport,

⁽¹⁾ OJ L 300, 14.11.2009, p. 51.

⁽²⁾ Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020 amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector (OJ L 249, 31.7.2020, p. 17).

⁽³⁾ Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs (OJ L 249, 31.7.2020, p. 1).

⁽⁴⁾ Commission Regulation (EU) 2016/403 of 18 March 2016 supplementing Regulation (EC) No 1071/2009 of the European Parliament and of the Council with regard to the classification of serious infringements of the Union rules, which may lead to the loss of good repute by the road transport operator, and amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council (OJ L 74, 19.3.2016, p. 8).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 2016/403 is amended as follows:

- (1) Annex I is amended in accordance with Annex I to this Regulation;
- (2) Annex II is replaced by the text in Annex II to this Regulation.

Article 2

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

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

Done at Brussels, 2 May 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Annex I to Regulation (EU) 2016/403 is amended as follows:

(1) the introductory paragraphs and Section 1 are replaced by the following:

'Categorisation of serious infringements

(referred to in Article 1)

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

1. Groups of infringements against Regulation (EC) No 561/2006 of the European Parliament and of the Council (*) (Driving and resting time)

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS (*)		
			MSI	VSI	SI
Crew					
1.	Article 5(1)	Not respecting minimum ages for conductors			X
Driving periods					
2.	Article 6(1)	Exceed daily driving time of 9h if possibilities to extend to 10h not allowed	10h ≤ ... < 11h		X
3.			11h ≤ ...		X
4.		Exceed daily driving time of 9h by 50 % or more	13h30 ≤ ...	X	
5.		Exceed extended daily driving time of 10h if extension allowed	11h ≤ ... < 12h		X
6.			12h ≤ ...		X
7.		Exceed daily driving time of 10h by 50 % or more	15h ≤ ...	X	
8.		Article 6(2)	Exceed weekly driving time	60h ≤ ... < 65h	
9.	65h ≤ ... < 70h				X
10.	Exceed weekly driving time by 25 % or more		70h ≤ ...	X	
11.	Article 6(3)	Exceed maximum total driving time during 2 consecutive weeks	100h ≤ ... < 105h		X
12.			105h ≤ ... < 112h30		X
13.		Exceed maximum total driving time during 2 consecutive weeks by 25 % or more	112h30 ≤ ...	X	
Breaks					
14.	Article 7	Exceed uninterrupted driving time of 4,5 hours before taking the break	5h ≤ ... < 6h		X
15.			6h ≤ ...		X

Rest Periods						
16.	Article 8(2)	Insufficient daily rest period of less than 11h if reduced daily rest period not allowed	$8h30 \leq \dots < 10h$			X
17.			$\dots < 8h30$		X	
18.		Insufficient reduced daily rest period of less than 9h if reduce allowed	$7h \leq \dots < 8h$			X
19.			$\dots < 7h$		X	
20.		Insufficient split daily rest period of less than 3h + 9h	$3h + [7h \leq \dots < 8h]$			X
21.			$3h + [\dots < 7h]$		X	
22.	Article 8(5)	Insufficient daily rest period of less than 9h for multi-manning	$7h \leq \dots < 8h$			X
23.			$\dots < 7h$		X	
24.	Article 8(6)	Insufficient reduced weekly resting period of less than 24 h	$20h \leq \dots < 22h$			X
25.			$\dots < 20h$		X	
26.		Insufficient weekly resting period of less than 45 h if reduced weekly resting period not allowed	$36h \leq \dots < 42h$			X
27.			$\dots < 36h$		X	
28.	Article 8(6)	Exceeding 6 consecutive 24-hour periods following the previous weekly rest period	$3h \leq \dots < 12h$			X
29.			$12h \leq \dots$		X	
30.	Article 8(6b)	No compensation rest for two consecutive reduced weekly rest periods			X	
31.	Article 8(8)	Regular weekly rest period or any weekly rest period of more than 45 hours taken in a vehicle			X	
32.	Article 8(8)	The employer not covering costs for accommodation outside the vehicle				X
12-day rule derogation						
33.	Article 8(6a)	Exceeding 12 consecutive 24-hour periods following a previous regular weekly rest	$3h \leq \dots < 12h$			X
34.			$12h \leq \dots$		X	
35.	Article 8(6a), Point (b)(ii)	Weekly rest period taken following 12 consecutive 24-hour periods	$65h < \dots \leq 67h$			X
36.			$\dots \leq 65h$		X	
37.	Article 8(6a), point (d)	Driving period, between 22.00 and 6.00, of more than 3 hours before the break, if the vehicle is not multi-manned	$3h < \dots < 4,5 h$			X
38.			$4,5 h \leq \dots$		X	
Work organisation						
39.	Article 8(8a)	Transport undertaking not organising the work of drivers in such a way that the drivers are able to return to the employer's operational centre, or to return to the drivers' place of residence			X	

40.	Article 10(1)	Link between wage/payment and distance travelled, speed of delivery and/or amount of goods carried		X	
41.	Article 10(2)	No or improper organisation of driver's work, no or improper instructions given to driver enabling him to comply with the law		X	

(¹) MSI = most serious infringements / VSI = very serious infringement / SI = serious infringement.

(*) 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).²

(2) Section 2 is replaced by the following:

2. **Groups of infringements against Regulation (EU) No 165/2014 of the European Parliament and of the Council (*) (Tachograph)**

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Installation of tachograph					
1.	Articles 3(1), (4), (4a) and Article 22	Not having type-approved tachograph installed and used	X		
Use of tachograph, driver card or record sheet					
2.	Article 23(1)	Using a tachograph not inspected by an approved workshop		X	
3.	Article 27	Driver holding and/or using more than one own driver card		X	
4.		Driving with a driver card that has been falsified (<i>considered as driving without driver card</i>)	X		
5.		Driving with a driver card of which the driver is not the holder (<i>considered as driving without driver card</i>)	X		
6.		Driving with a driver card which has been obtained on the basis of false declarations and/or forged documents (<i>considered as driving without driver card</i>)	X		
7.	Article 32(1)	Tachograph not correctly functioning (<i>e.g.: tachograph not properly inspected, calibrated and sealed</i>)		X	
8.	Article 32(1) and Article 33(1)	Tachograph improperly used (<i>e.g.: deliberate, voluntary or imposed misuse, lack of instructions on correct use, etc.</i>)		X	
9.	Article 32(3)	Having in the vehicle and/or using a fraudulent device able to modify the records of the tachograph	X		

10.		Falsifying, concealing, suppressing or destroying data recorded on the record sheets or stored and downloaded from the tachograph and/or the driver card	X		
11.	Article 33(2)	Undertaking not keeping record sheets, printouts and downloaded data		X	
12.		Recorded and stored data not available for at least a year		X	
13.	Article 34(1)	Incorrect use of record sheets/driver card		X	
14.		Unauthorised withdrawal of record sheets or driver card which has an impact on the record of relevant data		X	
15.	Article 34(1a)	Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost		X	
16.	Article 34(2)	Use dirty or damaged record sheets or drivers card and data not legible		X	
17.	Article 34(3)	Not using manual input when required to do so		X	
18.	Article 34(4)	Not using correct record sheet or driver card not in the correct slot (multi-manning)			X
19.	Article 34(5)	Incorrect use of switch mechanism		X	

Producing information

20.	Article 34(5), point (b)(v)	Incorrect use or non-use of the ferry/train sign			X
21.	Article 34(6)	Required information not entered on the record sheet		X	
22.	Article 34(7)	Records not showing the symbols of the countries whose borders were crossed by the driver during the daily working period			X
23.	Article 34(7)	Records not showing the symbols of the countries where the driver's daily working period started and finished			X
24.	Article 36	Refusing to be checked		X	
25.	Article 36	Unable to produce manual records and printouts made during the current day and the previous 28 days (until 30 December 2024) Unable to produce manual records and printouts made during the current day and the previous 56 days (as of 31 December 2024)		X	
26.	Article 36	Unable to produce a driver card, if the driver holds one		X	

Malfunctioning					
27.	Article 37(1) and Article 22(1)	Tachograph not repaired by an approved fitter or workshop		X	
28.	Article 37(2)	Driver not marking all required information for the periods of time, which are no longer recorded while tachograph is unserviceable or malfunctioning		X	

(*) 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).;

(3) Section 6 is replaced by the following:

‘6. **Groups of infringement against Council Directive 92/6/EEC (*) (Speed limitation devices)**

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

(*) 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).;

(4) Section 10 is replaced by the following:

‘10. **Groups of infringements against Regulation (EC) No 1072/2009 of the European Parliament and of the Council (*) (Access to the international road haulage market)**

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Community licence					
1.	Article 3 and Article 8(1)	Carrying goods without holding a valid Community licence (i.e.: a licence is non-existent, falsified, withdrawn, expired, etc.)	X		

2.	Article 4	The haulage undertaking or the driver unable to present a valid Community licence or a valid certified true copy of the Community licence to the inspecting officer (i.e.: Community licence or certified true copy of the Community licence lost, forgotten, damaged, etc.)		X	
Driver attestation					
3.	Article 3 and Article 8(1)	Carrying goods without holding a valid driver attestation (i.e. driver's attestation is non-existent, falsified; withdrawn, expired, etc.)		X	
4.	Article 5	The driver or the haulage undertaking unable to present a valid driver attestation or a valid certified true copy of the driver attestation to the inspecting officer (i.e. driver attestation or certified true copy of the driver attestation lost, forgotten, damaged, etc.)			X
Cabotage					
5.	Article 8(2)	Carrying out a cabotage operation not in compliance with the laws, regulations and administrative provisions in force in the host Member State		X	
6.	Article 8(2a)	Carrying out cabotage operations in the same Member State within 4 days following the end of the last legitimate cabotage operation in that Member State		X	
7.	Article 8(3) and (4)	The haulier being unable to produce clear evidence of the preceding international carriage and/or of each consecutive cabotage operation carried out, and/or of all operations carried out in cases where the vehicle is present in the host Member State within the period of 4 days preceding the international carriage, and to present these evidences within the duration of the roadside check.		X	

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

(5) Section 11 is replaced by the following:

11. Groups of infringements against Regulation (EC) No 1073/2009 of the European Parliament and of the Council (*) (Access to the market for coach and bus services)

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Community licence					
1.	Article 4	Carrying passengers without holding a valid Community licence (i.e.: a licence is non-existent, falsified, withdrawn, expired, etc.)	X		

2.	Article 4(3)	The carrier or the driver unable to present a valid Community licence or a valid certified true copy of the Community licence to the inspecting officer (i.e. licence or certified true copy lost, forgotten, damaged, etc.)		X	
Authorisation for regular services					
3.	Articles 5 and 6	Regular services without a valid authorisation (i.e.: authorisation is non-existent, falsified, withdrawn, expired, misused, etc.)		X	
4.	Article 19	The driver unable to present the authorisation to the inspecting officer (i.e. authorisation is lost, forgotten, damaged, etc.)			X
5.	Articles 5 and 6	Stops of regular services in a Member State do not correspond to the issued authorisation			X
Journey form for occasional services and other services exempt from authorisation					
6.	Article 12	Driving without holding a required journey form (i.e. journey form is non-existent, falsified, not containing the required information, etc.)			X
Rules applicable to cabotage operations					
7.	Article 16	Carrying out a cabotage operation not in compliance with the laws, regulations and administrative provisions in force in the host Member State		X	
8.	Article 17	Not having on board the vehicle or not being able to present at the request of any authorised inspecting officer the control documents for cabotage operations (journey form for occasional services, or the contract concluded between the carrier and the transport organiser or a certified true copy thereof in the case of special regular services)		X	

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

(6) the following Sections 13 and 14 are added:

13. Infringement against Regulation (EC) No 593/2008 of the European Parliament and of the Council (*) (Rome I) (law applicable to contractual obligations)

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Rome I	Violation of the law applicable to contractual obligations		X	

14. Groups of infringements against Directive (EU) No 2020/1057 of the European Parliament and of the Council () (posting of workers in road transport)**

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Article 1(11), point (a)	Incomplete information on the posting declaration			X
2.	Article 1(11), point (a)	Failure to submit a posting declaration to the Member State to which the driver is posted no later than at the commencement of the posting		X	
3.	Article 1(11), point (b)	Falsified posting declaration for drivers		X	
4.	Article 1(11), point (b)	Impossibility of the driver to present a valid posting declaration		X	
5.	Article 1(11), point (b)	Failure to put at the disposal of the driver a valid posting declaration		X	
6.	Article 1(11), point (c)	Failure to submit the requested documents to the host Member State within eight weeks from the date of the request		X	
7.	Article 1(12)	Failure of the operator to keep the posting declarations up to date in the public interface connected to IMI			X

(*) Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (OJ L 177, 4.7.2008, p. 6).

(**) Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012 (OJ L 249, 31.7.2020, p. 49).'

ANNEX II

ANNEX II

Frequency of occurrence of serious infringements

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