

**Opinion of the European Economic and Social Committee 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 of the Council’**

COM(2011) 451 final — 2011/0196 (COD)  
(2012/C 43/18)

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On 1 September 2011 the Council, and on 29 September 2011 the European Parliament, decided to consult the European Economic and Social Committee, under Articles 91 and 304 of the Treaty on the Functioning of the European Union (TFEU), 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*

COM(2011) 451 final — 2011/0196 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 23 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 136 votes to 1, with 4 abstentions.

## 1. Conclusions and recommendations

1.1 The Committee generally welcomes the proposal for a Regulation amending Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 with regard to drivers’ driving times and rest periods, primarily because it increases road safety, improves drivers’ working conditions and creates fairer competition between road transport companies.

1.2 The Committee welcomes the Commission’s proposal to merge the features of driver cards with those of driving licences, which would improve security and reduce the administrative burden where practicable. The same applies to the possibility, as laid down in Article 6, of integrating digital tachographs with intelligent transport systems (ITS), which would give other ITS applications easier access to data recorded and produced by tachographs.

1.3 The Committee likewise endorses the option provided in the proposal of remote communication from the tachograph for control purposes, so that drivers who comply with the rules do not have to undergo targeted roadside checks.

1.4 The Committee welcomes the proposed Articles 7 to 16 on type approval; they are an excellent example of matters to be dealt with by the Member States on the basis of European regulations being set out clearly and comprehensively.

1.5 In Article 19(4), the Commission proposes that market access for transport undertakings’ own digital tachograph

workshops throughout Europe should be limited to the vehicles of other undertakings, in order to avoid conflicts of interest, though it does not demonstrate the existence of such conflicts. In particular given the increase in costs that this could entail, the decision should, as indicated in the first sentence of Article 19(4), be taken, if appropriate, by the Member State concerned, and a guarantee of conformity for these repairs and calibration issued by an independent approved body.

1.6 The Commission proposes that liability for infringements against the Regulation should rest with the transport undertakings, but that they should have the opportunity to prove that they cannot reasonably be held responsible for the infringement committed. In the Committee’s opinion, this is a fair rule.

1.7 In the Committee’s view, the committee referred to in Article 40 of the proposed Regulation and the social partners should be involved in future amendments to the Regulation and its annexes.

1.8 The Committee believes that in future European satellite communications will perhaps open the way for other recording systems that could, over the long term, be cheaper and more reliable, take up less cab space and make monitoring easier. It calls on the Commission to look into whether, for example, specialised software on the on-board computer now present in many lorries could provide the same – or preferably a higher – standard in terms of achieving the objectives of the digital tachograph.

## 2. Introduction

2.1 On 19 July 2011, the Commission published its proposal for a Regulation 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 (COM (2011) 451 final). The European Parliament and the Council have asked the European Economic and Social Committee to issue an opinion on this proposal under Article 304 TFEU.

2.2 The Committee is happy to do so, as it agrees with the Commission that it is important to improve the tachograph system and monitoring of it, for the following reasons.

2.3 The system improves road safety by providing better information about road transport drivers' driving times and rest periods.

2.4 It helps to improve drivers' working conditions.

2.5 It should create fair competition between road transport companies.

2.6 Making tachographs more cost-efficient fits with the Commission's strategy of further integrating the European transport market and, as stated in the Transport White Paper of 28 March 2011, of making road transport safer, more efficient and more competitive.

2.7 In practice, two kinds of tachograph are still used by around six million drivers: vehicles that came into circulation before 1 May 2006 still have the analogue tachograph that has been in use since 1985, while vehicles put into circulation since 1 May 2006 have to be fitted with a digital tachograph.

## 3. General comments

3.1 The Committee generally welcomes the proposal for a regulation amending Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 with regard to drivers' driving times and rest periods. It particularly welcomes the objectives, not least because the proposed amendments to the Regulations increase road safety, improve drivers' working conditions and create fairer competition between road transport companies.

3.2 In Article 27 of the proposed amendment to the Regulation, the Commission proposes that the features of driver cards should be merged with those of driving licences, so as to increase the security of the system and significantly reduce the administrative burden. Drivers would then be less inclined to use their driving licences fraudulently. The plan is to adopt these minor adjustments to the Driving Licences Directive (Directive 2006/126/EC) at the same time as the present proposal for a Regulation. The Committee endorses this proposal in so far as it is practicable.

3.3 The Committee welcomes the proposed Articles 7 to 16 on type approval; they are an excellent example of matters to be

dealt with by the Member States on the basis of European regulations being set out clearly and comprehensively.

## 4. Specific comments

4.1 With regard to scope (Article 3), the proposal not only refers to the social legislation within the scope of Regulation (EC) No 561/2006, but also, in Article 3(4), gives Member States the option of requiring the installation of recording equipment in all vehicles, including those under 3.5 tonnes. The Committee endorses this proposal.

4.2 The proposed Regulation will permit remote communication from the tachograph for control purposes, which will give control authorities an indication of compliance before stopping the vehicle for a roadside check. This option means that drivers who comply with the rules will not have to undergo targeted roadside checks. The Committee endorses this approach, which is set out in Article 5.

4.2.1 The EESC draws attention to the key issue of data protection, underlined by the European Data Protection Supervisor (EDPS/11/9) on 6 October 2011, namely preventing privacy-unfriendly measures being developed by industry in the absence of clear provisions governing the use and storage of drivers' data while the update of technical specifications is still pending.

4.3 Automated recording of vehicles' precise location through a global navigation satellite system (GNSS) will take place 48 months after the Regulation enters into force. According to the Commission, this will give control authorities more information for checking compliance with social legislation. This option is provided for in Article 4. The Committee imagines that the committee referred to in Article 40 (committee within the meaning of Regulation (EU) No 182/2011) will have a role to play here, in cooperation with the Commission.

4.4 The Committee welcomes the option provided for in Article 6 of integrating the digital tachograph with intelligent transport systems (ITS), which will give other ITS applications easier access to the data recorded and produced by the tachograph.

4.5 In Article 19(4), the Commission aims to improve the trustworthiness of workshops by strengthening the legal framework for their approval. One of the proposals means that large transport undertakings which have their own workshops for repairing and calibrating digital tachographs will be prevented from doing such work on their own vehicles in future. This is intended to avoid possible conflicts of interest. In particular given the increase in costs that this could entail, the decision should, as indicated in the first sentence of Article 19(4), be taken, if appropriate, by the Member State concerned, and a guarantee of conformity for these repairs and calibration issued by an independent approved body.

4.6 Article 29 makes transport undertakings liable for infringements against the Regulation committed by their drivers, but gives them the opportunity to prove that they cannot reasonably be held responsible for the infringement committed. The Committee endorses this liability provision.

4.7 The Committee agrees with the Commission's proposal for Articles 30 to 36, setting out rules for the use of driver cards, record sheets and other records to be carried by the driver, and for the training of control officers; it particularly welcomes the latter element, which will allow more consistent and effective enforcement of EU legislation.

4.8 In Article 37, the Commission sets out provisions relating to sanctions. In Article 37(3), it states that the sanctions laid down by Member States for very serious infringements as defined in Directive 2009/5/EC must be of the highest categories applicable in the Member State for infringements of road transport legislation. The Committee agrees with the Commission here.

4.9 In Articles 38 to 40, the Commission states that it is empowered to adapt Annexes I, IB and II to technical progress. The Committee would like to see such adaptations proposed by the committee referred to in Article 40, with the social partners invited to its meetings.

4.10 The Committee welcomes the Commission's proposal in Article 41 to set up a tachograph forum including experts from both Member States and AETR countries, in order to harmonise the relevant legislation and technical specifications in EU and AETR countries.

4.11 In this proposal, the Commission is continuing its approach of proposing technical improvements to the digital tachograph. The Committee wonders whether in future European satellite communications will open the way for other recording systems that could, over the long term, be cheaper and more reliable, take up less cab space and make monitoring easier. It proposes that the Commission look into whether, for example, specialised software on the on-board computer now present in many lorries could provide the same – or preferably a higher – standard in terms of achieving the objectives of the digital tachograph. The

Committee envisages integrating all the various functions required by legislation or operational rules in a single device in the driver's cab.

4.12 It is apparent that Regulation No 561/2006 – which is directly and uniformly applicable in the Member States as such – and the half a dozen non-binding guidance notes issued on various points of interpretation by the Commission in consultation with, and for the benefit of, the control authorities have still not cleared up all the differences of interpretation in those authorities' implementation of the Regulation. The Committee recommends that these discrepancies be eliminated, preferably before the amended Regulation enters into force – in all probability in at least two years' time – in order to ensure that checks are indeed implemented uniformly.

4.13 The Committee has three further comments that are not directly related to the two – later to be three – Regulations to be amended, but that, in its view, are not out of place in this opinion.

4.13.1 The installation of weight sensors could make it possible to indicate overloading, which would be of benefit both to hauliers and to control authorities.

4.13.2 Some Committee members have suggested that digital recording equipment should also record the location where the journey starts and ends by GNSS, as this would improve monitoring by Member States of cabotage. It should nonetheless be remembered that, according to the 2011 Transport White Paper, all restrictions on cabotage should be eliminated as from 2014, if not before – a position that the Committee endorses.

4.13.3 The Committee has consistently advocated uniform application and enforcement of rules in cross-border transport. These factors play a key role, as fair competition between road transport undertakings is only possible if the same rules apply across the EU, and if those rules are monitored in the same way. Notwithstanding the few criticisms set out in this opinion, the proposals under examination are a good example of how to achieve that uniformity. The Committee calls for the same attention to be paid to this issue when drafting or amending legislation in future.

Brussels, 7 December 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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