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III

(Preparatory acts)

COUNCIL

POSITION (EU) No 5/2020 OF THE COUNCIL AT FIRST READING

with a view to the adoption of a Regulation of the European Parliament and of the Council 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

Adopted by the Council on 7 April 2020

(2020/C 151/01)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Good working conditions for drivers and fair business conditions for road transport undertakings are of paramount importance to creating a safe, efficient and socially accountable road transport sector in order to ensure non-discrimination and to attract qualified workers. To facilitate that process it is essential that the Union social rules on road transport are clear, proportionate, fit for purpose, and are easy to apply and to enforce and implemented in an effective and consistent manner throughout the Union.
- (2) Having evaluated the effectiveness and efficiency of the implementation of the current set of Union social rules in road transport, and in particular Regulation (EC) No 561/2006 of the European Parliament and of the Council ⁽⁴⁾, certain deficiencies were identified in the implementation of that legal framework. Unclear rules on weekly rest periods, resting facilities and breaks in multi-manning, as well as the absence of rules on the return of drivers to their home, have led to diverging interpretations and enforcement practices in the Member States. Several Member States have recently adopted unilateral measures further increasing legal uncertainty and the unequal treatment of drivers and operators. However, the maximum driving periods per day and per week are effective in improving the social conditions of drivers and road safety in general. Unremitting efforts are necessary to ensure compliance.

⁽¹⁾ OJ C 197, 8.6.2018, p. 45.

⁽²⁾ OJ C 176, 23.5.2018, p. 57.

⁽³⁾ Position of the European Parliament of 4 April 2019 (not yet published in the Official Journal), position of the Council at first reading of 7 April 2020. Position of the European Parliament of ... (not yet published in the Official Journal).

⁽⁴⁾ 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).

- (3) To promote road safety, it is important to encourage transport undertakings to adopt a safety culture which is adhered to at all levels. In particular, in order to avoid infringements of driving and rest rules or endangering road safety, it should not be permitted to link performance-based pay to the time needed for the transportation of passengers to their destinations or for the delivery of goods.
- (4) The *ex-post* evaluation of Regulation (EC) No 561/2006 confirmed that the inconsistent and ineffective enforcement of the Union social rules was mainly due to unclear rules, to inefficient and unequal use of the control tools and to insufficient administrative cooperation between the Member States.
- (5) In order to improve clarity and consistency, the exemption from the scope of Regulation (EC) No 561/2006 for the non-commercial use of a vehicle should be defined.
- (6) Clear, suitable, proportionate and evenly enforced rules are also crucial for achieving the policy objectives of improving working conditions for drivers, and in particular ensuring undistorted and fair competition between operators and contributing to road safety for all road users.
- (7) The existing requirements on breaks have turned out to be unsuitable and impractical for drivers in a team. Therefore, it is appropriate to adapt the requirement on recording breaks to the specificity of the transport operations carried out by drivers driving in a team, without jeopardising the safety of the driver and road safety.
- (8) Drivers engaged in long-distance international transport of goods spend long periods away from their homes. The current requirements on the regular weekly rest may prolong those periods unnecessarily. It is thus desirable to adapt the provisions on the regular weekly rest periods in such a way that it is easier for drivers to carry out international transport operations in compliance with the rules and to reach their home for their regular weekly rest period, and be fully compensated for all reduced weekly rest periods. Given the differences between passenger transport and goods transport, this possibility should not apply to drivers when engaged in passenger transport.
- (9) Any flexibility in the scheduling of the rest periods of drivers should be transparent and predictable for the driver and should in no way jeopardize road safety, by increasing the level of fatigue of drivers, or deteriorate the working conditions. This flexibility should therefore not alter the current working time of the driver or the maximum fortnightly driving time, and should be subject to stricter rules on the compensation for reduced rests.
- (10) In order to ensure that this flexibility is not abused, it is essential to clearly define its scope and also to provide for appropriate controls. That scope should be therefore limited to those drivers who spend their reduced weekly rest periods, during the reference period, outside of the Member States of the undertaking and outside of the country of the driver's place of residence. This can be checked by consulting the tachograph records at the roadside and at the transport undertaking's premises, as they contain the location of the beginning and the end of the rest period and information relating to individual drivers.
- (11) In order to guarantee effective enforcement, it is essential that the competent authorities, when carrying out roadside checks, should be able to ascertain that driving times and rest periods have been properly observed on the day of the check and over the preceding 56 days.
- (12) Rapid technological progress is resulting in the gradual automation of driving systems which require less or no direct input from the driver. To address those changes, current legislation, including rules on driving and resting times, may need to be adapted in order to guarantee road safety and a level playing field and to improve working conditions, whilst enabling the Union to pioneer new innovative technologies and practices. Therefore, the Commission should submit a report evaluating the use of autonomous driving systems in the Member States, including the benefits of autonomous driving technologies. That report should be accompanied, if appropriate, by a legislative proposal.

- (13) In order to promote social progress, it is appropriate to specify where the weekly rest periods may be taken, ensuring that drivers enjoy adequate rest conditions. The quality of accommodation is particularly important during the regular weekly rest periods, which the driver should spend away from the vehicle's cabin in a suitable accommodation, at the cost of the transport undertaking as an employer. In order to ensure good working conditions and the safety of drivers, it is appropriate to clarify the requirement for drivers to be provided with quality and gender-friendly accommodation for their regular weekly rest periods if they are taken away from home.
- (14) It is also necessary to provide for transport undertakings to organise the work of drivers in such a way that periods away from home are not excessively long and that drivers can benefit from long rest periods taken in compensation for reduced weekly rest periods. Organising the return should allow reaching an operational centre of the transport undertaking in its Member State of establishment or the driver's place of residence, and the drivers are free to choose where to spend their rest period. In order to demonstrate that the transport undertaking fulfils its obligations regarding the organisation of the regular return, the transport undertaking should be able to use tachograph records, duty rosters of the drivers or other documentation. Such evidence should be available at the transport undertaking's premises to be presented if requested by control authorities.
- (15) While regular weekly rest periods and longer rest periods cannot be taken in the vehicle or in a parking area, but only in suitable accommodation, which may be adjacent to a parking area, it is of utmost importance to enable drivers to locate safe and secure parking areas that provide appropriate levels of security and appropriate facilities. The Commission has already studied how to encourage the development of high-quality parking areas, including the necessary minimum requirements. The Commission should therefore develop standards for safe and secure parking areas. Those standards should contribute to promoting high-quality parking areas. The standards may be revised in order to cater for better access to alternative fuels, in line with policies developing that infrastructure. It is also important that parking areas are being kept free from ice and snow.
- (16) Safe and secure parking areas should be subject to auditing procedures to be certified in accordance with Union standards. Those auditing procedures should also ensure that the parking areas continue to meet these standards. The Commission should thus be tasked with preparing a certification procedure for development of safe and secure parking areas in the Union.
- (17) It is in the interests of road safety and enforcement that all drivers should be fully aware of the rules on driving and rest times and of the dangers of fatigue. Easily accessible information on available rest facilities is of importance in this regard. Therefore, the Commission should provide information on safe and secure parking areas through a user-friendly website. That information should be kept up to date.
- (18) In order to ensure the continued safety and security of parking areas, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of establishing standards for the level of service in safe and secure parking areas and procedures for the certification of the safety and security of parking areas. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽⁵⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (19) The revised TEN-T guidelines established by Regulation (EU) No 1315/2013 of the European Parliament and of the Council⁽⁶⁾ envisage the development of parking areas on motorways approximately every 100 km to provide commercial road users with parking space that has an appropriate level of safety and security. In order to accelerate and promote the construction of adequate parking infrastructure, it is important that sufficient opportunities for co-funding by the Union are available in accordance with current and future Union legal acts establishing the conditions for that financial support.

⁽⁵⁾ OJ L 123, 12.5.2016, p. 1.

⁽⁶⁾ Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

- (20) Many road transport operations within the Union involve transport by ferry or by rail for part of the journey. Clear, appropriate provisions regarding rest periods and breaks should therefore be laid down for such operations.
- (21) Drivers are sometimes faced with unforeseeable circumstances which make it impossible to reach a desired destination for taking weekly rest periods without infringing Union rules. It is desirable to make it easier for drivers to cope with those circumstances and to enable them to reach their destination for a weekly rest period. Such exceptional circumstances are sudden circumstances that are unavoidable and may not be anticipated, where it unexpectedly becomes impossible to apply the provisions of this Regulation in their entirety for a short period of time. Therefore, such circumstances cannot be invoked in a systematic manner to avoid compliance with this Regulation. In order to ensure proper enforcement, the driver should document the exceptional circumstances resulting in departing from the rules. In addition, a safeguard should ensure that driving time is not excessive.
- (22) To reduce and prevent diverging enforcement practices and to further enhance the effectiveness and efficiency of cross-border enforcement, it is crucial to establish clear rules for regular administrative cooperation between Member States.
- (23) Member States should take all measures necessary to ensure that national rules on penalties applicable to infringements of Regulation (EC) No 561/2006 and Regulation (EU) No 165/2014 of the European Parliament and of the Council ⁽⁷⁾ are implemented in an effective, proportionate and dissuasive manner. It is important to ensure easy access by professionals to information on the penalties that apply in each Member State. The European Labour Authority, established by Regulation (EU) 2019/1149 of the European Parliament and of the Council ⁽⁸⁾, could facilitate this access by making the information available through the single Union-wide website acting as a single portal for accessing information sources and services at Union and national level in all of the official languages of the Union established by Regulation (EU) 2018/1724 of the European Parliament and of the Council ⁽⁹⁾.
- (24) In order to ensure uniform conditions for the implementation of Regulation (EC) No 561/2006 implementing powers should be conferred on the Commission in order to clarify any of the provisions of that Regulation and to establish common approaches on their application and enforcement. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁰⁾.
- (25) In order to ensure uniform conditions for the implementation of Regulation (EU) No 165/2014 implementing powers should be conferred on the Commission in order to lay down detailed provisions for the uniform application of the obligation to record and store data relating to any border crossing of the vehicle and activities and detailed provisions necessary for the uniform application of provisions on data requirements and functions, and the installation of tachographs. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (26) To enhance the cost-effectiveness of the enforcement of the social rules, the current and smart tachograph systems should be fully exploited and smart tachographs should be mandatory also for light commercial vehicles which are above a certain weight and which operate in international transport for hire and reward. Therefore, the functionalities of the tachograph should be improved to allow for more precise positioning.

⁽⁷⁾ 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).

⁽⁸⁾ Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (OJ L 186, 11.7.2019, p. 21).

⁽⁹⁾ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

⁽¹⁰⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (27) The cost-effectiveness of enforcement of the social rules, the rapid development of new technologies, the digitalisation throughout the Union economy and the need for a level playing field among companies in international road transport make it necessary to shorten the transitional period for the installation of smart tachographs in registered vehicles. Smart tachographs will contribute to simplified controls and thus facilitate the work of national authorities.
- (28) To ensure that drivers, operators and control authorities benefit as soon as possible from the advantages of smart tachographs, including their automated recording of border crossings, existing vehicle fleets should be equipped with such devices within an appropriate period after the entry into force of the detailed technical provisions. Such a period will ensure sufficient time for preparation.
- (29) In vehicles which are not equipped with smart tachographs, the crossing of Member State borders should be recorded in the tachograph at the nearest possible stopping place at or after the border.
- (30) The recording of activities on the tachograph is an important part of drivers' work. Therefore, it is crucial that drivers are provided with appropriate training on how to use new features of tachographs which are being introduced on the market. As employers, transport undertakings should bear the costs related to this training.
- (31) Control officers who check compliance with relevant Union law in the road transport sector face challenges due to the variety of tachograph devices in use and the fast evolving sophisticated manipulation techniques. This is particularly the case when those checks are carried out at the roadside. Therefore, it is crucial that control officers receive appropriate training to ensure that they are fully aware of the latest technological developments and manipulation techniques.
- (32) To reduce the burden on transport undertakings and control authorities where a control officer removes the seal of a tachograph for control purposes, the re-sealing by the control officer should be allowed under certain well-documented circumstances.
- (33) Taking into account the continuous technological developments, the Commission is studying the possibility of developing new technical solutions that offer the same benefits and security as those offered by the smart tachograph, at the same or lower associated costs.
- (34) It is important that transport undertakings established in third countries are subject to rules which are equivalent to Union rules when performing road transport operations in the territory of the Union. The Commission should assess the application of this principle at Union level and propose adequate solutions to be negotiated in the context of the European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport ('AETR Agreement').
- (35) Transporting goods is different from transporting people. Therefore, the Commission should evaluate if more appropriate rules for passenger transport should be proposed, especially for occasional services as defined in point 4 of Article 2 of Regulation (EC) No 1073/2009 of the European Parliament and the Council ⁽¹¹⁾.
- (36) Since the objectives of this Regulation, namely to improve road safety and working conditions for drivers within Union through the harmonisation of the rules on driving times, breaks and rest periods in road transport and the harmonisation of the rules on the use and enforcement of tachographs cannot be sufficiently achieved by the Member States, but can rather, by reason of the nature of the objectives, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (37) Regulations (EC) No 561/2006 and (EU) No 165/2014 should therefore be amended accordingly,

⁽¹¹⁾ Regulation (EC) No 1073/2009 of the European Parliament and 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).

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 561/2006 is amended as follows:

(1) in Article 2(1), the following point is inserted:

‘(aa) from 1 July 2026, of goods in international transport operations or in cabotage operations, where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 2,5 tonnes; or’;

(2) Article 3 is amended as follows:

(a) point (aa) is replaced by the following:

‘(aa) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7,5 tonnes used for:

(i) carrying materials, equipment or machinery for the driver’s use in the course of the driver’s work, or

(ii) for delivering goods which are produced on a craft basis,

only within a 100 km radius from the base of the undertaking and on the condition that driving the vehicle does not constitute the driver’s main activity and transport is not carried out for hire or reward;’;

(b) the following point is inserted:

‘(ha) vehicles with a maximum permissible mass, including any trailer, or semi-trailer exceeding 2,5 tonnes but not exceeding 3,5 tonnes that are used for the transport of goods, where the transport is not effected for hire or reward, but on the own account of the company or the driver, and where driving does not constitute the main activity of the person driving the vehicle;’;

(3) in Article 4, the following point is added:

‘(r) “non-commercial carriage” means any carriage by road, other than carriage for hire or reward or on own account, for which no direct or indirect remuneration is received and which does not directly or indirectly generate any income for the driver of the vehicle or for others, and which is not linked to professional or commercial activity.’;

(4) in Article 6, paragraph 5 is replaced by the following:

‘5. A driver shall record as other work any time spent as described in point (e) of Article 4 as well as any time spent driving a vehicle used for commercial operations that do not fall within the scope of this Regulation, and shall record any periods of availability, as defined in point (b) of Article 3 of Directive 2002/15/EC, in accordance with point (b)(iii) of Article 34(5) of Regulation (EU) No 165/2014 of the European Parliament and of the Council (*). This record shall be entered either manually on a record sheet or printout or by use of manual input facilities on recording equipment.

(*) 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).’;

(5) in Article 7, the following paragraph is added:

‘A driver engaged in multi-manning may take a break of 45 minutes in a vehicle driven by another driver provided that the driver taking the break is not involved in assisting the driver driving the vehicle.’;

(6) Article 8 is amended as follows:

(a) paragraph 6 is replaced by the following:

‘6. In any two consecutive weeks a driver shall take at least:

(a) two regular weekly rest periods; or

(b) one regular weekly rest period and one reduced weekly rest period of at least 24 hours.

A weekly rest period shall start no later than at the end of six 24-hour periods from the end of the previous weekly rest period.

By way of derogation from the first subparagraph, a driver engaged in international transport of goods may, outside the Member State of establishment, take two consecutive reduced weekly rest periods provided that the driver in any four consecutive weeks takes at least four weekly rest periods, of which at least two shall be regular weekly rest periods.

For the purpose of this paragraph, a driver shall be considered to be engaged in international transport where the driver starts the two consecutive reduced weekly rest periods outside the Member State of the employer's establishment and the country of the drivers' place of residence.’;

(b) the following paragraph is inserted:

‘6b. Any reduction in weekly rest period shall be compensated by an equivalent period of rest taken *en bloc* before the end of the third week following the week in question.

Where two reduced weekly rest periods have been taken consecutively in accordance with the third subparagraph of paragraph 6, the next weekly rest period shall be preceded by a rest period taken as compensation for those two reduced weekly rest periods.’;

(c) paragraph 8 is replaced by the following:

‘8. The regular weekly rest periods and any weekly rest period of more than 45 hours taken in compensation for previous reduced weekly rest periods shall not be taken in a vehicle. They shall be taken in suitable gender-friendly accommodation with adequate sleeping and sanitary facilities.

Any costs for accommodation outside the vehicle shall be covered by the employer.’;

(d) the following paragraph is inserted:

‘8a. Transport undertakings shall organise the work of drivers in such a way that the drivers are able to return to the employer's operational centre where the driver is normally based and where the driver's weekly rest period begins, in the Member State of the employer's establishment, or to return to the drivers' place of residence, within each period of four consecutive weeks, in order to spend at least one regular weekly rest period or a weekly rest period of more than 45 hours taken in compensation for reduced weekly rest period.

However, where the driver has taken two consecutive reduced weekly rest periods in accordance with paragraph 6, the transport undertaking shall organise the work of the driver in such a way that the driver is able to return before the start of the regular weekly rest period of more than 45 hours taken in compensation.

The undertaking shall document how it fulfils that obligation and shall keep the documentation at its premises in order to present it at the request of control authorities.’;

(e) the following paragraph is added:

‘9a. No later than ... [two years after entry into force of this amending Regulation], the Commission shall evaluate and report to Parliament and to the Council on whether more appropriate rules for drivers engaged in occasional services of carriage of passengers, as defined in point 4 of Article 2 of Regulation (EC) No 1073/2009 can be adopted.’;

(7) the following Article is inserted:

Article 8a

1. The Commission shall ensure that information about safe and secure parking areas is easily accessible to drivers engaged in the carriage of goods and passengers by road. The Commission shall publish a list of all parking areas that have been certified, in order to provide drivers with adequate:

- intrusion detection and prevention;
- lighting and visibility;
- emergency contact points and procedures
- gender-friendly sanitary facilities
- food and beverage purchasing options
- communications connections
- power supply.

The list of such parking areas shall be made available on a single official website that is regularly updated.

2. The Commission shall adopt delegated acts in accordance with Article 23a to establish standards providing further detail concerning the level of service and security with regard to the areas listed in paragraph 1 and concerning the procedures for the certification of parking areas.

3. All parking areas that have been certified may indicate that they are certified in accordance with Union standards and procedures.

In accordance with point (c) of Article 39(2) of Regulation (EU) No 1315/2013 of the European Parliament and the Council (*), Member States are to encourage the creation of parking space for commercial road users.

4. By 31 December 2024, the Commission shall present a report to the European Parliament and to the Council on the availability of suitable rest facilities for drivers and of secured parking facilities, as well as on the development of safe and secure parking areas certified in accordance with the delegated acts referred to in paragraph 2. That report may list measures to increase the number and quality of safe and secure parking areas.

(*) Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348 20.12.2013, p. 1).;

(8) Article 9 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. By way of derogation from Article 8, where a driver accompanies a vehicle which is transported by ferry or train and takes a regular daily rest period or a reduced weekly rest period, that period may be interrupted not more than twice by other activities not exceeding one hour in total. During that regular daily rest or reduced weekly rest period the driver shall have access to a sleeper cabin, bunk or couchette at their disposal.

With regard to regular weekly rest periods, that derogation shall only apply to ferry or train journeys where:

- (a) the journey is scheduled for 8 hours or more; and
- (b) the driver has access to a sleeper cabin in the ferry or on the train.’;

(b) paragraph 2 is replaced by the following:

'2. Any time spent travelling to a location to take charge of a vehicle falling within the scope of this Regulation, or to return from that location, when the vehicle is neither at the driver's home nor at the employer's operational centre where the driver is normally based, shall not be counted as a rest or break unless the driver is on a ferry or train and has access to a sleeper cabin, bunk or couchette.;

(9) the following Article is inserted:

'Article 9a

By 31 December 2025, the Commission shall draw up and submit to the European Parliament and to the Council a report evaluating the use of autonomous driving systems in the Member States. That report shall focus in particular on the potential impact of those systems on rules on driving and rest times. That report shall be accompanied, if appropriate, by a legislative proposal to amend this Regulation.;

(10) in Article 10, paragraph 1 is replaced by the following:

'1. A transport undertaking shall not give drivers it employs or who are put at its disposal any payment, even in the form of a bonus or wage supplement, related to distances travelled, the speed of delivery and/or the amount of goods carried if that payment is of such a kind as to endanger road safety and/or encourages infringement of this Regulation.;

(11) in Article 12, the following paragraphs are added:

'Provided that road safety is not thereby jeopardised, in exceptional circumstances, the driver may also depart from Article 6(1) and (2) and Article 8(2) by exceeding the daily and weekly driving time by up to one hour in order to reach the employer's operational centre or the driver's place of residence to take a weekly rest period.

Under the same conditions, the driver may exceed the daily and weekly driving time by up to two hours, provided that an uninterrupted break of 30 minutes was taken immediately prior to the additional driving in order to reach the employer's operational centre or the driver's place of residence for taking a regular weekly rest period.

The driver shall indicate the reason for such departure manually on the record sheet of the recording equipment, or on a printout from the recording equipment or in the duty roster, at the latest on arrival at the destination or the suitable stopping place.

Any period of extension shall be compensated by an equivalent period of rest taken *en bloc* with any rest period, by the end of the third week following the week in question.;

(12) in Article 13, paragraph 1 is amended as follows:

(a) point (e) is replaced by the following:

'(e) vehicles operating exclusively on islands or regions isolated from the rest of the national territory not exceeding 2 300 square kilometres in area which are not linked to the rest of the national territory by a bridge, ford or tunnel open for use by motor vehicle, and which do not border another Member State.;

(b) the following points are added:

'(q) vehicles or combinations of vehicles carrying construction machinery for a construction undertaking, up to a radius of 100 km from the base of the undertaking, provided that driving the vehicles does not constitute the driver's main activity;

(r) vehicles used for the delivery of ready-mixed concrete.;

(13) in Article 14, paragraph 2 is replaced by the following:

‘2. In urgent cases Member States may grant, under exceptional circumstances, a temporary exception for a period not exceeding 30 days, which shall be duly reasoned and notified immediately to the Commission. The Commission shall immediately publish this information on a public website.’;

(14) Article 15 is replaced by the following:

‘Article 15

Member States shall ensure that drivers of vehicles referred to in point (a) of Article 3 are governed by national rules which provide adequate protection in terms of permitted driving times and mandatory breaks and rest periods. Member States shall inform the Commission about the relevant national rules applicable to such drivers.’;

(15) in Article 16(3), point (a) is replaced by the following:

‘(a) include all the particulars specified in paragraph 2 for a minimum period covering the day of control and the previous 56 days; those particulars must be updated on regular intervals, the duration of which may not exceed one month.’;

(16) in Article 19, paragraph 1 is replaced by the following:

‘1. Member States shall lay down rules on penalties applicable to infringements of this Regulation and Regulation (EU) No 165/2014 and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective and proportionate to the gravity of the infringements, as indicated in Annex III to Directive 2006/22/EC of the European Parliament and of the Council (*), as well as dissuasive and non-discriminatory. No infringement of this Regulation and of Regulation (EU) No 165/2014 shall be subject to more than one penalty or procedure. The Member States shall notify the Commission of those rules and measures, along with the method and criteria chosen at national level for assessing their proportionality. The Member States shall notify without delay any subsequent amendment affecting them. The Commission shall inform Member States of those rules and measures, and of any amendments thereto. The Commission shall ensure that this information is published on a dedicated public website in all official languages of the Union, containing detailed information on such penalties applicable in Member States.

(*) Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Regulations (EC) No 561/2006 and (EU) No 165/2014 and Directive 2002/15/EC as regards social legislation relating to road transport activities, and repealing Council Directive 88/599/EEC (OJ L 102, 11.4.2006, p. 35).’;

(17) Article 22 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States shall work in close cooperation with one another and provide each other with mutual assistance without undue delay in order to facilitate the consistent application of this Regulation and its effective enforcement, in accordance with the requirements set out in Article 8 of Directive 2006/22/EC.’;

(b) in paragraph 2, the following point is added:

‘(c) other specific information, including the risk rating of the undertaking, that is liable to have consequences for compliance with this Regulation.’;

(c) the following paragraphs are inserted:

‘3a. For the purpose of the exchange of information within the framework of this Regulation, Member States shall use the bodies for intracommunity liaison designated pursuant to Article 7 of Directive 2006/22/EC.

3b. Mutual administrative cooperation and assistance shall be provided free of charge.’;

(18) the following Article is inserted:

'Article 23a

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 8a shall be conferred on the Commission for a period of five years from ... [*date of entry into force of this amending Regulation*].

The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 8a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making (*).

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 8a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

(*) OJ L 123, 12.5.2016, p. 1.;

(19) in Article 24, paragraph 2 is replaced by the following:

'2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 of the European Parliament and of the Council (*) shall apply.

2a. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).;

(20) in Article 25, paragraph 2 is replaced by the following:

'2. In the cases referred to in point (b) of paragraph 1, the Commission shall adopt implementing acts setting out common approaches.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 24(2a).'

Article 2

Regulation (EU) No 165/2014 is amended as follows:

(1) in Article 1(1), the first subparagraph is replaced by the following:

‘1. This Regulation sets out obligations and requirements in relation to the construction, installation, use, testing and control of tachographs used in road transport, in order to verify compliance with Regulation (EC) No 561/2006, Regulations (EC) No 1071/2009 (*), (EC) No 1072/2009 (**), (EC) No 1073/2009 (***) of the European Parliament and of the Council and Directive 2002/15/EC (****) of the European Parliament and of the Council and Council Directives 92/6/EEC (*****), and 92/106/EEC (*****), and, as far as posting of workers in road transport is concerned, Directives 96/71/EC (*****), and 2014/67/EU of the European Parliament and of the Council (*****), and Directive (EU) 2020/... of the European Parliament and of the Council (*****);’

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- (*) 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 (OJ L 300, 14.11.2009, p. 51).
- (**) 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).
- (***) 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).
- (****) Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).
- (*****), 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).
- (*****), Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States (OJ L 368, 17.12.1992, p. 38).
- (*****), Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).
- (*****), Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (“the IMI Regulation”) (OJ L 159, 28.5.2014, p. 11).
- (*****), Directive (EU) 2020/... of the European Parliament and of the Council of ... 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 ..., ..., p. ...);’

(2) in Article 3, paragraph 4 is replaced by the following:

‘4. No later than three years from the end of the year of entry into force of the detailed provisions referred to in the second paragraph of Article 11, the following categories of vehicles operating in a Member State other than their Member State of registration shall be fitted with a smart tachograph as provided in Articles 8, 9 and 10 of this Regulation:

- (a) vehicles fitted with an analogue tachograph;
- (b) vehicles fitted with a digital tachograph complying with the specifications in Annex IB to Regulation (EEC) No 3821/85 applicable until 30 September 2011;
- (c) vehicles fitted with a digital tachograph complying with the specifications in Annex IB to Regulation (EEC) No 3821/85 applicable from 1 October 2011; and
- (d) vehicles fitted with a digital tachograph complying with the specifications in Annex IB to Regulation (EEC) No 3821/85 applicable from 1 October 2012.

(¹) Number of the Directive contained in the document ST 5112/20.

4a. No later than four years after the entry into force of detailed provisions referred to in the second paragraph of Article 11, vehicles which are fitted with a smart tachograph complying with Annex IC to Commission Implementing Regulation (EU) 2016/799 (*) operating in a Member State other than their Member State of registration shall be fitted with a smart tachograph as provided in Articles 8, 9 and 10 of this Regulation.

(*) Commission Implementing Regulation (EU) 2016/799 of 18 March 2016 implementing Regulation (EU) No 165/2014 of the European Parliament and of the Council laying down the requirements for the construction, testing, installation, operation and repair of tachographs and their components (OJ L 139 26.5.2016, p. 1).;

(3) in Article 4(2), after the fourth indent the following indent is inserted:

‘— have enough memory capacity to store all of the data required under this Regulation.’;

(4) Article 7 is replaced by the following:

‘Article 7

Data protection

1. Member States shall ensure that the processing of personal data in the context of this Regulation is carried out solely for the purpose of verifying compliance with this Regulation and with Regulations (EC) No 561/2006, (EC) No 1071/2009, (EC) No 1072/2009, (EC) No 1073/2009, Directives 2002/15/EC, 92/6/EEC and 92/106/EEC and, as far as posting of workers in road transport is concerned, Directives 96/71/EC, 2014/67/EU and (EU) 2020/... (†).

2. Member States shall, in particular, ensure that personal data are protected against uses other than those strictly linked to the Union legal acts referred to in paragraph 1 in relation to:

(a) the use of a global navigation satellite system (GNSS) for the recording of location data as referred to in Article 8;

(b) the use of remote communication for control purposes as referred to in Article 9, the use of tachographs with an interface as referred to in Article 10, the electronic exchange of information on driver cards as referred to in Article 31, and in particular any cross-border exchanges of such data with third countries; and

(c) the keeping of records by transport undertakings as referred to in Article 33.

3. Digital tachographs shall be designed in such a way as to ensure privacy. Only data necessary for the purposes referred to in paragraph 1 shall be processed.

4. Owners of vehicles, transport undertakings and any other entity concerned shall comply, where applicable, with the relevant provisions on the protection of personal data.’;

(5) in Article 8, paragraph 1 is replaced by the following:

‘1. In order to facilitate the verification of compliance with the relevant legislation, the position of the vehicle shall be recorded automatically at the following points, or at the closest point to such places where the satellite signal is available:

— the starting place of the daily working period;

— every time the vehicle crosses the border of a Member State;

— every time the vehicle performs loading or unloading activities;

— every three hours of accumulated driving time; and

— the ending place of the daily working period.

(†) Number of the Directive contained in the document ST 5112/20.

In order to facilitate the verification of compliance by control authorities, the smart tachograph shall also record whether the vehicle has been employed for the carriage of goods or passengers, as required by Regulation (EC) No 561/2006.

For those purposes, vehicles registered for the first time 36 months after the entry into force of the detailed provisions referred to in the first paragraph of Article 11 shall be fitted with a tachograph connected to a positioning service based on a satellite navigation system.

However, the recording of the border-crossing and additional activities referred to in the second and third indent of the first subparagraph and in the second subparagraph shall apply to vehicles that were registered in a Member State for the first time more than two years after the entry into force of the detailed provisions referred to in the second paragraph of Article 11, without prejudice to the obligation to retrofit certain vehicles later in accordance with Article 3(4).;

(6) Article 9 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘Three years after the entry into force of detailed provisions referred to in the second paragraph of Article 11, Member States shall equip their control authorities to an appropriate extent with the remote early detection equipment necessary to permit the data communication referred to in this Article, taking into account their specific enforcement requirements and strategies. Until that time, Member States may decide whether to equip their control authorities with such remote early detection equipment.’;

(b) paragraph 3 is replaced by the following:

‘3. The communication referred to in paragraph 1 shall be established with the tachograph only when so requested by the equipment of the control authorities. It shall be secured to ensure data integrity and authentication of the recording and control equipment. Access to the data communicated shall be restricted to control authorities authorised to check infringements of the Union legal acts referred to in Article 7(1), and of this Regulation and to workshops in so far as it is necessary to verify the correct functioning of the tachograph.’;

(c) in paragraph 4 the following indent is added:

‘— exceeding maximum driving time.’;

(7) in Article 10, the following paragraph is added:

‘The tachographs of vehicles registered for the first time in a Member State more than two years after the entry into force of detailed provisions referred to in the second paragraph of Article 11 shall be equipped with the interface referred to in paragraph 1.’;

(8) Article 11 is amended as follows:

(a) the first paragraph is replaced by the following:

‘In order to ensure that smart tachographs comply with the principles and requirements set out in this Regulation, the Commission shall, by means of implementing acts, adopt detailed provisions necessary for the uniform application of Articles 8, 9 and 10, excluding any provisions which would provide for the recording of additional data by the tachograph.

By ... [12 months after the entry into force of this amending Regulation], the Commission shall adopt implementing acts laying down detailed provisions for the uniform application of the obligation to record and store data relating to any border crossing of the vehicle and activities referred to in the second and third indent of the first subparagraph of Article 8(1) and in the second subparagraph of Article 8(1).

By... [18 months after entry into force of this amending Regulation], the Commission shall adopt implementing acts laying down detailed provisions necessary for the uniform application of rules on data requirements and functions, including Articles 8, 9 and 10 of this Regulation, and the installation of, tachographs for vehicles referred to in point (aa) of Article 2(1) of Regulation (EC) No 561/2006.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(3).;

(b) in the second paragraph, the introductory phrase is replaced by the following:

‘The detailed provisions referred to in the first, second and third paragraphs of this Article shall:’

(9) in Article 22, paragraph 5, the third and fourth subparagraphs are replaced by the following:

‘The removed or broken seals shall be replaced by an approved fitter or a workshop without undue delay and at the latest within seven days of their removal or breaking. When the seals have been removed or broken for control purposes, they may be replaced by a control officer equipped with sealing equipment and a unique special mark without undue delay.’

When a control officer removes a seal, the control card shall be inserted in the tachograph from the moment of the removal of the seal until the inspection is finished, including in the case of the placement of a new seal. The control officer shall issue a written statement containing at least the following information:

- vehicle identification number;
- name of the officer;
- control authority and Member State;
- number of the control card;
- number of the removed seal;
- date and time of seal removal;
- number of the new seal, where the control officer has placed a new seal.

Before replacing the seals, a check and calibration of the tachograph shall be performed by an approved workshop, except where a seal has been removed or broken for control purposes and replaced by a control officer.;

(10) in Article 26, the following paragraph is inserted:

‘(7a) The competent authority of the issuing Member State may require a driver to replace the driver card by a new one if this is necessary to comply with the relevant technical specifications.’;


(11) Article 34 is amended as follows:

(a) paragraph 1 is replaced by the following:


‘1. Drivers shall use record sheets or driver cards every day on which they drive, starting from the moment they take over the vehicle. The record sheet or driver card shall not be withdrawn before the end of the daily working period unless its withdrawal is otherwise authorised or is necessary in order to enter the symbol of the country after having crossed a border. No record sheet or driver card may be used to cover a period longer than that for which it is intended.’;

(b) in paragraph 5, point (b) is amended as follows:

(i) point (iv) is replaced by the following:

‘(iv) under the sign : breaks, rest, annual leave or sick leave.’;

(ii) the following point is added:

‘(v) under the sign for “ferry/train”: In addition to the sign : the rest period spent on a ferry or train as required by Article 9 of Regulation (EC) No 561/2006.’;

(c) in paragraph 6, the following point is added:

'(f) the symbols of the countries in which the daily working period started and finished. The driver shall also enter the symbol of the country that the driver enters after crossing a border of a Member State at the beginning of the driver's first stop in that Member State. That first stop shall be made at the nearest possible stopping place at or after the border. Where the crossing of the border of a Member State takes place on a ferry or train, the driver shall enter the symbol of the country at the port or station of arrival.;

(d) paragraph 7 is replaced by the following:

'7. The driver shall enter in the digital tachograph the symbols of the countries in which the daily working period started and finished.

From ...[18 months after the entry into force of the Directive contained in the document ST 5112/20] the driver shall also enter the symbol of the country that the driver enters after crossing a border of a Member State at the beginning of the driver's first stop in that Member State. That first stop shall be made at the nearest possible stopping place at or after the border. Where the crossing of the border of a Member State takes place on a ferry or train, the driver shall enter the symbol of the country at the port or station of arrival.

Member States may require drivers of vehicles engaged in transport operations inside their territory to add more detailed geographic specifications to the country symbol, provided that those Member States have notified those detailed geographic specifications to the Commission before 1 April 1998.

It shall not be necessary for drivers to enter the information referred to in the first subparagraph if the tachograph is automatically recording location data in accordance with Article 8.;

(12) Article 36 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (i) is replaced by the following:

'(i) the record sheets for the current day and the preceding 56 days.;

(ii) point (iii) is replaced by the following:

'(iii) any manual records and printouts made during the current day and the preceding 56 days.;

(b) in paragraph 2, point (ii) is replaced by the following:

'(ii) any manual records and printouts made during the current day and the preceding 56 days.;

Article 3

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

However, point (15) of Article 1 and point (12) of Article 2 shall apply from 31 December 2024.

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

Done at ...,

For the European Parliament

The President

...

For the Council

The President

...

Statement of the Council's reasons: Position (EU) No 5/2020 of the Council at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council 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) 165/2014 as regards positioning by means of tachographs

(2020/C 151/02)

I. INTRODUCTION

1. On 31 May 2017, the European Commission adopted a proposal for a Regulation of the European Parliament and of the Council 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) 165/2014 as regards positioning by means of tachographs.
2. This proposal was presented as part of the Mobility Package I, and the legislative procedure was organised in conjunction with two other legislative proposals, one on the access to the occupation of road transport operator and to the road haulage market, and one on enforcement provisions for social legislation and posting of drivers.
3. The Council (Transport, Telecommunications and Energy) agreed on a general approach on 3 December 2018 ⁽¹⁾.
4. The European Parliament adopted its first reading position on 4 April 2019.
5. Between October and December 2019, negotiations took place between the European Parliament, the Council and the Commission with a view to reaching an agreement on the proposal. On 11 December 2019, the negotiators agreed on a compromise text, which was subsequently endorsed by the Committee of Permanent Representatives on 20 December 2019 ⁽²⁾.
6. The European Parliament Committee on Transport and Tourism (TRAN) confirmed the political agreement on 21 January 2020, and the Council gave its confirmation on 20 February 2020 ⁽³⁾.
7. In carrying out its work, the Council took account of the opinions of the European Economic and Social Committee of 18 January 2018 and of the Committee of the Regions of 1 February 2018.
8. Taking this agreement into account and following legal and linguistic revision, the Council on 7 April 2020 using the written procedure adopted the Council's position at first reading, in accordance with the ordinary legislative procedure laid down in Article 294 of the Treaty on the Functioning of the European Union.

II. OBJECTIVE

9. The general objective of the proposal is to harmonise the rules on driving times, breaks and rest periods in road transport and the delivery of these provisions through the use of tachographs in order to avoid distortion of competition, improve road safety and ensure good working conditions for drivers within the European Union.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

A) *General*

10. On the basis of the Commission proposal, the Parliament and the Council have conducted negotiations with a view to concluding an agreement at the stage of the Council's position at first reading. The text of the draft Council position fully reflects the compromise reached between the two co-legislators.

⁽¹⁾ document ST 15084/18.

⁽²⁾ document ST 15083/19.

⁽³⁾ document ST 5424/20 + ADD 1-4.

B) Key policy issues

11. The compromise reflected in the Council position at first reading contains the following key elements:

a) Coverage of light commercial vehicles

12. In its initial proposal, the Commission did not include light commercial vehicles within the scope of Regulation (EC) No 561/2006, while the Parliament favoured it. The Council's text includes those vehicles within the scope of the Regulation when their maximum permissible mass, including any trailer or semi-trailer, exceeds 2,5 tonnes and they are used in international transport for hire or reward (Article 2(1) in conjunction with Article 3 (ha) of Regulation (EC) No 561/2006). As a consequence, these vehicles will also fall within the scope of Regulation (EU) No 165/2014, so that they will have to be equipped with smart tachographs.
13. A transitional period (1 July 2026) will be used by the Commission to adopt implementing acts detailing the data, functions and installation of tachographs in light commercial vehicles within 18 months from the entry into force of the amending Regulation, so that the production of equipment and fitting of vehicles may be arranged within the remainder of the period.
14. Against this background, amendments 353/rev, 368, 373 and 375 were accepted, after redrafting, in the Council position.

b) Organisation of the weekly rest period

15. In order to reach a compromise on provisions for weekly rest periods (Article 8(6) of Regulation (EC) No 561/2006), the Council accepted retention of the rule that a driver has to take two regular weekly rest periods or one regular weekly rest period and one reduced weekly rest period of at least 24 hours within any two consecutive weeks.
16. However, the Council insisted in the compromise, in line with the Commission's initial proposal, on a certain flexibility for drivers in long-haul goods transport. In particular, a driver involved in the international transport of goods outside the Member State of establishment may take two consecutive reduced weekly rest periods, provided that the driver in any four consecutive weeks takes at least two regular weekly rest periods. In this case, after two reduced weekly rest periods have been taken consecutively, the following weekly rest period must be preceded by a rest period taken as compensation for the two reductions in resting time. During that extended rest period, the driver benefits from the 'return to home' (see point 19 below). Against this background, amendment 379 was kept as a baseline in the Council position; amendment 381 was not kept.
17. In order to ensure the checking of rests at the roadside over a schedule of 4 weeks, the provisions on supporting evidence on board the vehicle were extended from 28 to 56 days (Article 36 of Regulation (EU) No 165/2014), see amendments 365, 420-422.

c) Ban on sleep in the cabin

18. The Council's position upholds the Commission's initial proposal as regards the ban on rest taken in a vehicle during regular weekly rest periods and any weekly rest of more than 45 hours taken in compensation for previous reduced weekly rest (Article 8(8) of Regulation (EC) No 561/2006). The Council accepted parts of the Parliament's amendment 382 that provide details on the requisite accommodation. In this context, it is specified that any costs for accommodation outside the vehicle are to be covered by the employer, a position shared by the Parliament in its amendment 383.

d) Regular return of the driver

19. The Council's position, developing the Commission's initial proposal that a transport undertaking must organise the work of drivers such that drivers are able to regularly return home in order to take a long rest period (Article 8(8a) of Regulation (EC) No 561/2006), strengthens this requirement as regards proof and monitoring, and favours more clarity on the location the driver returns to. As such, the Council's text requires a driver to return to the employer's operational centre where the driver is normally based and where the driver's weekly rest begins, in the Member State of establishment, or to the driver's place of residence, with the understanding that it is for the driver to choose the location where to spend the rest periods, while the employer is responsible

for guaranteeing the regular ability to return. The baseline frequency was agreed as four-weekly, in accordance with amendment 385. For reasons of simplicity and unequal negotiating positions between drivers and their employers, the Council did not accept elements of additional flexibility supported by the Parliament in amendments 355, 377, 385.

e) Minimum standards for parking infrastructure

20. While the Commission proposal did not include any specific provisions with regard to parking areas, in the course of discussions with the Parliament and the Commission, the Council agreed to a requirement for the Commission to publish and regularly update on an official website a list of all certified parking areas with adequate infrastructure available for drivers engaged in the carriage of goods and passengers by road (Article 8a of Regulation (EC) No 561/2006). The Council's text requires the Commission to establish service and security standards, as well as a certification procedure for these parking areas through delegated acts. As a result of this compromise, which catered for the Parliament's key interest contained in amendment 387, requests aiming at more detailed provisions in the Regulation (amendment 400) were not included in the Council text.

f) Interruption of weekly rest on a ferry or train

21. The Council's text maintains the Commission proposal's amendment to the rules on a driver accompanying a vehicle which is transported by ferry or train during rest. The driver's daily or reduced weekly rest period may be interrupted not more than twice by other activities not exceeding one hour in total (Article 9(1) of Regulation (EC) No 561/2006). With regard to regular weekly rest periods, the Council's text extends the derogation to journeys by ferry or train scheduled for 8 hours or more, provided that the driver has access to a sleeper cabin. As such, amendments 364, 388 and 389 have been accepted, partially redrafted, in the Council's position.

g) Driving time in exceptional circumstances

22. The Council's text expands on the Commission proposal with regard to exceptional circumstances, so that drivers may exceed, under strict conditions and within safeguards, the daily and weekly driving time by up to one hour, or by up to two hours provided that an uninterrupted break of 30 minutes was taken immediately prior to the additional driving, in order to reach the employer's operational centre or the driver's place of residence. This exception may only be used prior to the start of longer rest periods, and a full compensation is necessary (Article 12(2) of Regulation (EC) No 561/2006). Therefore, amendment 391 has been accepted, partially redrafted, in the Council's position.
23. Furthermore, the Council's text provides for the Commission to immediately publish information on a public website relating to urgent cases in which Member States may grant, under exceptional circumstances, temporary exceptions to the driving and rest time rules (Article 14 of Regulation (EC) No 561/2006). Therefore, amendment 395 has been accepted, partially redrafted, in the Council's position.

h) Introduction of smart tachographs (version 2) into the fleets

24. As regards the data recorded by the smart tachograph, the Council text adds that tachographs must be able to record the position of the vehicle every time it crosses the border of a Member State, an element already foreseen in the Commission proposal, and every time the vehicle performs loading or unloading activities, as well as record whether the transport service is in passengers or goods (Article 8(1) of Regulation (EU) No 165/2014). Thus, amendments 409 to 411 were essentially retained in the Council's position.
25. As regards the introduction of smart tachographs, both Parliament and Council favoured bringing forward considerably the introduction of smart tachographs to the vehicle fleet (Article 3(4) of Regulation (EU) No 165/2014). The compromise requires the main retrofit of vehicles (i.e. vehicles previously fitted with an analogue or digital tachograph) no later than three years after the end of the year of entry into force of detailed provisions for the new generation of smart tachographs, and no later than four years after the entry into force of those detailed provisions when the vehicle is already fitted with a smart tachograph (version 1). The Commission will have 12 months in which to adopt the specifications for the second generation of smart tachographs (Article 11(2) of Regulation (EU) No 165/2014); vehicles registered for the first time 24 months after the entry into force of these specifications must already have the new version on board (Article 8(1) of Regulation (EU) No 165/2014). As such, amendments 368, 369, 403–406, 412, 415 were accepted, partially redrafted, in the Council's position, while amendment 402 was not.

26. Linked to this change, the Council agreed on the requirement for Member States to equip their control authorities to an appropriate extent with remote early detection equipment within three years from the entry into force of the detailed provisions as referred to previously (Article 9(2) of Regulation (EU) No 165/2014); amendment 413/rev was thus partially retained.
27. Still in this context, the Council text adds precision to the Commission's proposal on manual recording of border crossings until this is ensured automatically by the smart tachographs (Article 34 (1), (6) and (7) of Regulation (EU) No 165/2014), taking into consideration amendment 417.

i) Other elements of the Council position

28. The following other elements, which were added by the Council to the Commission proposal, entered the final text of the Council position:
 - (a) A further detailed definition of 'non-commercial carriage' (Article 4 of Regulation (EC) No 561/2006);
 - (b) An optional exception for vehicles used for the delivery of ready-mixed concrete (Article 13(1)(r) of Regulation (EC) No 561/2006);
 - (c) Examination procedure for certain implementing acts (Article 25(2) of Regulation (EC) No 561/2006);
 - (d) The requirement for tachograph data on exceeding maximum driving time to be communicated to control authorities for the remote early detection of possible manipulation or misuse (Article 9(4) of Regulation (EU) No 165/2014);
 - (e) The requirement for next generation tachographs to allow for data use in operational mode by an external device (Article 10(2) of Regulation (EU) No 165/2014);
 - (f) A procedure for re-sealing removed or broken seals of tachographs which had been opened by control officers (Article 22(5) of Regulation (EU) No 165/2014);
 - (g) An authorisation for the competent authority to require a replacement of the driver card, if necessary, to comply with new technical specifications (Article 26(7a) of Regulation (EU) No 165/2014).
29. The Council accepted, fully or in principle, the following other Parliament amendments to the Commission proposal:
 - (a) An extension of the exemption for driving craftsmen (Article 3(1) of Regulation (EC) No 561/2006), amendment 374;
 - (b) The need for a Commission assessment of possible special rest rules for drivers engaged in occasional passenger transport services (Article 8(9a) of Regulation (EC) No 561/2006), amendments 354, 372, 380;
 - (c) Adding rewards for speed of delivery to the catalogue of harmful incentives (Article 10(1) of Regulation (EC) No 561/2006), amendment 390;
 - (d) An optional exception for construction vehicles operating within a radius of 100 km (Article 13(1)(q) of Regulation (EC) No 561/2006), amendment 394;
 - (e) A special Commission report on autonomous driving systems and their impact on driving time and rest time rules (Article 9a of Regulation (EC) No 561/2006), amendment 397;
 - (f) A clarification is added that tachographs and tachograph cards must have enough memory capacity to store required data (Article 4(2) of Regulation (EC) No 165/2014), amendment 406;

- (g) Refresher training for drivers (the costs of which are to be paid by the employer) and control authorities (amendments 418 and 419, recitals 30 and 31);
- (h) A more complete documentation of the rests, breaks, and leaves, as well as rest spent on a ferry or train (Article 34(5) of Regulation (EC) No 165/2014), amendment 416.

IV. CONCLUSION

- 30. The Council's position at first reading fully reflects the compromise reached in the negotiations between the Council and the European Parliament, facilitated by the Commission. This compromise is confirmed by the letter of the Chair of the European Parliament's TRAN Committee to the Chair of the Permanent Representatives Committee (23 January 2020). In this letter, the Chair indicates that she will recommend to the members of the TRAN Committee, and subsequently to the plenary, that they accept the Council's position at first reading without amendments at Parliament's second reading, subject to verification by the lawyer-linguists of both institutions.
 - 31. The Council therefore believes that its position at first reading represents a balanced result and that, once adopted, the amended Regulations will improve driver's working conditions and contribute to road safety and a level playing field in the road transport sector through harmonisation, clarification of rules and better control.
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