

ORDINARY LEGISLATIVE PROCEDURE – First reading

Follow up to the European Parliament legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 561/2006 as regards on 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

(Minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods; positioning by means of tachographs)

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- 2. Reference numbers:** 2017/0122 (COD) / A8-0205/2018 / P8_TA-PROV(2019)0340
- 3. Date of adoption of the resolution:** 4 April 2019
- 4. Legal basis:** Article 91(1) of the Treaty on the Functioning of the European Union
- 5. Competent Parliamentary Committee:** Committee on Transport and Tourism (TRAN) and Employment and Social Affairs (EMPL)
- 6. Commission's position:** The Commission can accept certain amendments whereas others should be rejected. The Commission keeps a reserve on all points not addressed here.

Extension of the scope of Regulation 561/2006 on driving and resting times to light vehicles above 2.4t (amendment 373)

The European Parliament proposes inclusion of light commercial vehicles (LCVs) beyond 2.4t into the scope of the driving time rules, which means also the obligation for operators to buy and install tachographs in such vehicles.

The Commission did not propose including LCVs into the scope of Regulation (EC) No 561/2006 and (EU) No 165/2014. Instead, it suggested extending only the rules on access to profession to the operators using LCVs. While the Council in its General Approach did not extend the application of the social rules (including the obligation to use a tachograph) to LCVs, it should be noted that the extension adopted by the European Parliament in its first reading is limited to international transport. There are also exceptions for vehicles used in a radius of 150 km from the operation centre of the company (amendment 374) and for vehicles used for own account operations (amendment 375). The requirement imposed by the European Parliament's amendments is therefore limited to operations where a level playing field is required (between operators from different Member States) and where road safety is particularly at stake considering that international transport generally imply longer distances travelled. The European Parliament amendment could therefore be considered positively, subject to a sufficient transitional period to allow the sector to adapt.

Removing the possibility to take two consecutive reduced weekly rests (amendment 379)

The Commission proposed a possibility for drivers to take two consecutive reduced weekly rest periods, which should enable them to return home by the end of the third week to take a

regular weekly rest. The European Parliament deletes this proposal, which means that the current rule allowing taking a reduced weekly rest every second week remains in force.

The current rule on distribution of reduced and regular weekly rests does not give drivers the possibility and the incentive to take the regular rest at home, which is why the Commission considers that the European Parliament position is too rigid and not well adapted to the needs of drivers and of the sector more generally. A solution should be found to ensure the necessary flexibility taking into account the objectives of ensuring good working conditions for drivers and a high level of road safety. According to the General Approach of the Council of December 2018 the possibility for drivers to take two consecutive reduced weekly rests would apply in international transport, while the Member States may provide that a driver engaged exclusively in carriage undertaken wholly within its territory shall in any two consecutive weeks take at least either two regular weekly rest periods or one regular and one reduced weekly rest periods.

Driver's return home (amendment 385)

The Commission proposed a new rule on driver's regular return home at least every three weeks. The European Parliament proposed the return home at least every four weeks and added the obligation on employers to provide the necessary means for drivers to return home.

This rule needs to be looked at in conjunction with the possibility – proposed by the Commission and adopted in the General Approach of the Council of December 2018 - for the driver to take two consecutive reduced weekly rests. With a regular return home every three weeks, the Commission wished to allow drivers to spend a 'long rest'¹ at home. The Commission therefore maintains that in case drivers take 2 consecutive reduced weekly rests, they should return home after three weeks. However, the Commission could accept a return every four weeks if the driver did not take two consecutive reduced weekly rests (without any return in between). This rule can be found in the Council General Approach of December 2018; it provides a clear solution that is flexible enough while achieving the objectives sought by the Commission's proposal. As regards the notion of 'necessary means' added by the European Parliament, this is not further specified in this context and should therefore be defined.

Development of Dedicated Parking Areas (amendments 387 and 400)

The European Parliament set out minimum requirements for Dedicated Parking Areas (DPA) and imposed reporting obligations on the Member States and on the Commission concerning the development of DPAs.

By way of general policy, and subject to a detailed assessment of the terms suggested by the European Parliament, the Commission welcomes this initiative that will help to improve resting conditions of drivers and road safety in general, and in particular through the establishment of standards and procedures for certification of DPAs as proposed by the European Parliament in Article 8a paragraph 5 (amendment 387).

Derogation from driving time limit to reach the destination (amendment 391)

The European Parliament proposed that drivers may exceptionally exceed their daily driving time by maximum two hours in order to reach the employers' operational centre where the driver is based to take a regular weekly rest.

For road safety reasons and the health and safety of drivers, the Commission is generally not in favour of extending driving time. The two-hour extension proposed by the European Parliament amendment considerably lengthens daily driving time which constitutes a risk to

¹ Regular weekly rest plus the compensation stemming from the two consecutive reduced weekly rests

drivers' health and safety and to the general road safety. The Commission could accept one-hour extension which is also what is in the Council's General approach adopted in December 2018. This stricter extension achieves the objectives of giving enough flexibility for the driver to reach the employers' operational centre while preserving road safety. In this context, it is clear that the notion of 'exceptional circumstances' will need to be defined in the regulation.

Moreover, the rule would need to be extended to equally privilege arrival at the driver's home in case it is not situated close to the employer's operational centre.

Evaluation and reporting obligations for the COM (amendments 358 and 397)

The European Parliament proposed that the Commission evaluates and reports on its findings on: (i) the need for specific rules for drivers performing occasional carriage of passengers and (ii) the use of autonomous driving systems in the Member States.

The Commission is ready to carry out necessary analyses on those issues and – if it considers it necessary - prepare legislative proposals.

Early introduction of smart tachograph and its upgrade (amendments 402 to 406 and 409 to 416)

The Commission proposal contained only a provision requiring upgrading smart tachograph by adding a functionality of automatic recording every border crossing. The European Parliament added that upgraded smart tachographs should also enable positioning a vehicle during loading and unloading activities. Such smart tachographs shall be fitted in all new vehicles registered for the first time two years after entry into force of the amending regulation. The European Parliament also proposed a staggered retrofit of all vehicles in international transport with the upgraded version of smart tachograph that is within 3, 4 and 5 years from the date of entry into force of the amending regulation.

The Commission can support those proposals, which aim at facilitating smart enforcement. The dates for retrofit are also feasible taking account of number of vehicles and capacity of manufacturers to produce smart tachographs and of workshops to install and retrofit. This was confirmed by the Commission's recent study regarding measures fostering the implementation of the smart tachograph² which assessed the compliance costs and the feasibility of retrofitting activities.

Extension of a period of tachograph records available at roadside checks (amendments 420 to 422)

The European Parliament proposed that drivers produce at the roadside controls tachograph records covering a day of a control + 56 preceding days. The current rule requires records for a day of a control + 28 preceding days. The General Approach of the Council includes the same requirement. The Commission can accept it but would like to remind that in the current situation of limited enforcement capacities in the Member States checking long periods of records can be done more easily and efficiently during controls at the premises.

² <https://publications.europa.eu/en/publication-detail/-/publication/3012c99b-49c6-11e8-be1d-01aa75ed71a1>