EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on uniform procedures for checks on the transport of dangerous goods by road (codification)

DIRECTIVE (EU) 2022/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

on uniform procedures for checks on the transport of dangerous goods by road (codification)

(Text with EEA relevance)

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 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],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[2],

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1 OJ C 105, 4.3.2022, p. 148.

2 Position of the European Parliament of 13 September 2022 [(OJ …)/(not yet published in the Official Journal)] and decision of the Council of … .

Whereas:

(1) Council Directive 95/50/EC[1] has been substantially amended several times[2]. In the interests of clarity and rationality, that Directive should be codified.

(2) Checks on the transport of dangerous goods by road are to be carried out in accordance with Regulation (EC) No 1100/2008 of the European Parliament and of the Council[3] and Council Regulation (EEC) No 3912/92[4].

(3) The procedures of Member States for checking, and their definitions relating to, the transport of dangerous goods by road should be such as to ensure that compliance with the safety standards laid down in Directive 2008/68/EC of the European Parliament and of the Council[5] can be verified effectively.

(4) Member States should ensure a sufficient level of checks on the vehicles concerned throughout their territory while, where possible, avoiding the proliferation of such checks.

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1 Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road (OJ L 249, 17.10.1995, p. 35).

2 See Part A of Annex IV.

3 Regulation (EC) No 1100/2008 of the European Parliament and of the Council of 22 October 2008 on the elimination of controls performed at the frontiers of Member States in the field of road and inland waterway transport (OJ L 304, 14.11.2008, p. 63).

4 Council Regulation (EEC) No 3912/92 of 17 December 1992 on controls carried out within the Community in the field of road and inland waterway transport in respect of means of transport registered or put into circulation in a third country (OJ L 395, 31.12.1992, p. 6).

5 Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13).

(5) Checks should be carried out using a list of common items applicable to the transport of dangerous goods throughout the Union.

(6) It is necessary to lay down a list of infringements deemed sufficiently serious by all Member States to result in the application to the vehicles concerned of appropriate measures depending on the circumstances or the requirements of safety, including, where appropriate, refusal to admit the vehicles concerned to the Union.

(7) In order to ensure compliance with safety standards for the transport of dangerous goods by road, it is necessary to provide for checks to be carried out in undertakings as a preventive measure or when serious infringements of laws on the transport of dangerous goods have been recorded at the roadside.

(8) The checks in question should apply to all consignments of dangerous goods transported by road wholly or partly within the territory of the Member States, irrespective of the point of departure or the destination of the goods or the country in which the vehicle is registered.

(9) In the event of serious or repeated infringements, the competent authorities of the Member State in which the vehicle is registered or in which the undertaking is established may be asked to take appropriate measures and they should inform the requesting Member State of any follow-up measures taken.

(10) The application of this Directive should be monitored on the basis of a report to be submitted by the Commission.

(11) In order to adapt this Directive to scientific and technical progress, 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 amending Annexes I, II and III to this Directive, in particular to take account of amendments to Directive 2008/68/EC. 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[1]. 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.

[1] OJ L 123, 12.5.2016, p. 1.

(12) Since the objective of this Directive, namely providing for a high level of safety as regards the transport of dangerous goods, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of such an action, 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 Directive does not go beyond what is necessary in order to achieve that objective.

(13) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Part B of Annex IV,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive applies to checks carried out by Member States on the transport of dangerous goods by road in vehicles travelling in their territory or entering it from a third country.

   It does not apply to the transport of dangerous goods by vehicles belonging to or under the responsibility of the armed forces.

2. This Directive shall not affect the Member States' right, with due regard to Union law, to carry out checks on the national and international transport of dangerous goods within their territories performed by vehicles not covered by this Directive.

Article 2

For the purposes of this Directive, the following definitions apply:

(a) ‘vehicle’ means any motor vehicle intended for use on the road, whether complete or incomplete, which has at least four wheels and a maximum design speed exceeding 25 km/h, together with its trailers, with the exception of vehicles which run on rails, of agricultural and forestry tractors and of all mobile machinery;

(b) ‘dangerous goods’ means dangerous goods as defined in Article 1(b) of the Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR), concluded at Geneva on 30 September 1957, and in Annexes A and B to that Agreement, as referred to in Section I.1 of Annex I to Directive 2008/68/EC;

(c) ‘transport’ means any road transport operation performed by a vehicle wholly or partly on public roads within the territory of a Member State, including the loading and unloading of goods covered by Directive 2008/68/EC, without prejudice to the arrangements laid down by the laws of the Member States concerning liability in respect of such operations;

(d) ‘undertaking’ means any natural or legal person, whether or not profit-seeking, any association or group of persons without legal personality, whether or not profit-seeking, and any body coming under a public authority, whether itself possessing legal personality or dependent on an authority having such personality, which carry, load or unload dangerous goods or cause them to be carried, and those which temporarily store, collect, package or take delivery of such goods as part of a transport operation and are located in the territory of the Union;

(e) ‘check’ means any check, control, inspection, verification or formality carried out by the competent authorities for reasons of safety inherent in the transport of dangerous goods.

Article 3

1. Member States shall ensure that a representative proportion of consignments of dangerous goods transported by road is subject to the checks laid down by this Directive, in order to check their compliance with the laws on the transport of dangerous goods by road.

2. Such checks shall be carried out in the territory of a Member State in accordance with Article 3 of Regulation (EC) No 1100/2008 and Article 1 of Regulation (EEC) No 3912/92.

Article 4

1. In order to carry out the checks provided for in this Directive, the Member States shall use the checklist set out in Annex I. A copy of that checklist or a certificate showing the result of the check drawn up by the authority which carried it out shall be given to the driver of the vehicle and presented on request in order to simplify or avoid, where possible, subsequent checks.

   The first subparagraph shall not prejudice Member States' right to carry out specific measures for detailed checks.

2. The checks shall be random and shall as far as possible cover an extensive portion of the road network.

3. The places chosen for the checks shall permit infringing vehicles to be brought into compliance or, if the authority carrying out the check deems it appropriate, to be immobilised on-the-spot or at a place designated for that purpose by that authority without causing a safety hazard.

4. Where appropriate, and provided that this does not constitute a safety hazard, samples of the goods transported may be taken for examination by laboratories recognised by the competent authority.

5. Checks shall not exceed a reasonable length of time.

Article 5

Without prejudice to other penalties which may be imposed, vehicles in respect of which one or more infringements of the rules on the transport of dangerous goods, in particular infringements listed in Annex II, are established may be immobilised either on-the-spot or at a place designated for that purpose by the authorities carrying out the check, and required to be brought into conformity before continuing their journey or may be subject to other appropriate measures, depending on the circumstances or the requirements of safety including, where appropriate, refusal to allow such vehicles to enter the Union.

Article 6

1. Checks may also be carried out at the premises of undertakings, as a preventive measure or where infringements which jeopardise safety in the transport of dangerous goods have been recorded at the roadside.

   The purpose of such checks shall be to ensure that safety conditions for the transport of dangerous goods by road comply with the relevant laws.

2. Where one or more infringements, in particular those listed in Annex II, have been established in respect of the transport of dangerous goods by road, the transport in question shall be brought into conformity before the goods leave the undertaking or shall be subject to other appropriate measures.

Article 7

1. Member States shall assist one another in order to give proper effect to this Directive.

2. Serious or repeated infringements jeopardising the safety of the transport of dangerous goods committed by a non-resident vehicle or undertaking shall be reported to the competent authorities of the Member State in which the vehicle is registered or in which the undertaking is established.

   The competent authorities of the Member State in which serious or repeated infringements have been recorded may ask the competent authorities of the Member State in which the vehicle is registered or in which the undertaking is established to take appropriate measures with regard to the offender or offenders.

   The competent authorities of the Member State in which the vehicle is registered or in which the undertaking is established shall notify the competent authorities of the Member State in which the infringements were recorded of any measures taken with regard to the transporter or the undertaking concerned.

Article 8

If the findings of a roadside check on a vehicle registered in another Member State give grounds for believing that serious or repeated infringements have been committed which cannot be detected in the course of that check in the absence of the necessary data, the competent authorities of the Member States concerned shall assist one another in order to clarify the situation.

Where, to that end, the competent Member State carries out a check in the undertaking, the other Member States concerned shall be notified of the results.

Article 9

1. Each Member State shall send the Commission for each calendar year, not later than twelve months after the end of that year, a report, drawn up in accordance with the model standard form set out in Annex III to this Directive, on the application of Directive 95/50/EC and this Directive, including the following particulars:

   (a) if possible, the determined or estimated volume of dangerous goods transported by road, in tonnes transported or in tonnes/kilometres;

(b) the number of checks carried out;

(c) the number of vehicles checked by place of registration (vehicles registered nationally, in other Member States or in third countries);

(d) the number of infringements recorded according to risk category as referred to in Annex II;

(e) the type and number of penalties imposed.

2. The Commission shall send the European Parliament and the Council, for the first time in 1999 and subsequently at least every three years, a report on the application of Directive 95/50/EC and this Directive by the Member States, stating the particulars in accordance with paragraph 1.

Article 10

The Commission is empowered to adopt delegated acts in accordance with Article 11 concerning the amendment of Annexes I, II and III to this Directive, in order to adapt them to scientific and technical progress in the fields covered by this Directive, in particular to take account of amendments to Directive 2008/68/EC.

Article 11

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 10 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 10 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 10 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.

Article 12

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field governed by this Directive.

Article 13

Directive 95/50/EC, as amended by the acts listed in Part A of Annex IV, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Part B of Annex IV.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex V.

Article 14

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

Article 15

This Directive is addressed to the Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

Checklist

(referred to in Article 4)

1. Place of check	2. Date	3. Time	
4. Vehicle nationality mark and registration number	.....		
5. Trailer/semi-trailer nationality mark and registration number	.....		
6. Undertaking carrying out transport/address	.....		
7. Driver/driver's assistant	.....		
8. Consignor, address, place of loading (1) (2)	.....		
9. Consignee, address, place of unloading (1) (2)	.....		
10. Total quantity of dangerous goods per transport unit	.....		
11. ADR 1.1.3.6 quantity limit exceeded	☐ yes	☐ no	
12. Mode of transport	☐ in bulk	☐ package	☐ tank
Documents on board			
13. Transport document	☐ inspected	☐ infringement established	☐ not applicable
14. Instructions in writing	☐ inspected	☐ infringement established	☐ not applicable
15. Bilateral/multilateral agreement/national authorisation	☐ inspected	☐ infringement established	☐ not applicable
16. Certificate of approval for vehicles	☐ inspected	☐ infringement established	☐ not applicable
17. Driver's training certificate	☐ inspected	☐ infringement established	☐ not applicable
Transport operation			
18. Goods authorised for transport	☐ inspected	☐ infringement established	☐ not applicable
19. Vehicles authorised for goods carried	☐ inspected	☐ infringement established	☐ not applicable
20. Provisions related to the mode of transport (bulk, package, tank)	☐ inspected	☐ infringement established	☐ not applicable
21. Mixed loading prohibition	☐ inspected	☐ infringement established	☐ not applicable
22. Loading, securing of the load and handling (3)	☐ inspected	☐ infringement established	☐ not applicable
23. Leakage of goods or damage to package (3)	☐ inspected	☐ infringement established	☐ not applicable
24. UN packaging marking/tank marking (2) (3) (ADR 6)	☐ inspected	☐ infringement established	☐ not applicable
25. Package marking (e.g. UN no) and labelling (2) (ADR 5.2)	☐ inspected	☐ infringement established	☐ not applicable
26. Tank/vehicle placarding (ADR 5.3.1)	☐ inspected	☐ infringement established	☐ not applicable

(1) To be filled in only if relevant for an infringement.
(2) To be stated under 'remarks' for groupage transport operations.
(3) Check of visible violations.

27. Vehicle/transport unit marking (orange plate, elev. temp.) (ADR 5.3.2-3)	☐ inspected	☐ infringement established	☐ not applicable

Equipment on board

28. General purpose safety equipment specified in ADR	☐ inspected	☐ infringement established	☐ not applicable
29. Equipment according to the goods carried	☐ inspected	☐ infringement established	☐ not applicable
30. Other equipment specified in the instructions in writing	☐ inspected	☐ infringement established	☐ not applicable
31. Fire extinguisher(s)	☐ inspected	☐ infringement established	☐ not applicable
32. The most serious risk category of established infringements, if any	☐ Category I	☐ Category II	☐ Category III

33. Remarks .....

34. Authority/officer having carried out the inspection .....

ANNEX II

Infringements

For the purposes of this Directive, the following non-exhaustive list, classified into three risk categories (category I being the most serious), provides guidance on what is to be regarded as an infringement.

The determination of the appropriate risk category must take account of the particular circumstances and be left to the discretion of the enforcing body/officer at the roadside.

Failures that are not listed under the risk categories shall be classified according to the descriptions of the categories.

In the event that there are several infringements per transport unit, only the most serious risk category (as indicated under item 32 in Annex I) shall be applied for reporting purposes (in compliance with the model standard form set out in Annex III).

1. Risk category I

Where failure to comply with relevant ADR provisions creates a high-level risk of death, serious personal injury or significant damage to the environment; such failures would normally lead to taking immediate and appropriate corrective measures such as immobilisation of the vehicle.

Failures are:

1. the dangerous goods being carried are prohibited for transport;

2. leakage of dangerous substances;

3. carriage by a prohibited mode or an inappropriate means of transport;

4. carriage in bulk in a container which is not structurally serviceable;

5. carriage in a vehicle without an appropriate certificate of approval;

6. the vehicle no longer complies with the approval standards and presents an immediate danger (otherwise it goes in risk category II);

7. non-approved packaging is used;

8. the packaging does not conform to the applicable packing instruction;

9. the special provisions for mixed packing have not been complied with;

10. the rules governing the securing and stowage of the load have not been complied with;

11. the rules governing mixed loading of packages have not been complied with;

12. the permissible degrees of filling of tanks or packages have not been complied with;

13. the provisions limiting the quantities carried in one transport unit have not been complied with;

14. carriage of dangerous goods without any indication of their presence (for example, documents, marking and labelling on the packages, placarding and marking on the vehicle);

15. carriage without any placarding and marking on the vehicle;

16. information relevant to the substance being carried, enabling determination of a risk category I offence, is missing (for example, UN number, proper shipping name, packing group);

17. the driver does not hold a valid vocational training certificate;

18. fire or an unprotected light is being used;

19. the ban on smoking is not being observed.

2. Risk category II

Where failure to comply with relevant ADR provisions creates a risk of personal injury or damage to the environment; such failures would normally lead to taking appropriate corrective measures such as requiring rectification at the site of control if possible and appropriate, but at the completion of the current transport movement at the latest.

Failures are:

1. the transport unit comprises more than one trailer/semi-trailer;

2. the vehicle no longer complies with the approval standards but does not present an immediate danger;

3. the vehicle is not carrying operational fire extinguishers as required; a fire extinguisher may still be deemed operational if only the prescribed seal and/or the expiry date are missing; however, this shall not apply if the fire extinguisher is visibly no longer operational, for example, the pressure gauge is at 0;

4. the vehicle does not carry the equipment required in the ADR or in the instructions in writing;

5. test and inspection dates and use-periods of packaging, intermediate bulk containers (IBCs)or large packaging have not been complied with;

6. packages with damaged packaging, IBCs or large packaging or damaged uncleaned empty packaging are being carried;

7. carriage of packaged goods in a container which is not structurally serviceable;

8. tanks/tank containers (including ones that are empty and uncleaned) have not been closed properly;

9. carriage of a combination packaging with an outer packaging which is not closed properly;

10. incorrect labelling, marking or placarding;

11. there are no instructions in writing conforming to the ADR, or the instructions in writing are not relevant to the goods carried;

12. the vehicle is not properly supervised or parked.

3. Risk category III

Where failure to comply with relevant provisions results in a low level of risk of personal injury or damage to the environment and where appropriate corrective measures do not need to be taken at the roadside but can be addressed at a later date at the undertaking.

Failures are:

1. the size of placards or labels or the size of letters, figures or symbols on placards or labels does not comply with the regulations;

2. information in the transport documentation other than that in risk category I/16 is not available;

3. the training certificate is not on board the vehicle but there is evidence that the driver holds it.

ANNEX III

Model standard form for the report to be sent to the Commission concerning infringements and penalties

Country: ..... Year: .....

CHECKS ON THE TRANSPORT OF DANGEROUS GOODS BY ROAD

		Place of registration of vehicles (1)			Total number
		Country of check	Other EU Member States	Third countries	
Number of transport units checked on the basis of the contents of the load (and ADR)					
Number of transport units not conforming to ADR					
Number of transport units immobilised					
Number of infringements noted, according to risk category (2)	Risk category I				
	Risk category II				
	Risk category III				
Number of penalties imposed, according to penalty type	Caution				
	Fine				
	Other				

ESTIMATED TOTAL QUANTITY OF DANGEROUS GOODS TRANSPORTED BY ROAD:	..... t	or ..... t.km

(1) For the purposes of this Annex the country of registration is that of the motor vehicle.
(2) In the event that there are several infringements per transport unit, only the most serious risk category (as indicated under item 32 in Annex I) shall be applied.

ANNEX IV

Part A

Repealed Directive with list of the successive amendments thereto

(referred to in Article 13)

Council Directive 95/50/EC (OJ L 249, 17.10.1995, p. 35)	
Directive 2001/26/EC of the European Parliament and of the Council (OJ L 168, 23.6.2001, p. 23)	
Commission Directive 2004/112/EC (OJ L 367, 14.12.2004, p. 23)	
Directive 2008/54/EC of the European Parliament and of the Council (OJ L 162, 21.6.2008, p. 11)	
Regulation (EU) 2019/1243 of the European Parliament and of the Council (OJ L 198, 25.7.2019, p. 241)	only point IX(1) of the Annex

Part B

Time-limits for transposition into national law

(referred to in Article 13)

Directive	Time-limit for transposition
95/50/EC	1 January 1997
2001/26/EC	23 December 2001
2004/112/EC	14 December 2005
2008/54/EC	–

ANNEX V

Correlation table

Directive 95/50/EC	This Directive
Article 1	Article 1
Article 2, introductory wording	Article 2, introductory wording
Article 2, first indent	Article 2, point (a)
Article 2, second indent	Article 2, point (b)
Article 2, third indent	Article 2, point (c)
Article 2, fourth indent	Article 2, point (d)
Article 2, fifth indent	Article 2, point (e)
Article 3(1)	Article 3(1)
Article 3(2)	Article 3(2)
Article 4(1), first sentence	Article 4(1), first subparagraph
Article 4(1), second sentence	Article 4(1), second subparagraph
Article 4(2) to (5)	Article 4(2) to (5)
Article 5	Article 5
Article 6(1)	Article 6(1), first subparagraph
Article 6(2), first subparagraph	Article 6(1), second subparagraph
Article 6(2), second subparagraph	Article 6(2)
Article 7	Article 7
Article 8, first sentence	Article 8, first paragraph
Article 8, second sentence	Article 8, second paragraph

Directive 95/50/EC	This Directive
Article 9(1), introductory wording	Article 9(1), introductory wording
Article 9(1), first indent	Article 9(1), point (a)
Article 9(1), second indent	Article 9(1), point (b)
Article 9(1), third indent	Article 9(1), point (c)
Article 9(1), fourth indent	Article 9(1), point (d)
Article 9(1), fifth indent	Article 9(1), point (e)
Article 9(2)	Article 9(2)
Article 9a	Article 10
Article 9aa	Article 11
Article 10(1)	–
Article 10(2)	Article 12
–	Article 13
Article 11	Article 14
Article 12	Article 15
Annexes I, II and III	Annexes I, II and III
–	Annex IV
–	Annex V