Council of the European Union

Brussels, 29 November 2024
(OR. en)

15732/24
ADD 1

Interinstitutional File:
2024/0294(NLE)

TRANS 478
RELEX 1445

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	Draft DECISION OF THE JOINT COMMITTEE ESTABLISHED BY THE AGREEMENT BETWEEN THE EUROPEAN UNION AND UKRAINE ON THE CARRIAGE OF FREIGHT BY ROAD as regards the recognition of smart tachographs for the enforcement of the Agreement and the provision by the European Commission of smart tachograph certification services to Ukraine

DRAFT

DECISION No …/2024
OF THE JOINT COMMITTEE ESTABLISHED BY THE AGREEMENT
BETWEEN THE EUROPEAN UNION AND UKRAINE
ON THE CARRIAGE OF FREIGHT BY ROAD

of …

as regards the recognition of smart tachographs
for the enforcement of the Agreement
and the provision by the European Commission
of smart tachograph certification services to Ukraine

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Union and Ukraine on the carriage of freight by road[1], and in particular Article 7 thereof,

[1] OJ EU L 179, 6.7.2022, p. 4, ELI: http://data.europa.eu/eli/agree_internation/2022/1158/oj.

Whereas:

(1) The Joint Committee adopted its Rules of Procedure by its Decision No 1/2023[2].

(2) Pursuant to Article 7 of the Agreement between the European Union and Ukraine on the carriage of freight by road (the 'Agreement'), the Joint Committee established by paragraph 1 of that Article is to periodically review the functioning of the Agreement in light of its objectives, and may adopt decisions to that effect.

(3) Since 2019, vehicles registered in the Union are to be equipped with a smart tachograph compliant with Chapter II of Regulation (EU) No 165/2014 of the European Parliament and of the Council[3], while, since 2010, vehicles engaged in international road transport registered in Ukraine are to be equipped with digital tachographs in compliance with the European Agreement concerning the work of crews of vehicles engaged in international transport[4] (the 'AETR').

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[2] Decision No 1/2023 of the Joint Committee established by the Agreement between the European Union and Ukraine on the carriage of freight by road of 16 March 2023 as regards the adoption of its Rules of Procedure (OJ EU L 123, 8.5.2023, p. 32, ELI: http://data.europa.eu/eli/dec/2023/928/oj).

[3] 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, ELI: http://data.europa.eu/eli/reg/2014/165/oj).

[4] OJ EC L 95, 8.4.1978, p. 1, ELI: http://data.europa.eu/eli/agree_internation/1977/2829/oj.

(4) In comparison to the digital tachograph, the smart tachograph contains key additional functionalities as set out in Articles 8, 9 and 10 of Regulation (EU) No 165/2014, which allow better enforcement of the Agreement. The recording of the position of the vehicle enables better enforcement of Article 4 of the Agreement, while the remote early detection capability enables better enforcement of Article 5D(2), point (c)(ii), of the Agreement.

(5) In order to ensure the correct functioning of the Agreement in light of its objectives, it should allow road haulage operators to use more effective control devices than the digital tachographs provided under the AETR, as the result could otherwise be less effective enforcement by the competent authorities.

(6) More detailed tachograph records, as provided by the smart tachograph, would therefore significantly improve implementation of the Agreement, through the authorised use of such records under Article 5B(4) thereof.

(7) In order to ensure the correct functioning of the Agreement in light of its objectives, vehicles operating under the Agreement should therefore be allowed to install and use, in the Union and in Ukraine, smart tachographs complying with the relevant requirements of Regulation (EU) No 165/2014 and Commission Implementing Regulation (EU) 2016/799[5]. That does not, however, prevent vehicles operating under the Agreement from continuing to use digital tachographs in accordance with the AETR.

[5] 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 EU L 139, 26.5.2016, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2016/799/oj).

(8) The European Commission should be responsible for providing the necessary certificates and keys for Ukraine to develop its smart tachograph infrastructure. Ukraine should therefore recognise the role of the European Commission in the functioning of the smart tachograph system,

HAS ADOPTED THIS DECISION:

Article 1

Definitions

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

(1) 'tachograph' means the equipment intended for installation in road vehicles to display, record, print, store and output automatically or semi-automatically details of the movement, including the speed, of such vehicles and details of certain periods of activity of their drivers;

(2) 'smart tachograph' means a digital tachograph complying with the following requirements:

(a) automatic recording of the position of the vehicle at certain points during the daily working period, as provided for in Article 8 of Regulation (EU) No 165/2014;

(b) remote early detection of possible manipulation or misuse, as provided for in Article 9 of Regulation (EU) No 165/2014;

(c) equipped with an interface with Intelligent Transport Systems, as provided for in Article 10 of Regulation (EU) No 165/2014; and

(d) in compliance with the specifications set out in Regulation (EU) 2016/799, with the following adaptations:

(i) ‘Member State’ shall be understood as ‘Member State of the European Union and Ukraine’;

(ii) for the purposes of subsection 4.1, paragraph (229), of Annex IC, the distinguishing sign for Ukraine shall be ‘UA’.

Article 2

Use of smart tachographs

Vehicles registered in the Union and in Ukraine equipped with smart tachographs may be used to carry out the operations referred to in Article 4 of the Agreement.

Article 3

Type-approval of smart tachograph equipment and root certification

1. Type-approval of smart tachograph equipment shall follow the procedure laid down in Chapter III of Regulation (EU) No 165/2014, with the following adaptation:

‘Member State’ shall be understood as ‘Member State of the European Union and Ukraine’.

2. Ukraine recognises that the interoperability certificate delivered in accordance with Article 12(3) of Regulation (EU) No 165/2014 shall be issued by a single laboratory under the authority and responsibility of the European Commission.

3. Ukraine recognises that the European Commission acts as the single European Root Certification Authority (ERCA) within the framework laid down in Regulation (EU) 2016/799.

4. The European Commission shall provide the competent authorities of Ukraine with the cryptographic material for the issuing of tachograph cards for drivers, workshops, companies and control authorities, in accordance with the ERCA certificate policy and the certificate policy of Ukraine.

Article 4

Installation, inspection, use of equipment and enforcement

The provisions of Chapters IV to VI and Article 38 of Regulation (EU) No 165/2014 shall apply with the following adaptation:

'Member State' shall be understood as 'Member State of the European Union and Ukraine'.

Article 5

Entry into force

This Decision shall enter into force on the date of its adoption.

Done at …, …

For the Joint Committee

The Co-chairs