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THE EUROPEAN UNION**

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From : Council General Secretariat

to : Delegations

No. Cion prop. : 12168/03 TRANS 208 CODEC 1112 SOC 324

Subject : LAND TRANSPORT

Amended proposal for a Regulation of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport and amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport

Delegations will find in Annex the text of amended proposal as it stands following the discussions in the Working Party on 7 and 20 January 2004.

At the start of discussions it was noted that, notwithstanding some concerns relating to particular issues, no delegation opposed the objective of the Presidency to reach a political agreement on this draft Regulation at the March 2004 TTE Council.

Text changes compared to the previously discussed texts have been highlighted in **bold**; deleted text is indicated by [...], whilst new footnotes are underlined.

2001/0241 (COD)

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL¹**on the harmonisation of certain social legislation relating to road transport and amending
Council (EEC) Regulation 3821/85 on recording equipment in road transport**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71 thereof,

Having regard to the proposal from the Commission²,Having regard to the opinion of the European Economic and Social Committee³,Having regard to the opinion of the Committee of the Regions⁴,Acting in accordance with the procedure laid down in Article 251 of the Treaty⁵,**[recitals]**

HAVE ADOPTED THIS REGULATION:

¹ Scrutiny reservation by A, B, D, E, FIN, GR, I, NL and P on the whole proposal.
General reservation and Parliamentary scrutiny reservation by DK.

² OJ C ..., ..., p. ...

³ OJ C ..., ..., p. ...

⁴ OJ C ..., ..., p. ...

⁵ OJ C ..., ..., p. ...

CHAPTER I

Introductory provisions

Article 1

This Regulation lays down rules on driving time, breaks and rest periods for drivers engaged in the carriage of goods and passengers by road in order to harmonise the conditions of competition between methods of inland transport, especially with regard to the road sector and to improve working conditions and road safety.

The Regulation's provisions also aim to promote improved monitoring and enforcement practice by Member States and improved working practices within the road transport industry.

Article 2

1. This Regulation shall apply to carriage by road:
 - (a) of goods where the permissible maximum weight of the vehicles, including any trailer, or semi-trailer, exceeds 3.5 tonnes, and in the case of international point-to-point delivery services where the permissible maximum weight of the vehicle exceeds 2.8 tonnes ⁶, or
 - (b) of passengers by vehicles which are constructed or permanently adapted for carrying more than nine persons including the driver, and are intended for that purpose.

⁶ UK: reservation on the extension of the scope as reflected in: "and in the case of ... 2.8 tonnes."

It shall apply to vehicles registered in the Community where the carriage by road is undertaken:

- (a) entirely within the Community; or
 - (b) between the Community and a third country which is not a contracting party to the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR) or passes through such a country.
2. This Regulation shall apply to carriage by road undertaken by vehicles registered in a third country, which is not a contracting party to the AETR, for the whole of the journey made within the Community.
3. The AETR shall apply where carriage by road is undertaken by vehicles registered in any Member State or any country which is a contracting party to the AETR, for the whole of the journey where that journey is between the Community and a country which is a contracting party, or through such a country.

Article 3 ⁷

Without prejudice to Article 6(6), this Regulation shall not apply to carriage by road by:

- 1.⁸ vehicles used for the carriage of passengers on regular services where the route covered by the service in question does not exceed 50 kilometres;
- 2. vehicles with a maximum authorised speed not exceeding 30 kilometres per hour;

⁷ Scrutiny reservation by A, D, DK, GR, NL, P and I.

⁸ LUX proposed to move this point into article 13.

- 3.⁹ vehicles owned or hired without a driver by the armed services, civil defence, fire services, and forces responsible for maintaining public order when the carriage is undertaken as a consequence of the tasks assigned to these services and is under their control;
4. vehicles used in emergencies or rescue operations;
5. specialised vehicles [...] used for medical purposes;
- 6.¹⁰ specialised vehicles transporting circus and fun-fair equipment;
7. specialised breakdown vehicles operating within a 100-km radius of their base;
8. vehicles undergoing road tests for technical development, repair or maintenance purposes, and new or rebuilt vehicles which have not yet been put into service;
9. vehicles **or a combination of vehicles** with a maximum permissible weight not exceeding 7.5 tonnes used for non-commercial carriage of goods;
10. commercial vehicles, **which have a historic status according to the legislation of the Member State in which they are being driven, and which are** used for non-commercial purposes.

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⁹ Scrutiny reservation by FR.

¹⁰ D proposed to move this point into article 13, and to add a reference to "theater equipment".

¹¹ D, FIN and I requested to keep the original text from the Council Regulation 3820/85, art. 4 par. 13: "vehicles used for milk collection from farms and the return to farms of milk containers or milk products intended for animal feed."

Article 4

For the purposes of this Regulation the following definitions will apply:

1. “carriage by road” means any journey made entirely or in part on open roads by a vehicle, whether laden or not, used for the carriage of passengers or goods;
2. “vehicle” means a motor vehicle, tractor, trailer or semi-trailer, defined as follows:
 - “motor vehicle”: any self-propelled vehicle circulating on the road, other than a vehicle permanently running on rails, and normally used for carrying passengers or goods;
 - “tractor”: any self-propelled vehicle circulating on the road, other than a vehicle permanently running on rails, and specially designed to pull, push or move trailers, semi-trailers, implements or machines;
 - “trailer”: any vehicle designed to be coupled to a motor vehicle or tractor;
 - “semi-trailer”: a trailer without a front axle coupled in such a way that a substantial part of its weight and of the weight of its load is borne by the tractor or motor vehicle;
3. “driver” means any person who drives the vehicle even for a short period, or who is carried in the same vehicle in order to be available for driving if necessary;
4. “driving time” means the duration of the activity in which the driver controls the vehicle and is an active road user. It includes interruptions in the motion of the vehicle when the driver is still behind the steering wheel.

5. “break” means any period during which a driver may not carry out any driving or any other work and which is used exclusively for recuperation.
6. “other work” means any activity other than driving defined in Article 3(a) of Council Directive 2002/15/EC as being ‘working time’.
7. “rest” means any uninterrupted period during which the driver may freely dispose of his time.
8. “daily rest period” means the daily period during which the driver may freely dispose of his time and covers a “regular daily rest period” or a “reduced daily rest period”.
 - “regular daily rest period” means any uninterrupted period of rest of at least 12 hours. This regular daily rest period may be taken in two periods, the first of which must be an uninterrupted period of at least 3 hours and a second uninterrupted period of at least 9 hours.
 - “regular daily rest period” means any uninterrupted period of rest of at least 9 hours but less than 12 hours.
9. “weekly rest period” means a period during which the driver may freely dispose of his time and covers a “regular weekly rest period” or a “reduced weekly rest period”.
 - “regular weekly rest period” means any uninterrupted period of rest of at least 45 hours.
 - “reduced weekly rest period” means any uninterrupted period of rest of less than 45 hours, which may be shortened to a minimum of 36 consecutive hours if, at the place where the vehicle is normally based or in the driver’s home town, or to a minimum of 24 consecutive hours, if taken outside those places.

- 10.¹² A week means the period of time between 00.00 on Monday and 24.00 on Sunday.
11. “daily driving time” means the total accumulated driving time between the end of one daily rest period and the beginning of the following daily rest period or between a daily rest period and a weekly rest period.
12. “weekly driving time” means the total accumulated driving time during a week.
13. “permissible maximum weight” means the maximum authorised operating weight of the vehicle fully laden;
14. “regular passenger services” means national and international services as defined in Article 2 of Council Regulation (EC) n° 684/92¹³.
15. “multi-manning” - a driver is engaged in multi-manning a vehicle if there is, during periods of driving between any two consecutive daily rest periods, or between a daily rest period and a weekly rest period, at least one other driver on the vehicle to do the driving. For the first hour of multi-manning the presence of another driver or drivers is optional but for the remainder of the period it is compulsory.
16. “transport undertaking” means any natural person, any legal person, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such a personality which engages in carriage by road, whether for hire and reward or for own account.

¹² Scrutiny reservation by D, GR and P on the use of fixed calendar weeks. ES preferred the 'flexible week'.

¹³ OJ L 74, 20.3.1992, p. 1, as amended by Council Regulation (EC) No. 11/98, OJ L 4, 8.1.1998, p. 1.

CHAPTER II

Crew, driving times, breaks and rest periods

Article 5 ¹⁴

1. The minimum age for conductors shall be 18 years.
2. The minimum age for driver's mates shall be 18 years. However, Member States may reduce the minimum age for drivers' mates to 16 years provided that
 - (a) the carriage by road is carried out within one Member State within a 50 kilometre radius of the place where the vehicle is based, including local administrative areas the centres of which are situated within that radius,
 - (b) the reduction is for the purposes of vocational training, and
 - (c) there is compliance with the limits imposed by the Member State's national law on employment matters.

Article 6

1. The daily driving time shall not exceed nine hours.

However, the daily driving time may be extended to at most 10 hours not more than twice during the week.
- 2.¹⁵ The weekly driving time shall not exceed 56 hours and shall not result in the maximum weekly working time as laid down in Article 4(a) of Directive 2002/15/EC being exceeded.

¹⁴ A and NL would prefer to delete art. 5. Scrutiny reservation by A.

¹⁵ UK can accept this paragraph only if is moved to art. 10.

3. The total accumulated driving time during any two consecutive weeks shall not exceed 90 hours.
4. Daily and weekly driving times shall include all driving time on the territory of the Community or of a third country.
5. When a driver of a vehicle to which this Regulation applies, between two consecutive daily rest periods or between a daily and a weekly rest period, also:
 - a) drives a vehicle benefiting from an exemption under Article 3 or a derogation under Articles 13 and 14 and/or;
 - b) drives a vehicle used for the carriage of goods, where the permissible maximum weight of the vehicle does not exceed 3.5 tonnes;

the total driving time shall count towards the driver's daily and weekly driving time limits for the purposes of Article 4 and the preceding paragraphs of the present Article, and shall be recorded manually on a record sheet or printout.

Article 7

1. After at most four and a half hours of driving a driver shall observe a break of at least 45 minutes unless he begins a rest.
2. This break may be replaced by a break of at least 15 minutes followed by a break of at least 30 minutes each distributed over the period in such a way as to comply with the provisions of paragraph 1.

Article 8 ¹⁶

1. A driver shall take daily and weekly rest periods.
2. Within each period of 24 hours after the end of the previous daily rest period or weekly rest period a driver must have taken a new daily rest period.

If the portion of the daily rest period which is contained in the 24 hour period is at least 9 hours but less than 12 hours, then the daily rest period in question shall be regarded as a reduced daily rest period.

3. A driver may have at most three reduced daily rest periods between any two weekly rest periods.
4. By way of derogation from paragraph 2, within 30 hours after the end of a daily or weekly rest period, a driver engaged in multi-manning must have taken a new daily rest period.
5. In the course of each week, one of the daily rest periods shall be extended to become a weekly rest period.
6. Daily rest periods and reduced weekly rest periods away from base may be taken in a vehicle, as long as it has suitable sleeping facilities for each driver and the vehicle is stationary.
7. A weekly rest period that falls in two weeks may be counted in either week, but not in both.

¹⁶ UK: reservation

8. A driver taking a reduced weekly rest period shall take an additional period of rest corresponding to the difference between 45 hours and the length of the reduced weekly rest taken. This additional period of rest:
- shall be taken en bloc;
 - shall be taken by the end of the week following the week in which the reduced weekly rest commenced;
 - shall be attached to either a weekly rest period or a daily rest period.

Article 9

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, that period may be interrupted not more than twice by other activities not exceeding one hour in total.
2. During the regular daily rest period mentioned in paragraph 1 the driver shall be able to have access to a bunk or couchette.

CHAPTER III

Liability of the undertaking

Article 10

1. A transport undertaking shall not give drivers employed or put at its disposal any payment, even in the form of a bonus or wage supplement, related to distances travelled and/or the amount of goods carried if that payment is of such a kind as to endanger road safety ¹⁷.
2. A transport undertaking shall organise the work of drivers referred to in paragraph 1 in such a way that the drivers are able to comply with Chapter II of this Regulation and Council Regulation (EEC) No. 3821/85. The transport undertaking shall properly instruct the driver and shall therefore make regular checks to ensure that Chapter II of this Regulation and of Regulation (EEC) n° 3821/85 are complied with.
- 3.¹⁸ A Member State shall **be free to** impose a sanction on an undertaking and/or a driver for any infringement of this Regulation detected on its territory and for which a sanction has not already been imposed, even where that infringement has been committed on the territory of another Member State or of a third country.

Whenever a Member State initiates judicial proceedings or imposes a sanction for a particular offence, it shall provide the driver with due evidence of this in writing. The driver must keep this evidence until such time as the same offence can no longer lead to a second judicial proceeding or sanction.

¹⁷ A and NL would prefer to delete the last part of the sentence ("if that payment is of such a kind as to endanger road safety."). However, several other delegations objected to a deletion.

¹⁸ Scrutiny reservation by I, LUX and S.
Reservation by A, DK and P.

A Member State shall take due account of any evidence supplied by the undertaking and/or the driver that an infringement has already been subject to a sanction or that an infringement is already the subject of judicial proceedings.

The driver shall produce such evidence upon request. If, due to force majeure, the driver is unable to produce this evidence upon request, this evidence must be submitted within 7 working days to the competent authority.

4. Transport undertakings established in a Member State shall be liable for infringements referred to in paragraph 3 committed by drivers for the benefit of those undertakings ¹⁹ even if the driver was not present on its territory at the time of the infringement.
- 5.²⁰ A transport undertaking shall not be liable under paragraph 4 if it proves that -
 - (a) the infringement was due to the fact that the driver had failed to comply with the instructions given to him by that transport undertaking; or
 - (b) it was not aware and could not reasonably become aware that the driver had been employed or was at the disposal of several employers and was thereby subject to several sets of instructions which would cause him to breach the rules set out in Chapter II.
6. A driver who is employed or at the disposal of more than one transport undertaking shall provide sufficient information to each undertaking to enable them to comply with Chapter II.
7. Consignors, freight forwarders, **tour operators**, prime contractors, sub-contractors and driver employment agencies shall ensure that contractually agreed transport time schedules respect the provisions of this Regulation.

¹⁹ D requested to delete "for the benefit of those undertakings".

²⁰ Scrutiny reservation by B. Reservation by DK. IRL requested to delete this paragraph.

- 8(a). A transport undertaking which uses vehicles fitted with recording equipment in compliance with Annex IB of the Regulation (EEC) 3821/85 as last amended and falling within the scope and provisions of this Regulation, shall:
- i. ensure that all relevant data is downloaded from the vehicle unit and driver card as regularly as is stipulated by the Member State of establishment of the transport undertaking or as regularly as necessary so as to ensure that all activities undertaken by or for that undertaking are downloaded;
 - ii. ensure that all data downloaded from both the vehicle unit and driver card is kept for at least twelve months following its recording and, should an inspecting officer request it, such data must be accessible, either directly or remotely, at the premises of the undertaking.
- (b). ‘Downloading’ within this paragraph corresponds to the definition laid down in Commission Regulation (EC) No.1360/2002 of 13 June 2002²¹, Chapter I (Definitions), paragraph (s)
- (c). The minimum period within which the relevant data should be downloaded under paragraph (a)(i) above may be decided by the Commission in accordance with the advisory procedure referred to in Article 23(2).

²¹ OJ L 207, 5.8.2002, p.1

CHAPTER IV

Exceptions

Article 11

A Member State may apply higher minimum breaks and rest periods or lower maximum driving times than those laid down in Articles 6 to 9 inclusive to carriage by road undertaken wholly within its territory. Nevertheless the provisions of this Regulation shall remain applicable to drivers engaged in international transport operations.

Article 12

Provided that road safety is not thereby jeopardised and to enable the vehicle to reach a suitable stopping place, the driver may depart from the provisions of Articles 6 – 9 to the extent necessary to ensure the safety of persons, of the vehicle or its load. The driver shall indicate the nature of the reason for such departure from the provisions on the record sheet of the recording equipment or on a print-out from the recording equipment or in the duty roster at the latest on arrival at the suitable stopping place.

Article 13²²

1. Provided the objectives set out in Article 1 are not prejudiced, each Member State may grant exceptions on its own territories or, with the agreement of the States concerned, on the territory of another Member State from Articles 5 - 9 applicable to carriage by the following:
 - (a) vehicles owned or hired without a driver by public authorities to undertake carriage by road which do not compete with private transport undertakings;

²² Scrutiny reservation by I. Reservation by DK.

- (b)²³ vehicles used by agriculture, horticulture, forestry, farming or fishery undertakings for carrying goods as part of their own entrepreneurial activity_within a 50 kilometre radius of the base of the undertaking;
- (c)²⁴ vehicles **or a combination of vehicles** with a maximum permissible weight not exceeding 7.5 tonnes used by universal service providers as defined in Article 2(13) of Directive 97/67/EC to deliver items as part of the universal service or used for carrying material or equipment for the driver's use in the course of his work. These vehicles should be used only within a 50-kilometre radius of the base of the undertaking, and on condition that driving the vehicles does not constitute the driver's main activity;
- (d) vehicles operating exclusively on islands not exceeding 2300 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 vehicles;
- (e) vehicles used for the carriage of goods within a 50-km radius of the base of the undertaking and propelled by means of natural or liquefied gas or electricity, the maximum permissible weight of which, including the weight of trailers or semi-trailers, does not exceed 7.5 tonnes;
- (f) vehicles used for driving instruction with a view to obtaining a driving licence, provided that they are not being used for the commercial carriage of goods or passengers;

²³ FIN requested to modify this point as follows: " vehicles used by **or for** agriculture, horticulture, forestry, farming or fishery undertakings for carrying goods [...] within a 50 kilometre radius of the base of the undertaking;"

²⁴ Scrutiny reservation by A.

- (g) vehicles used in connection with sewerage, flood protection, or water services, highway maintenance and control, or door-to-door household refuse collection or disposal services;
- (h)²⁵ vehicles with between 10 and 17 seats used exclusively for the **non-commercial** carriage of passengers for social purposes.

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- 2. Member States shall inform the Commission of the exceptions granted under paragraph 1 and the Commission shall inform other Member States thereof.
- 3.²⁷ Provided that the objectives in Article 1 are not jeopardised and adequate protection for drivers is provided, a Member State may, after approval by the Commission, grant on its own territory minor exemptions from this Regulation for vehicles used in predefined areas with a population density of less than 5 persons per square kilometre, in the following cases:
 - for domestic regular passenger services, where their schedule is confirmed by the authorities, exemptions relating to breaks, and

²⁵ Reservation by B.

²⁶ UK requested to add: "buses used as educational facilities and specially fitted out for such purposes".

D requested to add: "vehicles transporting animal remains", "vehicles transporting live animals from markets to farms and back", and "tractors used in forestry and agriculture". To the Commission's observation that these were all covered by Art. 13.1(b), D replied that it could not accept the condition of a "50 kilometre radius" therein.

NL requested to add: "vehicles transporting money or valuables".

ES requested to add: "vehicles transporting wet cement".

²⁷ Reservation by B.

- for those domestic road haulage operations ²⁸, which have no impact on the single market and are needed to maintain certain sectors of industry in the territory and where the exempting provisions of this Regulation impose a limiting radius of up to 100 km.

Carriage by road under this derogation may include a trip to a more inhabited area only in order to end or start the journey. Any such measures should be proportionate in nature and scope.

Article 14

Provided that the objectives set out in Article 1 are not prejudiced, Member States may, after authorisation by the Commission, grant exceptions from the application of Articles 6 - 9 of this Regulation to transport operations carried out in exceptional circumstances.

In urgent cases they may grant a temporary exception for a period not exceeding 30 days, which shall be notified immediately to the Commission.

The Commission shall inform the other Member States of any exception granted pursuant to this Article.

Article 15

Member States shall ensure that drivers of vehicles stipulated in Article 3(1) shall be covered by national rules which provide adequate protection in terms of driving times allowed and breaks and rest periods imposed.

²⁸ FIN requested to add here: " for own account or for hire or reward ".

CHAPTER V

Control procedures and penalties

Article 16

1. Where no recording equipment has been fitted to the vehicle in accordance with Regulation (EEC) 3821/85, the provisions set out in paragraphs 2 and 3 of this Article shall apply until 31 December 2006 to:
 - (a) regular national passenger services, and
 - (b) regular international passenger services whose route terminals are located within a distance of 50 km as the crow flies from a frontier between two Member States and whose route length does not exceed 100 km.
2. A service timetable and a duty roster shall be drawn up by the transport undertaking and shall show, in respect of each driver, the name, place where he is based and the schedule laid down in advance for various periods of driving, other work, breaks and availability.

Each driver assigned to a service referred to in paragraph 1 shall carry an extract from the duty roster and a copy of the service timetable.
3. The duty roster shall
 - (a) include all the particulars specified in paragraph 2 for a minimum period covering the previous 28 days; these particulars must be updated on regular intervals, the duration of which may not exceed one month.

- (b) be signed by the head of the transport undertaking or by a person authorised to represent him, and
- (c) be kept by the transport undertaking for one year after expiry of the period covered by it. The transport undertaking shall give an extract from the roster to the drivers concerned upon request.
- (d) be produced and handed over at the request of an authorised inspecting officer.

Article 17

Member States, using the standard form set out in Commission Decision 93/173/EEC²⁹, shall communicate the necessary information to the Commission to enable it to draw up every two years a report on the application of this Regulation and Regulation (EEC) 3821/85 and developments in the fields in question.

This information must reach the Commission not later than 30 September of the year following the end of the two-year period concerned.

The Commission shall forward the report to the European Parliament and to the Council within 13 months of the end of the two-year period concerned.

Article 18

Member States shall adopt such measures as may be necessary for the implementation of this Regulation.

²⁹ OJ L 72, 25.3.1993, p. 33.

Article 19³⁰

Member States shall lay down rules on sanctions applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those sanctions must be effective, proportionate dissuasive and non-discriminatory. These sanctions may be civil, administrative or criminal in nature ³¹.

Article 20³²

Where a Member States considers that there has been a breach of this Regulation liable to endanger road safety, [...] it shall be empowered to proceed with immobilisation of the vehicle concerned until such time as the cause of the breach has been rectified.

Article 21³³

1. Member States shall assist each other in applying this Regulation and in checking compliance therewith.

They shall inform the Member State in which the transport undertaking concerned is established of any breach of the rules set out in Chapter II committed on or outside their territory, including any breach which occurred prior to the most recent weekly rest period.

Such information shall be provided within a reasonable time period and shall include information about any **sanctions** imposed.

³⁰ Scrutiny reservation by F, on the criminal sanctions.

³¹ Reservation by DK, which suggested the deletion of "or criminal in nature".

³² Reservation by DK.

³³ Scrutiny reservation by I. Reservation by NL.

2. The competent authorities of the Member States shall regularly send one another all available information concerning:
 - (a) breaches of the rules set out in Chapter II committed by non-residents and any **sanctions** imposed for such breaches ;
 - (b) **sanctions** imposed by a Member State on its residents for such breaches committed in other Member States.
3. **[...] The Member States shall regularly send relevant informations concerning the national interpretation and application of the provisions of this Regulation to the Commission, which will make this information available in electronic form to other Member States.**

Article 22

The Community shall enter into any negotiations with third countries, which may prove necessary for the purpose of implementing this Regulation.

Article 23

Committee procedures

1. The Commission shall be assisted by the committee referred to in Article 18(1) of Regulation 3821/85.
2. Where reference is made to this paragraph, the advisory procedure laid down in Article 3 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.

Article 24

Implementing measures

1. At the request of a Member State or on its own initiative the Commission shall:
 - (a) examine cases where differences in the application and enforcement of any of the provisions of the Regulation arise and particularly concerning driving times, breaks and rest periods;
 - (b) clarify the provisions of the Regulation and ensure a common approach;

In these specific cases Commission shall take a decision in accordance with the advisory procedure referred to in Article 23 (2). The Commission shall communicate its decision to the European Parliament, the Council and to the Member States.

2. Without prejudice to Article 226 of the Treaty, any Member State may refer the Commission's decision to the Council within a time limit of one month. The Council, acting by a qualified majority, may in exceptional circumstances take a different decision within a period of two months.

CHAPTER VI

Final provisions

Article 25³⁴

Regulation (EEC) 3821/85, as amended by Regulation (EEC) 2135/98 is amended as follows:

(i) Article 14, paragraph 2 is amended as follows:

‘The undertaking shall keep record sheets *and printouts in chronological order and in a legible form* for at least a year after their use and shall give copies to the drivers concerned who request them. The record sheets *and printouts* shall be produced or handed over at the request of any authorised inspecting officer.’

(ii) in Article 15(1), the following fifth sub-paragraph is added:

‘Where a driver card is damaged, malfunctions or is not in the possession of the driver, the driver shall:

- i. at the start of his journey, print out the details of the vehicle [...] **the driver** is driving, and shall enter onto that printout:
 - a. details that enable [...] **the driver** to be identified (name, driver’s card or driver’s licence number), including his signature;
 - b. the periods indicated in paragraph 3, second indent (b), (c) and (d) below.
- ii. at the end of his journey, print out the information relating to periods of time recorded by the recording equipment, record any periods of non-driving activity carried out since the printout that was identified (name, driver’s card or driver’s licence number), including [...] **the driver's** signature.

³⁴ Scrutiny reservation by B and NL.

(iii) Article 15(2), second paragraph is replaced by the following:

‘When as a result of being away from the vehicle, a driver is unable to use the equipment fitted to the vehicle, the periods of time indicated in paragraph 3, second indent (b), (c) and (d) below shall:

- i. *if the vehicle is fitted with recording equipment in conformity with Annex I, be entered on the record sheet, either manually, by automatic recording or other means, legibly and without dirtying the sheet; or*
- ii. *if the vehicle is fitted with recording equipment in conformity with Annex IB, be entered onto the driver card using the manual entry facility provided in the recording equipment.*’

(iv)³⁵ Article 15(7), first indent, is modified as follows:

“- the record sheets for the current day and *those used by [...] the driver in the previous consecutive fifteen days.*”

Article 26

Regulation (EEC) 3820/85 is repealed.

Article 27

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

It shall apply from January 2004.

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

Done at Brussels, [...]

For the European Parliament
The President

For the Council
The President

³⁵ E proposed to keep art. 15(7) of the Council Regulation 3820/25.