



Council of the
European Union

Brussels, 4 April 2023
(OR. en)

8129/23

TRANS 137
SOC 236

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	4 April 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 183 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the implementation in 2019-2020 of Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport and of Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities (31st report from the Commission on the implementation of the social legislation relating to road transport), and on controls preformed under Council Directive 96/53/EC laying down for heavy-duty vehicles the maximum authorized dimensions and the maximum authorized weights

Delegations will find attached document COM(2023) 183 final.

Encl.: COM(2023) 183 final



EUROPEAN
COMMISSION

Brussels, 4.4.2023
COM(2023) 183 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the implementation in 2019-2020 of Regulation (EC) No 561/2006 on the
harmonisation of certain social legislation relating to road transport and of Directive
2002/15/EC on the organisation of the working time of persons performing mobile road
transport activities (31st report from the Commission on the implementation of the
social legislation relating to road transport), and on controls performed under Council
Directive 96/53/EC laying down for heavy-duty vehicles the maximum authorized
dimensions and the maximum authorized weights**

{SWD(2023) 74 final}

Introduction

This report gives an overview of the implementation of the EU social rules in road transport in the Member States for the period of 1 January 2019 until 31 December 2020. It highlights the key challenges in enforcement and application of the relevant legal provisions, which are set out in the following four legislative acts:

- 1) Regulation (EC) No 561/2006¹ (also known as the **Driving Time Regulation**) establishing the minimum requirements on daily and weekly driving times, breaks and daily and weekly rest periods;
- 2) Directive 2002/15/EC² (also known as the **Road Transport Working Time Directive**) laying down the rules on the organisation of the working time of mobile workers. It establishes the requirements on maximum weekly working times, minimum breaks in work and night time work. It applies to drivers within the scope of the Driving Time Regulation;
- 3) Directive 2006/22/EC³ (also known as the **Enforcement Directive**) establishing minimum levels of roadside checks and controls at the premises of transport undertakings to verify compliance with the provisions of the Driving Time Regulation;
- 4) Regulation (EU) No 165/2014⁴ (also known as the **Tachograph Regulation**) setting the requirements on the installation and use of tachographs in vehicles within the scope of the Driving Time Regulation.

The analysis of the implementation of Council Directive 96/53/EC⁵ (also known as the **Weights and Dimensions Directive**) laying down for heavy-duty vehicles the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic, is also included in the present report in accordance with Article 10g of the Directive.

¹ 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).

² 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).

³ 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 164/2014 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).

⁴ 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 Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic (OJ L 235, 17.9.1996, p. 59).

This report, based on Article 17 of the Driving Time Regulation and Article 13 of the Road Transport Working Time Directive⁶ and Article 10g of the Weights and Dimensions Directive⁷ comprises quantitative and qualitative data on checks carried out by the Member States' control authorities at the roadside and at the premises of undertakings, as well as on offences detected.

The report is structured into three sections: Section I provides the analysis of the national data on checks and offences in the implementation of Directive 2006/22/EC and Regulation (EC) No 561/2006, whereas Section II gives a descriptive outline of the implementation by the Member States of Directive 2002/15/EC. Section III provides the analysis of the national data on checks and offences in the implementation of Council Directive 96/53/EC. Section IV draws the main conclusions of this report. A Commission Staff Working document complements the Commission report with supplementary information on penalties, cooperation between Member States, comments from enforcement authorities, and more detailed statistics regarding the implementation of Regulation (EC) No 561/2006 and Directive 2002/15/EC. It does not complement the information regarding Council Directive 96/53/EC.

Data submission

The national reports on the implementation of the provisions of Directive 2002/15/EC and Regulation (EC) No 561/2006 must be submitted by 30 September of the year following the end of the two-year period concerned, by means of the standard reporting form established by the Commission Implementing Decision of 30 March 2017⁸. The deadline for submitting reports covering years 2019-2020 expired on 30 September 2021.

All Member States have submitted their national data on the implementation of Regulation (EC) No 561/2006, though many beyond the deadline. The Member States provided the requested breakdown of detailed statistics on controls of compliance carried out at the roadside and at the premises. However, some did not provide data sorted by the requested categories, e.g. data sorted by type of tachograph⁹ and type of offences¹⁰. Some Member States explained reasons for not providing all required information¹¹.

⁶ Article 17 of Regulation (EC) No 561/2006 requires Member States to communicate every two years the necessary information to enable the Commission to draw up a report on the application of that Regulation and the developments in the fields in question. Article 13 of Directive 2002/15/EC provides that Member States should report to the Commission on the implementation of the Directive, indicating the views of the two sides of industry. The reports on Directive 2002/15/EC and Regulation (EC) No 561/2006 can be presented in one single document as both legislative acts cover the same two-year reporting period and establish complementary rules for professional drivers.

⁷ Article 10g of Council Directive 96/53/EC requires Member States to communicate every two years the necessary information concerning the number of checks carried out on heavy-duty vehicles and the number of overloaded vehicles or vehicle combinations detected. Article 10g of Council Directive 96/53/EC provides that this information may be part of the information submitted under Article 17 of Regulation (EC) No 561/2006.

⁸ C(2017) 1927 final.

⁹ This is the case for Lithuania who informed that data was not available due to technical error.

¹⁰ Latvia did not provide this categorisation for offences at premises.

¹¹ The French authorities informed that the data from the Ministry of Labour, representing about half of the national inspection obligations in enterprises, could not be extracted from the information system, unlike in

Only 22 Member States have submitted the information on the implementation of Directive 2002/15/EC, although sometimes very limited, and only 18 Member States provided statistical data on controls and their outcomes. The lack of quantitative data from Member States makes an assessment difficult.

Since the reporting obligations for implementation of social legislation and the Weights and Dimensions Directive refer to the same period, the Commission considered it opportune to combine the findings of the controls in one joint report. The Weights and Dimensions Directive was amended by Directive (EU) 2015/719¹² introducing a reporting obligation for Member States in its Article 10g as of 7 May 2017. The national information must be submitted by 30 September of the year following the end of the two-year period concerned. The deadline for submitting reports covering years 2019-2020 expired on 30 September 2021. An excel template was provided to Member States to facilitate their reporting.

Nineteen Member States¹³ have submitted their national information, out of which only Poland sent their report within the deadline. All Member States but Poland submitted the information disaggregated by year and Ireland submitted the information broken down by quarters of the year and by vehicles type (freight vs passengers). However, in some cases the information was incomplete. Malta informed that they were not able to provide the data for 2019 due to a major fault in their weighing system. Germany indicated that the information they provided refers to the checks carried out by the Federal Office for Goods Transport, and that they did not have uniform statistics for checks under federal responsibilities. Belgium informed of a residual number of overloaded vehicles/vehicle combinations detected for which the number of checks carried out was unknown for both years 2019 and 2020. Croatia, the Republic of Cyprus, the Czech Republic, France, Hungary, Lithuania, Portugal and Romania did not submit their national data for the current reporting 2019-2020. The lack of quantitative data for all Member States does not allow for a comprehensive assessment.

I. Overview of enforcement activities for Directive 2006/22/EC and Regulation (EC) No 561/2006

1. Checks

Article 2 of Directive 2006/22/EC requires Member States to organise a system of appropriate and regular checks at the roadside and at the premises of undertakings that are subject to the provisions of Regulation (EC) No 561/2006. This Article also establishes that

previous years. Poland informed that no data was available on the number of police officers conducting roadside checks.

¹² Directive (EU) 2015/719 of the European Parliament and of the Council of 29 April 2015 amending Council Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 115, 6.5.2015, p. 1).

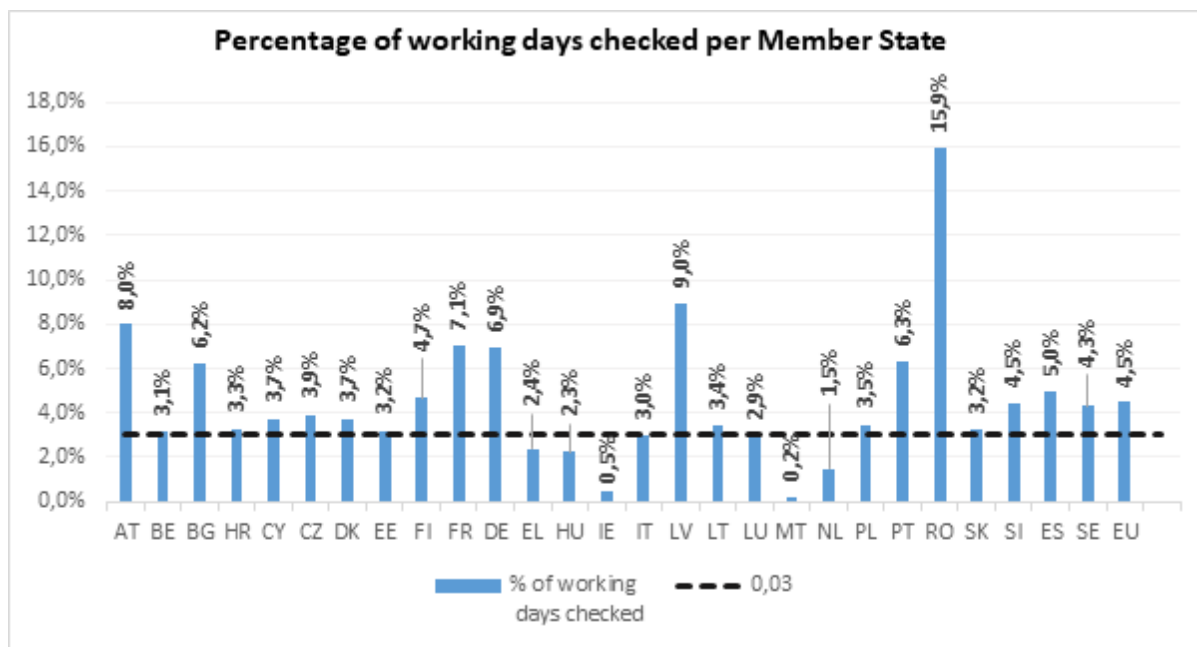
¹³ The Member States that submitted their national data were Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, Germany, Greece, Italy, Ireland, Latvia, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Slovenia, Spain and Sweden.

the minimum number of checks shall cover at least 3% of days worked by drivers¹⁴ of vehicles falling within the scope of Regulation (EC) No 561/2006.

The national data shows that the total number of working days¹⁵ checked in the EU decreased from around 119.0 million¹⁶ in 2017-2018 to 108.9 million working days checked in the current reporting period. This constitute a decrease by 8%. Looking at the national figures the decrease of working days checked is most important in Malta (-901%)¹⁷, Ireland (-69%), Bulgaria (-59%) and Portugal (-47%), while the increase of working days checked is most visible in Greece (+70%) and Romania (+44%).

As illustrated in Figure 1 below, **the EU average of working days checked is 4.5%**, which is higher than required under the Directive¹⁸, but presents a decreasing trend compared to previous reporting periods (5.4% in 2017-2018 and 6.3% in 2015-2016).

Figure 1: Percentage of working days checked per Member State



Most of the Member States checked more working days than the minimum required by the Directive. Nevertheless, six Member States have not met the threshold of 3%, namely Greece, Hungary, Ireland, Luxembourg, Malta, and the Netherlands. This is the same number of countries as in the previous reporting period where six Member States have not met the 3%

¹⁴ This figure is based on the number of working days for two years and the number of registered vehicles in scope of the Regulation during that period for each Member State.

¹⁵ The term 'working days' is used interchangeably with the term 'days worked' by a driver in the relevant legislation: Regulation (EC) No 561/2006, Directive 2006/22/EC and Decision (EU) 2017/1013;

¹⁶ The total 125.7 million working days checked in 2017-2018 comprised UK.

¹⁷ Malta informed that the decrease in the number of checks was due to Covid-19 circumstances and also a sudden departure of the two employees who at that time were solely responsible for the tachograph inspections. The Maltese authorities recognised the need to address this issue immediately and to proceed to train eight personnel to ensure that such situation does not occur again in the future.

¹⁸ Especially in Austria, Bulgaria, France, Germany, Latvia, Portugal and Romania who accounted for 1/3 of working days checked.

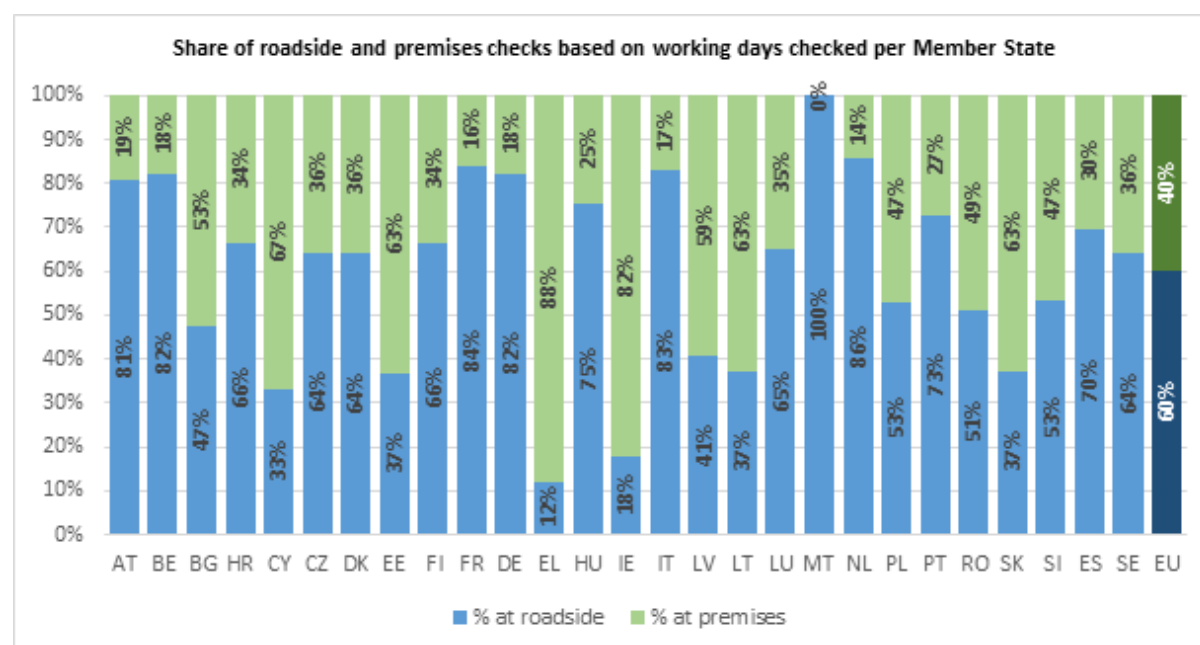
threshold in 2017-2018 and three Member States in 2015-2016. Among the six Member States¹⁹ which had not met the threshold of 3% in 2017-2018, only Greece, Ireland and the Netherlands remained in this ‘underperforming’ group, joined by the three other Member States, which performed well in the previous reporting period. Greece increased its enforcement efforts significantly (improvement from 0.1% in 2015-2016, 0.7% in 2017-2018 to 2.4% in the current period), but it remains still below the threshold.

Article 2 of Directive 2006/22/EC also sets out the ratio of the working days to be checked at the roadside and at the premises, namely at least 30% and at least 50% respectively. The calculation of this proportion is based on the number of checks actually performed by enforcement authorities and not on the minimum number of working days to be checked.

On average, 60% of the working days checked have been done at the roadside whereas 40% were checked through inspections at the premises. This is a decrease in checks at the roadside compared to the last period (73% in 2017-2018) and a positive increase in checks at the premises compared to the last period (27% in 2017-2018). This change may be explained partly by Covid-19 circumstances. In most Member States a large share of checks were performed at the roadside. Greece and Ireland reported a low number of checks at the roadside. Malta reported no checks at the premises. Only six Member States have the required balanced share between premises and roadside checks²⁰, against eight Member States in 2017-2018.

For details on the national share of roadside and premises checks see Figure 2.

Figure 2: Share of roadside and premises checks based on working days checked per Member State



¹⁹ Denmark, Finland, Greece, Ireland, Lithuania and the Netherlands.

²⁰ Bulgaria, Cyprus, Estonia, Latvia, Lithuania and Slovakia.

1.1 Roadside checks

In total, 4,112,717²¹ vehicles and 4,323,245 drivers were checked at the roadside throughout the EU compared to 4,982,439 vehicles and 5,395,009 drivers checked in 2017-2018²². The difference between the number of vehicles and drivers checked may be explained by multi-manning driving, i.e. where there are at least two drivers in the vehicle to do the driving. Differences between the number of drivers and vehicles are mainly present in reports from Belgium, Denmark, Germany, Poland, Romania and Slovenia.

Compared to the report for 2017-2018, the reported number of vehicles checked decreased by 869,722 vehicles. This is mainly due to the fact that the number of vehicles checked by UK (156,496 vehicles in 2017-2018) is not comprised in the current report and to significant decreases in the numbers reported Malta (-73%), which were not compensated by the increases reported by other Member States²³.

The number of drivers checked decreased by 1,071,764 drivers compared to 2017-2018. This is also due to the fact that the number of drivers checked by UK (156,496 drivers in 2017-2018) is not comprised in the current report and accumulative effects of decreases in several other Member States.

Based on the country of registration of the vehicle, 63% of the checked vehicles were national vehicles, 31% were from other EU Member States and 6% were vehicles registered in non-EU countries²⁴. Overall, most of the vehicles checked at the roadside (about 91% of the total) were carriers of goods, whereas only less than 10% were carriers of passengers.

In 2019-2020, 74% of the vehicles checked at the roadside were equipped with a digital tachograph, against 75% in the previous reporting period. Hence, there are no grounds for raising the threshold of checks from 3% to 4%, as this should be done when 90% of checked vehicles are equipped with digital tachographs according to Article 2(3) of Directive 2006/22/EC.

1.2 Checks at the premises

In 2019-2020 period, 58,300²⁵ transport undertakings were checked, which is a 44% decrease compared to 104,104²⁶ transport undertakings checked in 2017-2018. Controllers at premises checked around 34.3 million working days, which represents an increase of about 2% compared to 33.7 million in the previous report, even considering no checks at the premises in Malta and no data from the UK. Overall, Member States' control authorities checked at the premises the records of 499,943 drivers, which is 14% fewer compared to 641,033 drivers in 2017-2018.

²¹ Lithuania did not report data.

²² The figure for 2017-2018 includes data from the UK (i.e. 17,461 undertakings). Without data from the UK, the decrease is almost 33%.

²³ For example +81% in Denmark and 64% in Luxembourg.

²⁴ Lithuania did not provide this data. Cyprus reported that only national vehicles were checked.

²⁵ Malta did not provide this data.

²⁶ 86,643 undertakings checked in 2017-2018 without the UK.

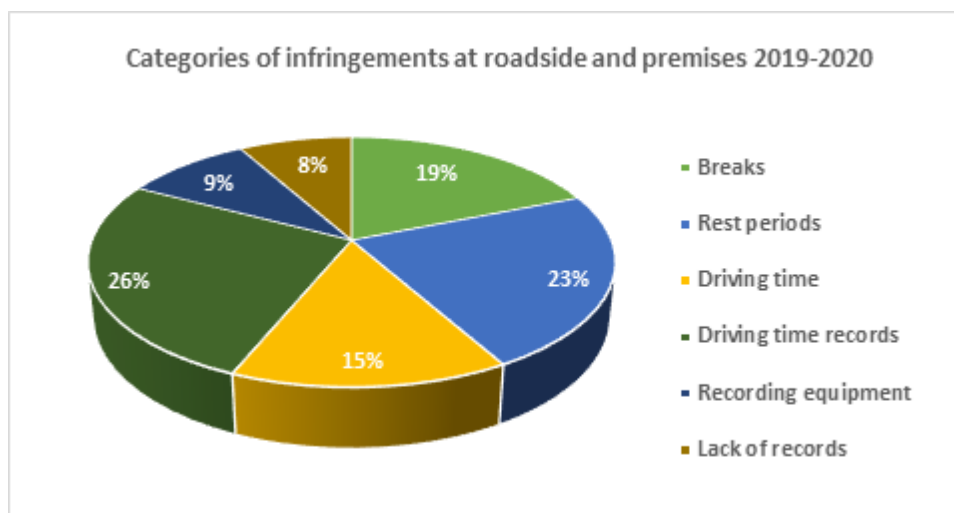
2. Offences

All 27 Member States provided data on offences detected, but not all²⁷ provided details on the types of infringements. **The total number of offences reported was around 2.25 million, which is a decrease compared to the last report (3.41 million²⁸).** This may be explained by the fact that fewer working days were checked. The share of roadside offences detected remained stable at the level of 60% of total offences detected (58 % in the last report).

The share of types of infringements in the overall number of detected infringements remained similar as in the previous reporting period, with some changes. Figure 3 below illustrates the EU average share of infringements by the type of provision infringed, detected at both roadside and premises in 2019-2020. The number of offences regarding breaks increased from 17% to 19%, whereas offences of the driving time records decreased from 27% to 26%. Offences for rest periods constitute 23% of total offences like in the last report, recording equipment²⁹ represent 9% of total offences (12% in the last report) and the lack/availability of records for other work constitute 8% (6% in the last report) of all detected infringements. These developments are presented in Figure 4 below.

The average offence rate, which is calculated based on 100 working days checked at premises and roadside checks, decreased from 2.7 in 2017-2018 to 2.1 in the current reporting period. **The detection rate at premises remains higher than the detection rate at the roadside, which confirms that checks at the premises are more efficient than ad hoc roadside controls.** However, the detection rate at premises decreased compared to the last reporting period.

Figure 3: Categories of infringements at roadside and premises 2019-2020

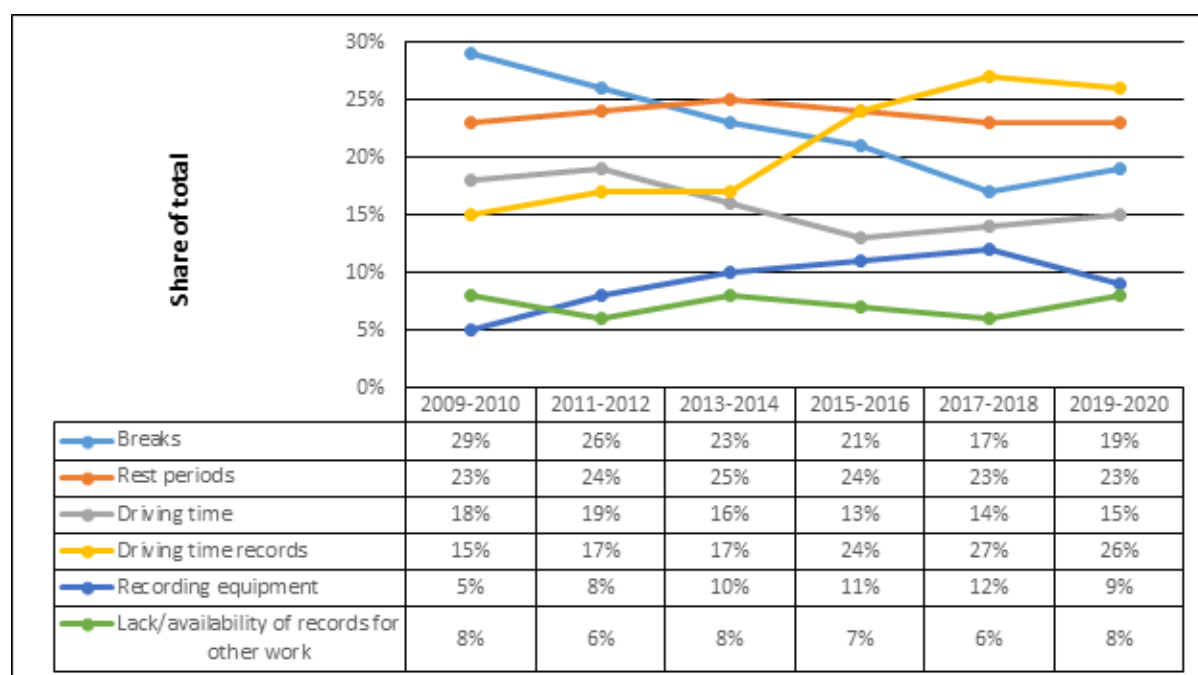


²⁷ Latvia did not provide types of offences at premises checks.

²⁸ Or 3.29 million without the UK.

²⁹ Offences regarding recording equipment relate to the incorrect functioning and misuse or manipulation of the recording equipment.

Figure 4: Categories of infringements at roadside and premises over the last 10 years



2.1 Offences detected at the roadside

Around **1.36 million offences** were detected at the roadside in **2019-2020, which is about 30% less compared to around 1.94 million offences in 2017-2018³⁰**. The EU average of offences detected at the roadside decreased from 2.11 to 1.82 per 100 working days checked. On average, 53% of offences were found to be committed by domestic drivers, while the share of domestic vehicles among all vehicles stopped for controls was 63%.

2.2 Offences detected at the premises

The number of offences detected at the premises was about 890,000, which is a significant decrease compared to the last report (1.46 million). The average offence detection rate per 100 working days checked decreased from 4.35 to 2.59, which represents a decrease of 40% compared to 2017-2018. The average offence rate detected at premises per undertaking increased slightly from 14 offences per undertaking in 2017-2018 to more than 15 offences per undertaking.

2.3 Number of enforcement officers and equipment to analyse tachographs

In the current reporting period, 54,679 control officers (against 61,558 in 2017-2018) were involved in checks throughout the EU. This is a continuous decreasing trend, even considering that the figures from the UK from the previous reporting period (i.e. 588 control officers) are not included.

³⁰ Or about 1.84 million offences without the UK.

20,058 control officers were trained to analyse the digital tachograph records (against 21,786 in 2017-2018). The units of equipment provided to control officers to analyse the tachograph records increased from 9,677 in 2017-2018 to 13,067 in 2019-2020.

3. Interpretation of Regulation (EC) No 561/2006 by the Court of Justice of the European Union

The Court of Justice of the European Union provided interpretation of Regulation (EC) No 561/2006 by means of the rulings in Case C-834/18³¹ of 10 April 2019. The Court ruled that the term 'weekly rest period', within the meaning of Article 8 of Regulation (EC) No 561/2006, does not necessarily have to end during the 'week', as defined in Article 4(i) of that Regulation.

4. Cooperation between Member States

According to Article 5 of Directive 2006/22/EC, Member States are obliged to undertake no less than six concerted roadside checks per year with at least one other Member State. The cooperation between Member States based on concerted checks, joint training initiatives or exchanges of experience and information, plays a crucial role in steeping up enforcement in order to achieve the objectives of the social legislation in the road transport sector, i.e. improved working conditions, fair competition and improved road safety. Mobility Package I³², which was adopted in July 2020 and started applying (partially) on 20 August 2020, aims to promote and reinforce the cooperation and mutual assistance between Member States and to ensure more effective and consistent enforcement of the rules in force. In addition, the European Labour Authority (ELA), which was established in 2019³³ with an overarching objective to ensure fair labour mobility in the internal market, started its information, training and enforcement support activities in the road transport area. One of ELA's main tasks consists in supporting cooperation between Member States in the cross-border enforcement and facilitating joint inspections including in the area of EU social rules in the road transport sector.

Due to the Covid-19 crisis, many foreseen joint enforcement actions could not take place in 2020. However, even regarding the year of 2019, not all Member States provided information on the exact number of concerted checks or did not report at all on whether they had undertaken concerted checks. Out of the 14 Member States that did provide information on checks³⁴, 12 Member States³⁵ met the required number of concerted checks in the reporting period.

³¹ https://curia.europa.eu/jcms/jcms/P_126035/en/

³² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2020:249:FULL&from=FR>

³³ 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).

³⁴ Belgium, Croatia, Cyprus, Czech Republic, Denmark, Finland, Greece, Malta, the Netherlands, Portugal and Slovenia. Hungary and Malta informed that no concerted checks were carried out.

³⁵ Austria, France, Germany, Ireland, Italy, Latvia, Lithuania, Luxembourg, Poland, Romania, Slovakia and Spain.

Cooperation between Member States concerned mostly neighbouring Member States. Also, as for the last reporting period, most of the Member States indicated that the cooperation took place within the framework of Euro Contrôle Route (ECR).

II. Overview of the implementation of Directive 2002/15/EC

According to Article 13 of Directive 2002/15/EC, Member States are obliged to report on its implementation and indicate the views of the two sides of industry every two years.

1. The scope of Directive 2002/15/EC

The Directive establishes rules governing, inter alia, adequate breaks during the working period, the maximum weekly working time and night work. Its provisions supplement the rules on driving times, breaks and rest periods established by Regulation (EC) No 561/2006. As this Directive lays down certain provisions concerning hours of work that are specific to the road transport sector, it is regarded as a *lex specialis* to the general Directive 2003/88/EC³⁶ on working time, which establishes basic requirements for the organisation of the working time of workers in all sectors.

2. Implementation aspects in Member States

Some Member States and social partners reported some implementation issues. The German authorities reported a general lack of knowledge of the legislation on driving and working times among employers. As reported, working time for mobile workers is usually checked for compliance only within the checks on driving time legislation and it is generally not sufficiently respected.

Malta informed that for the vehicles, which are not obliged to use tachographs in line with the exemption under Article 13(1)(e) of the Driving Time Regulation, the measuring of working time is done through existing means to measure driver's working times, e.g. punch clocks.

A lack of inspectors for controlling working time was reported by some Member States. The Italian authorities pointed out the problem with achieving the minimum required 50% of checks at the premises. The main problems are due to the particular complexity of the checks in the sector and the considerable effort required in terms of human resources. During inspections at the premises, in addition to checks regarding the compliance with the EU social legislation, workers' social security and salary status are also checked.

Sweden reported on the method used by the control authorities to monitor compliance with that part of the social legislation on which social partners have concluded agreements, e.g. on night work. In such cases, the Swedish authorities not only send written requests to employers and self-employed drivers, but also personally contact the drivers being inspected. The objective is to raise awareness of the rules and trigger changes in behaviour.

³⁶ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ L 299, 18.11.2003, p.9).

Some authorities also reported a need for further clarification of some definitions in Directive 2002/15/EC. In Germany, one Land called for further clarification on how to deal with “waiting times at the ramp”. It was also found that unloading work is often not recorded as ‘other work’, but as rest time. In some cases, businesses also distinguished between actual working time and working time subject to remuneration, so as time was recorded and remunerated at a flat rate, but not as ‘other work’.

Finally, some national authorities reported difficulties in controlling the working time of drivers involved in different types of carriage activities or conducting transport operations for several employers.

In contrast, Bulgaria informed that no significant problems were encountered in the exercise of controls under Directive 2002/15/EC.

In spite of these shared observations, it remains difficult to identify trends and outstanding issues at the EU level due to the significant number of incomplete submissions by Member States and different national practices.

3. Interpretation of Directive 2002/15/EC

A few Member States reported judicial interpretation by national courts interpreting certain provisions of Directive 2002/15/EC in 2019-2020. Sweden reiterated that they were waiting for a court ruling in a case related to the demarcation between the Swedish Transport Agency’s responsibilities and those of social partners when collective agreements were signed derogating from parts of the national legal act transposing Directive 2002/15/EC. Sweden also informed that few other legal disputes concerning the implementation of Directive 2002/15/EC had been settled by courts of first instance and that there have been no legal decisions by the supreme court. The same situation was reported by Estonia, which confirmed that, in general, the transposition of Directive 2002/15/EC had created no social problems in 2019-2020 in Estonia.

Spain had a number of court cases related to working time, breaks, periods of availability and collective agreements regarding for example calculation of hours of presence at the disposal of the employer, payments for more than 20 hours of availability, and payments of daily subsistence allowance.

4. Offences against working time rules

Only eleven Member States³⁷ provided quantitative data on the offences detected, even though some of the data was not fully complete. This number is slightly higher compared to the previous reporting period where nine Member States³⁸ provided this information. The insufficient number of contributions does not allow for EU-wide conclusions to be drawn.

³⁷ Austria, Cyprus, Czech Republic, Finland, Germany, Hungary, Italy, Luxembourg, Poland, Slovakia and Spain.

³⁸ Austria, Cyprus, Czech Republic, Finland, France, Ireland, Luxembourg and Poland.

Some Member States indicated that a behaviour correction was made possible within a defined period to avoid the imposition of a penalty. The enforcement authorities will only proceed with their sanctions in cases where the deficiency failed to be addressed. In this regard, the Swedish industry reported that the absence of direct sanction was appreciated, as it gives the employers and self-employed a chance to implement new ways of working, using new technologies or changing procedures to improve legal compliance.

5. Stakeholders' views on implementation of Directive 2002/15/EC

As required by Article 13 of Directive 2002/15/EC, ten Member States³⁹ clearly indicated that the two sides of industry had been consulted for the purpose of this reporting exercise. This number is slightly lower compared to the last report⁴⁰, but still shows that more than a half of Member States do not involve social partners in reporting on the implementation of the working time rules. Austria explained that social partners were not consulted, but that the draft annual report is not only discussed in Parliament (Social Committee) but is also publicly available on the website of the Labour Inspectorate.

In six out of the ten Member States⁴¹, the views of social partners were reflected in a separate section or paragraph.

Opinions from social partners cannot be further analysed, as they do not constitute a representative sample.

III. Overview of enforcement activities for Council Directive 96/53/EC

1. Checks

Article 10d(1) of Council Directive 96/53/EC, as amended by Directive EU 2015/719, requires that Member States take specific measures, by 27 May 2021, to automatically identify vehicles or vehicle combinations in circulation that are likely to have exceeded the maximum authorised weight and that should therefore be checked by their competent authorities in order to ensure compliance with the requirements of the Weights and Dimensions Directive. According to the information provided by the Member States, Ireland and Germany are using automatic weighting system at least since 2019. Article 10d(1) also provides for the possibility to use the automatic systems to directly establish infringements and impose penalties, in which case those systems shall be certified. According to the information provided by the Member States, no Member State have chosen to install certified systems. Therefore, after heavy-duty vehicles in circulation that are likely to have exceeded the maximum authorised weight are identified by means of automatic systems, such vehicles had to be submitted to an additional weight control at the roadside with certified scales to establish the eventual infringements.

³⁹ Cyprus, Estonia, Finland, France, Germany, Italy, Poland, Portugal, Slovakia, and Sweden.

⁴⁰ Last report indicated 12 Member States, including the United Kingdom.

⁴¹ France, Germany, Italy, Poland, Portugal and Sweden.

In addition, Article 10d(2) requires that Member States carry out in each calendar year an **appropriate number of checks on the weight** of vehicles or vehicle combinations in circulation, **proportionate to the total number of vehicles inspected each year** in its territory. However, Council Directive 96/53/EC does not provide for an interpretation of what can be considered “proportionate”, leaving a certain margin of interpretation to the discretion of Member States as to how they implement this rule. On the other hand, Council Directive 96/53/EC does not require Member States to communicate the total number of vehicles inspected each year in their territories, which would be necessary to compare and obtain information about the actual proportion of controls on the maximum weights performed.

1.1 Roadside checks

In total, around **17 million vehicles and vehicle combinations were checked at the roadside in 2019 and 2020** (11,350,448 vehicles in 2019 and 5,810,609 in 2020) in the territories of the nineteen Member States that have provided total or partial data. The number of controls carried out is very uneven: Ireland performed the highest number of controls (around 12.6 million controls), followed by far by Poland (around 3 million controls) and Italy (almost 600,000 controls). This can be attributed to the exclusive use of automatic weighting systems in Ireland⁴².

According to the comparable sets of data from sixteen Member States⁴³ the number of controls has increased by 2% in their territories.

1.2 Offences

More than half million offences for exceeding the maximum weight or the maximum axle weight were detected in nineteen Member States (285,065 offences in 2019 and 287,547 in 2020).

According to the comparable sets of data in sixteen Member States⁴⁴ for the period 2017-2018 the number of offences detected in their territories has increased by 4% in the period 2019-2020.

Overall, according to the available data **3.3% of the vehicles or vehicle combinations controlled were overloaded**. This percentage varies from 4.9% in 2019 to 2.5% in 2020, which could suggest, given the similar amount of controls performed in those two years, that compliance with the weight rules have increased. However, the figures vary greatly among Member States and there are other circumstances, such as the locations, days and times chosen for the roadside controls and the experience/training of the enforcement officers performing the controls that can significantly influence the efficiency of such controls, according to the information provided by the Member States. As an example of the variations

⁴² All controls reported by Ireland are carried out by means of Weigh In Motion (WIM) systems.

⁴³ The Member States that submitted their national data for the full period 2017-2018 were Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, Germany, Greece, Italy, Latvia, Luxembourg, Netherlands, Poland, Slovak Republic, Slovenia and Spain.

⁴⁴ The Member States that submitted their national data for the full period 2017-2018 were Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, Germany, Greece, Italy, Latvia, Luxembourg, Netherlands, Poland, Slovak Republic, Slovenia and Spain.

among Member States, Estonia reports 2,166 infractions detected out of 2,929 controls carried out (72.2% effectiveness), while Poland reports 7,217 infractions detected out of 3,050,851 controls carried out (0.2% effectiveness).

IV. Conclusions

The general outcome of the analysis on the implementation and enforcement of the EU road transport social rules show that the overall performance as regards enforcement and compliance levels in 2019-2020 remain stable compared to 2017-2018.

However, a direct comparison of the implementation and enforcement of the EU road transport social rules in the two reporting periods, 2017-2018 and 2019-2020, is not possible due to the specific situation related to the Covid-19 crisis and the fact that the United Kingdom is not required anymore to report on their enforcement activities.

The Covid-19 crisis had a negative impact on the number of checks and concerted actions carried out by the Member States. Nevertheless, some trends can be mentioned.

There is still a continuous decrease in the number of working days checked. Compared to the previous reporting periods, both the reported number of vehicles and the reported number of drivers checked at the roadside throughout the EU decreased. The decrease was also observed for the number of transport undertakings checked at the premises. At the same time, the ratio of the working days checked at the roadside and at the premises changed to the advantage of working days checked at the premises (60% at the roadside and 40% at the premises while 73% and 27% respectively in the last report), which is a positive development bringing the ratio of these two types of controls closer to the legal requirements.

Both the number of offences detected at the premises and at the roadside decreased compared to the last report, which can be explained by the reduced number of checks carried out. The detection rate at premises remains higher than the detection rate at the roadside, which confirms that checks at the premises are more efficient than ad hoc roadside controls. However, the detection rate at premises decreased compared to the last reporting period.

Infringement detection rates vary significantly throughout the EU (from 0.12 to 8.39). This fact, combined with the trend of the decreasing number of working days checked and the limited enforcement capacities (human and financial resources, skills and control equipment) across the Member States, indicate that it is imperative to better target checks. The access to data, such as risk rating, at the roadside has high importance notably to better target controls and to reduce unnecessary 'clean' checks, i.e. checks where no infringements are detected. The access to the risk rating data by roadside inspectors is made obligatory in line with new requirements introduced by Mobility Package I⁴⁵. The Commission will adopt an implementing act on the modalities of this access⁴⁶. Moreover, the Commission will investigate how digitalisation and automation technologies could help to make controls of

⁴⁶ In line with Article 16(6) of Regulation (EC) No 1071/2009 as amended by Regulation (EU) 2020/1055.

compliance smarter (more effective, efficient, paperless, based on access to and exchange of digital data).

As regards concerted and joint checks among Member States, it clearly appears that they contribute to knowledge-sharing, and to establishing harmonised approach to the understanding and enforcement of EU rules in force. Therefore, the Commission encourages the Member States to further strengthen their efforts in improving cooperation, through joint inspections and concerted checks, as well as to benefit from the assistance offered by the European Labour Authority.

The shares of the different types of infringements remain similar to the last reporting period. At the premises, offences related to driving time records amount to nearly half of all detected offences indicating difficulties with storing the relevant data appropriately by undertakings. In contrast, offences related to rest periods and driving times amount to almost half of all detected offences at the roadside.

As regards the implementation of Directive 2002/15/EC, the lack of detailed quantitative and qualitative data in many national reports makes an in-depth assessment difficult. The Commission would like to stress the importance of this reporting exercise and reminds that a legal action can be launched against Member States failing to comply with the requirement to submit the information as required by Article 13 of Directive 2002/15/EC.

With regard to the **implementation of Council Directive 96/53/EC** the lack of information from many Member States makes **conclusions difficult**. With this in mind, the general outcome is that, while the overall enforcement and compliance levels for 2019-2020 have both increased slightly (2% more controls and 4% more infractions detected as compared to 2017-2018), there are **significant differences among Member States** in the number of controls and infractions detected in a given period.

These differences can also be observed in the efficiency of controls measured as the percentage of infractions detected per control carried out.

Given that weight-in-motions systems have to be implemented in all Member States from 27 May 2021, future data analysis and comparison with the current sets of data will be crucial to draw conclusions on the performance and efficiency of these automatic systems.

No general conclusion can be drawn as regards the **appropriateness and proportionality of the controls on maximum weights**. This is due, on the one hand, to the lack of an objective uniform criteria to define “proportionality” in the legal text. Contrary to the 3% criteria provided for in Article 2 of Directive 2006/22/EC, Council Directive 96/53/EC leaves a certain margin of discretion to Member States as to how they implement this rule. On the other hand, the Weights and Dimensions Directive does not require Member States to communicate the total number of vehicles inspected each year in their territories either, which hinders the assessment of the proportionality of the weights controls also from the point of view of having a constant ratio, i.e. that the more vehicles that are inspected in the territory of a Member State, the more checks on the weight of vehicles will need to be carried out.

The Commission believes that the overall enforcement and compliance levels following the application of Mobility Package I, will be improved in the future reporting periods. An implementing act adopted by the Commission on a harmonised risk rating formula⁴⁷ allows enforcers to recognise quickly the profile of the company they intend to check and to know whether a company has a low risk rating (due to low-level of law breaches) or a high risk rating (high-level of law breaches). In addition, a remote early detection of possible manipulation and misuse, will give enforcers a tool to select which vehicles to control. All of this should decrease the number of unnecessary checks and save resources on the side of both enforcers and drivers.

The Commission will continue monitoring the implementation of the social rules in road transport with the assistance of Member States. It calls on Member States to include the views of both sides of industry on the implementation of the working time rules, as required by Directive 2002/15/EC.

The Commission insists on the importance of the submission by Member States of full sets of data on the implementation of Directive 2002/15/EC and its enforcement as well as on the enforcement of Council Directive 96/53/EC are provided for the next reporting period in order to satisfy the requirements set out in Article 13 of Directive 2002/15/EC, Article 10g of Council Directive 96/53/EC and Article 17 of Regulation (EC) No 561/2006.

⁴⁷ Commission Implementing Regulation (EU) 2022/695 of 2 May 2022 laying down rules for the application of Directive 2006/22/EC of the European Parliament and of the Council as regards the common formula for calculating the risk rating of transport undertakings (OJ L 129, 3.5.2022, p. 33).