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 (Text with EEA relevance)

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

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport[(1)], and in particular Articles 11 and 12(7) thereof,

Whereas:

(1) Regulation (EU) No 165/2014 has introduced second-generation digital tachographs called smart tachographs, which include a connection to the global navigation satellite system ('GNSS') facility, a remote early detection communication facility, and an interface with intelligent transport systems. The specifications for the technical requirements for the construction of smart tachographs should be set up.

(2) The remote early detection facility established by Article 9(4) of Regulation (EU) No 165/2014 should transmit to a roadside control officer the data of the digital tachograph and the information concerning the weights and weight per axles of the complete vehicle combination (tractor and trailers or semi-trailers), in accordance with Directive 96/53/EC of the European Parliament and of the Council[(2)]. That should enable an effective and quick check of vehicles by the control authorities, with fewer electronic devices in the vehicle cab.

(3) In accordance with Directive 96/53/EC, the remote early detection facility should use the CEN DSRC standards[(3)] referred to in that Directive, at the frequency band of 5 795-5 805 MHz. As that frequency band is used for electronic tolling as well, and in order to avoid interference between tolling and control applications, control officers should not use the remote early detection facility on a toll plaza.

(4) New security mechanisms for maintaining the level of security of the digital tachograph should be introduced with the smart tachograph to address current security vulnerabilities. One of such vulnerabilities is the absence of expiry dates of digital certificates. In order to comply with the best practices in security matters, it is

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recommended that the use of digital certificates without expiry dates should be avoided. The normal operation validity period of vehicle units should be 15 years, starting on the issuing date of the vehicle unit digital certificates. Vehicle units should be replaced after that validity period.

(5) The provision of secured and reliable positioning information is an essential element of the effective operation of smart tachographs. Therefore, it is appropriate to ensure their compatibility with the added value services provided by the Galileo programme as set out in Regulation (EU) No 1285/2013 of the European Parliament and of the Council[(4)] in order to improve the security of the smart tachograph.

(6) In accordance with Articles 8(1), 9(1) and 10(1) and (2) of Regulation (EU) No 165/2014, the security mechanisms introduced by that Regulation should apply 36 months after the entry into force of the necessary implementing acts in order to allow the manufacturers to develop the new generation of smart tachographs, and receive their type-approval certificates from the competent authorities.

(7) In accordance with Regulation (EU) No 165/2014, vehicles registered for the first time in a Member State 36 months after the entry into force of this Commission Regulation, should be equipped with a smart tachograph compliant with the requirements of this Commission Regulation. In any case, all vehicles operating in a Member State other than their Member State of registration should be equipped with a compliant smart tachograph 15 years after the date of application of those requirements.

(8) Commission Regulation (EC) No 68/2009[(5)] allowed, during a transitional period expiring on 31 December 2013, the use of an adaptor to make possible the installation of tachographs in M1 and N1 type vehicles. Due to technical difficulties related to finding an alternative to the use of the adaptor, the experts of the automotive and tachograph industry, together with the Commission, concluded that no alternative solution to the adaptor was feasible without entailing high costs for industry, which would be disproportionate to the size of the market. Therefore, the use of the adaptor in M1 and N1 type vehicles should be allowed indefinitely.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 42(3) of Regulation (EU) No 165/2014,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1 This Regulation lays down the provisions necessary for the uniform application of the following aspects regarding tachographs:

a recording of the position of the vehicle at certain points during the daily working period of the driver;

b remote early detection of possible manipulation or misuse of smart tachographs;

c interface with intelligent transport systems;

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d the administrative and technical requirements for the type-approval procedures of tachographs, including the security mechanisms.

[[F1]2 The construction, testing, installation, inspection, operation and repair of smart tachographs and their components, shall comply with the technical requirements set out in Annex IC to this Regulation.

3 Tachographs other than smart tachographs shall continue, as regards construction, testing, installation, inspection, operation and repair, to comply with the requirements of either Annex I to Regulation (EU) No 165/2014 or Annex IB to Council Regulation (EEC) No 3821/85[(6)], as applicable.**]**

4 Pursuant to Article 10d of Directive 96/53/EC, the remote early detection facility shall also transmit the weight data provided by an internal on-board weighing system, for the purpose of early fraud detection.

[[F2]5 This Regulation shall be without prejudice to Directive 2014/53/EU of the European Parliament and of the Council[(7)].**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) 2018/502 of 28 February 2018 amending Implementing Regulation (EU) 2016/799 laying down the requirements for the construction, testing, installation, operation and repair of tachographs and their components (Text with EEA relevance).

F2 Inserted by Commission Implementing Regulation (EU) 2018/502 of 28 February 2018 amending Implementing Regulation (EU) 2016/799 laying down the requirements for the construction, testing, installation, operation and repair of tachographs and their components (Text with EEA relevance).

Article 2

Definitions

For the purposes of this Regulation, the definitions laid down in Article 2 of Regulation (EU) No 165/2014 shall apply.

In addition, the following definitions shall apply:

(1) ‘digital tachograph’ or ‘first generation tachograph’ means a digital tachograph other than a smart tachograph;

(2) ‘external GNSS facility’ means a facility which contains the GNSS receiver when the vehicle unit is not a single unit, as well as other components needed to protect the communication of data about position to the rest of the vehicle unit;

(3) **[**[F1]‘information folder’ means the complete folder, in electronic or paper form, containing all the information supplied by the manufacturer or its agent to the type-approval authority for the purpose of the type-approval of a tachograph or a component thereof, including the certificates referred to in Article 12(3) of Regulation (EU) No 165/2014, the performance of the tests defined in Annex IC to this Regulation, as well as drawings, photographs, and other relevant documents;**]**

(4) ‘information package’ means the information folder, in electronic or paper form, accompanied by any other documents added by the type-approval authority to the information folder in the course of carrying out their functions including, at the end

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of the type-approval process, the EC type-approval certificate of the tachograph or a component thereof;

(5) 'index to the information package' means the document listing the numbered contents of the information package identifying all the relevant parts of this package. The format of that document shall distinguish the successive steps in the EC type-approval process, including the dates of any revisions and updating of that package;

(6) 'remote early detection facility' means the equipment of the vehicle unit which is used to perform targeted roadside checks;

(7) **[**F1'smart tachograph' or 'second generation tachograph' means a digital tachograph complying with Articles 8, 9 and 10 of Regulation (EU) No 165/2014 as well as with Annex IC to this Regulation;**]**

(8) **[**F1'tachograph component' means any of the following elements: the vehicle unit, the motion sensor, the record sheet, the external GNSS facility and the external remote early detection facility;**]**

(9) 'type-approval authority' means the authority of a Member State competent to carry out the type-approval of the tachograph or of its components, the authorisation process, the issuing and, if appropriate, withdrawing of type-approval certificates, acting as the contact point for the type-approval authorities of other Member States and ensuring that the manufacturers meet their obligations relating to the conformity with the requirement of this Regulation**[**F1;**]**

(10) **[**F2'vehicle unit' means the tachograph excluding the motion sensor and the cables connecting the motion sensor.

It may be a single unit or several units distributed in the vehicle and includes a processing unit, a data memory, a time measurement function, two smart card interface devices for driver and co-driver, a printer, a display, connectors and facilities for entering the user's inputs, a GNSS receiver and a remote communication facility.

The vehicle unit may be composed of the following components subject to type-approval:

— vehicle unit, as a single component (including GNSS receiver and remote communication facility),

— vehicle unit main body (including remote communication facility), and external GNSS facility,

— vehicle unit main body (including GNSS receiver), and external remote communication facility,

— vehicle unit main body, external GNSS facility, and external remote communication facility.

If the vehicle unit is composed of several units distributed in the vehicle, the vehicle unit main body is the unit containing the processing unit, the data memory, and the time measurement function.

'vehicle unit (VU)' is used for 'vehicle unit' or 'vehicle unit main body'.**]**

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Article 3

Location-based services

1 Manufacturers shall ensure that smart tachographs are compatible with the positioning services provided by the Galileo and the European Geostationary Navigation Overlay Service (‘EGNOS’) systems.

2 In addition to the systems referred to in paragraph 1, manufacturers may also choose to ensure compatibility with other satellite navigation systems.

Article 4

Procedure for type-approval of a tachograph and tachograph components

1 A manufacturer or its agent shall submit an application for type-approval of a tachograph or any of its components, or group of components, to the type-approval authorities designated by each Member State. It shall consist of an information folder containing the information for each of the components concerned including, where applicable, the type-approval certificates of other components necessary to complete the tachograph, as well as any other relevant documents.

2 A Member State shall grant type-approval to any tachograph, component or group of components that conforms to the administrative and technical requirements referred to in Article 1(2) or (3), as applicable. In that case, the type-approval authority shall issue to the applicant a type-approval certificate that shall conform to the model laid down in Annex II to this Regulation.

3 The type-approval authority may request the manufacturer or its agent to supply any additional information.

4 The manufacturer or its agent shall make available to the type-approval authorities, as well as to the entities responsible for issuing the certificates referred to in Article 12(3) of Regulation (EU) No 165/2014, as many tachographs or tachograph components as are necessary to enable the type-approval procedure to be conducted satisfactorily.

5 Where the manufacturer or its agent seeks a type-approval of certain components or groups of components of a tachograph, he shall provide the type-approval authorities with the other components, already type-approved, as well as other parts necessary for the construction of the complete tachograph, in order for those authorities to conduct the necessary tests.