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 (Text with EEA relevance)

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

(Text with EEA relevance)

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 Commission[(1)],

Having regard to the opinion of the European Economic and Social Committee[(2)],

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(3)], in the light of the joint text approved by the Conciliation Committee on 8 December 2005,

Whereas:

(1) In the field of road transport, Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport[(4)] sought to harmonise the conditions of competition between modes of inland transport, especially with regard to the road transport sector, and to improve working conditions and road safety. Progress in these areas should be safeguarded and extended.

(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[(5)] requires Member States to adopt measures which limit the maximum weekly working time of mobile workers.

(3) Difficulties have been experienced in interpreting, applying, enforcing and monitoring certain provisions of Regulation (EEC) No 3820/85 relating to driving time, break and rest period rules for drivers engaged in national and international road transport within the Community in a uniform manner in all Member States, because of the broad terms in which they are drafted.

(4) Effective and uniform enforcement of those provisions is desirable if their objectives are to be achieved and the application of the rules is not to be brought into disrepute.

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Therefore, a clearer and simpler set of rules is needed, which will be more easily understood, interpreted and applied by the road transport industry and the enforcement authorities.

(5) Measures provided for in this Regulation regarding working conditions should not prejudice the right of the two sides of industry to lay down, by collective bargaining or otherwise, provisions more favourable to workers.

(6) It is desirable to define clearly the scope of this Regulation by specifying the main categories of vehicle which it covers.

(7) This Regulation should apply to carriage by road undertaken either exclusively within the Community or between the Community, Switzerland and the countries party to the Agreement on the European Economic Area.

(8) The European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1 July 1970 (the AETR), as amended, should continue to apply to the carriage by road of goods and passengers 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 third country other than Switzerland and the countries which are contracting parties to the Agreement on the European Economic Area or through such a country. It is essential to modify the AETR as soon as possible, ideally within two years of the entry into force of this Regulation, in order to align its provisions with this Regulation.

(9) In the case of carriage by road using vehicles registered in a third country which is not a contracting party to the AETR, the provisions of the AETR should apply to that part of the journey effected within the Community or within countries which are contracting parties to the AETR.

(10) Since the subject matter of the AETR falls within the scope of this Regulation, the power to negotiate and conclude the Agreement lies with the Community.

(11) If an amendment to the internal Community rules in the field in question necessitates a corresponding amendment to the AETR, Member States should act together to bring about such an amendment to the AETR as soon as possible, in accordance with the procedure laid down therein.

(12) The list of exemptions should be updated to reflect developments in the road transport sector over the past 19 years.

(13) Full definitions of all key terms should be given in order to render interpretation easier and ensure that this Regulation is applied in a uniform manner. In addition, efforts should be made to ensure uniform interpretation and application of this Regulation by national supervisory authorities. The definition of ‘week’ provided in this Regulation should not prevent drivers from starting their working week on any day of the week.

(14) To guarantee effective enforcement, it is essential that the competent authorities, when carrying out roadside checks, and after a transitional period, should be able to ascertain that driving times and rest periods have been properly observed on the day of the check and over the preceding 28 days.

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(15) The basic rules on driving times need to be clarified and simplified to allow effective and uniform enforcement by means of the digital tachograph, as provided for in Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport[(6)] and this Regulation. In addition, through a standing committee, Member State enforcement authorities should strive to reach a common understanding of the implementation of this Regulation.

(16) It has proved possible under the rules of Regulation (EEC) No 3820/85 to schedule daily driving periods and breaks to enable a driver to drive for too long without a full break, leading to reduced road safety and a deterioration in the driver's working conditions. It is therefore appropriate to ensure that split breaks are so ordered as to prevent abuse.

(17) This Regulation aims to improve social conditions for employees who are covered by it, as well as to improve general road safety. It does so mainly by means of the provisions pertaining to maximum driving times per day, per week and per period of two consecutive weeks, the provision which obliges drivers to take a regular weekly rest period at least once per two consecutive weeks and the provisions which prescribe that under no circumstances should a daily rest period be less than an uninterrupted period of nine hours. Since those provisions guarantee adequate rest, and also taking into account experience with enforcement practices during the past years, a system of compensation for reduced daily rest periods is no longer necessary.

(18) Many road transport operations within the Community involve transport by ferry or by rail for part of the journey. Clear, appropriate provisions regarding daily rest periods and breaks should therefore be laid down for such operations.

(19) In view of the increase in the cross-border carriage of goods and passengers, it is desirable, in the interests of road safety and enhanced enforcement, for roadside checks and checks at the premises of undertakings to cover driving times, rest periods and breaks undertaken within other Member States or third countries and to determine whether the relevant rules have been fully and properly observed.

(20) The liability of transport undertakings should extend at least to transport undertakings that are legal or natural persons, and should not exclude proceedings against natural persons who are perpetrators, or instigators of, or accessories to, infringements of this Regulation.

(21) It is necessary for drivers working for several transport undertakings to supply each of them with adequate information to enable it to fulfil its responsibilities under this Regulation.

(22) In order to promote social progress and improve road safety, each Member State should retain the right to adopt certain appropriate measures.

(23) National derogations should reflect changes in the road transport sector and be restricted to those elements not now subject to competitive pressures.

(24) The Member States should lay down rules for vehicles used for the carriage of passengers on regular services where the route covered does not exceed 50 km. Those

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rules should provide adequate protection in terms of permitted driving times and mandatory breaks and rest periods.

(25) It is desirable, in the interests of effective enforcement, that all regular national and international passenger transport services be checked using a standard recording device.

(26) The Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that they are implemented. Those penalties must be effective, proportionate, dissuasive and non-discriminatory. The possibility of immobilising the vehicle where serious infringements are detected should also be included within the common range of measures open to Member States. The provisions contained in this Regulation pertaining to penalties or proceedings should not affect national rules concerning the burden of proof.

(27) It is desirable in the interests of clear and effective enforcement to ensure uniform provisions on the liability of transport undertakings and drivers for infringements of this Regulation. This liability may result in penal, civil or administrative penalties as may be the case in the Member States.

(28) Since the objective of this Regulation, namely the establishment of clear, common rules on driving times, breaks and rest periods cannot be sufficiently achieved by the Member States and can therefore, by reason of the need for coordinated action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(29) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(7)].

(30) Since provisions concerning the minimum ages of drivers have been laid down in Directive 2003/59/EC[(8)] and must be transposed by 2009, only transitional provisions concerning the minimum age of crews are required in this Regulation.

(31) Regulation (EEC) No 3821/85 should be amended to clarify specific obligations on transport undertakings and drivers as well as to promote legal certainty and to facilitate enforcement of driving time and rest period limits during roadside checks.

(32) Regulation (EEC) No 3821/85 should also be amended to ensure legal certainty as regards the new dates for the introduction of the digital tachograph and for the availability of driver cards.

(33) The introduction of recording equipment pursuant to Regulation (EC) No 2135/98, enabling the activities of a driver over a 28-day period to be recorded electronically on his driver card and electronic records of vehicle operations to cover a 365-day period, will in future make for more rapid and comprehensive roadside checks.

(34) Under Directive 88/599/EEC[(9)] roadside checks are confined to daily driving time, daily rest periods, and breaks. When digital recording equipment is introduced driver and vehicle data will be stored electronically and data will be able to be evaluated

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electronically on the spot. This should, over time, enable simple checks to be carried out on regular and reduced daily rest periods and on regular and reduced weekly rest periods and compensatory rest.

(35) Experience indicates that compliance with the provisions of this Regulation, in particular the specified maximum driving time over a two-week period, cannot be enforced unless proper and effective supervision is brought to bear in roadside checks in relation to the whole of that period.

(36) The application of the legal provisions regarding digital tachographs should be in line with this Regulation in order to achieve optimal effectiveness in monitoring and enforcing certain social provisions in road transport.

(37) For reasons of clarity and rationalisation, Regulation (EEC) No 3820/85 should be repealed and replaced by this Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

This Regulation lays down rules on driving times, 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 modes of inland transport, especially with regard to the road sector, and to improve working conditions and road safety. This Regulation also aims to promote improved monitoring and enforcement practices by Member States and improved working practices in the road transport industry.

Article 2

1 This Regulation shall apply to the carriage by road:

a of goods where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 3,5 tonnes,**[**F1 or**]**

[F2aa from 1 July 2026, of goods in international transport operations or in cabotage operations, where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 2,5 tonnes, 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.

2 This Regulation shall apply, irrespective of the country of registration of the vehicle, to carriage by road undertaken:

a exclusively within the Community; or

b between the Community, Switzerland and the countries party to the Agreement on the European Economic Area.

3 The AETR shall apply, instead of this Regulation, to international road transport operations undertaken in part outside the areas mentioned in paragraph 2, to:

a vehicles registered in the Community or in countries which are contracting parties to the AETR, for the whole journey;