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RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a directive of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities
(11336/1/2004 – C6-0249/2004 – 2003/0255(COD))

Committee on Transport and Tourism

Rapporteur: Helmuth Markov

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	20
PROCEDURE.....	23

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council common position for adopting a directive of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities (11336/1/2004 – C6-0249/2004 – 2003/0255(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (11336/1/2004 – C6-0249/2004),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2003)0628)²,
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 62 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Transport and Tourism (A6-0073/2005),
1. Approves the common position as amended;
 2. Instructs its President to forward its position to the Council and Commission.

Council common position

Amendments by Parliament

Amendment 1
Recital 1

(1) Council Regulations (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport and (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport are important for the creation of a common market for inland transport services, for road safety and for working conditions.

(1) Council Regulations (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport and (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport, **and Directive 2002/15/EC of the European Parliament and the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities¹** are important for the creation of

¹ Texts Adopted, 20.4.2004, P6_TA(2004)0306.

² Not yet published in OJ.

a common market for inland transport services, for road safety and for working conditions.

¹*OJ L 80, 23.3.2002, p. 35.*

Justification

Incorporates part of Amendment 1 from first reading (P5_TA-PROV(2004)0306).

Amendment 2
Recital 5 a (new)

(5a) It must be the aim of monitoring systems to develop national solutions towards European interoperability and practicability.

Justification

Incorporates Amendment 5 from first reading (P5_TA-PROV(2004)0306).

Amendment 3
Recital 6

(6) Sufficient standard equipment should be available to all enforcement units to enable them to carry out their duties effectively and efficiently.

(6) Sufficient standard equipment ***and legal powers*** should be available to all enforcement units to enable them to carry out their duties effectively and efficiently.

Justification

Incorporates the second part of Amendment 6 from first reading (P5_TA-PROV(2004)0306).

Amendment 4
Recital 8

(8) Within each Member State ***there should be a single body for intracommunity liaison with other relevant competent authorities.*** That body ***should*** also compile relevant statistics. ***Member States should also apply a***

(8) Within each Member State ***a coordinating enforcement body should be designated, acting as a national centre for enforcement, with responsibility for overseeing and implementing a coherent national enforcement strategy and***

coherent national enforcement strategy on their territory and may designate a single body to coordinate its implementation.

achieving European interoperability of monitoring systems in consultation with other relevant competent authorities. That body *should* also compile relevant statistics.

Justification

Incorporates Amendment 7 from first reading (P5_TA-PROV(2004)0306).

Amendment 5
Recital 12

(12) Since the objective of this Directive, namely to lay down clear, common rules on minimum conditions for checking the correct and uniform implementation of Regulations (EEC) Nos 3820/85 and 3821/85, cannot be sufficiently achieved by the Member States and can, by reason of the need for coordinated transnational 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 Directive does not go beyond what is necessary in order to achieve that objective.

(12) Since the objective of this Directive, namely to lay down clear, common rules on minimum conditions for checking the correct and uniform implementation of Regulations (EEC) Nos 3820/85 and 3821/85 **and Regulation (EC) No ... of ...[on the harmonisation of certain social legislation relating to road transport]**, cannot be sufficiently achieved by the Member States and can, by reason of the need for coordinated transnational 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 Directive does not go beyond what is necessary in order to achieve that objective.

Justification

Incorporates Amendment 11 from first reading (P5_TA-PROV(2004)0306).

Amendment 6
Article 1

This Directive lays down minimum conditions for the implementation of Regulations (EEC) Nos 3820/85 and 3821/85.

This Directive lays down minimum conditions for the implementation of Regulations (EEC) Nos 3820/85 and 3821/85 **and Directive 2002/15/EC.**

Justification

Incorporates part of Amendment 12 from first reading (P5_TA-PROV(2004)0306).

Amendment 7
Article 1 a (new)

Article 1a

Scope

1. This Directive shall apply, irrespective of the vehicle's country of registration, to carriage by road undertaken:

**(a) exclusively within the Community;
and**

(b) between the Community, Switzerland and the countries party to the European Economic Area agreement.

2. The European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport ('AETR') shall apply, instead of this Directive, to international road transport operations undertaken in part outside the areas mentioned in paragraph 1 by vehicles registered in the Community or in countries which are contracting parties to the AETR agreement, for the whole journey.

3. This Directive shall apply to carriage using vehicles registered in a third country which is not a contracting party to the AETR agreement, for the part of the journey on Community territory.

Justification

Incorporates Amendment 16 from first reading (P5_TA-PROV(2004)0306), slightly adapted in places to the wording of the Council common position on the harmonisation of social legislation, 11337/2/04.

Amendment 8
Article 2, paragraph 1, subparagraph 2

These checks shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles of all transport categories falling within the scope of Regulations (EEC) Nos 3820/85 and 3821/85.

These checks shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles of all transport categories falling within the scope of Regulations (EEC) Nos 3820/85 and 3821/85 **and of drivers and mobile workers falling within the scope of Directive 2002/15/EC.**

Justification

Restores the Commission's original wording.

Amendment 9

Article 2, paragraph 1, subparagraph 3

Member States shall ensure that a coherent national enforcement strategy is applied on their territory. For this purpose, Member States may designate a body for the coordination of actions taken under Articles 4 and 6, in which case the Commission and the other Member States shall be informed thereof.

deleted

Justification

This is a new point added by the Council. But the monitoring and enforcement strategy should come under the authority of the coordinating body, as listed in the Commission proposal.

Amendment 10

Article 2, paragraph 1 a (new)

1a. In so far as this is not already the case, Member States shall, not later than ...¹, provide authorised inspecting officers with all necessary legal powers to enable them correctly to discharge their inspection obligations as required by this Directive.

¹*Six months after this Directive enters into force.*

Justification

Incorporates Amendment 63 from first reading (P5_TA-PROV(2004)0306). As the date of 1 January 2005 specified in that amendment has now passed, some rewording is needed.

Amendment 11

Article 2, paragraph 2, subparagraph 1

2. Each Member State shall organise checks in such a way that, as from ... , 1 % of days worked by drivers of vehicles falling within the scope of Regulations (EEC) Nos 3820/85 and 3821/85 are checked. This percentage will increase to 2 % from **1 January 2009** and to 3 % from **1 January 2011**.

2. Each Member State shall organise checks in such a way that, as from ... , 1 % of days worked by drivers of vehicles falling within the scope of Regulations (EEC) Nos 3820/85 and 3821/85 are checked. This percentage will increase to 2 % from **1 January 2007** and to 3 % from **1 January 2009**.

Justification

The Council has added this gradual increase in the number of days checked. The rapporteur can go along with this approach but considers the timescale insufficiently ambitious and so proposes tightening it up.

Amendment 12

Article 2, paragraph 2, subparagraph 2

From **1 January 2013** this minimum percentage may be increased to 4 % by the Commission, in accordance with the procedure referred to in Article 12(2), provided that the statistics collected pursuant to Article 3 show that, on average, more than 90 % of all vehicles checked are equipped with a digital tachograph. In making its decision, the Commission shall also take into account the effectiveness of existing enforcement measures, in particular the availability of digital tachograph data at the premises of undertakings.

From **1 January 2011** this minimum percentage may be increased to 4 % by the Commission, in accordance with the procedure referred to in Article 12(2), provided that the statistics collected pursuant to Article 3 show that, on average, more than 90 % of all vehicles checked are equipped with a digital tachograph. In making its decision, the Commission shall also take into account the effectiveness of existing enforcement measures, in particular the availability of digital tachograph data at the premises of undertakings.

Justification

The Council links a 4 % quota with the widespread introduction of digital tachographs. This linkage makes perfect sense as the new technology will make monitors' work much easier. But

to be consistent with the amendment on the gradual increase in checks, this phase should also be brought forward two years.

Amendment 13
Article 2, paragraph 2, subparagraph 3

Not less than 15 % of the total number of the working days checked shall be checked at the roadside and not less than **25 %** at the premises of undertakings. ***From 1 January 2008 not less than 30 % of the total number of the working days checked shall be checked at the roadside and not less than 50 % shall be checked at the premises of undertakings.***

Not less than 15 % of the total number of the working days checked shall be checked at the roadside and not less than **50 %** on the premises of undertakings.

Justification

Incorporates Amendment 19 from first reading (P5_TA-PROV(2004)0306). Also restores the Commission's 50 % figure for undertakings.

Amendment 14
Article 2, paragraph 3

3. The information submitted to the Commission in accordance with Article 16(2) of Regulation (EEC) No 3820/85 shall include the number of drivers checked at the roadside, the number of checks at the premises of undertakings, the number of working days checked and the number of infringements reported.

3. The information submitted to the Commission in accordance with Article 16(2) of Regulation (EEC) No 3820/85 shall include the number of drivers checked at the roadside, the number of checks at the premises of undertakings, the number of working days checked and the number ***and type*** of infringements reported, ***with a record of whether passengers or goods were transported.***

Justification

Incorporates Amendment 20 from first reading (P5_TA-PROV(2004)0306).

This amendment permits an accurate record of infringements, classified according to transport of passengers or goods.

Amendment 15
Article 3, paragraph 1, point (a), letter (i)

(i) type of road, namely whether it is a motorway, a national or a secondary road;

(i) type of road, namely whether it is a motorway, a national or a secondary road;
road number; country of registration of the vehicle inspected; and number of vehicles owned by the undertaking.

To avoid discrimination, roadside inspections shall record the Member State of origin of inspected vehicles, the drivers and undertakings.

Justification

Incorporates parts of Amendments 21 and 22 from first reading (P5_TA-PROV(2004)0306).

Amendment 16
Article 3, paragraph 3

The appropriate authorities in the Member States shall keep a record of the data collected for the previous year.

The undertakings responsible for the drivers and the appropriate authorities in the Member States shall keep a record of the data collected for the previous year.

Justification

Incorporates Amendment 23 from first reading (P5_TA-PROV(2004)0306). The rapporteur points out that in the parallel dossier on harmonisation of social legislation the Council has accepted a requirement for companies to keep records (see Parliament's Amendment 62 there).

Amendment 17
Article 4, paragraph 2, point (a)

(a) sufficient provision is made for checkpoints on or nearby existing and planned roads;

(a) sufficient provision is made for checkpoints on or nearby existing and planned roads **and in particular, that service stations, hospitality areas, and other safe locations along the motorways, and service areas can function as checkpoints;**

Justification

Incorporates Amendment 24 from first reading (P5_TA-PROV(2004)0306). The reference to service stations on motorways was in the Commission text but the Council deleted it.

Amendment 18
Article 4, paragraph 2, point (b)

(b) checks are carried out following a random rotation system.

(b) checks are carried out following a random rotation system, ***with an effort being made to secure a balance in the intensity of the checks conducted at different roadside locations.***

Justification

Incorporates Amendment 25 from first reading (P5_TA-PROV(2004)0306).

Amendment 19
Article 4, paragraph 2 a (new)

2a. Roadside checks should take place when vehicles drive up to the checkpoint or intend to drive away. On stationary vehicles which are clearly parked to comply with the prescribed driving breaks and rest periods, roadside checks should take place only if there are specific grounds for suspicion or if the risks involved require such action to be taken.

Justification

Incorporates Amendment 26 from first reading (P5_TA-PROV(2004)0306).

Amendment 20
Article 6, paragraph 1

1. Checks at premises shall be planned in the light of past experience in relation to the various categories of transport. They shall also be carried out if serious infringements of Regulation (EEC) No 3820/85 or Regulation (EEC) No 3821/85 have been detected at the roadside.

1. Checks at premises shall be planned in the light of past experience in relation to the various categories of transport ***and undertakings.*** They shall also be carried out if serious infringements of Regulation (EEC) No 3820/85 or Regulation (EEC) No 3821/85 have been detected at the roadside.

Justification

Incorporates part of Amendment 29 from first reading (P5_TA-PROV(2004)0306).

Amendment 21
Article 7, Title

Intracommunity liaison

Coordinating enforcement body

Justification

The Council common position has clearly reduced the tasks of the coordinating body. But the rapporteur considers the Commission's original list of tasks to be essential. So the title needs to restore the original wording.

Amendment 22
Article 7, paragraph 1, point (a)

(a) to ensure coordination with equivalent bodies in the other Member States concerned as regards actions taken under Article 5;

(a) to ensure coordination ***between the different competent authorities within one Member State*** as regards actions taken under ***Articles 4 and 6 and*** with equivalent bodies in the other Member States concerned as regards actions taken under Article 5;

Justification

Restores the original Commission text.

Amendment 23
Article 7, paragraph 1, point (b a) (new)

(ba) to draw up a coherent national enforcement strategy;

Justification

Restores a point in the original Commission text.

Amendment 24
Article 7, paragraph 1, point (c a) (new)

(ca) to publish the statistical data obtained pursuant to Article 3;

Justification

Incorporates Amendment 31 from first reading (P5_TA-PROV(2004)0306).

Amendment 25
Article 9, Title

Risk rating system

Risk rating system ***and infringements***

Justification

The rapporteur considers the provisions on sanctions, which the Council has deleted, to be essential and is tabling a series of amendments to restore the original wording. Hence the need to amend the title too.

Amendment 26
Article 9, paragraph 1

(1) Member States shall introduce a risk rating system for undertakings based on the relative number and severity of any infringements of Regulations (EEC) No 3820/85 or No 3821/85 that an individual undertaking has committed.

(1) Member States shall introduce a ***common*** risk rating system for undertakings based on the relative number and severity of any infringements of Regulations (EEC) No 3820/85 or No 3821/85 ***or Directive 2002/15/EC*** that an individual undertaking has committed.

Justification

Restores the Commission's original wording.

Amendment 27
Article 9, paragraph 2

2. Undertakings with a high-risk rating shall be checked more closely and more often. The criteria and detailed rules for implementing such a system shall be discussed in the Committee referred to in Article 12, with a view to establishing a system for the exchange of information on best practices.

2. Undertakings with a high-risk rating shall be checked more closely and more often ***and, if repeated offences are detected, they shall be more heavily penalised.*** The criteria and detailed rules for implementing such a system shall be discussed in the Committee referred to in Article 12, with a view to establishing a system for the exchange of information on best practices.

Justification

Restores Article 9(1), second subparagraph of the Commission's original wording.

Amendment 28

Article 9, paragraph 2 a (new)

2a. Where a Member State becomes aware of an infringement against Regulations (EEC) No 3820/85 and (EEC) No 3821/85 or against Directive 2002/15/EC, that has been committed on the territory of another Member State, it shall bring it to the attention of that Member State to enable the latter to impose penalties.

Justification

Restores Amendment 31 from first reading (P5_TA-PROV(2004)0306).

Amendment 29

Article 9, paragraph 2 b (new)

2b. Member States shall recognise, in particular, each of the following infringements of Regulation (EEC) No 3820/85, Regulation (EEC) No 3821/85 or Directive 2002/15/EC as constituting a serious offence:
(a) exceeding the maximum daily, six-day or fortnightly driving time limits by a margin of 20 % or more;
(b) disregarding the minimum daily or weekly rest period by a margin of 20 % or more;
(c) disregarding the minimum break by a margin of 33 % or more;
(d) exceeding the maximum weekly working time of 60 hours by a margin of 10 % or more.

Justification

Restores Article 9(4) of the Commission's original wording, incorporating Amendment 35 from first reading (P5_TA-PROV(2004)0306).

Amendment 30
Article 10

By ... the Commission shall submit to the European Parliament and to the Council a report analysing the penalties for serious infringements provided for in the legislation of the Member States.

By ... the Commission shall submit to the European Parliament and to the Council a report analysing the penalties for serious infringements provided for in the legislation of the Member States. ***At the same time, the Commission shall submit a proposal for a directive on the harmonisation of these penalties.***

Justification

Incorporates Amendment 38 from first reading (P5_TA-PROV(2004)0306).

Amendment 31
Article 10, paragraph 1 a (new)

The report shall indicate the degree of difference between the penalties, and what the effect of harmonising the minimum and maximum penalties for a defined offence would be on securing compliance with the provisions of this Directive and on road safety.

Justification

Restores Article 11(2) of the Commission's original wording, incorporating Amendment 39 from first reading (P5_TA-PROV(2004)0306).

Amendment 32
Article 11, paragraph 1, subparagraph 2

Those guidelines shall be included in the biennial report ***referred to in Article 16(2) of Regulation (EEC) No 3820/85.***

Those guidelines shall be ***published*** in a biennial report ***of the Commission.***

Justification

Restores Amendment 40 from first reading (P5_TA-PROV(2004)0306).

Amendment 33

Article 12, paragraph 2 a (new)

(2a) The European social partners shall participate as observers in the Committee's deliberations.

Justification

Incorporates ideas in Amendment 41 from first reading (P5_TA-PROV(2004)0306).

Amendment 34

Article 14

Article 14

deleted

Negotiations with third countries

Once this Directive has entered into force, the Community shall begin negotiations with the relevant third countries with a view to the application of rules equivalent to those laid down in this Directive.

Justification

In view of the amendment on Article 1a (new), which also covers application of the rules for transport between the Community and third countries, this article can be dropped.

Amendment 35

Annex I, Part A, paragraph 1, point (1)

(1) daily driving periods, breaks and daily and weekly rest periods; also the ***preceding days***' record sheets which have to be carried on board the vehicle in accordance with Article 15(7) of Regulation (EEC) No 3821/85 and/or the data stored for the same period on the driver card and/or in the memory of the recording equipment in conformity with Annex II to this Directive and/or on printouts;

(1) daily ***and weekly*** driving periods, ***total accumulated driving time during two consecutive weeks***, breaks and daily and weekly rest periods ***and compensatory rest periods***; also the preceding ***two weeks***' record sheets which have to be carried on board the vehicle in accordance with Article 15(7) of Regulation (EEC) No 3821/85 and/or the data for the same period on the driver card and/or in the memory of the recording equipment in conformity with Annex II to this Directive and/or on printouts ***of the preceding 28 days***;

Justification

Incorporates Amendment 42 from first reading (P5_TA-PROV(2004)0306).

Amendment 36

Annex I, Part B, paragraph 1, point (3 a) (new)

(3a) average maximum weekly working time of 48 hours over the reference period in Article 4(a) of Directive 2002/15/EC;

Justification

Restores Annex I, Part B, point (5) of the Commission text.

Amendment 37

Annex I, Part B, paragraph 2

Member States may, if appropriate, check on the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permit compliance with Regulations (EEC) Nos 3820/85 and 3821/85.

Member States may, if appropriate, check on the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permit compliance with Regulations (EEC) Nos 3820/85 and 3821/85 ***and Directive 2002/15/EC.***

Justification

Incorporates a point from Annex I, Part B, point (6) of the Commission text.

EXPLANATORY STATEMENT

1. The common position

(a) Background

The Council has made a number of amendments to the Commission's draft directive. As a result, there has also been a clear departure from Parliament's position at first reading.

On the issue of the percentage of working days to be checked, the Council is now proposing a graduated approach (see Article 2(2)): 1 % from the directive's entry into force, and 2 % from 1 January 2009. Then 3 % from 1 January 2011. This is a clear departure from the Commission proposal's 3 %, which Parliament accepted. However, a rise to 4 % from 1 January 2013 is possible if statistics show that, on average, more than 90 % of all vehicles checked are equipped with a digital tachograph.

At least 15 % of the working days checked should in the Council's view be roadside checks and at least 25 % checks on companies' premises. From 1 January 2008 these quotas should rise to at least 30 % / 50 %. This has only partially taken account of Parliament's Amendment 19, which also called for a minimum quota for checks on very small companies.

As a point of principle the Council intends to confine the scope of the draft directive to Regulations (EEC) Nos 3820/85 and 3821/85. It is opposing the inclusion of Directive 2002/15/EC on working time and a series of amendments to that end.

(b) The Council's view on specific amendments

Parliament adopted 38 amendments at first reading. The Council has accepted only Amendment 27 in full. It has also accepted certain parts of Amendments 3 and 23 and – to a lesser extent – 21 and 22. An aspect of Amendment 42 has also found favour. All the other amendments have been rejected by the Council for various reasons.

Several amendments – 1, 12, 15, 29, 34 and 36 – have been discarded as the Council cannot accept their aim of referring to legislation other than Regulations 3820/85 and 3821/85.

Amendments 6, 13, 14, 16, 32, 33, 35, 36, 37 and 38 have been ignored as the Council takes the view that the points they cover should be, or are already, dealt with in the regulation on driving times and rest periods.

It has also discarded, in some cases without giving specific reasons, Amendments 5, 7, 11, 18, 20, 24, 25, 26, 28, 29, 30, 31, 39, 40, 41, 63 and 66.

2. Assessment

The present common position is a disappointment. The Council has almost without exception rejected Parliament's proposals, including those on infringements (Article 10 of the Commission proposal) and the harmonisation of penalties (original Article 12). As stated above, the Council has also changed the Commission's wording of key passages that

Parliament left unchanged. We might mention here the minimum percentage of working days or the removal of the working time directive from the proposal's scope. On the other hand we should acknowledge that some points on the issue of penalties have been taken up in the Council common position on the regulation harmonising certain social legislation. But your rapporteur regards the Council's view, that 'there is not a wide divergence of opinion' between the two institutions on 'the most important "core provisions"', as somewhat wide of the mark. Taking the Council's modifications as a whole, it is clearly cutting back the scope of the directive compared with Parliament's approach and is more lenient on the number and allocation of checks, the aspects to be checked and infringements.

3. The rapporteur's proposals

Your rapporteur is convinced that the Council's paring down of the proposal runs counter to its aims – aims which the Council itself underlines in Recital 4, in an amendment that Parliament has taken up: road safety, harmonisation of working conditions and a level playing-field. But if there is too much restraint in the requirements of this control directive, the revision of the regulation on driving and rest times would lose its point. For this reason the rapporteur proposes to reintroduce a number of Parliament's amendments from first reading or restore the original wording of the Commission text.

- On the directive's scope, the rapporteur can go along with the Council to the extent that requiring roadside checking for compliance with the working time directive would pose serious practical problems in some cases. To that extent, and also in view of diverging implementation of the working time directive in the Member States, he is prepared to drop a number of related calls for roadside checks in the first reading. However, this is Community social legislation, and as such it should contain at least a minimal reference to the working time directive. So the rapporteur considers it important at least to check the average maximum weekly working time in checks on companies' premises; that should be feasible without causing problems.
- The graduated increase in days checked from 1 % to 3 % and ultimately 4 % would seem perfectly sensible. But the timescale is unambitious; your rapporteur proposes maintaining the graduated system but starting sooner: increases should occur in 2007, 2009 and 2011 instead of 2009, 2011 and 2013.
- On the proportion of roadside and company checks, Parliament should stick to its minimum figures of 15 % / 50 %. They are already a compromise on the Commission's suggested 30 % / 50 % and allow for sufficient flexibility. But reducing the minimum level of company checks to 30 % would in some cases make nonsense of the provision.
- On roadside checks, several aspects should be reintroduced. Amendment 26 concerning checks on arrivals and departures was suggested to the rapporteur by police interests and should be maintained (Note: the reference here to amendments uses the numbering at first reading, in document P5_TA-PROV(2004)0306). And the call for balance between checks at different locations (Amendment 25) and the naming of such locations (Amendment 24) are important clarifying points.

- Article 7, on ‘intracommunity liaison’, calls for a whole number of amendments, as the role of this coordinating body has clearly been reduced. The Council common position provides for a twofold structure. Under Article 2(1), third subparagraph of the common position Member States *may* designate a body for the national enforcement strategy. Under Article 7 they *shall* designate a second body. This is less than convincing. The list of tasks in Article 7 makes the body it describes a suitable place to work on the national enforcement strategy as well. If the body is forwarding statistics to the Commission, it will also have the best overview of any weaknesses at national level. Finally, this does not mean that the strategy is dictated by the body in accordance with Article 7. It needs bearing in mind that several new Member States are just in the process of setting up suitable coordinating bodies and evidently working on the principle that one body is the more effective solution.
- Lastly, the issue of infringements and penalties. It is regrettable that the Council has ditched the definition of serious infringements completely. The rapporteur points out that excessive restraint in this area could make nonsense of all the Community’s efforts in the field of social legislation for road transport. Without this list of serious infringements the report under Article 10 that is supposed to analyse the appropriate penalties makes little sense. In the recently amended Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road, as many as three categories of infringement have been listed – so it is hard to see why a straightforward, open-ended list of serious infringements is unacceptable to the Council. Your rapporteur therefore intends to restore the list of serious offences (Article 9(4) in the Commission proposal). When it comes to penalties, a different picture emerges. As indicated above, the rules that Parliament is after appear virtually word for word in the common position on the harmonisation of certain social legislation. The rapporteur considers that there is no need to repeat those rules here and has decided not to reintroduce the amendments concerned.

The rapporteur’s proposal thus constitutes a measure of rapprochement to the Council position. But there are still a number of points on which this proposal cannot follow the Council text. In view of the aims of the proposed directive, to increase road safety and reflect the social interests of people working in the road transport industry, the rapporteur believes it is essential for a number of amendments to be maintained.

PROCEDURE

Title	Council common position for adopting a directive of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities		
References	11336/1/2004 – C6-0249/2004 – 2004/0255(COD)		
Legal basis	Articles 251(2) and 71(1) EC		
Basis in Rules of Procedure	Rule 62		
Date of Parliament's first reading – P[5]	20.4.2004	P5_TA(2004)0306	
Commission proposal	COM(2003)0628		
Amended Commission proposal			
Date receipt of common position announced in plenary	16.12.2004		
Committee responsible Date announced in plenary	TRAN 3.12.2003		
Rapporteur(s) Date appointed	Helmut Markov 28.7.2004		
Previous rapporteur(s)			
Discussed in committee	21.1.2005	2.2.2005	14.3.2005
Date adopted	15.3.2005		
Result of final vote	for:	39	
	against:	6	
	abstentions:	2	
Members present for the final vote	Margrete Auken, Inés Ayala Sender, Philip Bradbourn, Paolo Costa, Michael Cramer, Arūnas Degutis, Christine De Veyrac, Armando Dionisi, Petr Duchoň, Saïd El Khadraoui, Emanuel Jardim Fernandes, Mathieu Grosch, Jeanine Hennis-Plasschaert, Stanisław Jałowiecki, Georg Jarzembowski, Dieter-Lebrecht Koch, Jaromír Kohlíček, Josu Ortuondo Larrea, Fernand Le Rachinel, Jörg Leichtfried, Bogusław Liberadzki, Evelin Lichtenberger, Patrick Louis, Erik Meijer, Michael Henry Nattrass, Robert Navarro, Janusz Onyszkiewicz, Luis de Grandes Pascual, Etelka Barsi-Pataky, Ewa Hedkvist Petersen, Willi Piecyk, Luís Queiró, Reinhard Rack, Luca Romagnoli, Gilles Savary, Ingo Schmitt, Renate Sommer, Ulrich Stockmann, Gary Titley, Marta Vincenzi, Corien Wortmann-Kool, Roberts Zīle		
Substitutes present for the final vote	Jean Louis Cottigny, Den Dover, Anne Elisabet Jensen, Antonio López-Istúriz White, Helmuth Markov		
Substitutes under Rule 178(2) present for the final vote			
Date tabled – A[5]	22.3.2005	A6-0073/2005	
Comments	...		