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## **\*\*\*III REPORT**

on the joint text approved by the Conciliation Committee for 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 and repealing Directive 88/599/EEC  
(PE-CONS 3672/2005 – C6-0417/2005 – 2003/0255(COD))

European Parliament delegation to the Conciliation Committee

Delegation chairman: Alejo Vidal-Quadras Roca  
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.)

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the joint text approved by the Conciliation Committee for 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 and repealing Directive 88/599/EEC (PE-CONS 3672/2005 – C6-0417/2005 – 2003/0255(COD))**

**(Codecision procedure: third reading)**

*The European Parliament,*

- having regard to the joint text approved by the Conciliation Committee and the relevant Commission statements (PE-CONS 3672/2005 – C6-0417/2005),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2003)0628)<sup>2</sup>,
  - having regard to its position at second reading<sup>3</sup> on the Council common position<sup>4</sup>,
  - having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2005)0302)<sup>5</sup>,
  - having regard to Article 251(5) of the EC Treaty,
  - having regard to Rule 65 of its Rules of Procedure,
  - having regard to the report of its delegation to the Conciliation Committee (A6-0005/2006),
1. Approves the joint text and draws attention to the Commission statements thereon;
  2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
  3. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published, together with the Commission statements thereon, in the Official Journal of the European Union;
  4. Instructs its President to forward this legislative resolution to the Council and Commission.

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<sup>1</sup> OJ C 104 E, 30.4.2004, p. 38.

<sup>2</sup> Not yet published in OJ.

<sup>3</sup> Texts Adopted, 13.4.2005, P6\_TA(2005)0121.

<sup>4</sup> OJ C 63 E, 15.3.2005, p. 1.

<sup>5</sup> Not yet published in OJ.

## EXPLANATORY STATEMENT

### Background

On 21 October 2003 the Commission submitted a proposal for a European Parliament and Council Directive on minimum conditions for the implementation of EU legislation concerning social legislation relating to road transport activities. The aim of the proposal, which seeks to abrogate and replace Directive 88/599/EC, is to update and enhance the quantity and quality of enforcement operations in this field. Since the beginning of the process Parliament has always treated this proposal (COD 2003/0255) as a 'package' with the proposal for a Regulation on the harmonisation of certain social legislation relating to road transport (COD 2001/0241).

Following Parliament's first reading on 20 April 2004, the Council adopted its common position on 9 December 2004 incorporating wholly or partially only 7 of the 38 Parliament's first reading amendments and making substantive changes to the Commission proposal. Parliament concluded its second reading on 6 April 2005 adopting 35 amendments to the Council common position. The Council informed Parliament with letter from 9 September 2005 that it could not accept all of Parliament's amendments and conciliation was necessary. The conciliation procedure was then formally opened on 12 October 2005.

### The Conciliation procedure

The Parliament delegation was constituted on 10 May 2005 in Strasbourg. Mr Vidal Quadras (Vice-President and chair of the delegation), Mr Costa (chair of the Transport Committee), Mr Markov (rapporteur), Mr Grosch and Mr Piecyk were given a mandate by the delegation to negotiate with the Council.

Four dialogues were held between 5 July and 22 November 2005, followed by subsequent meetings of the EP Delegation, which led to the reaching of agreement on 21 amendments, subject to an overall agreement. The Conciliation Committee met then in the evening of Tuesday 6 December 2005 with a view to settling the outstanding 14 amendments. After more than 6 hours of negotiations an overall agreement was finally reached in the early hours of Wednesday, which was confirmed by the EP delegation with 14 votes in favour and 4 against.

The main elements of the agreement reached in conciliation can be summarised as follows:

#### 1. The AETR agreement

As a result of the agreement reached with the Council on the territorial scope of the Regulation (COD 2001/0241) vis-à-vis the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport ('AETR') Parliament agreed to withdraw its equivalent amendment to the proposal for a Directive (COD 2003/0255). Moreover the two sides also agreed that the Community will begin negotiations with the relevant third countries with a view to the application of rules equivalent to those laid down in the Directive. Pending the conclusion of these negotiations, Member States shall include data

on checks carried out in respect of vehicles from third countries in their returns to the Commission.

In a joint statement the Commission and Member States also declare to make every effort to ensure that, within 2 years of the entry into force of the Directive, the provisions of the AETR shall be aligned with those of the Directive; should this not be the case the Commission has undertaken to propose appropriate action to address the situation.

## **2. Minimum checks**

At Parliament's insistence the Council finally accepted that checks carried out by Member States should be increased from 2008 to at least 2% of the days worked by drivers falling within the scope of the new legislation, and to at least 3% from 2010. The Council had originally proposed 2% from 2009 and 3% from 2011 respectively. Moreover, from 2012 the minimum percentage of checks may be increased to 4% by the Commission.

It has also been agreed that at least 15% of the working days checked shall be checked at the roadside and at least 30% at the premises of undertakings. From 2008 these figures shall increase to 30% and 50% respectively. As a result checks will be carried out mainly at undertakings' premises where inspections can be more thorough than at the roadside.

The agreement reached also states that checks at the roadside shall be organised in various places and at any time and shall cover an extensive part of the road network to make it difficult to avoid checkpoints; moreover they shall be carried out following a random rotation system, with a view to ensuring an appropriate geographical balance.

## **3. Common infringements and penalties**

Council could not accept any reference to the harmonisation of penalties, arguing that penalties were Member States' domain. Nevertheless on Parliament's insistence the Council finally agreed to the introduction into the annex to the Directive of a non exhaustive list of common infringements, which reflects the main elements of Parliament's amendment. It lists in particular as infringements the exceeding the maximum daily, six-day or fortnightly driving time limits, the disregarding of the minimum daily or weekly rest period, the disregarding of the minimum break as well as a tachograph not fitted in accordance with the requirements of the EU legislation.

Moreover, in a declaration the Commission undertakes to provide in the future a more detailed list, which will complement the above mentioned infringements with specific limit values, the exceeding of which will constitute a serious infringement.

## **4. Working Time Directive 2002/15/EC on persons performing mobile road transport activities**

This proved to be the most difficult issue to solve in the conciliation negotiations. The Council stuck to its common position and refused to accept the inclusion of a link to the Working Time Directive 2002/15/EC that would allow Member States' controlling authorities carrying out inspections to check whether the working time limits laid down in this Directive

are respected, thus making it possible, for instance, to take into account drivers' fatigue resulting from loading or unloading a truck.

All compromise proposals tabled by the EP Delegation on this issue were turned down by the Council. The two institutions finally agreed to emphasise in the recitals of the Directive the importance of the Working Time Directive 2002/15/EC for the creation of a common market for road safety and for working conditions. In addition, a new recital was included stating that the risks from driver fatigue should also be addressed through enforcement of the Working Time Directive 2002/15/EC.

### **Conclusion**

The overall agreement reached with the Council can be regarded as satisfactory for Parliament as the frequency and density of checks carried out by Member States, particularly at the premises of undertakings, are clearly increased, infringements are categorised according to their gravity and are being harmonised at EU level and the alignment of the AETR agreement with the EU legislation has been secured. As a result the new rules enhance drivers' rights, improve their working environment and situation and thus contribute to greater road safety in Europe.

The Parliament delegation to the Conciliation Committee therefore recommends that the House approve the joint text at third reading.

## PROCEDURE

<b>Title</b>	Joint text approved by the Conciliation Committee for 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 and repealing Directive 88/599/EEC
<b>References</b>	PE-CONS 3672/2005– C6-0417/2005 – 2003/0255(COD)
<b>Legal basis</b>	Articles 251(5) and 71 EC
<b>Basis in Rules of Procedure</b>	Rule 65
<b>Delegation chairman: Vice-President</b>	Alejo Vidal-Quadras Roca
<b>Chair(wo)man of committee responsible</b>	Paolo Costa <span style="float: right;">TRAN</span>
<b>Rapporteur(s)</b>	Helmuth Markov
<b>Commission proposal</b>	Proposal for a directive of the European Parliament and of the Council on minimum conditions for the implementation of Directive 2002/15/EC and Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities – COM(2003)0628 – C5-0601/2003
<b>Date of Parliament's first reading – P5</b>	20.4.2004 <span style="float: right;">P5-TA(2004)0306</span>
<b>Council common position</b> Date announced in plenary	11336/1/2004 – C6-0249/2004 16.12.2004
<b>Commission position</b> <b>(Article 251(2), subpara 2, indent 3)</b>	COM(2004)0815
<b>Date of Parliament's 2nd reading – P5</b>	13.4.2005 <span style="float: right;">P6-TA(2005)0121</span>
<b>Commission opinion</b> <b>(Article 251(2), subpara 3, point (c))</b>	COM(2005)0302
<b>Date Council received 2nd reading</b>	17.5.2005
<b>Date of Council letter on non-approval of Parliament amendments</b>	9.9.2005
<b>Conciliation Committee meetings</b>	12.10.2005 <span style="float: right;">6.12.2005</span>
<b>Date of vote by Parliament delegation</b>	6.12.2005
<b>Result of vote</b>	for: <span style="float: right;">14</span> against: <span style="float: right;">4</span> abstentions:
<b>Members present</b>	Mathieu Grosch, Françoise Grossetête, Georg Jarzembowski, Anne E. Jensen, Dieter-Lebrecht Koch, Eva Lichtenberger, Helmuth Markov, Willi Piecyk, Gilles Savary, Dirk Sterckx, Gary Titley, Alejo Vidal-Quadras Roca, Corien Wortmann-Kool
<b>Substitutes present</b>	Inés Ayala Sender, Den Dover, Roland Gewalt, Ewa Hedkvist Petersen
<b>Substitutes under Rule 178(2) present</b>	Zita Pleštinská
<b>Date of agreement in Conciliation Committee</b>	6.12.2005
<b>Date on which the co-chairmen established that the joint text had been approved and forwarded it to Parliament and the Council</b>	8.12.2005
<b>Date tabled – A6</b>	24.1.2006 <span style="float: right;">A6-0005/2006</span>

## EXTENSION OF DEADLINES

<b>Extension of deadline for second reading by Council</b>	Yes
<b>Extension of deadline for convening the Committee</b> Requesting institution – date	No
<b>Extension of deadline for work in the Committee</b> Requesting institution – date	Yes Council – 17.11.2005
<b>Extension of deadline for adopting the act</b> Requesting institution – date	Yes European Parliament – 15.12.2005