

# EUROPEAN PARLIAMENT

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**A6-0006/2006**

24.1.2006

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

on the joint text approved by the Conciliation Committee for a regulation of the European Parliament and of the Council 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 Regulation (EEC) No 3820/85 (PE-CONS 3671/2005 – C6-0416/2005 – 2001/0241(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 regulation of the European Parliament and of the Council 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 Regulation (EEC) No 3820/85 (PE-CONS 3671/2005 – C6-0416/2005 – 2001/0241(COD))**

**(Codecision procedure: third reading)**

*The European Parliament,*

- having regard to the joint text approved by the Conciliation Committee and the relevant Commission statement (PE-CONS 3671/2005 – C6-0416/2005),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2001)0573)<sup>2</sup>,
  - having regard to the amended proposal to the Commission proposal (COM(2003)0490)<sup>3</sup>,
  - having regard to its position at second reading<sup>4</sup> on the Council common position<sup>5</sup>,
  - having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2005)0301)<sup>6</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 (A6-0006/2006),
1. Approves the joint text and draws attention to the Commission statement 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 statement 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 38 E, 12.2.2004, p. 17.

<sup>2</sup> OJ C 51 E, 26.2.2002, p. 234.

<sup>3</sup> Not yet published in OJ

<sup>4</sup> Texts Adopted, 13.4.2005, P6\_TA(2005)0122.

<sup>5</sup> OJ C 63 E, 15.3.2005, p. 11.

<sup>6</sup> Not yet published in OJ.

## EXPLANATORY STATEMENT

### Background

On 12 October 2001 the European Commission submitted a proposal for a European Parliament and Council Regulation on the harmonisation of certain social legislation relating to road transport. Its aim is to update, clarify and simplify the current legislation in force, namely Regulation 3820/85/EEC, with regard to driving and resting times and breaks for professional drivers engaged in the carriage of goods and passengers by road. The proposal also seeks to amend Regulation 3821/85/EEC with a view to laying down the technical details for the introduction of digital tachographs.

Following Parliament's first reading on 14 January 2003 the Council adopted its common position on 9 December 2004 accepting in whole or in part an important number of Parliament's first reading amendments. Parliament concluded its second reading on 6 April 2005 adopting a total of 43 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 that conciliation was necessary. The conciliation was then formally opened on 12 October 2005.

### The Conciliation procedure

The Parliament delegation held its constituent meeting 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 33 amendments, subject to an overall agreement. The Conciliation Committee met then in the evening of 6 December in the Council with a view to solving the outstanding issues. After several hours of deliberations an overall agreement was reached in the early hours of the next day, 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. Digital tachographs

Already at an early stage of the negotiations Parliament and Council had reached agreement on one of the main features of the new legislation, namely the mandatory introduction of digital recording equipment ('tachographs'), which are difficult to falsify. The agreement states that 20 days after publication in the EU Official Journal of the Regulation (expected for the beginning of April 2006, thus the new rules should enter into force from early May 2006) all new vehicles, i.e. vehicles put into service for the first time, should be fitted with digital tachographs and drivers carry a smart card.

## **2. Breaks and rest periods**

With a view to increasing road safety drivers will take in the future breaks more regularly. The agreement reached stipulates that after a driving period of 4,5 hours drivers shall take a compulsory break of at least 45 minutes, unless they take a rest period. This break, however, can be replaced by a break of at least 15 minutes followed by another of at least 30 minutes, distributed over the driving period in such a way as to comply with the general rule of at least 45 minutes break for every 4,5 hours of driving.

On rest periods Parliament and Council finally agreed that 'regular daily rest period' should mean any uninterrupted period of rest of at least 11 hours, which alternatively may be taken in two periods, the first of at least 3 hours and the second of at least 9 hours. Parliament argued for 12 hours, but it eventually conceded to the Council position with a view to facilitating the reaching of an overall agreement.

Moreover, to the driver's benefit has also been agreed that any time a driver spends travelling to a location to take charge of a vehicle or to return from that location, when the vehicle is neither at his home nor at the employer's operational centre where the driver is normally based, shall not be counted as rest or break unless the driver is in a ferry or train and has access to resting facilities like a bunk or a couchette.

## **3. Definition of 'driving time' and of 'other work'**

On Parliament's insistence the Council finally accepted to include a new definition on 'driving time', which not only takes account of the relevant case law of the ECJ but in connection with the agreement reached on the definition of 'other work' also actively contributes to greater road safety. It counts namely to 'other work' also the time a driver spends driving a vehicle outside the scope of the Regulation (e.g. his personal car) to and from a vehicle falling within the scope of the Regulation, which is not at his home or at the employer's operational centre where the driver is normally based.

Given that the maximum weekly working time of 60 hours as laid down in the Working Time Directive 2002/15/EC on persons performing mobile road transport activities should also be respected, this has a result that drivers' fatigue caused from other driving than driving the truck, bus or coach covered by the Regulation is also taken into account, thus effectively contributing to greater road safety.

## **4. The AETR agreement**

Regarding the territorial scope of the Regulation vis-à-vis the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport ('AETR') the two sides agreed that due to the international engagements of the EU vehicles registered in a third country, which is not a contracting party of the AETR, will have to comply with the rules of the latter and not with those of the Regulation when they travel on EU territory.

It was, however, also agreed that the AETR provisions should be aligned with those of the Regulation so that the latter can apply, through the AETR, to such vehicles for any part of the journey made within the Community. In a joint statement the Commission and Member States also commit themselves to make every effort to achieve this goal within 2 years of the entry

into force of the Regulation; should this not be the case the Commission will propose appropriate action to address the situation.

## **5. Driver's hours**

At an earlier stage of the codecision procedure the two institutions had already reached agreement that the maximum daily driving time shall not exceed 9 hours (or 10 hours not more than twice during the week), whereas the maximum driving time for one week has been set at 56 hours or at 90 hours as a accumulated driving time during any two consecutive weeks. Ambiguity in the wording of the current legislation makes it possible to drive for up to 74 hours in a week. In any event the maximum weekly working time as laid down in Directive 2002/15/EC (for instance driving time plus time for loading and unloading), which is limited to 60 hours per week, has to be respected.

## **Conclusion**

The overall agreement reached with the Council can be regarded as very positive for Parliament as the new Regulation clearly strengthens and improves social legislation for drivers engaged in road transport activities (driving and resting times and breaks), lays down the rules for the introduction of digital tachographs and in overall contributes significantly 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 regulation of the European Parliament and of the Council 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 Regulation (EEC) No 3820/85
<b>References</b>	PE-CONS 3671/2005– C6-0416/2005 – 2001/0241(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 regulation of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport – COM(2001)0573 – C5-0485/2001
<b>Date of Parliament's first reading – P5</b>	14.1.2003 <span style="float: right;">P5-TA(2003)0008</span>
<b>Amended Commission proposal</b>	COM(2003)0490
<b>Council common position</b> Date announced in plenary	11337/2/2004 – C6-0250/2004 16.12.2004
<b>Commission position</b> (Article 251(2), subpara 2, indent 3)	COM(2004)0817
<b>Date of Parliament's 2nd reading – P5</b>	13.4.2005 <span style="float: right;">P6-TA(2005)0122</span>
<b>Commission opinion</b> (Article 251(2), subpara 3, point (c))	COM(2005)0301
<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;">A6-0006/2006</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