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6.6.2012

*****I**

REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council
(COM(2011)0451 – C7-0205/2011 – 2011/0196(COD))

Committee on Transport and Tourism

Rapporteur: Silvia-Adriana Țicău

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	75
PROCEDURE.....	79

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council

(COM(2011)0451 – C7-0205/2011 – 2011/0196(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0451),
 - having regard to Article 294(2) and Article 91 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0205/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 7 December 2011²²,
 - after consulting the Committee of the Regions,
 - having regard to Rules 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A7-0195/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Draft legislative resolution

Citation 4 a (new)

²² OJ C 0, 0.0.0000, p.0. /Not yet published in the Official Journal.

**- having regard to the opinion of the
European Data Protection Supervisor of 5
October 2011¹,**

¹ ***Not yet published in the Official
Journal.***

Amendment 2

Proposal for a regulation Recital 4

Text proposed by the Commission

(4) In order to ensure coherence between the different exemptions set out in Article 13 of Regulation (EC) No 561/2006, **and** to reduce the administrative burden on transport undertakings whilst respecting the objectives of that Regulation, the maximum permissible distances set out in its Articles 13(d), (f) and (p) should be revised.

Amendment

(4) In order to ensure coherence between the different exemptions set out in Article 13 of Regulation (EC) No 561/2006, to reduce the administrative burden on transport undertakings, **to reduce bureaucracy and to ensure that recording equipment continues to develop in line with practice**, whilst respecting the objectives of that Regulation, the maximum permissible distances set out in its Articles 13(d), (f) and (p) should be revised.

Justification

This amendment seeks to clarify once again the objectives of this revision of the regulation on recording equipment. In this connection it is particularly important that the development of recording equipment keeps pace with practice.

Amendment 3

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) To ensure fair competition in the internal road transport market and to give a

Amendment

(16) To ensure fair competition in the internal road transport market and to give a

clear message to drivers and transport undertakings, the Member States' highest category of sanctions should be imposed for 'very serious' infringements (as defined in Commission Directive 2009/5/EC of 30 January 2009 amending Annex III to Directive 2006/22/EC 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), without prejudice to the principle of subsidiarity.

clear message to drivers and transport undertakings, the ***definition of very serious infringements against this Regulation should be harmonised and binding in nature and the*** Member States' highest category of sanctions should be imposed for 'very serious' infringements (as defined in Commission Directive 2009/5/EC of 30 January 2009 amending Annex III to Directive 2006/22/EC 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), without prejudice to the principle of subsidiarity. ***Efforts should also be taken to ensure that the penalties imposed for any infringements are always 'effective, dissuasive and proportionate'. In particular concrete steps should be taken to eliminate the practice of excessively high fines for minor infringements.***

Amendment 4

Proposal for a regulation Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Differing rules for calculating daily driving times lead to a lack of uniformity in the application of Regulation (EC) No 561/2006 and create legal uncertainty for international drivers and transport undertakings. In the interest of a clear, effective, proportionate and uniform implementation of social security rules in road transport it is essential that the Member States' authorities apply the rules in a uniform manner.

Justification

In its implementing decision of 7.6.2011 (C(2011)3759) the Commission referred to the problems of differing interpretations in calculating daily driving times and made a

recommendation. The uniform implementation of the Driving and Rest Times Regulation and the rules on recording equipment in the Member States is the only way of enhancing road safety and benefiting the European Single Market.

Amendment 5

Proposal for a regulation **Recital 17**

Text proposed by the Commission

(17) Through the adaptations of the European agreement concerning the work of crews of vehicles engaged in international road transport, signed in Geneva on 1 July 1970, including its six amendments, deposited with the Secretary-General of the United Nations (AETR), the use of the ***recording equipment referred to in Annex IB*** has been made mandatory as regards vehicles registered in neighbouring third countries. As these countries are directly affected by changes to the recording equipment introduced by the present Regulation, they should be able to participate in dialogue on technical matters. A Tachograph Forum should accordingly be set up.

Amendment

(17) Through the adaptations of the European agreement concerning the work of crews of vehicles engaged in international road transport, signed in Geneva on 1 July 1970, including its six amendments, deposited with the Secretary-General of the United Nations (AETR), the use of the ***digital tachograph*** has been made mandatory as regards vehicles registered in neighbouring third countries. As these countries are directly affected by changes to the recording equipment introduced by the present Regulation, they should be able to participate in dialogue on technical matters ***and on the establishment of a single electronic system for the exchange of information on driver cards***. A Tachograph Forum should accordingly be set up.

(This amendment ("digital tachograph" replaces "recording equipment referred to in Annex IB") applies throughout the text. Adopting it will necessitate corresponding changes throughout)

Justification

If a third-country national applies for a driver card, it is necessary to check that the person concerned has not already received a digital card. The issue of electronic information exchange with AETR Member States concerning driver cards therefore needs to be resolved by creating a single system. At present in cases in which a third-country national applies for a digital tachograph card, it is possible to request information only through bilateral contacts with the country concerned, and this is a procedure which consumes large amounts of time and resources.

Amendment 6

Proposal for a regulation Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) The transport of passengers and goods takes place under very widely differing terms and conditions. Accordingly, a revision of the tachograph requirement and the rules on driving and rest periods for bus drivers should be submitted as soon as possible, and at any rate by the end of 2013.

Amendment 7

Proposal for a regulation Recital 21 b (new)

Text proposed by the Commission

Amendment

(21b) Standards and specifications should be drawn up as open standards allowing for the incorporation into one and the same device, following examination by the Commission, of other functions such as accident recorders and 112 e-call.

Amendment 8

Proposal for a regulation Article 1 – point -1 (new) Council Regulation (EEC) No 3821/85 Title

Text proposed by the Commission

Amendment

***(-1) The title is replaced by the following:
"Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3821/85 of 20 December 1985 on tachographs in road transport and amending Regulation (EC) No 561/2006 of the European Parliament***

and the Council"

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout)

Justification

This amendments intends to introduce in the Regulation a terminology change in order to make the use of the term consistent both with other acts already in force in the same field, which use the word tachograph, and with its common use in ordinary and technical language.

Amendment 9

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Chapter I – title

Text proposed by the Commission

Amendment

Principles **and** scope

Principles, scope **and requirements**

Justification

Your Rapporteur considers very important to insert in the text of the Regulation the essential principles and requirements to which tachographs have to comply with. Currently many of them are only set out in the Annexes, which have not been submitted for consideration with this proposal. Annexes should only include more detailed information in relation to these basic principles and requirements, which should be in the text of the Regulation to allow Parliament to discuss them during the codecision procedure.

Amendment 10

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 1 – title

Text proposed by the Commission

Amendment

Subject matter and **principle**

Subject matter and **principles**

Amendment 11

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 1 – paragraph 1

Text proposed by the Commission

This Regulation sets out requirements **for** the construction, installation, use and testing **of recording equipment** used in road transport to control compliance with Regulation (EC) No 561/2006, Directive 2002/15/EC and Directive 92/6/EEC.

Amendment

1. This Regulation sets out **the obligations and** requirements **in relation to** the construction, installation, use, testing **and control of tachographs** used in road transport to control compliance with Regulation (EC) No 561/2006, Directive 2002/15/EC and Directive 92/6/EEC.

Justification

This Regulation does not only set out requirements but also obligations for all the actors of the tachograph system: transport undertakings, drivers, workshops, manufacturers, enforcers, etc. The control of the tachograph carried out by enforcement authorities should be included in the subject matter of the Regulation as it is an important chapter of this legislative proposal.

Amendment 12

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. This Regulation sets out the conditions and requirements under which the information and data recorded, processed or stored by the tachograph as referred to in Article 2 may be used for purposes other than the control of compliance with the legislation referred to in paragraph 1.

Justification

The use of the tachograph involves the processing of personal data relating to professional drivers. According to the principles governing the legal framework for the protection of personal data, data should only be used for the purpose stated and not for any other

purposes. Since this proposal allows data processed by the tachograph to be used by ITS applications for other purposes than compliance with social legislation, this provision is necessary.

Amendment 13

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point a

Text proposed by the Commission

(a) ‘**recording equipment**’ means the equipment intended for installation in road vehicles to display, record, print, store and output automatically or semi-automatically details of the movement of such vehicles **and of certain work periods of their drivers;**

Amendment

(a) ‘**tachograph**’ means the equipment intended for installation in road vehicles to display, record, print, store and output automatically or semiautomatically details of the movement of such vehicles **in relation to the different periods of time being part of the driver's daily working period, and of data referred to in Article 30 of this Regulation;**

Justification

The tachograph does not only record "certain work periods of drivers" but all the periods of activity related to his status of driver, as set out in article 30 paragraph 5 of the proposal. It also records data related to drivers.

Amendment 14

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point b

Text proposed by the Commission

(b) ‘vehicle unit’ means the **recording equipment** excluding the motion sensor and the cables connecting the motion sensor. The vehicle unit may be a single unit or several units distributed in the vehicle, provided that it complies with the security requirements of this Regulation;

Amendment

(b) ‘vehicle unit’ means the **tachograph** excluding the motion sensor and the cables connecting the motion sensor. The vehicle unit may be a single unit or several units distributed in the vehicle, provided that it complies with the security requirements of this Regulation. **The vehicle unit includes a processing unit, a data memory, a real time clock, two smart card interface devices (driver and co-driver), a printer, a**

display, a visual warning, a calibration/downloading connector, and facilities for entry of user's inputs;

Justification

These are the elements of the vehicle unit according to Annex IB. Their inclusion in the text of the Regulation improves the clarity and comprehension of the text of the Regulation.

Amendment 15

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point d

Text proposed by the Commission

(d) ‘tachograph card’ means a smart card intended for use with the **recording equipment** which allows identification by the **recording equipment** of the role of the cardholder and data transfer and storage;

Amendment

(d) ‘tachograph card’ means a smart card intended for use with the **tachograph** which allows identification by the **tachograph** of the role of the cardholder, **its access rights to data** and data transfer and storage;

Amendment 16

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point e

Text proposed by the Commission

(e) ‘record sheet’ means a sheet designed to accept and retain recorded data, to be placed in the **recording equipment referred to in Annex I** and on which the marking devices of the latter inscribe a continuous record of the information to be recorded;

Amendment

(e) ‘record sheet’ means a sheet designed to accept and retain recorded data, to be placed in the **analogue tachograph** and on which the marking devices of the latter inscribe a continuous record of the information to be recorded;

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout)

Justification

References to “recording equipment referred to in Annex I” should be understood as done to “analogue tachograph”. The amendment proposes to use the term tachograph instead of recording equipment in order to make the use of the term consistent both with other acts already in force in the same field, which use the word tachograph, and with its common use in ordinary and technical language.

Amendment 17

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) 'analogue tachograph' means a tachograph using a record sheet in accordance with this Regulation;

Amendment 18

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point f b (new)

Text proposed by the Commission

Amendment

(fb) 'digital tachograph' means a tachograph using a tachograph card in accordance with this Regulation;

Amendment 19

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) ‘control card’ means a tachograph card issued by the authorities of a Member State to a national competent control authority

(g) ‘control card’ means a tachograph card issued by the authorities of a Member State to a national competent control authority

which identifies the control body and **optionally** the control officer and allows access to the data stored in the data memory **or** in the driver cards for reading, printing and/or downloading;

which identifies the control body and the control officer and allows access to the data stored in the data memory, in the driver cards **and in the workshop cards** for reading, printing and/or downloading;

Justification

In order to improve enforcement, control officers should have access to the data recorded and stored by companies and workshops.

Amendment 20

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point i

Text proposed by the Commission

(i) ‘workshop card’ means a tachograph card issued by the authorities of a Member State to **a recording equipment** manufacturer, a fitter, a vehicle manufacturer or a workshop approved by that Member State which identifies the cardholder and allows for the testing, calibration and/or downloading of **the recording equipment**;

Amendment

(i) ‘workshop card’ means a tachograph card issued by the authorities of a Member State to **designated staff of a tachograph** manufacturer, a fitter, a vehicle manufacturer or a workshop approved by that Member State which identifies the cardholder and allows for the testing, calibration and/or downloading of **tachographs**;

Amendment 21

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j

Text proposed by the Commission

(j) ‘daily **work** period’ means the period **comprising the driving time, all other periods of work, the periods of availability, breaks in work and periods of rest not exceeding nine hours.**

Amendment

(j) ‘daily **working** period’ means the period **which commences at the time when the driver activates the tachograph following a weekly or daily rest period, or, if the daily rest period is divided into separate periods, following a rest period of at least nine hours' duration. It ends at the beginning of a daily rest period or, if the daily rest is divided into separate rest**

periods, at the beginning of a rest period extending over a minimum of nine consecutive hours.

Justification

In line with the definition of daily working period within the meaning of Regulation 3821/85 provided by the Court of Justice of the European Union in case C-394/92.

Amendment 22

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j a (new)

Text proposed by the Commission

Amendment

(ja) ‘activation’ means the phase where the tachograph becomes fully operational and implements all functions, including security functions; activating a tachograph requires the use of a workshop card;

Justification

The definitions of the main processes or activities related to the construction, installation, use, test and check of tachographs, which form part of the subject matter of this Regulation, should be defined in the text of the Regulation itself and not in the Annexes, in order to improve the clarity and intelligibility of the set of obligations laid down. The annexes to the Tachograph regulations, accounting for more than 200 pages, should only include the necessary detailed requirements.

Amendment 23

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j b (new)

Text proposed by the Commission

Amendment

(jb) ‘authentication’ means a function intended to establish and verify a claimed identity;

Amendment 24

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j c (new)

Text proposed by the Commission

Amendment

(jc) ‘authenticity’ means the property that an information is coming from a party whose identity can be verified;

Amendment 25

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j d (new)

Text proposed by the Commission

Amendment

(jd) ‘calibration’ means updating or confirming vehicle parameters to be held in the data memory. Vehicle parameters include vehicle identification and vehicle characteristics; Calibrating a tachograph requires the use of a workshop card;

Amendment 26

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j e (new)

Text proposed by the Commission

Amendment

(je) ‘downloading’ means copying, together with the digital signature, of a part, or of a complete set of data files stored in the data memory of the vehicle or in the memory of the tachograph card, for which these data are necessary to

*establish compliance with the provisions
set out in Regulation (EC) No 561/2006;*

Amendment 27

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j f (new)

Text proposed by the Commission

Amendment

*(jf) ‘event’ means an operation detected
by the tachograph which may come from
a fraud attempt;*

Amendment 28

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j g (new)

Text proposed by the Commission

Amendment

*(jg) ‘fault’ means an abnormal operation
detected by the tachograph which may
come from an equipment malfunction or
failure;*

Amendment 29

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j h (new)

Text proposed by the Commission

Amendment

*(jh) ‘installation’ means mounting of the
tachograph in a vehicle;*

Amendment 30

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j i (new)

Text proposed by the Commission

Amendment

(ji) ‘non valid card’ means a card detected as faulty, or which initial authentication failed, or which start of validity date is not yet reached, or which expiry date has passed;

Amendment 31

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j j (new)

Text proposed by the Commission

Amendment

(jj) ‘periodic inspection’ means a set of operations performed to control that the tachograph works properly and that its settings correspond to the vehicle parameters;

Amendment 32

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j k (new)

Text proposed by the Commission

Amendment

(jk) ‘printer’ means a component of the tachograph which provides printouts of stored data;

Amendment 33

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j l (new)

Text proposed by the Commission

Amendment

(jl) ‘repair’ means any repair of a motion sensor or of a vehicle unit that requires disconnection of its power supply, or disconnection from other tachograph components, or opening of it;

Amendment 34

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j m (new)

Text proposed by the Commission

Amendment

(jm) ‘type approval’ means a process to certify, by a Member State, that the tachograph (or component), software or the tachograph card under investigation fulfils the requirements of this Regulation;

Amendment 35

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j n (new)

Text proposed by the Commission

Amendment

(jn) ‘vehicle identification’ means the numbers identifying the vehicle: vehicle registration number (VRN) with indication of the registering Member State and vehicle identification number (VIN);

Amendment 36

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j o (new)

Text proposed by the Commission

Amendment

(jo) ‘interoperability’ means the capacity of systems and the underlying business processes to exchange data and to share information and knowledge;

Amendment 37

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 2 – paragraph 2 – point j p (new)

Text proposed by the Commission

Amendment

(jp) ‘interface’ means a facility between systems which provides the media through which they can connect and interact.

Amendment 38

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) By 2020 all vehicles which are not exempted from the application of this Regulation in accordance with paragraphs 2 and 3 shall be fitted with a smart tachograph within the meaning of this Regulation.

Justification

Some 44% of vehicles engaged in international transport are still fitted with an analogue tachograph.

Amendment 39

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Essential requirements

1. Tacographs, tachograph cards and record sheets shall be subject to stringent technical, functional and other requirements so as to ensure that they fulfil the essential requirements set out in paragraph 2 and that they achieve the objectives of this Regulation.

2. To allow for compliance with the applicable social legislation to be efficiently controlled the tachograph shall comply with the following essential requirements. It shall to this effect:

(a) record accurate and reliable data related to the driver activity and the vehicle;

(b) be secure, in order to guarantee the integrity and the origin of the source of data recorded by and retrieved from vehicle units, motion sensors and tachograph cards;

(c) be interoperable;

(d) be user friendly.

3. Tacographs shall be designed and used in such a way as to ensure privacy and the protection of personal data.

4. Tacographs shall be positioned in the vehicle in such a way that they are fully reachable and readable from the driver's normal sitting position, allow the driver whilst driving to access and operate safely the necessary functions from his seated

position and do not divert the driver's attention from the road.

5. Downloading of data shall be performed with the minimum delay to transport undertakings or drivers.

6. Downloading of data may not result in data being altered or deleted. The downloading of the detailed speed file may not be necessary to ensure compliance with Regulation (EC) No 561/2006, but may nonetheless be performed and used for other purposes, such as accident investigation.

Justification

Your Rapporteur considers very important to insert in the text of the Regulation the essential principles and requirements to which tachographs have to comply with. Currently many of them are only set out in the Annexes, which have not been submitted for consideration with this proposal. Annexes should only include more detailed information in relation to these basic principles and requirements, which should be in the text of the Regulation to allow Parliament to discuss them during the codecision procedure.

Amendment 40

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

Functions of the tachograph

The tachograph shall ensure the following functions:

- (1) monitoring cards, insertions and withdrawals,*
- (2) speed and distance measurement,*
- (3) time measurement,*
- (4) monitoring driver activities,*
- (5) monitoring driving status,*
- (6) drivers manual entries,*

- (7) entry of places where daily work periods begin and/or end,*
- (8) manual entry of driver activities,*
- (9) entry of specific conditions,*
- (10) company locks management,*
- (11) monitoring control activities,*
- (12) detection of events and/or faults,*
- (13) built-in and self tests,*
- (14) reading from data memory,*
- (15) recording and storing in data memory,*
- (16) reading from tachograph cards,*
- (17) recording and storing in tachograph cards,*
- (18) displaying,*
- (19) printing,*
- (20) warning,*
- (21) data downloading to external media,*
- (22) output data to additional external devices,*
- (23) calibration,*
- (24) time adjustment,*
- (25) indication of remaining driving time,*
- (26) indication of rest time taken.*

Justification

Functions of the tachograph should be laid out by the Regulation itself. They are currently in the Annexes, which have not been submitted with this Proposal.

Amendment 41

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 3 c (new)

Article 3c

Data to be recorded

1. The digital tachograph shall record the following data:

(a) distance travelled, and speed of the vehicle;

(b) time measurement;

(c) position of starting and ending of the driver's daily working period and of each transport operation;

(d) identity of the driver;

(e) activity of the driver;

(f) calibration data, including the identity of the workshop;

(g) events and faults.

2. The analogue tachograph shall record at least the data referred to in paragraph 3 (a), (b) and (e).

3. Access to the data stored in the tachograph may be granted at all times to:

(a) the competent control authorities for control checks, and,

(b) the relevant transport undertaking so that it can comply with its legal obligations, in particular as set out in Articles 28 and 29.

Access to data containing personal data shall only be granted after the appropriate authorisation in accordance with data protection legislation has been granted.

Amendment 42

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 3 d (new)

Article 3d

Display

1. The tachograph shall be able to display:

- (a) default data,**
- (b) data related to warnings,**
- (c) data related to menu access,**
- (d) other data requested by the user in accordance with paragraph 1 of Article 3c,**

(e) information related to the driver:

- if his current activity is *DRIVING*, his current continuous driving time and his current cumulative break time,**
- if his current activity is *NOT DRIVING*, the current duration of this activity (since it was selected) and his current cumulative break time.**

2. Additional information may be displayed by the tachograph, provided that it is clearly distinguishable from the information required above.

3. When no other information needs to be displayed, the tachograph shall display, by default, the following:

- time,**
- mode of operation,**
- current activity of the driver and the current activity of the co-driver.**

Display of data related to each driver shall be clear, plain and unambiguous. In the event that the information related to the driver and the co-driver cannot be displayed at the same time, the tachograph shall display by default the information related to the driver and shall allow the user to display the information related to the co-driver.

4. The tachograph shall display warning information in accordance with Article 3d. A literal description of the warning may also be added in the driver's preferred language.

Justification

In order to assess the user friendliness of the tachograph and its role as a tool to help drivers comply with legislation, the basic elements to be displayed should be included among the requirements of the tachograph provided for in this Chapter.

Amendment 43

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 3 e (new)

Text proposed by the Commission

Amendment

Article 3e

Warnings

- 1. The tachograph shall warn the driver when detecting any event and/or fault. The tachograph shall warn the driver 15 minutes before and at the time of exceeding the maximum allowed continuous driving time.***
- 2. Warnings shall be visual. Visual warnings shall be clearly recognisable by the user, shall be displayed in the driver's field of vision and shall be clearly legible both by day and by night. Audible warnings may also be provided in addition to visual warnings.***
- 3. Warnings shall have a duration of at least 30 seconds, unless acknowledged by the user by pushing any key of the tachograph.***
- 4. The warning cause shall be displayed on the tachograph and remain visible until acknowledged by the user using a specific key or command of the tachograph. Additional warnings may be***

provided, as long as they do not confuse drivers in relation to previously defined ones.

Justification

Taking into consideration the usefulness of warnings for drivers, the essential functionalities of the warnings should be included in the text of the Regulation to be discussed through the codecision procedure. Currently they are set out in Annex IB.

Amendment 44

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 3 f (new)

Text proposed by the Commission

Amendment

Article 3f

Data protection and privacy

1. The processing of personal data in the context of this Regulation shall be carried out in accordance with Directive 95/46/EC and Directive 2002/58/EC and under the supervision of the public independent authority of the relevant Member State referred to in Article 28 of Directive 95/46/EC.

2. Only data strictly necessary for the purpose of the processing shall be processed.

3. The specifications referred to in this Regulation shall ensure the confidentiality of the personal data recorded, processed and stored by the tachograph, data integrity and prevent fraud and unlawful manipulation of this data.

Appropriate security measures shall be adopted to guarantee that personal data is protected in particular in relation to:

- the use of a global navigation satellite system (GNSS) for the recording of

*location data as referred to in Article 4,
- the use of remote communication for control purposes as referred to in Article 5,*

- the use of tachographs with a harmonised interface as referred to in Article 6,

- the electronic exchange of information on driver cards as referred to in Article 26,

- the keeping of records by transport undertakings as referred to in Article 29.

4. The owners of vehicles and/or transport undertakings shall comply with the relevant provisions on the protection of personal data.

5. In order to promote good data protection practices, the European Data Protection Supervisor and the Article 29 Working Party of Data Protection Authorities shall be part of the Tachograph Forum foreseen in Article 41 of this Regulation.

6. Any cross-border exchanges of data with third country authorities in the context of the application of this Regulation shall require the existence of appropriate data protection safeguards to ensure that an adequate level of protection is guaranteed, in compliance with Articles 25 and 26 of Directive 95/46/EC.

Justification

A reinforced dedicated provision relating to data protection should be included in Chapter I giving the impact that the use of tachographs may have in this field. The proposal lacks clarity and certainty on the modalities of the processing of data, including personal data relating to professional drivers, which are left to a later update of Annex IB of the Regulation. It is important also to include a dedicated paragraph on the level of security to be achieved at all stages of development and use of the tachograph, especially during its use. The Communication from the Commission indicates that a number of third countries apply the principles of the tachograph regulation. In the Proposal there is no indication of any international exchange of tachograph data. This amendment tends to clarify this point.

Amendment 45

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 3 g (new)

Text proposed by the Commission

Amendment

Article 3g

Specifications

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 to adopt the detailed specifications necessary to amend and supplement the Annexes to this Regulation to ensure that the tachograph, the tachograph cards and software used by control officers for the analysis and interpretation of data stored in the tachograph comply with the principles and requirements set out in this Regulation, in particular in Chapter I and Chapter II.

2. The Commission shall adopt the detailed specifications referred to in paragraph 1 two years after ... *.

3. Where relevant, and depending on the area covered by the specification, the specification may include one or more of the following types of provisions:

(a) functional provisions that describe the roles of the various users and the information flow between them;

(b) technical provisions that provide for the technical means to fulfil the functional provisions and requirements set down in this Regulation;

(c) organisational provisions that describe the procedural obligations of the various stakeholders;

(d) service provisions that describe the various levels of services and their content.

4. The specifications shall, where appropriate, be based on standards and shall guarantee the interoperability and compatibility between the various versions and generations of vehicle units, tachographs cards and equipment of enforcement authorities.

5. In relation to the performance of the functions of the smart tachograph referred to in Chapter II, the specifications shall include the necessary requirements to guarantee the accuracy and reliability of data provided by the use of external devices connected to the tachograph.

6. Any data that can be transmitted or collected in or out of the tachograph whether wirelessly or electronically, whether forming part of a legal requirement or not, shall be in the form of publicly available protocols.

7. The Commission shall conduct an impact assessment including a cost-benefit analysis prior to the adoption of the specifications referred to in Chapter II.

**** OJ: please insert date of entry into force of this Regulation.***

Justification

The main requirements of the tachograph system should be set out in the text of the Regulation and not in annexes, which should include only more detailed requirements. Their inclusion in the text of the Regulation gives Parliament the opportunity to discuss them during the codecision procedure. The deadline for the specifications is the date given by the Commission in its Communication accompanying the proposal. The Impact Assessment carried out by the Commission lacks precise information about the costs of the new technologies. Therefore a cost benefit analysis prior to the adoption of the specifications is recommended.

Amendment 46

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 4 – paragraph 1

Text proposed by the Commission

Location data shall be recorded to allow the identification of the starting and ending place of the daily work period. For that purpose, vehicles put into service for the first time [***48 months*** after the entry into force of ***this Regulation***] shall be fitted with recording equipment connected to a global navigation satellite system (GNSS).

Amendment

In order to facilitate verification of compliance with the relevant legislation, the position of the starting and ending place of the daily working period and of each transport operation shall be recorded automatically. For that purpose, vehicles put into service for the first time ***24 months*** after the entry into force of ***the specifications referred to in this Article and in Article 3g*** shall be fitted with a ***tachograph*** connected to a global navigation satellite system (GNSS).

Justification

The purpose of the recording of location data should be explicitly mentioned in the article. The recording shall be done automatically to avoid any specific extraordinary action by the driver. According to the Commission' Communication accompanying the proposal, the specifications would be ready by 31 December 2014. After the publication of the technical specifications, the industry would need at least two years to put the product on the market. The commercialisation of the new 'smart' tachograph could therefore take place by 1 January 2017.

Amendment 47

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. As regards the connection of the tachograph to a GNSS, as referred to in paragraph 1, use shall be made only of satellite positioning service connections that exploit a positioning service free of charge.

No position data other than those expressed, wherever possible, in geographical coordinates for determining the starting and ending points referred to in paragraph 1 shall be stored in the tachograph.

Justification

Only the use of a free service should be made compulsory to avoid the increase in the costs of the smart tachograph.

Amendment 48

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 4 – paragraph 2

Text proposed by the Commission

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the ***supplementing of Annex IB with the detailed technical specifications necessary to enable the processing of the location data received from the GNSS by the recording equipment.***

Amendment

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the ***development of the detailed specifications necessary to enable the processing of the location data received from the GNSS by the tachograph as set out in this Article.***

In particular, the specifications shall comply with the following conditions:

- they shall be based on the use of a free of charge GNSS service;***
- only the location data strictly needed to cross check the information recorded by the tachograph by control authorities shall be automatically and compulsorily recorded;***
- a data protection impact assessment shall be carried out and made publicly available before the adoption of the delegated acts referred to in this Article;***
- the use of authenticated signals shall not be compulsory as far as they cannot be***

obtained free of charge.

The specifications shall establish the type of events that may trigger an automatic record of position and the situation for which a manual record should remain possible. The specifications shall specify the different conditions and requirements for the GNSS receiver to be both outside or embedded in the tachograph, and when outside how to correlate GNSS with other vehicle motion data.

Justification

The basic framework of the use of this new technology should be set through the codecision procedure and not entirely by the Commission through delegated acts.

Amendment 49

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Any other use of the location data recorded by the tachograph shall be voluntary for transport undertakings and shall comply with the data protection legal framework in the Union.

Amendment 50

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 5 – title

Text proposed by the Commission

Amendment

Remote *communication for control purposes*

Remote *early detection of possible manipulation or misuse*

Justification

The data to be communicated for control purposes should be limited to those facts identifying manipulation or misuse of the tachograph.

Amendment 51

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 5 – paragraph 1

Text proposed by the Commission

1. In order to facilitate targeted roadside checks by the competent control authorities, the **recording equipment** installed in vehicles **put into service** for the first time [**48 months** after the entry into force of **this Regulation**] shall be able to communicate while the vehicle is in motion to those authorities.

Amendment

1. In order to facilitate targeted roadside checks by the competent control authorities, the **tachograph** installed in vehicles **registered** for the first time **24 months** after the entry into force of **specifications referred to in this Article and Article 3g** shall be able to communicate **data to those authorities** while the vehicle is in motion.

Justification

It is deemed that once the specifications are published, manufacturers need on average two years to put the new product in the market.

Amendment 52

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall equip their control authorities with the remote early detection equipment necessary to permit the data communication referred to in this Article.

Justification

The control authorities' equipment necessary to carry out these remote controls shall be considered part of appropriate control equipment referred to in Article 39a.

Amendment 53

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 5 – paragraph 2

Text proposed by the Commission

2. Communication shall be established with the **recording equipment** only when so requested by the equipment of the control authorities. It shall be secured to ensure data integrity and authentication of the recording and control equipment.

Amendment

2. ***The communication of data referred to in paragraph 1*** shall be established with the ***tachograph*** only when so requested by the equipment of the control authorities. It shall be secured to ensure data integrity and authentication of the tachograph and control equipment. ***The access to the data communicated shall be restricted to enforcers authorised to control infringements of this Regulation and Regulation (EC) No 561/2006 and to workshops insofar as it is necessary to verify the correct functioning of the tachograph.***

Amendment 54

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 5 – paragraph 3

Text proposed by the Commission

3. The data exchanged during communication shall be limited to the data necessary for the purpose of targeted roadside checks. Data concerning the identity of the driver, ***driver activities and speed*** shall not be communicated.

Amendment

3. The data exchanged during communication shall be limited to the data necessary for the purpose of targeted roadside checks. ***Such data shall relate to the following events or data recorded by the tachograph:***

- The latest security breach attempt***

- *The longest power supply interruption*
- *Sensor fault*
- *Motion data error*
- *Vehicle motion conflict*
- *Driving without a valid card*
- *Card insertion while driving*
- *Time adjustment data*
- *Calibration data including the dates of the two latest calibrations*
- *Vehicle Registration Number*

Data concerning the identity *and nationality* of the driver shall not be communicated.

Justification

The proposal lacks clarity and legal certainty on the modalities of the processing of data. The set of data which can be communicated should be defined in the Regulation.

Amendment 55

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 5 – paragraph 4

Text proposed by the Commission

4. The data exchanged shall be used for the sole purpose of controlling compliance with this Regulation and Regulation (EC) No 561/2006. It shall not be transmitted to entities other than control authorities.

Amendment

4. The data exchanged shall be used for the sole purpose of controlling compliance with this Regulation and Regulation (EC) No 561/2006. It shall not be transmitted to entities other than control authorities *or judicial bodies, during the course of an ongoing judicial procedure.*

Amendment 56

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 5 – paragraph 5

Text proposed by the Commission

5. The data may only be stored by the control authorities for the duration of a roadside check, and shall be deleted at the latest two hours after **this has concluded**.

Amendment

5. The data may only be stored by the control authorities for the duration of a roadside check, and shall be deleted at the latest two hours after **their communication unless the data indicate a possible manipulation or misuse of the tachograph. If in the course of the subsequent roadside check the manipulation or misuse is not confirmed, the data transmitted shall be deleted. Data related to vehicle identification or to a technical parameter not containing any personal data can be used by control authorities for statistical purposes.**

Justification

In the case of an indication of possible fraud, control authorities should be allowed to keep the data communicated by the tachograph until they can carry out the roadside check. If the check does not confirm manipulation or misuse of the tachograph there is no reason to keep the data once the check is finished.

Amendment 57

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 5 – paragraph 6

Text proposed by the Commission

6. **The owner or holder of** the vehicle shall be responsible for informing the driver of the possibility of remote communication.

Amendment

6. **The transport undertaking which operates** the vehicle shall be responsible for informing the driver of the possibility of remote communication.

Amendment 58

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 5 – paragraph 7

Text proposed by the Commission

Amendment

7. The competent control authority, on the basis of the data exchanged, may decide to carry out a check on the vehicle and the recording equipment.

7. *In no case shall a remote control communication of the type described in this Article lead to automatic fines or penalties for the driver or undertaking.*
The competent control authority, on the basis of the data exchanged, may decide to carry out a check on the vehicle and the tachograph. ***The result of the remote communication shall not prevent control authorities from carrying out random roadside checks based on the risk rating system introduced by Article 9 of Directive 2006/22/EC.***

Justification

The aim of this article is to allow performing 'basic' controls through the communication of a restricted set of sensitive parameters to a fix or mobile infrastructure, while the truck is driven. This will help to screen and filter the trucks before a control, increasing the efficiency of the control. Even if the data communicated indicates a possible manipulation or misuse of the tachograph it will be necessary to carry out a roadside check to confirm the manipulation or misuse.

Amendment 59

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 5 – paragraph 8

Text proposed by the Commission

Amendment

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the ***supplementing of Annex IB with the detailed technical specifications necessary to enable remote communication between the recording equipment and the competent control authorities as set out in this Article.***

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the ***development of*** the detailed specifications necessary to enable remote communication between the ***tachograph*** and the competent control authorities as set out in this Article.

Amendment 60

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Only data recorded or produced by the tachograph that are strictly necessary for processing in an intelligent transport system (ITS) application may be accessible.

Data recorded or produced by the tachograph may be transmitted to ITS applications provided that the following conditions are met:

(a) the interface does not affect the authenticity and the integrity of the data of the tachograph;

(b) the external device connected to the interface has access to personal data, including geopositioning data, only after the verifiable consent of the driver to which the data relates.

Justification

This amendment intends to set the basic framework for the use by ITS applications of data processed by the tachograph.

Amendment 61

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purpose of paragraph 1, vehicles put into service for the first time ***[48 months after the entry into force of this Regulation]*** shall be fitted with ***recording equipment*** equipped with a harmonised

2. For the purpose of paragraph 1, vehicles put into service for the first time ***24 months after the entry into force of the technical specifications referred to in this Article*** shall be fitted with ***a tachograph***

interface allowing the data recorded **or produced** to be used for intelligent transport systems applications.

equipped with a harmonised interface allowing the data recorded to be used for intelligent transport systems application.

Amendment 62

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 6 – paragraph 3

Text proposed by the Commission

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the **supplementing** of **Annex IB with** the specifications of the interface, access rights and the list of data which may be accessed.

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the **development** of the specifications of the **harmonised** interface, access rights and the list of data which may be accessed.

Priority shall be given to the development of a harmonised ITS application which enables drivers to interpret the data recorded in the tachograph in order to help them comply with social legislation.

Justification

It should be prioritary for the Commission to develop the appropriate specifications to allow the use of an ITS application providing interpretation of data to drivers.

Amendment 63

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 7 – paragraph 1

Text proposed by the Commission

1. Manufacturers or their agents shall submit an application for EU approval of a type of vehicle unit, motion sensor, model record sheet or tachograph card to the type approval authorities designated to that effect by each Member State.

Amendment

1. Manufacturers or their agents shall submit an application for EU approval of a type of vehicle unit, motion sensor, model record sheet, tachograph card **or software used by the competent control authorities to interpret data**, to the type approval authorities designated to that effect by each

Member State *and whose certification conditions are recognised by the management committee of the SOG-IS European mutual recognition agreement. The Commission shall consult the management committee of the SOG-IS agreement before any decision is made to recognise a certification body from a third country.*

Justification

The software used by control authorities should be type approved to guarantee the same results throughout Europe when interpreting data to detect infringements of the legislation.

Amendment 64

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 7 – paragraph 2

Text proposed by the Commission

2. Member States shall communicate to the Commission the name and contact details of the authorities designated according to paragraph 1. The Commission shall publish the list of designated type approval authorities on its website.

Amendment

2. Member States shall communicate to the Commission *at the latest three months after ...* * the name and contact details of the authorities designated according to paragraph 1. The Commission shall publish the list of designated type approval authorities on its website.

** OJ: please insert date of entry into force of this Regulation.*

Amendment 65

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Type approval of tachographs and of tachograph cards shall include security related tests, functional tests and

interoperability tests. Positive results for each of these tests shall be stated on an appropriate certificate.

Justification

The main elements of the type approval process should be set out in the text of the Regulation and not in the Annexes.

Amendment 66

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 7 – paragraph 3

Text proposed by the Commission

3. An application for type approval shall be accompanied by the appropriate specifications and by ***the*** certificates ***referred to in Section VIII of Annex IB. The Commission shall appoint the independent evaluators who will deliver the security certificate.***

Amendment

3. An application for type approval shall be accompanied by the appropriate specifications and by ***security, functional and interoperability*** certificates. ***It shall also provide information on how the elements of the tachograph are to be sealed.***

Justification

Important provisions related to type approval currently set out in the Annexes to the Regulation should be included in the text of the Regulation to improve clarity and legal certainty. Information on seals is necessary to know how each element of the tachograph will be sealed.

Amendment 67

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 7 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The security certificate stating compliance against security targets shall be delivered in accordance with the provisions of this Regulation. The security

certificate shall be issued by a certification body recognised by the Commission.

A functional certificate shall be delivered to the manufacturer only after all functional tests specified in accordance with this Regulation, certifying that the item tested fulfils the appropriate requirements in terms of functions performed, measurement accuracy and environmental characteristics, have been successfully passed. The type approval authority shall deliver the functional certificate.

An interoperability certificate shall be delivered by a single laboratory under the authority and responsibility of the Commission. The interoperability tests, certifying that the tachographs or tachograph card are fully interoperable with the necessary tachographs or tachograph card models, are carried out in accordance with this Regulation. No interoperability tests shall be carried out by the laboratory for tachograph or tachograph cards that have not been granted a security certificate and a functionality certificate, except in the exceptional circumstances described in this Regulation.

Amendment 68

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 7 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. Any modification in software or hardware of the tachograph or in the nature of materials used for its manufacture shall, before being used, be notified to the authority which granted type-approval for the equipment. This

authority shall confirm to the manufacturer the extension of the type approval, or may require an update or a confirmation of the relevant functional, security and/or interoperability certificates.

Amendment 69

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 8 – paragraph 1

Text proposed by the Commission

1. A Member State shall grant EU component type approval to any type of vehicle unit, motion sensor, model record sheet *or* tachograph card which complies with the requirements *laid down in Annexes I or IB*, provided the Member State is in a position to check that production models conform to the approved type.

Amendment

1. A Member State shall grant EU component type approval to any type of vehicle unit, motion sensor, model record sheet, tachograph card *or software for the interpretation of data stored by the tachograph by control authorities* which complies with the requirements *set out in the specifications referred to in this Regulation*, provided the Member State is in a position to check that production models conform to the approved type.

Justification

Software used by control authorities in Member States should be type approved to avoid different interpretations of data leading to a different assessment about compliance or infringement.

Amendment 70

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 10 – paragraph 1

Text proposed by the Commission

The competent authorities of the Member State to which the application for type approval has been submitted shall, in

Amendment

The competent authorities of the Member State to which the application for type approval has been submitted shall, in

respect of each type of vehicle unit, motion sensor, model record sheet *or* tachograph card which they approve, send within one month a copy of the approval certificate accompanied by copies of the relevant specifications to the authorities of the other Member States.

respect of each type of vehicle unit, motion sensor, model record sheet, tachograph card *or software for the interpretation of data stored by the tachograph by control authorities*, which they approve, send within one month a copy of the approval certificate accompanied by copies of the relevant specifications, *including information about the seals*, to the authorities of the other Member States.

Justification

It seems that, since seals are not standardised yet, information on how the elements of the tachograph are to be sealed is needed.

Amendment 71

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 15 – paragraph 1

Text proposed by the Commission

1. Manufacturers shall design, test and review vehicle units, motion sensors and tachograph cards put into production so as to detect vulnerabilities arising at all phases of the product life-cycle, and prevent or mitigate their possible exploitation.

Amendment

1. Manufacturers shall design, test and review vehicle units, motion sensors and tachograph cards put into production so as to detect vulnerabilities arising at all phases of the product life-cycle, and prevent or mitigate their possible exploitation. *The frequency of tests shall be established by the Member State which granted the approval certificate, within a limit which shall not exceed two years.*

Amendment 72

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 15 – paragraph 2

Text proposed by the Commission

2. For this purpose, manufacturers shall

Amendment

2. For this purpose, manufacturers shall

submit appropriate documentation to the *independent evaluator* referred to in *Article 7(3)* for vulnerability analysis.

submit appropriate documentation to the *certification body as* referred to in *Article 7(3a)* for vulnerability analysis.

Amendment 73

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 15 – paragraph 3

Text proposed by the Commission

3. *Independent evaluators* shall conduct penetration tests on vehicle units, motion sensors and tachograph cards to confirm that known vulnerabilities cannot be exploited by individuals in possession of publicly available knowledge.

Amendment

3. *For the purpose of paragraph 1, the certification body as referred in Article 7(3a)* shall conduct penetration tests on vehicle units, motion sensors and tachograph cards to confirm that known vulnerabilities cannot be exploited by individuals in possession of publicly available knowledge.

Amendment 74

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 15 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. If in the course of the tests as referred to in paragraphs 1 and 3, vulnerabilities in the vehicle unit, motion sensor or tachograph cards are detected, these elements shall not be put on the market. In such cases, the Member State which has granted the type approval shall withdraw it, in accordance with Article 11(2).

Justification

Your rapporteur considers that these provisions lay down obligations that should be set out in the text of the Regulation and not in the Annexes to it. They reinforce the security of the tachograph system by laying down concrete obligations for manufacturers, certification

bodies and Member States.

Amendment 75

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 15 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. When a manufacturer or the certification body referred to in Article 7(3a) identifies a very serious vulnerability in the vehicle unit, motion sensor or tachograph cards and these elements have already been put on the market, the manufacturer or the certification body as referred in Article 7(3a) shall inform the competent authorities of that Member State without delay.

Amendment 76

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 15 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. Member States shall take all the necessary measures to ensure that the problem referred to in paragraph 3b is addressed, in particular by the manufacturer, and shall inform the Commission without delay of the vulnerabilities detected and of the measures envisaged or taken.

Amendment 77

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 17 – paragraph 2

Text proposed by the Commission

2. Fitters or workshops shall seal the **recording equipment** after having verified that it is functioning properly, and in particular that no manipulation device can tamper with or alter the data recorded.

Amendment

2. **Approved** fitters or workshops shall seal the **tachograph according to the specifications included in the type approval certificate referred to in Article 10**, after having verified that it is functioning properly and in particular that no manipulation device can tamper with or alter the data recorded.

Amendment 78

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 17 – paragraph 5

Text proposed by the Commission

5. A seal shall be removed only by the fitters or workshops approved by the competent authorities under paragraph 1 or by control officers, or in the circumstances described in Annex I, Section V, point 4 or in Annex IB, Section V, point 3.

Amendment

deleted

Justification

An article dealing with seals, incorporating this paragraph, have been included by the following amendment.

Amendment 79

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17a

Sealing

1. The following part of the tachograph shall be sealed:

- any connection which, if disconnected, would cause undetectable alterations to be made or undetectable data loss;

- the installation plaque, unless it is attached in such a way that it cannot be removed without the markings thereon being destroyed.

2. A seal may be removed only by the fitters or workshops approved by the competent authorities under Article 17(1) or by certified control officers, or in the circumstances described in this Regulation.

3. On each occasion that these seals are broken a written statement giving the reasons for such action shall be prepared and made available to the competent authority.

Justification

Seals are an important element for detecting fraud; therefore a provision setting out their main characteristics should be included in the text of the Regulation and not only in the annexes.

Amendment 80

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 18 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. These inspections shall include the following minimum checks:

(1) that the tachograph is working

properly;

(2) that the tachograph carries the type approval mark;

(3) that the installation mark is affixed;

(4) that the seals on the tachograph and on other parts of the installation are intact;

(5) that there are no manipulation devices attached to the tachograph.

Justification

This amendment intends to bring important non technical information from the annexes to the text of text of the Regulation as your Rapporteur considers these minimum checks to be part of the definition of what an inspection should be.

Amendment 81

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 19 – paragraph 3 – point b

Text proposed by the Commission

(b) Unannounced technical audits of approved fitters or workshops shall also take place in order to control the calibrations and installations carried out. These controls shall cover at least **10** % of the approved workshops per year.

Amendment

(b) Unannounced technical audits of approved fitters or workshops shall also take place in order to control the calibrations and installations carried out. These controls shall cover at least **20** % of the approved workshops per year.

Justification

Workshops play an essential role in relation to the tachograph system. As it seems that in many cases manipulation of the tachograph is not possible without the intervention or agreement of a workshop, whorkshops should be audited in a higher proportion.

Amendment 82

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 19 – paragraph 4

Text proposed by the Commission

4. Member States shall take appropriate measures to prevent conflicts of interests between fitters or workshops and road transport undertakings. In particular, ***if a transport undertaking is also operating as an approved fitter or workshop, it shall not be allowed to install and calibrate recording equipment in its own vehicles.***

Amendment

4. Member States ***and their competent authorities*** shall take appropriate measures to prevent conflicts of interests between fitters or workshops and road transport undertakings. In particular, ***in the event of a serious risk of conflict of interest, additional specific measures*** shall be ***taken to ensure that the fitter or the workshop complies with this Regulation.***

Amendment 83

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 20 – paragraph 1

Text proposed by the Commission

1. The period of administrative validity of workshop cards shall not exceed one year.

Amendment

1. The period of administrative validity of workshop cards shall not exceed one year. ***When renewing the workshop card, the competent authority shall ensure that the criteria listed in Article 19(2), are met by the fitter or workshop.***

Justification

This amendment intends to increase the controls over workshops' activities and therefore their trustworthiness.

Amendment 84

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 21 – paragraph 1

Text proposed by the Commission

1. The driver card shall be issued, at the request of the driver by the competent authority of the Member State where the

Amendment

1. The driver card shall be issued, at the request of the driver by the competent authority of the Member State where the

driver has his normal residence. It shall be issued within **one month** of the request being received by the competent authority.

driver has his normal residence. It shall be issued within **15 days** of the request being received by the competent authority.

Justification

There is no reason why any driver card cannot be issued within 15 days when this can be done for card renewals. The existing one month deadline for new card represents an unnecessary barrier to driver's right to work.

Amendment 85

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 21 – paragraph 6

Text proposed by the Commission

6. A valid driver card shall not be withdrawn or suspended unless the competent authorities of a Member State find that the card has been falsified, or the driver is using a card of which he is not the holder, or the card held has been obtained on the basis of false declarations and/or forged documents. If such suspension or withdrawal measures are taken by a Member State other than the issuing Member State, the former shall return the card to the authorities of the Member State which issued it, indicating the reasons for **returning it**.

Amendment

6. A valid driver card shall not be withdrawn or suspended unless the competent authorities of a Member State find that the card has been falsified, or the driver is using a card of which he is not the holder, or the card held has been obtained on the basis of false declarations and/or forged documents. If such suspension or withdrawal measures are taken by a Member State other than the issuing Member State, the former shall return the card to the authorities of the Member State which issued it, **as soon as possible**, indicating the reasons for **withdrawal or suspension**.

Amendment 86

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 26 – paragraph 1

Text proposed by the Commission

– Driving licence number and country of issue of the driving licence (if applicable)

Amendment

– **Valid** driving licence number and country of issue of the driving licence (if

applicable)

Justification

It is not necessary to apply for a new tachograph card on the expiry of the driving licence, so it may sometimes happen that the data on the card does not tally with the identification number of the current driving licence.

Amendment 87

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 26 – paragraph 2

Text proposed by the Commission

2. The Commission and the Member States shall take all necessary measures to ensure that the electronic registers are interconnected and accessible throughout the Union.

Amendment

2. The Commission and the Member States shall take all necessary measures to ensure that the electronic registers are interconnected and accessible throughout the Union, ***using the TACHOnet Messaging System or a compatible system.***

Justification

The TACHOnet is the system already in place.

Amendment 88

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 26 – paragraph 4

Text proposed by the Commission

4. Control officers ***may*** have access to the electronic register in order to control the status of a driver card.

Amendment

4. Control officers ***shall*** have access to the electronic register in order to control the status of a driver card.

Justification

Access by control officer to this register in order to control the status of a driver card is an important element to improve the efficiency of control checks.

Amendment 89

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 27

Text proposed by the Commission

Driver cards shall be issued in accordance with the provisions of this Chapter ***until 18 January 2018. With effect from 19 January 2018, driver cards shall be incorporated into driving licences and issued, renewed, exchanged and replaced in accordance with the provisions of Directive 2006/126/EC.***

Amendment

Driver cards shall be issued in accordance with the provisions of this Chapter.

Within 24 months of ...^{*}, the Commission is to carry out an Impact Assessment on the feasibility and merits of merging all of the cards used by professional drivers, in particular the driver card with the driver licence, in order to reduce the amount of card fraud currently taking place. The Commission shall examine in particular all the technical solutions available, card compatibility problems and data protection related issues. The Commission shall communicate its findings to the European Parliament within 30 months of ...^{*}.

^{*} OJ: please insert date of entry into force of this Regulation.

Amendment 90

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 28 – paragraph 1

Text proposed by the Commission

1. The transport undertaking, the vehicle owner and the drivers shall ensure the correct functioning and proper use of the

Amendment

1. The transport undertaking, the vehicle owner and the drivers shall ensure the correct functioning and proper use of the

recording equipment and the driver card where a driver is required to drive a vehicle fitted with ***the recording equipment referred to in Annex IB***.

tachograph and the driver card where the driver is required to drive a vehicle fitted with ***a digital tachograph***. ***Whenever an analogue tachograph is used the transport undertaking and the driver shall ensure its correct functioning and the proper use of the record sheet.***

Amendment 91

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 28 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The digital tachograph shall not be set in a way that it automatically switches to a specific indication when the vehicle's engine or ignition is switched off. The driver shall be able to choose manually a category, depending on his activity or rest after the switch off.

Justification

The actual regulation does not provide a legal provision to stipulate what the tachograph should indicate when the engine of the vehicle is switched off. The current wide-spread practice is that the tachograph switches automatically onto "break", without informing the driver about this automatic setting.

Amendment 92

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 29 – paragraph -1 (new)

Text proposed by the Commission

Amendment

***(-1) The transport undertaking shall:
(1) give to drivers it employs or who are at its disposal the necessary training and instructions as regards the correct***

functioning of tachographs;

(2) make regular checks to ensure that the drivers it employs or who are at its disposal make correct use of tachographs and;

(3) not give to drivers it employs or who are at its disposal any direct or indirect incentives that could encourage the misuse of the recording equipment.

Justification

An amendment has been included to better clarify some of the obligations of the undertaking towards its employees in relation to the use of the tachograph.

Amendment 93

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 29 – paragraph -1 (new)

Text proposed by the Commission

Amendment

Drivers shall submit their driver cards for regular inspections by the transport undertaking to check their validity and detect any manipulation.

Amendment 94

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 29 – paragraph 3

Text proposed by the Commission

Amendment

3. A transport undertaking shall be liable for infringements against this Regulation committed by drivers of the undertaking. ***Without prejudice to the right of*** Member States ***to*** hold transport undertakings fully liable, Member States may consider any evidence that the transport undertaking

3. Drivers and transport undertakings are liable for infringements against this Regulation. A transport undertaking shall be liable for infringements against this Regulation committed by drivers of the undertaking ***or by those at its disposal.*** ***Whilst*** Member States ***can*** hold transport

cannot reasonably be held responsible for the infringement committed.

undertakings fully liable, *in doing so* Member States may *nonetheless* consider any evidence that *demonstrates that* the transport undertaking cannot reasonably be held responsible for the infringement committed.

Justification

This amendment has been proposed to clarify that transport undertakings should be liable not only for the infringements committed by its employees but also for those committed for those drivers who are put at its disposal. This amendment intends to avoid the situation where a transport company cannot be held liable either because there is no formal contract with the company or because the driver, though working the facto for the company, has his contract with another company, which put the driver at the disposal of the former.

Amendment 95

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 30 – paragraph 3 – subparagraph 2

Text proposed by the Commission

For control purposes, periods of time for which no activity has been recorded shall be regarded as rest or break. **Drivers are not obliged to record daily and weekly rest periods when having been** away from the vehicle.

Amendment

For control purposes, periods of time for which no activity has been recorded shall be regarded as rest or break. **Member States shall not impose a requirement on drivers to present forms attesting to their activities while being** away from the vehicle.

Amendment 96

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 30 – paragraph 7 – subparagraph 1

Text proposed by the Commission

7. The driver shall enter in the **recording equipment referred to in Annex IB** the symbols of the countries in which the daily **work** period was started and finished.

Amendment

7. The driver shall enter in the **digital tachograph** the symbols of the countries in which the daily **working** period was started and finished. However, a Member State

However, a Member State may require drivers of vehicles engaged in transport operations inside its territory to add more detailed geographic specifications to the country symbol provided that the Member State notified them to the Commission before 1 April 1998.

may require drivers of vehicles engaged in transport operations inside its territory to add more detailed geographic specifications to the country symbol provided that the Member State notified them to the Commission before 1 April 1998.

Amendment 97

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 32 – paragraph 3

Text proposed by the Commission

3. ***An authorised*** inspecting officer may check compliance with Regulation (EC) No 561/2006 by analysis of the record sheets, of the displayed ***or*** printed data which have been recorded by the ***recording equipment*** or by the driver card or, failing this, by analysis of any other supporting document that justifies non-compliance with a provision, such as those laid down in Articles 24(2) and 33(2) of this Regulation.

Amendment

3. ***A certified*** inspecting officer may check compliance with Regulation (EC) No 561/2006 by analysis of the record sheets, of the displayed, printed ***or downloaded*** data which have been recorded by the ***tachograph*** or by the driver card or, failing this, by analysis of any other supporting document that justifies non-compliance with a provision, such as those laid down in Articles 24(2) and 33(2) of this Regulation.

Amendment 98

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 32 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission is to carry out a study of enforcement regimes in all the Member States, within 18 months of the first Enforcement Officer Certificates being awarded, to establish how many certified officers there are in each State.

Thereafter, Member States must report to

the Commission on an annual basis, detailing the training received by officers, and the numbers of active Enforcement Officers who have obtained the European Certificate.

Justification

There is a lack of information on enforcement regimes across the EU. Certain states consider all police officers at enforcement officers, even if they have little or no training on tachograph machines. In states where there are special designated officers, the numbers vary hugely. Without this information, enforcement of this regulation will not be uniform.

Amendment 99

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 33 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Measures taken by Member States pursuant to Article 37 ***may give the competent authorities power*** to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been remedied as provided in the first and the second subparagraphs.

Amendment

Measures taken by Member States pursuant to Article 37 ***shall include the power of the competent authorities*** to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been remedied as provided in the first and the second subparagraphs.

Justification

The means of action of competent authorities should be as harmonised as possible. The possibility of having the vehicle blocked would be an incentive for transport undertakings to comply with their obligations regarding the proper use of the tachographs.

Amendment 100

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 33 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Measures taken by Member States pursuant to Article 37 may give the competent

Amendment

Measures taken by Member States pursuant to Article 37 may give the competent

authorities power to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been remedied as provided in the first and the second subparagraphs.

authorities power to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been remedied as provided in the first and the second subparagraphs. ***The Commission will check here that national and foreign vehicles are treated in the same way in order to eliminate discrimination.***

Justification

In the past, foreign drivers have been discriminated against during administrative controls and national drivers given preferential treatment. This practice should be ruled out.

Amendment 101

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Chapter VII – title

Text proposed by the Commission

Amendment

Data protection, enforcement and sanctions

Enforcement and sanctions

Justification

The article on data protection has been inserted in Chapter I, dealing with requirements and principles.

Amendment 102

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 34

Text proposed by the Commission

Amendment

Article 34

deleted

Protection of personal data

1. Member States shall ensure that the processing of personal data in the context of this Regulation is carried out in accordance with Directives 95/46/EC and

2002/58/EC and under the supervision of the public independent authority of the Member State referred to in Article 28 of Directive 95/46/EC.

2. Member States shall in particular ensure that personal data is protected in relation to:

- the use of a global navigation satellite system (GNSS) for the recording of location data as referred to in Article 4,*
- the use of remote communication for control purposes as referred to in Article 5,*
- the use of recording equipment with a harmonised interface as referred to in Article 6,*
- the electronic exchange of information on driver cards as referred to in Article 26,*
- the keeping of records by transport undertakings as referred to Article 29.*

3. The recording equipment referred to in Annex IB shall be designed in such a way as to ensure privacy. Only data strictly necessary for the purpose of the processing shall be processed.

4. The owners of vehicles and/or transport undertakings shall comply, where applicable, with the relevant provisions on the protection of personal data.

Justification

Given the impact this Regulation may have in relation to personal data and privacy a specific article should be inserted in Chapter I, dealing with “principles”, to underline its importance

Amendment 103

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 34 a (new)

Article 34a

Control officers

1. In order to effectively monitor compliance with this Regulation sufficient standard equipment and appropriate legal powers shall be available to all certified control officers to enable them to carry out their duties according to this Regulation. In particular:

(a) Certified control officers shall be in possession of control cards allowing access to data recorded in the tachograph and in the tachograph cards, including the workshop card.

(b) Certified control officers shall have the relevant harmonised and standardised tools and type-approved software to download data files of the vehicle unit and the tachograph cards and to be able to analyse speedily such data files and print-outs from the digital tachograph in combination with sheets or charts from the analogue tachograph.

2. If after having carried out a check certified control officers find enough evidence leading to reasonable suspicion of fraud, they shall be empowered to direct the vehicle to an authorised workshop to perform further tests in order to control, in particular, that the tachograph:

(a) works properly;

(b) records and stores data correctly and; that the calibration parameters are correct.

3. Certified control officers shall be empowered to instruct authorised workshops to perform the test mentioned in paragraph 2 and specific tests designed to test for the presence of manipulation devices. If manipulation devices are

detected, the equipment, including the device itself, the vehicle unit or its components, and the driver card, may be removed from the vehicle and be used as evidence in compliance with national rules of procedure relating to the handling of such evidence.

4. Certified control officers shall make use of the possibility to check tachographs and driver cards which are on site during a check of the premises of the undertaking.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 to develop the technical and functional specifications in relation to the equipment referred to in paragraph 1.

Justification

This amendment responds to the generally perceived view, expressed consistently by the European Parliament (Grosch report, Markov report, Ranner report) and by road transport social partners, that an improvement in enforcement of Community law concerning road transport operations within the Union is imperative. Only when enforcement officers have the means to address the increasing problem of offences against Community rules, can the Community rightly expect results.

Amendment 104

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 35 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

*2a. The Commission shall adopt decisions to establish a common system of training of control officers within 12 months of ... **

** OJ: please insert date of entry into force of this Regulation.*

Amendment 105

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 35 – paragraph 3

Text proposed by the Commission

3. The Commission shall adopt decisions on the methodology for the initial and continuing training of control officers, including on techniques to target controls and to detect manipulation devices and fraud. Those implementing acts shall be adopted in accordance with the *advisory* procedure referred to in *Article 40(2)*.

Amendment

3. The Commission shall adopt *a* methodology for the initial and continuing training of control officers, including on techniques to target controls and to detect manipulation devices and fraud. *This methodology shall be based on guidelines providing a common interpretation of this Regulation and Regulation 561/2006/EC in order to guarantee a uniform analysis of data recorded by the tachograph in all Member States.* Those implementing acts shall be adopted in accordance with the *examination* procedure referred to in *Article 40(3)*.

Amendment 106

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 35 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

*3a. 24 months after * control officers shall pass an examination in order to obtain a European Enforcement Certificate. This harmonised certification shall prove that they have the appropriate skills to efficiently execute their control tasks as defined in this Regulation, in particular in relation to Article 34a.*

** OJ: please insert date of application of this Regulation.*

Amendment 107

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 35 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The Commission shall adopt decisions on the requirements and contents of the examination referred to in paragraph 3a. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(3).

Justification

Member States should ensure that control officers are properly trained for the execution of their tasks: Nowadays the difference in the level of training and knowledge of control officers seem to be too wide.

Amendment 108

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 35 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. The Commission shall present to the European Parliament and the Council a report every two years regarding the number of control officers following the training in each Member State and obtaining the European Enforcement Certificate.

Amendment 109

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 35 a (new)

Article 35a

Very serious infringements

The following infringements of the obligations set out in this Regulation, due to their special gravity and possible consequences for road safety, shall be considered as very serious infringements in the legislation of Member States:

1. In relation to the obligations concerning the installation of recording equipment: the installation and use of non type-approved tachograph;

2. In relation to the obligations concerning the use of tachographs, driver card or record sheet:

(a) the use of a tachograph not complying with the obligations related to inspection referred to in Article 18

(b) the use of a tachograph not properly inspected, calibrated or sealed;

(c) the use of a driver card which is not valid;

(d) an undertaking not keeping record sheets, printouts and downloaded;

(e) a driver holding more than one valid driver card;

(f) the use of a driver card which is not the driver's own valid card;

(g) the use of a defective or expired driver card;

(h) recorded and stored data not available for at least 365 days;

(i) the use of dirty or damaged sheets or driver cards and data which are not legible;

(j) incorrect use of record sheets/driver cards;

(k) record sheet or driver card used to

cover a period longer than that for which it is intended and data is lost;

(l) not using manual input when required to do so;

(m) not using correct sheets or driver cards in the correct slot (multimanning).

3. In relation to the obligation to fill in information: first name and surname missing on record sheet.

4. In relation to the obligation to produce information:

(a) a refusal to be checked;

(b) an unjustified lack of records for the current day;

(c) an unjustified lack of records for the previous 28 days;

(d) an unjustified lack of records of the driver card if the driver holds one;

(e) an unjustified lack of manual records and printouts made during the current week and the previous 28 days;

(f) unable to produce a driver card;

(g) unable to produce print outs made during the current week and the previous 28 days.

5. Breakdown:

Tachograph not repaired by an approved fitter or workshop.

6. Manual input on printouts:

(a) driver not marking all information for the periods of time which are no longer recorded while recording equipment is unserviceable or malfunctioning;

(b) driver card number and/or name and/or driving licence number missing on temporary sheet;

(c) loss or theft of driver card not formally declared to the competent authorities of the Member State where the loss or theft occurred.

7. In relation to fraud:

(a) to falsify, suppress, or destroy data recorded on record sheets, stored in the tachograph or on the driver card or print-outs from the recording tachograph;

(b) manipulation of recording equipment, record sheet, driver card or company card which results in data and/or printout information being falsified;

(c) manipulation device that could be used to falsify data and/or printout information present on the vehicle.

(Text of Annex III of Directive 2006/22/EC)

Justification

These are the very serious infringement against this Regulation identified by the Commission in Annex III to Directive 2006/22/EC. The problem with this categorisation is that it has not a binding nature; it is only provided as guidelines for Member States. Including a binding categorisation in the text of the Regulation itself would give a clear signal about the importance of the objectives pursued through this Regulation and would also be an important step towards ensuring legal certainty for undertakings and fairer competition between undertakings.

Amendment 110

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 36 – paragraph 2

Text proposed by the Commission

Within the framework of this mutual assistance, the competent authorities of the Member States shall in particular regularly send to each other all available information concerning infringements to this Regulation related to fitters and workshops, and any penalties imposed for such infringements.

Amendment

Within the framework of this mutual assistance, the competent authorities of the Member States shall in particular regularly send to each other all available information concerning infringements to this Regulation related to fitters and workshops, **types of manipulation practices**, and any penalties imposed for such infringements.

Amendment 111

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 36 a (new)

Text proposed by the Commission

Amendment

Article 36a

Telephone Hotline

The Commission shall install a website and an EU-wide hotline telephone number that can be called free of charge and anonymously by drivers or any other concerned stakeholder wishing to report fraud that falls under the scope of this Regulation.

Justification

Police in all Member States report that drivers call them to request checks, in particular when they are overcome with fatigue but have received instructions to continue driving. Helping to prevent such activity will greatly improve road safety.

Amendment 112

Proposal for a regulation

Article 1 – point 1

Council Regulation No 3821/85

Article 37 – paragraph 3

Text proposed by the Commission

Amendment

3. The sanctions laid down by Member States for very serious infringements as defined in **Directive 2009/5/EC** shall be of the highest categories applicable in the Member State for infringements of road transport legislation.

3. The sanctions laid down by Member States for very serious infringements as defined in **Article 35a of this Regulation** shall be of the highest categories applicable in the Member State for infringements of road transport legislation.

Amendment 113

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 39 – paragraph 2

Text proposed by the Commission

2. The delegation of power referred to in **Articles 4, 5, 6 and 38** shall be conferred for **an indeterminate period of time** from the [date of entry into force of this Regulation].

Amendment

2. The delegation of power referred to in **Articles 3g, 4, 5, 6 and 34a** shall be conferred **on the Commission** for a period of **five years** from ...*. **The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**

* OJ: please insert date of entry into force of this Regulation.

Amendment 114

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 39 – paragraph 3

Text proposed by the Commission

3. The delegation of powers referred to in **Articles 4, 5, 6 and 38** may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of powers referred to in **Articles 3g, 4, 5, 6 and 34a** may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment 115

Proposal for a regulation

Article 1 – point 1

Council Regulation (EEC) No 3821/85

Article 39 – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to **Articles 4, 5, 6 and 38** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [2 months] at the initiative of the European Parliament or the Council.

Amendment

5. A delegated act adopted pursuant to **Articles 3g, 4, 5, 6 and 34a** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [2 months] at the initiative of the European Parliament or the Council.

Amendment 116

Proposal for a regulation

Article 2 – point 1 a (new)

Regulation (EC) No 561/2006

Article 13 – paragraph -1 (new)

Text proposed by the Commission

Amendment

(1a) In Article 13 a new paragraph is inserted:

-1. Member States must allow derogations from Articles 5 to 9 for vehicles or combinations of vehicles used for carrying materials, equipment or machinery for the driver's use in the course of his work, and which are used only within a 150 kilometre radius from the base of the undertaking and only on the condition that driving the vehicle does not constitute the driver's main activity.

Justification

Handicraft businesses, market traders and other small and medium-sized enterprises whose main activity does not involve driving heavy goods vehicles, but do still need to transport their equipment, should be exempted from the Regulation provided that the driving involved is within a 150 km radius. This provision should apply in all Member States, thus providing clarity for all concerned.

Amendment 117

Proposal for a regulation

Article 2 – point 1 b (new)

Regulation (EC) 561/2006

Article 13 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(1b) In Article 13, paragraph 1, point (d), subparagraph 1, the two indents are replaced by the following:

‘- for the purpose of delivering postal items.’

Justification

The exception applies only to the universal service providers. Other transport companies such as smaller transport companies, which handle parcel delivery as sub-contractor are alone affected by the requirement to record driving times and rest periods. This leads to a distortion of competition for all other postal service providers.

Amendment 118

Proposal for a regulation

Article 2 – point 1 c (new)

Regulation (EC) 561/2006

Art. 13 – paragraph 1 – point h

Text proposed by the Commission

Amendment

(1c) In Article 13, paragraph 1, point (h) ‘road maintenance and control’ is replaced by ‘road construction, maintenance and control’.

Justification

This would allow a more precise definition for the vehicles that are exempt.

Amendment 119

Proposal for a regulation

Article 2 – point 1 d (new)

Regulation (EC) No 561/2006

Article 13 – paragraph 1 – point l

Text proposed by the Commission

Amendment

(1d) Article 13, paragraph 1, point (l) is replaced by the following:

‘vehicles used for milk collection from farms and/or the return to farms of milk containers or the delivery of milk products intended for animal feed’.

Amendment 120

Proposal for a regulation

Article 2 – point 1 e (new)

Regulation (EC) No 561/2006

Article 13 – paragraph 1 – point q (new)

Text proposed by the Commission

Amendment

(1e) In Article 13, paragraph 1 the following point is added:

‘(q) vehicles used in construction traffic for the supply and delivery of building materials’.

Justification

It is at times practically impossible for construction traffic to be in full compliance with the driving and rest time regulations (large number of brief stops, vehicle must be moved during pauses in driving, delivery of ‘perishable goods’ such as concrete and asphalt, etc.). This amendment allows Member States to take the specific practical circumstances that exist in the field of construction traffic into account.

EXPLANATORY STATEMENT

Introduction

Since 1969, the European Union (EU) has laid down social legislation in the field of road transport to improve road safety and drivers' working conditions, and to ensure fair competition among transport companies. Regulation (EC) No 561/2006 lays down harmonised maximum daily and weekly driving times and minimum daily and weekly rest periods for drivers. These rules apply for all drivers engaged in the transport of goods with vehicles of 3, 5 tons laden mass and more and for drivers engaged in the transport of passengers with vehicles for 9 persons and more.

In parallel, the EU has developed a comprehensive policy on inspecting and checking compliance with social road transport legislation. This policy relies on two main pillars:

- Directive 2006/22/EC, which lays down a minimum level of check at the roadside and at the premises of the undertakings to be carried out by Member States.
- Council Regulation (EEC) No 3821/85, hereinafter referred to as 'the Tachograph Regulation'.

The basis for the control carried out during the checks as required by Directive 2006/22/EC is in practice the data on driving, working and resting time recorded by the tachograph, which have to be for each operator and each driver trustworthy, reliable and verifiable by enforcement officers of all Member States.

For the time being, two types of recording equipment are in use. The analogue tachograph has been in use since 1985 and is still used in vehicles registered before 1 May 2006. It records the activities of the driver (driving, rest/break, availability, other work) on a waxed paper disc called 'record sheet'.

The second type – the digital tachograph – was introduced via a new Annex IB to Council Regulation (EEC) No 3821/85. It is obligatory in vehicles registered after 1 May 2006. The driver's activities are recorded and the data are stored after encryption in the recording equipment and on a personalised 'smart driver card'.

The Tachograph Regulation sets technical standards, establishes the rules on the use, type approval, installation and inspection of tachographs. It therefore creates a range of legal obligation to manufacturers, authorities but also to transport operators and drivers. The Regulation and its annexes contain very detailed technical prescriptions on the recording equipment and in particular on the digital tachograph. Since its adoption, it has been adapted to technical progress ten times, the last time in 2009.

Problems of the current system

Two main problems which need to be tackled at EU level have been identified by the Commission:

Problem 1: Social rules are still too often breached

According to data provided by the Commission on average 9% of controlled vehicles are found breaching the social rules. Roughly one fourth of them are found breaching the Tachograph Regulation in particular. On average, at any point in time, around 45000 vehicles

are in breach of EU tachograph rules. Non respect of the minimum breaks and rest periods and of the maximum driving times can lead to more fatigued drivers with a potential risk for road safety.

Professional drivers and transport companies operate in a highly fragmented market and a fiercely competitive environment. Firms which do not comply with the legislation can gain a sizeable competitive advantage by cutting prices, as staff costs account for 30-50 % of the total operating costs.

Problem 2: The tachograph system is not sufficiently efficient

The tachograph system has been designed and has functioned so far primarily as a policing tool, but not as a labour saving device. In this respect, there is room to improve the ease of operation of the tachograph, especially the digital tachograph, and its additional functionalities, to facilitate the drivers' work and support the efficiency of the transport system.

Commission proposal

On July 2011 the European Commission presented a proposal for a revision of Tachograph Regulation, which dates back to 1985. The aim of the revision is to make fraud more difficult, to better enforce social rules and to reduce the administrative burden by making full use of new technologies and introducing a number of new regulatory measures:

- 1.- Measures which will substantially widen the functionalities of the digital tachograph, leading to a new type of digital tachographs (called smart tachograph) allowing the remote communication from the tachograph for control purposes, the automated recording of precise location through GNSS, and integration of digital tachograph with other Intelligent Transport Systems (ITS) applications.
- 2.- Merge functionalities of driver cards with driving licence
- 3.- Measures strengthening the legal framework for the approval of workshops and prevention of conflicts of interest
- 4.- Minimum degree of harmonisation of sanctions
- 5.- Obligation for Member States to provide adequate training for their control officers in charge of checking the recording equipment.
- 5.- Measure to exempt certain vehicles from the obligation to use the tachograph

Position of your rapporteur and suggested amendments

Your Rapporteur welcomes the Commission's proposal, agrees with its objectives and supports its main points.

She regrets the fact that in the current Regulation the standards and specifications are limited to the description of the vehicle unit as a black box recording driver activity data. The technical design of the downloading and interpretation tools is left to Member State responsibility. The tachograph is not supposed to evaluate if there are infringements of the drivers hours regulation. It is only supposed to record data, not to interpret data. The main consequences of this fact is the large disparities among Member States regarding the capacity and the efficiency of enforcer's instruments for road side and company checks and the limitation of the tachograph to support with interpreted data, for the benefit of the driver, the

application of the social legislation.

Bearing this in mind, two important measures are proposed by Your Rapporteur:

- to encourage the development of an application through the harmonised interface of the tachograph providing interpretation and guidance to drivers. Your Rapporteur calls on the Commission to put forward a harmonised interpretation of Regulation 561/2006 and the necessary technical specifications in order to make the tachograph not only a control tool but also a device helping drivers and transport operators to comply with the legislation;
- introduce the type approval of the software used by control officers to interpret data stored by the tachograph.

Other amendments proposed relate with the following points:

1.- Subject matter of the Regulation: Following the proposal to introduce in the current Regulation a new chapter VII related to enforcement and sanctions for infringements of this Regulation, the subject matter of the proposed Regulation should also include the control of tachographs besides the obligations and requirements in relation to its construction, installation, use and testing.

2.- Requirements: In Chapter I “Principles, scope and requirements” articles setting out the essential requirements for the construction, installation, use, check and control of tachograph, as well as functions of the tachograph, data to be recorded, principles about access rights and data protection have been included in order for the enacting part of the Regulation to provide for the basis for the specifications to be developed by the Commission through delegated acts.

A specific article regarding the specifications to be drafted by the Commission through delegated acts has been inserted in Chapter I. These specifications must cover both the update of the requirements currently set out in the Annexes and the development of the requirements related to the introduction of the smart tachograph. When drafting the specifications the Commission shall take into account the relevant existing standards and pay special attention to guarantee the interoperability and compatibility between the different versions of digital tachographs. Specifications should be ready by 31 December 2014, according to the timetable set in the Commission’s Communication accompanying this legislative proposal.

3.-Data protection: Following the Opinion of the European Data Protection Supervisor, some amendments have been introduced in order to clarify the modalities of data processing, including data to be processed by the tachograph and the processing of personal data related to drivers.

4.- Smart tachograph: Your Rapporteur supports the introduction of the smart tachograph as she believes that it will help to improve enforcement of the legislation and will be a means to reduce the level of administrative burden related to tachograph obligations for compliant transport companies in the medium and long run. Furthermore, a harmonised interface with ITS applications should facilitate the integration of the different systems, and prevent the senseless multiplication of independent equipments on board. Some amendments have been proposed to the relevant articles in order to further clarify the new functionalities.

5.- Workshops play an essential role in relation to the tachograph system. Your Rapporteur

supports Commission's proposal to prevent transport undertakings to install and calibrate tachographs in its own vehicles. In this line, some new provisions have been included to reinforce their trustworthiness.

6.- Responsibility of the transport undertaking: An amendment has been included to better clarify some of the obligations of the undertaking towards its employees in relation to the use of the tachograph.

7.- Enforcement

Your Rapporteur would like to underline that none of the objectives of the proposal will be achieved if Member States do not commit themselves to improve the level of enforcement of this Regulation. In this respect, several measures are considered essential by your Rapporteur:

- To harmonise the training control officers received throughout Europe and to certify the acquisition of the adequate technical skills by an examination.
- Providing control officers with the adequate equipment and type approved software to make the best of the new possibilities that the smart tachograph will offer for improving checks.
- A binding categorisation of very serious infringements against the tachograph Regulation
- Sanctions: A step further in the harmonisation proposed by the Commission, setting out the types of sanctions which should be part of highest level of sanctions for their deterrent effect.

PROCEDURE

Title	Amendment of Council Regulation (EEC) No 3821/85 on recording equipment in road transport and of Regulation (EC) No 561/2006		
References	COM(2011)0451 – C7-0205/2011 – 2011/0196(COD)		
Date submitted to Parliament	19.7.2011		
Committee responsible Date announced in plenary	TRAN 13.9.2011		
Committee(s) asked for opinion(s) Date announced in plenary	EMPL 13.9.2011	ITRE 13.9.2011	
Not delivering opinions Date of decision	EMPL 15.9.2011	ITRE 5.10.2011	
Rapporteur(s) Date appointed	Silvia-Adriana Țicău 30.8.2011		
Discussed in committee	20.12.2011	29.2.2012	7.5.2012
Date adopted	31.5.2012		
Result of final vote	+: –: 0:	25 3 12	
Members present for the final vote	Magdi Cristiano Allam, Inés Ayala Sender, Georges Bach, Izaskun Bilbao Barandica, Antonio Cancian, Michael Cramer, Joseph Cuschieri, Philippe De Backer, Luis de Grandes Pascual, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Jacqueline Foster, Mathieu Grosch, Jim Higgins, Juozas Imbrasas, Dieter-Lebrecht Koch, Jaromír Kohlíček, Georgios Koumoutsakos, Werner Kuhn, Bogusław Liberadzki, Gesine Meissner, Mike Nattrass, Hubert Pirker, Dominique Riquet, Petri Sarvamaa, Debora Serracchiani, Laurence J.A.J. Stassen, Keith Taylor, Silvia-Adriana Țicău, Giommaria Uggias, Thomas Ulmer, Artur Zasada, Roberts Zīle		
Substitute(s) present for the final vote	Spyros Danellis, Isabelle Durant, Sabine Wils, Janusz Władysław Zemke		
Substitute(s) under Rule 187(2) present for the final vote	Edit Herczog, Anne E. Jensen		
Date tabled	7.6.2012		