



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 1.8.2003
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1998/0096 (COD)

Amended proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on a transparent system of harmonised rules for restrictions on heavy goods vehicles
involved in international transport on designated roads**

(presented by the Commission pursuant to
Article 250 (2) of the EC Treaty)

EXPLANATORY MEMORANDUM

A. Principles

1. On 25 May 1998 the Commission submitted to the Council a proposal for a Directive on a transparent system of harmonised rules for restrictions on heavy goods vehicles involved in international transport on designated roads (COM(1998)115 final – 98/0096 (SYN)).¹
2. On 9 September 1999 the Economic and Social Committee adopted an opinion giving a cautious welcome to the proposal.
3. On 16 September 1999 the Committee of the Regions adopted an opinion rejecting the Commission proposal considering the needs of the citizen overrode those of the road transport industry.
4. The proposal proved to be very controversial. The Commission therefore adopted, on 22 November 2000, a proposal amending the proposal of 25 May 1998 (COM(2000)759 final)².
5. This amended proposal contained the following new elements:
 - it stated more clearly that it dealt only with international lorry traffic on the Trans-European road Network (TEN-R). Member States will continue to have the right to set unlimited driving bans both for all roads other than the TEN-R network and for all national traffic.
 - it increased the time when driving bans are automatically permitted on the TEN-R road network to a period of 24 hours, with an extension during the Summer period which enabled Member States to have driving bans on the TEN-R road network commencing at 07:00 on Saturdays in Summer and, if desired, lasting uninterrupted until 22:00 on Sundays. The adoption of such limits ensured that the proposal did not conflict with most existing national driving bans, whilst simultaneously stabilising the situation on driving bans in the EU. It therefore highlighted the need for accession negotiations to examine the driving bans in future Member States.
 - it clearly stated in an annex which national public holidays are automatically covered by driving bans. Member States would continue to have exclusive competence to choose their national holidays. The annex would be revised automatically following notification by a Member State.
6. On 2 July the European Parliament adopted a series of amendments at first reading. The European Parliament now agrees with the main elements of the Commission's amended proposal. The Commission has indicated in broad lines its position on the amendments, indicating which groups of amendments it could accept either in full or in principle, in some cases subject to minor redrafting and those that could not be accepted. This position is reflected in the changes made to the amended proposal.

¹ OJ C 198, 24.6.1998, p. 17

² OJ C 120E, 24.4.2001, p. 3

B European Parliament amendments

Of the 18 Amendments adopted by the European Parliament at first reading, 16 have been accepted by the Commission. They have been incorporated as follows:

I Amendments accepted

Recitals

Amendment 1 elaborates the negative consequences of the current situation and clarifies the text. (Recital 3)

Amendment 3 provides a further justification for the need for the Directive, namely that the legal certainty of the Community principles of free movement of goods as well as the freedom to provide transport services are put into question. (Recital 5)

Amendment 5 elaborates in greater detail the kind of information system, which flows from the proposed directive. (Recital 12)

Amendment 6 addresses the need for comparative statistics for the TENs network to facilitate the production of the Commission's annual report. These statistics would also enable the Commission to gain an overview of developments on the network. (Recital 13)

Amendment 7 acknowledges the social cost of driving bans for hauliers from peripheral Member States, without prescribing what measures should be taken. The Commission accepts in principle the reasoning behind this amendment. (Recital 17)

Amendment 8 provides a concrete acknowledgement of the difficulties which driving bans can impose on intraCommunity transport and a practical solution to what is becoming an increasing problem. In addition the Commission sees the benefits of such measures to facilitate compliance with Community rules on driving time and rest periods. (Recital 18)

Article 1

Amendment 9 elaborates the purpose of the proposal in line with the objective to be achieved, namely provision of information to those who will be affected by driving bans.

Article 2

Amendment 10 completes and clarifies the definition. It avoids a perverse effect of some national weekend ban legislation by ensuring that trailers are not left abandoned in unsecured parking lots over the weekend while the tractor unit makes for home and returns to retrieve the trailer only after the ban is over. (first indent)

Amendment 11 defines in greater detail the information system to be established and stipulates links with national systems. As this amendment introduces a definition which is largely taken up by Amendment 17 which the Commission also accepted, the Commission has decided to concentrate both within a separate Article, namely Article 5. The Commission envisages a regularly updated website to which all interested parties would have access. This would facilitate and promote transparency

Article 3

Amendment 14 makes clear again that the ambit of the proposal and the possible exemptions only concern the TEN-road network.(paragraph 7, introduction)

Amendment 15 usefully enlarges and elaborates the concept of high traffic density mentioned in the Commission text. (paragraph 7, point (a))

Amendment 16 specifies two special circumstances – natural disasters and urgent public safety reasons - which fall under the current category of special weather conditions. This improves the text’s clarity and as such can be accepted. (paragraph 7, point (d))

Article 5

Amendment 17 specifies the remit of a European road information system, and takes up once again the definition set out in Amendment 11. As mentioned above, this Article will now be dedicated to the system proposed by the Amendments. The Commission has however limited the remit of this information system to the scope of the Directive, as to do otherwise could lead to major additional workload.

Article 10 (now Article 11)

Amendments 19 and 20 update the timing of the transposition and entry into force of the proposed Directive. The Commission can accept these amendments in principle. (paragraphs 1 and 3);

Annex I

Amendment 21 includes the transport of perishable goods, namely fresh flowers or horticultural products within the exempted transport operations Annex. It is evident that the carriage of such produce should not be hindered by driving bans.

II Rejected Amendments

The Commission has not accepted Amendment 2, which does not appear to be pertinent. Amendment 2 adds a comment in Recital 4 on those Member States disproportionately affected by transit traffic. This comment does not relate to the main thrust of the recital’s argument and to the justification for the proposal.

The Commission also cannot accept Amendment 18, which would place a disproportionate burden on Commission resources by requiring the Commission to draw up a list of infringements to the Directive and the penalties to be applied in Member States. This could entail a considerable ongoing exercise not only for the Commission in co-ordinating a significant volume of disparate statistics, but also for Member States in gathering such statistics.

Amended proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a transparent system of harmonised rules for restrictions on heavy goods vehicles involved in international transport on designated roads

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 71.1 thereof,

Having regard to the proposal from the Commission³,

Having regard to the opinion of the **European** Economic and Social Committee⁴,

Having regard to the opinion of the Committee of the Regions⁵,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁶

Whereas:

- (1) There are currently no harmonised rules across the Community on driving restrictions for heavy goods vehicles on Sundays and public holidays.
- (2) This lack of harmonised rules results in differences as regards the duration of driving restrictions and definitions of vehicles exempt from those restrictions.
- (3) This situation has significant negative consequences for the freedom to provide transport services **and the provision of information to road haulage operators and professional drivers** in the Community.
- (4) The existence of driving bans that differ from Member State to Member State makes it impossible to make round trips over long distances without excessive interruptions. Peripheral regions of the Community are, in particular, highly and disproportionately affected by such driving restrictions because of their geographical situation.
- (5) **In addition, the existence of driving bans that differ from Member State to Member State is a cause of legal uncertainty in relation to the principle of the free movement of goods and Community provisions on guaranteeing freedom to provide transport services. The forthcoming enlargement and the resulting likely**

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ C , , p. .

⁶ OJ C , , p. .

increase in heavy goods vehicle traffic can only make the situation more complicated.

- (6) In accordance with the subsidiarity and proportionality principles as set out in Article 5 of the Treaty, the objectives of the proposed action, namely to establish a transparent system of harmonised rules for driving restrictions, thereby ensuring that the negative consequences for the freedom to provide transport services are reduced as far as possible, cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale of the action be better achieved by the Community. This Directive confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose.
- (7) It is desirable that, in particular for international transport, the negative impact of driving restrictions be minimised; whereas it would be desirable that certain roads, indicated in Annex I, Section 2 of Decision No. 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the Trans-European transport Network ⁷, be kept open for international transport. Therefore such roads should only be subject to new driving bans during certain hours on weekends, public holidays and the eve of public holidays. The Commission should be notified of such driving restrictions. Existing driving bans that are longer than the limits proposed shall be permitted to continue.
- (8) This maximum permitted duration should be extendible in exceptional cases when such extension can be justified on environmental, road-safety or social grounds. A request for such an extension should be examined without delay by the Commission with the assistance of a committee.
- (9) Member States should be able to restrict the circulation during the night of heavy goods vehicles whose noise exceeds Community standards. Member States should also be able to restrict heavy goods vehicles when exceptionally high traffic density is expected, for example during summer holiday periods. The Commission should be notified of such driving restrictions.
- (10) Under special environmental or weather conditions Member States should be able to restrict the circulation of heavy goods vehicles on grounds of environmental protection or road safety. For practical reasons, it should be possible to adopt such restrictions without notifying the Commission.
- (11) The types of heavy goods vehicles or transport operations which are exempted from bans in all Member States should be harmonised.
- (12) The introduction of driving restrictions at national, regional and local level is currently done in an uncoordinated manner, ~~and therefore~~ **A European road information system, which can be accessed in real time by all road haulage operators and professional drivers should therefore be established, enabling reliable information** notification on the timing and extent of these restrictions **to be provided to all road transport operators**, ~~should be established. On the basis of the information collected under this system,~~ ~~these notifications~~ the Commission should produce an annual report to the Member States **and the European Parliament.**

⁷ OJ L 228, 9.9.1996, p.1, with Corrigendum published in OJ L15, 17.1.1997, p. 1

- (13) **Comparative statistics are needed on the level of use of international routes to give an overall picture of traffic in the European Union and the applicant countries and, on the basis of these statistics, to be able to assess the impact of driving restrictions on policies for the regulation and organisation of road transport.**
- (14) Since the measures necessary for the implementation of this Directive are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June laying down the procedures for the exercise of implementing powers conferred on the Commission⁸, they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision.
- (15) Each Member State should determine the penalties to be imposed in the event of an infringement of the provisions adopted for the implementation of this Directive.
- (16) For the purposes of transparency, it is desirable to list in an Annex the national public holidays upon which driving bans currently apply. The Commission will amend this Annex at the request of Member States.
- (17) **In order to ensure that driving bans on heavy goods vehicles do not exacerbate inequalities in respect of social conditions or working conditions for drivers, accompanying social measures should be adopted taking account in particular of the geographical origin of traffic.**
- (18) **Member States which impose driving bans, forcing drivers to spend a weekend or part of a weekend in lorry parks, should ensure that there are sufficient parking spaces and sanitary facilities available.**

HAVE ADOPTED THIS DIRECTIVE:

Article 1

This Directive establishes a transparent system of harmonised rules **and information** concerning driving restrictions applied for certain periods to heavy goods vehicles undertaking international transport on certain roads of the European Community.

⁸ OJ L 184, 17.7.1999, p. 23

Article 2

For the purposes of this Directive:

- “heavy goods vehicle” : shall mean all motor vehicles with a gross weight of 7,5 t. and above, used for the transport of goods; **including their component parts (tractors or trailers), where the latter are used separately;**
- “driving restrictions” : shall mean a ban on the circulation of heavy goods vehicles for certain periods;
- “TENs network” : shall mean the network of roads as indicated in Annex I, Section 2 of Decision No 1692/96/EC;
- “international transport” : shall mean transport operations with a place of departure and place of arrival in two different Member States;
- “public holiday” : shall mean those public holidays on which a Member State applies a national driving ban;
- “cars” : shall mean motor vehicles in category M1 as defined in Annex II to Council Directive 70/156/EEC⁹;
- “load” : shall mean at least 1 tonne of cargo, including packaging.

Article 3

1. The scope of this Directive is limited to the TENs network.
2. Member States shall not impose driving restrictions on heavy goods vehicles involved in international transport which are stricter than those applied to heavy goods vehicles involved in national transport.
3. Member States may impose driving restrictions for all heavy goods vehicles
 - From 16 September to 14 June between the hours of 22h00 on Saturday and 22h00 on Sunday, and between the hours of 22h00 on the eve of a public holiday and 22h00 on the day of a public holiday;
 - From 15 June to 15 September between the hours of 07h00 on Saturday and 22h00 on Sunday, and between the hours of 22h00 on the eve of a public holiday and 22h00 on the day of a public holiday.
4. Member States may impose driving restrictions during the night, from 22h00 to 05h00, which apply to all heavy goods vehicles which do not comply with noise emission standards provided by Directive 96/20/EC¹⁰.

⁹ OJ L 42, 23.2.1970

¹⁰ OJ L 92, 13.4.1996, p. 23

- 4a. Member States with driving restrictions in operation as of 1 November 2000 that exceed the limits laid down in paragraph 3 above may continue to apply them. Should the Member State concerned modify these driving restrictions, it can only do so in the sense of alignment with the restrictions mentioned in paragraph 3.
5. Member States may only impose driving restrictions additional to those laid down in paragraphs 3 and 4 on condition that heavy goods vehicles involved in international transport are exempted from those additional driving restrictions.
6. Notwithstanding paragraph 5 Member States may in exceptional cases impose driving restrictions extending the time limits laid down in paragraphs 3 and 4 on heavy goods vehicles, including those undertaking international transport, provided that they submit evidence indicating that such additional restrictions can be justified on environmental, road safety or social grounds and after having received prior agreement from the Commission in accordance with the Committee procedure laid down in Article ~~89~~.

The evidence shall include an analysis which justifies the restrictions as a proportional measure by comparison with alternative traffic management measures.

The evidence shall quantify the effects of the additional restrictions on the basis of one or more of the following criteria:

- a) relevant statistics and/or estimates, both including and excluding the circulation of heavy goods vehicles, concerning traffic density on weekends during different periods of the year (summer, winter, during holiday periods) and possible effects on congestion;
 - b) relevant statistics and/or estimates, both including and excluding the circulation of heavy goods vehicles, concerning rates of accidents both during periods where the additional restrictions would apply and at times when no restrictions are in force;
 - c) relevant data and/or estimates concerning the gaseous emissions saved, or noise pollution reduced by additional restrictions, including the negative effect that bans may have on the emissions of diversionary traffic and on traffic concentrated on periods of the week where no restrictions apply;
 - d) Social analysis on the impact of additional restrictions on the average working conditions of drivers of heavy goods vehicles registered both in Member States where these restrictions apply and in the other Member States, taking into account existing Community legislation in this field.
7. Notwithstanding paragraph 5, Member States may impose special driving restrictions on heavy goods vehicles, including those undertaking international transport **on the TENs network**, on those days and roads where:
 - a) exceptionally high traffic density is expected, for example during **public holidays and** holiday **outward and return journey** periods **or peak times**;
 - b) circulation bans for limited periods of time are applying to cars, notably for environmental reasons;

- c) restrictions for maintenance of infrastructure are deemed necessary;
- d) restrictions **are required** under special weather conditions, **in the event of natural disasters or for urgent reasons of public safety** ~~are required~~.

Article 4

Heavy goods vehicles and/or particular transport operations as defined in Annex I shall be exempted from the driving restrictions which are laid down in accordance with Articles 3(3), 3(5), 3(6) and point (a) of 3(7).

Article 5

1. A European road information system shall be set up under the aegis of the Commission, the task of which shall be to

- **Collect, with the support of road information centres in the Member States, all data concerning the rules applied to, and the regulation and characteristics of, driving restrictions on the TENs network;**
- **Process and disseminate such data in real time to road haulage operators and professional drivers within the territory of the Union;**
- **Create a monitoring centre for traffic on the TENs network for statistical and analytical purposes.**

Article 6

1. Member States wishing to impose extended driving restrictions in accordance with Article 3(6) shall present a request to the Commission.

The Commission shall decide on such request in accordance with the procedure set out in Article ~~8~~ **9** within two months of receipt of the ~~receipt~~ **request**.

2. Member States wishing to impose driving restrictions in accordance with Article 3(3), 3(4), or point (a) of 3(7) shall notify the Commission at least 60 days in advance, giving details of the extent of those restrictions.
3. Member States wishing to amend any of the dates listed in Annex II as their national public holidays on which driving bans apply shall notify the Commission at least 60 days in advance. The Commission shall amend Annex II accordingly.

Article ~~6~~7

On the basis of the information referred to in Articles ~~5~~ **and 6**, the Commission will prepare annually by 30 November a report on driving restrictions permitted under Articles 3(3), 3(4) 3(6) and point (a) of 3(7) for heavy goods vehicles performing international operations on the TENs network for the forthcoming year.

Article ~~7~~8

The Commission shall adopt any amendments necessary to adapt Annex I in accordance with the procedure laid down in Article ~~8~~9.

Article ~~8~~9

1. The Commission shall be assisted by a committee, composed of representatives of the Member States and chaired by the representative of the Commission.
2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) and Article 8 thereof.
3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be [3] months.

Article ~~9~~10

Member States shall determine the penalties applicable to infringements of this Directive and shall take all necessary measures to ensure that they are enforced. The penalties they provide for shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those measures no later than the date specified in the first subparagraph of Article ~~10~~1 and shall notify it of amendments to them without delay.

Article ~~10~~1

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [31 December 200~~0~~4] at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Member States shall apply these provisions from [1 July 200~~0~~4].

Member States shall communicate to the Commission the texts of the provisions of national law, which they adopt in the field governed by this Directive.

Article ~~11~~2

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European ~~Communities~~ Union*.

Article 123

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

Transport operations/types of vehicles exempt from driving restrictions

Vehicles performing combined transport operations as defined in Council Directive 92/106/EEC;

Certified ATP vehicles¹¹ transporting a load of ATP-defined perishable foodstuffs;

Certified ATP tankers for the transportation of liquid milk at controlled temperatures;

Vehicles transporting a load of perishable fruits, or vegetables;

Vehicles transporting exceptional loads as defined by Article 4(3) of Council Directive 96/53/EC¹²;

Vehicles transporting fresh flowers or horticultural products.

¹¹ As defined in the UN-ECE Agreement on the international carriage of perishable foodstuffs and the special equipment to be used for such carriage (ATP).

¹² OJ L 235, 17.9.1996, p. 59

ANNEX II

National public holidays on which Member States apply driving bans

National Public Holidays in Austria

New Year's Day

Epiphany

Easter Monday

Labour Day

Ascension Day

Whit Monday

Corpus Christi

Assumption

Austrian National Day (26 October)

All Saints Day

Immaculate Conception

Christmas Day

St. Stephen's' Day

National Public Holidays in France

New Year's Day

Easter Monday

Armistice Day (8 May)

Ascension Day

Whit Monday

Bastille Day (14 July)

Assumption

All Saints Day

Armistice Day (11 November)

Christmas Day

National Public Holidays in Germany

New Year's Day

Good Friday

Easter Monday

Labour Day

Ascension Day

Whit Monday

Day of German Unification (3 October)

Christmas Day

St. Stephen's' Day

National Public Holidays in Italy

New Year's Day

Epiphany

Good Friday

Easter Monday

Liberation Day (25 April)

Labour Day

All Saints Day

Immaculate Conception

Christmas Day

National Public Holidays in Luxembourg

New Year's Day

Easter Monday

Labour Day

Ascension Day

Whit Monday

Luxembourg National Day (23 June)

Assumption

All Saints Day

Christmas Day

St. Stephen's' Day

National Public Holidays in Spain

New Year's Day

Epiphany

Maundy Thursday

Good Friday

Labour Day

All Saints Day

Spanish Constitution Day (6 December)

Immaculate Conception

Christmas Day