

Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012

*Article 2*

**Amendment of Directive 2006/22/EC**

Directive 2006/22/EC is amended as follows:

- (1) the title is replaced by the following:  
Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Regulations (EC) No 561/2006 and (EU) No 165/2014 and Directive 2002/15/EC as regards social legislation relating to road transport activities, and repealing Council Directive 88/599/EEC;
- (2) Article 1 is replaced by the following:

*Article 1*

**Subject matter**

This Directive lays down minimum conditions for the implementation of Regulations (EC) No 561/2006<sup>(1)</sup> and (EU) No 165/2014<sup>(2)</sup> of the European Parliament and of the Council and Directive 2002/15/EC of the European Parliament and of the Council<sup>(3)</sup>;

- (3) Article 2 is amended as follows:
  - (a) in paragraph 1, the second subparagraph is replaced by the following:

These checks shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles falling within the scope of Regulations (EC) No 561/2006 and (EU) No 165/2014 and of mobile workers and drivers falling within the scope of Directive 2002/15/EC. Roadside checks on compliance with Directive 2002/15/EC shall be limited to aspects that can be checked efficiently through the tachograph and related recording equipment. A comprehensive check on compliance with Directive 2002/15/EC may only be carried out at the premises.;
  - (b) in paragraph 3, the first and second subparagraphs are replaced by the following:

Each Member State shall organise checks in such a way that at least 3 % of days worked by drivers of vehicles falling within the scope of Regulations (EC) No 561/2006 and (EU) No 165/2014 are checked. During the roadside check, the driver shall be allowed to contact the head office, the transport manager or any other person or entity in order to provide, before the end of the roadside check, any evidence which is found

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to be missing on board; this is without prejudice to the driver's obligation to ensure the proper use of tachograph equipment.

From 1 January 2012 the Commission may, by means of an implementing act, increase the minimum percentage to 4 %, provided that the statistics collected pursuant to Article 3 show that, on average, more than 90 % of all vehicles checked are equipped with a digital tachograph. In making its decision, the Commission shall also take into account the effectiveness of existing enforcement measures, in particular the availability of digital tachograph data at the premises of undertakings. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 12(2).;

(c) the following paragraph is inserted:

3a. Each Member State shall organise checks on compliance with Directive 2002/15/EC, taking into account the risk rating system provided for in Article 9 of this Directive. Those checks shall be targeted at an undertaking if one or more of its drivers have been continuously or seriously infringing Regulation (EC) No 561/2006 or (EU) No 165/2014.;

(d) paragraph 4 is replaced by the following:

4. The information submitted to the Commission in accordance with Article 17 of Regulation (EC) No 561/2006 and Article 13 of Directive 2002/15/EC shall include the number of drivers checked at the roadside, the number of checks at the premises of undertakings, the number of working days checked and the number and type of infringements reported, and shall indicate whether passengers or goods were transported.;

(4) the fifth paragraph of Article 3 is replaced by the following:

The Commission shall, if required, further clarify, by means of implementing acts, the definitions of the categories mentioned under points (a) and (b) of the first paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2).;

(5) Article 5 is replaced by the following:

#### *Article 5*

#### **Concerted checks**

Member States shall, at least six times per year, carry out concerted roadside checks on drivers and vehicles falling within the scope of Regulation (EC) No 561/2006 or (EU) No 165/2014. Member States shall, in addition, endeavour to organise concerted checks at premises of undertakings.

Such concerted checks shall be carried out at the same time by the enforcement authorities of two or more Member States, each operating in its own territory.;

(6) in Article 6, paragraph 1 is replaced by the following:

1. Checks at premises shall be planned in the light of past experience in relation to the various types of transport and undertakings. They shall also be carried out

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if serious infringements of Regulation (EC) No 561/2006 or (EU) No 165/2014 or Directive 2002/15/EC have been detected at the roadside.;

(7) Article 7 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (b) is replaced by the following:

(b) to forward the biennial statistical returns to the Commission under Article 17 of Regulation (EC) No 561/2006.;

(ii) the following point is added:

(d) to ensure exchange of information with the other Member States pursuant to Article 8 of this Directive with regard to the application of national provisions transposing this Directive and Directive 2002/15/EC.;

(b) paragraph 3 is replaced by the following:

3. The exchange of data, of experience and of intelligence between Member States shall be actively promoted, primarily, but not exclusively through the Committee referred to in Article 12(1) and any such body as the Commission may designate by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2).;

(8) Article 8 is replaced by the following:

#### *Article 8*

#### **Exchange of information**

1 Information made available bilaterally under Article 22(3) of Regulation (EC) No 561/2006 shall also be exchanged between the designated bodies notified to the Commission in accordance with Article 7 of this Directive:

- a at least once every six months after the entry into force of this Directive;
- b upon reasoned request by a Member State in individual cases.

2 A Member State shall provide the information requested by another Member State pursuant to point (b) of paragraph 1 within 25 working days from the receipt of the request. A shorter time limit may be mutually agreed between the Member States. In urgent cases or in cases requiring only a simple consultation of registers, such as registers of a risk rating system, the requested information shall be provided within three working days.

Where the requested Member State considers that the request is insufficiently reasoned, it shall inform the requesting Member State accordingly, within 10 working days from the receipt of the request. The requesting Member State shall further substantiate the request. Where the requesting Member State is unable to further substantiate the request, the requested Member State may reject the request.

Where it is difficult or impossible to comply with a request for information or to carry out checks, inspections or investigations, the requested Member State shall inform the

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requesting Member State accordingly within 10 working days from the receipt of the request and provide reasons to duly justify that difficulty or impossibility. The Member States concerned shall discuss with one another with a view to finding a solution.

In the event of persistent delays in the provision of information to the Member State to whose territory the worker is posted, the Commission shall be informed and shall take appropriate measures.

- 3 The exchange of information provided for in this Article shall be implemented through the Internal Market Information System ('IMI'), established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council<sup>(4)</sup>. This does not apply to information which Member States exchange through direct consultation of national electronic registers referred to in Article 16(5) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council<sup>(5)</sup>;

(9) Article 9 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Member States shall introduce a risk rating system for undertakings based on the relative number and gravity of any infringement of Regulation (EC) No 561/2006 or of Regulation (EU) No 165/2014 or of national provisions transposing Directive 2002/15/EC that an individual undertaking has committed.

By 2 June 2021 the Commission shall, by means of implementing acts, establish a common formula for calculating the risk rating of an undertaking. That common formula shall take into account the number, gravity and frequency of occurrence of infringements and the results of controls where no infringement has been detected, as well as whether a road transport undertaking has been using the smart tachograph, pursuant to Chapter II of Regulation (EU) No 165/2014, on all its vehicles. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2) of this Directive.;

(b) in paragraph 2, the second sentence is deleted;

(c) paragraph 3 is replaced by the following:

3. An initial list of infringements of Regulation (EC) No 561/2006 and Regulation (EU) No 165/2014 and their weighting of gravity is set out in Annex III.

With a view to establishing or updating the weighting of gravity of infringements of Regulation (EC) No 561/2006 or (EU) No 165/2014, the Commission is empowered to adopt delegated acts in accordance with Article 15a of this Directive to amend Annex III to take account of regulatory developments and road safety considerations.

The category for the most serious infringements should include those in which failure to comply with the relevant provisions of Regulations (EC) No 561/2006 and (EU) No 165/2014 creates a serious risk of death or serious personal injury.;

(d) the following paragraphs are added:

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4. In order to facilitate targeted roadside checks, the data contained in the national risk rating system shall be accessible to all the competent control authorities of the Member State concerned at the time of control.

5 Member States shall make the information contained in their national risk rating system directly accessible through interoperable national electronic registers as referred to in Article 16 of Regulation (EC) No 1071/2009 to competent authorities of other Member States in accordance with Article 16(2) of that Regulation.;

(10) Article 11 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. The Commission shall, by means of implementing acts, establish guidelines on best enforcement practice. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2).

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

(b) paragraph 3 is replaced by the following:

3. The Commission shall, by means of implementing acts, establish a common approach to the recording and controlling of periods of other work, as defined in point (e) of Article 4 of Regulation (EC) No 561/2006, including the form of the recording and specific cases in which it is to take place, and to the recording and controlling of periods of at least one week during which a driver is away from the vehicle and is unable to carry out any activities with that vehicle. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2) of this Directive.;

(11) Articles 12 to 15 are replaced by the following:

#### *Article 12*

#### **Committee procedure**

1 The Commission shall be assisted by the Committee established by Article 42(1) of Regulation (EU) No 165/2014. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(6)</sup>.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

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### *Article 13*

#### **Implementing measures**

At the request of a Member State or on its own initiative the Commission shall adopt implementing acts in particular with one of the following aims:

- (a) to promote a common approach to the implementation of this Directive;
- (b) to encourage a coherence of approach between enforcement authorities and a harmonised interpretation of Regulation (EC) No 561/2006 between enforcement authorities;
- (c) to facilitate dialogue between the transport sector and enforcement authorities.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2) of this Directive.

### *Article 14*

#### **Negotiations with third countries**

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

Pending the conclusion of these negotiations, Member States shall include data on checks carried out on vehicles from third countries in their returns to the Commission as set out in Article 17 of Regulation (EC) No 561/2006.

### *Article 15*

#### **Updating of the Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 15a to amend Annexes I and II to introduce necessary adaptations to reflect developments in best practice.;

- (12) The following article is inserted:

### *Article 15a*

#### **Exercise of the delegation**

- 1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
- 2 The power to adopt delegated acts referred to in Article 9(3) and Article 15 shall be conferred on the Commission for a period of five years from 1 August 2020. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 5-year period. The delegation of power shall be

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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.

3 The delegation of power referred to in Article 9(3) and Article 15 may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>(7)</sup>.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 9(3) and Article 15 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two 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 two months at the initiative of the European Parliament or of the Council.;

(13) Annex I is amended as follows:

(a) Part A is amended as follows:

(i) points (1) and (2) are replaced by the following:

(1) daily and weekly driving times, breaks and daily and weekly rest periods; also the preceding days' record sheets which have to be carried on board the vehicle in accordance with Article 36(1) and (2) of Regulation (EU) No 165/2014 and/or the data stored for the same period on the driver card and/or in the memory of the recording equipment in accordance with Annex II to this Directive and/or on printouts;

(2) for the period referred to in Article 36 paragraphs (1) and (2) of Regulation (EU) No 165/2014, any cases where the vehicle's authorised speed is exceeded, to be defined as being any periods of more than one minute during which the vehicle's speed exceeds 90 km/h for category N<sub>3</sub> vehicles or 105 km/h for category M<sub>3</sub> vehicles (categories N<sub>3</sub> and M<sub>3</sub> as defined in Directive 2007/46/EC of the European Parliament and of the Council<sup>(8)</sup>);;

(ii) point (4) is replaced by the following:

(4) the correct functioning of the recording equipment (determination of possible misuse of the equipment and/or the driver card and/or record sheets) or, where

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appropriate, presence of the documents referred to in Article 16(2) of Regulation (EC) No 561/2006;

(iii) the following point is added:

(6) extended maximum weekly working times of 60 hours as set out in Article 4 point (a) of Directive 2002/15/EC; other weekly working times as set out in Articles 4 and 5 of Directive 2002/15/EC only where technology enables effective checks to be carried out.;

(b) Part B is amended as follows:

(i) in the first paragraph, the following points are added:

(4) compliance with maximum average weekly working times, breaks and night work requirements set out in Articles 4, 5 and 7 of Directive 2002/15/EC;

(5) observance of the obligations of undertakings as regards the payment for drivers' accommodation and the organisation of the work of drivers, in accordance with Article 8(8) and (8a) of Regulation (EC) No 561/2006.;

(ii) the second paragraph is replaced by the following:

Member States may, if appropriate, check on the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permit compliance with Regulations (EC) No 561/2006 and (EU) No 165/2014..



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- (1) Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).
- (2) Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).
- (3) Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).’;
- (4) Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (‘the IMI Regulation’) (OJ L 316, 14.11.2012, p. 1).
- (5) Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51).’;
- (6) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).’;
- (7) OJ L 123, 12.5.2016, p. 1.’;
- (8) Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).’;