

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 13 May 1975

Report relative to Article 13(2) of Regulation (EEC)
No. 543/69 of 25 March 1969 on the
harmonization of certain social legislation
relating to road transport

INTRODUCTION

V/805/74-E

The third paragraph of the preamble of Regulation (EEC) No. 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport states : "the provisions of the Regulation dealing with working conditions cannot be allowed to prejudice the right of the two sides of industry to lay down, by collective bargaining or otherwise, provisions more favourable to workers; whereas, in order not only to promote social progress but also to improve road safety, each Member State must retain the right to adopt certain appropriate measures; whereas, accordingly, the Commission must keep the development of the situation in Member States under review and submit reports thereon to the Council at regular intervals so that any adaptation of the Regulation to the developments thus noted may be effected".

Similarly, Article 13 of the Regulation stipulates the following:

- "1. Each Member State may apply higher minima or lower maxima than those laid down in Article 5 and Articles 7 to 12. Nevertheless, the provisions of this Regulation shall remain applicable to crew members engaged in international transport operations on vehicles registered in another State.
2. From the date of entry into force of this Regulation, the Commission shall, every other year, submit to the Council a report on the development of the situation in the fields covered by this Regulation".

Although it had been specified that this report must be submitted to the Council every other year from the date of entry into force of the Regulation, it was considered more appropriate to take 30 September 1971 as reference date for the first report, that is, two years from the date of application set at 1 October 1969.

This slight change makes it possible to establish a parallel, at least for the date of reference, between this report and the annual general report referred to in Article 17 (1).

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This report offers a comparative outline of trends observed in the countries of the Community during the period from 1 October 1969 to 30 September 1971 as regards minimum ages, driving periods and rest periods. It is divided into two parts, the first describing the situation in each Member State at the end of that period, and the second giving the observations and suggestions made by the Governments and the professional and trade union organizations, and the Commission's conclusions.

This report is based on answers by the Governments and the professional and trade union organizations to a questionnaire prepared by the Commission. However, the Commission departments have come up against further difficulties which have added to the delay which is virtually inevitable in producing a first report of this kind. The main difficulties were the late arrival of certain information, the need to consult both sides of the industry (this report, unlike the report provided for in Article 17, covers collective agreements which provoked problems of interpretation on a number of points) and, lastly, the accession of three new Member States necessitating translating into English and subsequently Danish.

PART I - LAWS, REGULATIONS AND ADMINISTRATIVE
PROVISIONS AND PROVISIONS UNDER COLLECTIVE AGREEMENTS
IN FORCE IN THE COUNTRIES OF THE COMMUNITY ON
30 SEPTEMBER 1971

I MINIMUM AGES (Article 5 of the Regulation)

1. DRIVERS : carriage of goods (Article 5(1))

(a) Laws, regulations and administrative provisions

In Belgium, the royal decree of 13 October 1971, amending the royal decree of 14 March 1968 on the general regulation of road traffic, fixes at 18 years the minimum age of drivers of vehicles having a permissible maximum weight not more than of 7.5 metric tons. For vehicles and trains of vehicles with a permissible maximum weight of more than 7.5 metric tons, the minimum age is 21 years, or 18 years if the driver holds a certificate of professional competence.

Under the royal decree of 23 March 1970 implementing Regulation (EEC) No.543/69 of the Council of the European Communities of 25 March 1969 on the harmonization of certain social legislation relating to road transport, the term "certificate of professional competence" in Article 5(1) of the Community Regulation covers licences issued by the military authorities for driving vehicles corresponding to driving licences categories C or D for passenger transport and also covers the certificates of professional competence issued by the public transport companies designated by the Minister of Communications.

In Germany, Article 7 of the Strassenverkehrs-Zulassung-Ordnung (St. VZO) sets the minimum age at 21 years with exceptions permitted in certain cases. When a law has been passed on the acceptance of driving as a recognized occupation, it is planned to reduce the minimum age to 18 years for drivers who have had a certain level of training.

In France, the provisions in force are those of the Community Regulation (see also Decree No.71-125 of 11 February 1971 on the administrative application of the provisions of Regulation No.543/69).

Article 3 of this decree provides that for transport operations on French territory and for persons holding the required driving licence on 1 October 1970, application of the rules laid down in Article 5(1) of the Community Regulation will be postponed until 30 September 1973.

In Italy, the provisions in force are those of the Community Regulation; these also agree with the corresponding provisions of the Italian Highway Code.

In Luxembourg, Article 3 of the Grand-Ducal Regulation of 14 March 1970, amending and supplementing the Grand-Ducal Decree of 23 November 1955 on the regulation of traffic on all public highways, fixes at 18 years the minimum age for drivers of vehicles having a permissible maximum weight of not more than 7.5 metric tons. For vehicles having a permissible maximum weight of more than 7.5 metric tons, the minimum age is 21 years, or 18 years if the driver holds a certificate of professional competence recognized by one of the Member States of the EEC, confirming that he has completed a training course for drivers of vehicles intended for the carriage of goods by road.

In the Netherlands, the provisions of the "Rijtijdenbesluit" of 22 January 1971 stipulate a minimum age of 18 years for drivers of vehicles having a permissible maximum weight of not more than 7.5 metric tons. For vehicles having a permissible maximum weight of more than 7.5 metric tons, the minimum age is 21 years, or 18 years if the driver holds a certificate of professional competence issued in the Netherlands by the Ministry of Transport or recognized abroad and confirming that he has completed a training course for drivers of vehicles intended for the carriage of goods by road. Where there are two drivers, one of them must be 21 years old. These provisions did not apply to domestic transport if the driver had a driver's licence on 1 October 1970.

(b) Provisions under collective agreements

The provisions under collective agreements which have been brought to the attention of the Commission include no clause in this respect.

2. DRIVERS: carriage of passengers (Article 5(2))

(a) Laws, regulations and administrative provisions

In Belgium, the royal decree of 13 October 1971, amending the royal decree of 14 March 1968 on the general regulation of road traffic, fixes at 21 years, the minimum age of drivers of motor vehicles used for the carriage of persons for hire or reward and of motor vehicles used for the carriage of persons not for hire or reward comprising at least 9 seats not including that of the driver.

In Germany, Article 15 of the Strassenverkehrs-Zulassung-Ordnung (St. VZO) fixes the minimum age of drivers engaged in the carriage of passengers at 23 years. Furthermore, authorization to carry passengers is not granted unless the person concerned furnishes proof:

- that, within the last five years, he has driven a Class 2 vehicle (heavy vehicles having a permissible maximum weight of more than 7.5 metric tons) for two years, or - if authorization cannot be granted except for vehicles with a maximum capacity of 14 persons - a vehicle of Class 3, or
- that he has received at least three months training by the Federal Railway (Deutsche Bundesbahn) or by the Federal Postal Administration (Deutsche Bundespost) or by an undertaking, and that he has been considered fit to receive similar training by the highest competent authority of the Land or an authority empowered by the latter. In accordance with the provisions of Article 8 of the Regulation of 22 August 1969 implementing Regulation No.543/69, Article 5(2) of the Community Regulation has not been applied to drivers engaged in German domestic traffic who, on 1 August 1970, were authorized to carry passengers in vehicles with a capacity of more than 14 persons.

In France, the provisions in force are those of the Community Regulation (see also Decree No.71-125 of 11 February 1971 on the administrative application of the provisions of Regulation No.543/69).

Article 3 of this decree provides that, transport operations on French Territory and for persons holding the required driving licence on 1 October 1970, application of the rules laid down in Art.5(2) of the Community Regulation will be postponed until 30 September 1973. Furthermore, the same provision lays down that this waiver will be effective until 30 September 1975 for the carriage of passengers free of charge.

In Italy, the provisions in force are those of the Community Regulation.

In Luxembourg, Article 3 of the Grand-Ducal regulation of 14 March 1970, amending and supplementing the Grand-Ducal decree of 23 November 1955 on the regulation of traffic on all public highways, fixes the minimum age at 18 years for drivers carrying passengers if the vehicle has full seated accommodation, including the driver's seat for fewer than 10 persons, and at 21 years the minimum age for bus and motor car coach drivers. Furthermore, Article 12 of this regulation stipulates that the driver must comply with one of the following conditions:

- he must have worked for at least one year in the carriage of goods by road, as a driver of motor vehicles with a total permissible maximum weight exceeding 3.5 metric tons;
- he must have held, for at least two years, a certificate of professional competence recognized by one of the Member States of the EEC, confirming that he has completed a training course for drivers of vehicles intended for the carriage of passengers by road, and a category B driver's licence (motor vehicles intended for the carriage of persons and holding fewer than 10 seats including that of the driver, and motor vehicles intended for the carriage of goods having a total permissible maximum weight of not more than 3.5 metric tons).

In the Netherlands, the provisions of the "Rijtijdenbesluit" of 22 January 1971 establish the minimum age of drivers of all buses at 21 years on condition that, for at least one year, they have driven goods vehicles with a permissible maximum weight exceeding 3.5 metric tons, or buses used for the regular carriage of passengers on routes

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not exceeding 50 km, or that they hold a certificate of professional competence issued in the Netherlands by the Minister of Transport or recognized abroad confirming that he has completed a training course for bus drivers.

For domestic transport operations, this provision has not been applied to bus drivers who had already been employed as such for a year on 1 October 1970 or who held a driver's licence on that date.

(b) Provisions under collective agreements

The provisions under collective agreements which have been brought to the attention of the Commission include no clause in this respect.

3. DRIVERS' MATES AND CONDUCTORS (Article 5(3))

(a) Laws, regulations and administrative provisions

In Belgium, the provisions in force are those of the Community Regulation (see also the royal decree of 23 March 1970 implementing Regulation No 543/69).

In Germany, the provisions in force are those of the Community Regulation (see also the regulation of 22 August 1969 on the application of Regulation No 543/69).

Under Article 8 of the regulation of 22 August 1969, Article 5(3) of the Community Regulation does not apply as regards domestic traffic, to persons who were already employed as drivers' mates or conductors on 1 October 1970.

In France, the provisions in force are those of the Community Regulation (see also Decree No 71-125 of 11 February 1971 on the administrative application of the provisions of Regulation No 543/69).

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In Italy, the provisions in force are those of the Community Regulation.

In Luxembourg, the provisions in force are those of the Community Regulation (see also the Grand-Ducal regulation of 23 November 1970 implementing Regulation No 543/69).

In the Netherlands, under the provisions of the "Rijtijdenbesluit" of 22 January 1971, the minimum age for drivers' mates and conductors is 18 years. For domestic traffic, this provision has not been applied to drivers' mates who were already employed as such on 1 October 1970.

(b) Provisions under collective agreement

The provisions under collective agreements which have been brought to the attention of the Commission include no clause in this respect.

II - DRIVING PERIODS (Articles 7, 8, 9 and 10 of the Regulation)

1. MAXIMUM PERIOD OF CONTINUOUS DRIVING (Articles 7(1) and Article 9(a))
AND BREAKS (Article 8)

(a) Laws, regulations and administrative provisions

In Belgium, the provisions in force are those of the Community Regulation (see also the royal decree of 23 March 1970 implementing Regulation No 543/69).

In Germany, the provisions in force are those of the Community Regulation (see also the regulation of 22 August 1969 on the application of Regulation No 543/69).

Furthermore, as regards driving breaks, under Article 51 of the Regulation, implementing the hours of work code of 12 December 1938 (AV AZO), halts of less than 15 minutes do not constitute breaks.

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In France, the provisions in force are those of the Community Regulation (see also Decree No 71-125 of 11 February 1971 on the administrative application of the provisions of Regulation No 543/69).

In Italy, the provisions in force are those of the Community Regulation.

In Luxembourg, the provisions in force are those of the Community Regulation (see also the Grand-Ducal Regulation of 23 November 1970 implementing Regulation No 543/69).

In the Netherlands, this question is regulated by the "Rijtijdenbesluit" of 22 January 1971.

For the drivers of vehicles with a permissible maximum weight exceeding 3.5 metric tons and trains of vehicles with a permissible maximum weight not exceeding 20 metric tons, and vehicles used for the regular carriage of passengers on routes exceeding 50 km and for the occasional carriage of passengers, the maximum period of continuous driving is fixed at 4 hours 30 minutes (4 hours after 1 October 1971) and must be followed by a break of 30 minutes or interrupted by three breaks of 15 minutes each, or by two breaks of 30 minutes each if the daily driving period exceeds 8 hours.

For goods-carrying trains of vehicles with a permissible maximum weight exceeding 20 metric tons and for passenger-carrying trains of vehicles including a trailer, with a permissible maximum weight exceeding 5 metric tons, the maximum period of continuous driving is 4 hours, which must be followed by a break of 60 minutes or interrupted by two breaks of 30 minutes each.

During the driving breaks, the driver can perform no occupational task.

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(b) Provisions under collective agreements

In Belgium, Article 7 of the collective agreement on "motor coaches" stipulates that the period of continuous driving must not exceed 4 hours 30 minutes and that, at the end of this period, the driver must take 30 minutes of uninterrupted rest.

In Germany, the operative text is the federal outline collective agreement for the long-distance carriage of goods of 2 December 1965 (in force on 9 June 1971).

For drivers of heavy goods vehicles or semi-trailers with a permissible maximum weight exceeding 20 metric tons, the maximum period of continuous driving cannot exceed 4 hours and must be followed by a break of at least one hour. This break may be replaced by two breaks of at least 30 minutes each, which must be included in the total driving period in such a way that the period of continuous driving does not exceed 4 hours.

For drivers of heavy goods vehicles or semi-trailers with a permissible maximum weight of 3.5 to 20 metric tons and vehicles with a permissible maximum weight of at least 3.5 metric tons, the maximum period of continuous driving cannot exceed 4 hours 30 minutes (4 hours from 1 October 1971), which must be followed by a break of at least 30 consecutive minutes. This break may be replaced by two breaks of at least 20 minutes each or by three breaks of at least 15 minutes each, which must be included in the total driving period in such a way that the period of continuous driving does not exceed 4 hours 30 minutes (4 hours from 1 October 1971).

If a vehicle is manned by two drivers, periods when a driver is on call, available for work, periods spent in the passenger seat or in the bunk while travelling (change of driver) can also take the place of driving breaks. However, the waiting periods referred to in the collective agreements cannot be assimilated to breaks in the driving period laid down in Council Regulation (EEC) No 543/69 unless they satisfy the requirements laid down in Article 8(4).

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As regards passenger transport the collective agreements concluded at Land level contain similar provisions.

2. MAXIMUM DAILY DRIVING PERIOD (Article 7(2); Article 9(b) and (c))

(a) Laws, regulations and administrative provisions

In Belgium, the provisions in force are those of the Community Regulation (see also the royal decree of 23 March 1970 implementing Regulation No 543/69).

In Germany, the provisions in force are those of the Community Regulation (see also the Regulation of 22 August 1969 on the application of Regulation No 543/69). Furthermore, this period cannot be increased to 9 or 10 hours unless so authorized under collective agreements.

In France, the provisions in force are those of the Community Regulation (see also Decree No 71-125 of 11 February 1971 on the administrative application of the provisions of Regulation No 543/69).

In Italy, the provisions in force are those of the Community Regulation.

In Luxembourg, the provisions in force are those of the Community Regulation (see also the Grand-Ducal Regulation of 23 November 1970 implementing Regulation No 543/69).

In the Netherlands, the provisions of the "Rijttijdenbesluit" of 22 January 1971 apply.

For drivers of vehicles with a permissible maximum weight exceeding 3.5 metric tons and trains of vehicles with a permissible maximum weight not exceeding 20 metric tons, and of vehicles used for the regular carriage of passengers on routes exceeding 50 km in length and for the occasional carriage of passengers, the maximum daily driving period is 9 hours (8 hours from 1 October 1971). By way of derogation, this period may be increased to 10 hours twice a week (9 hours after 1 October 1971) provided

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that, for the carriage of goods, the driver has not driven a train of vehicles of over 20 metric tons in the course of that week and, for passenger transport, the driver has not yet driven a unit drawing a trailer of more than 5 metric tons in the course of that week. For combined goods vehicles with a permissible maximum weight of over 20 metric tons and for combined passenger vehicles drawing a trailer whose permissible maximum weight exceeds 5 metric tons, the maximum daily driving period is 8 hours.

(b) Provisions under collective agreements

In Belgium, Article 6 of the collective agreement on motor coaches sets the maximum daily period at 9 hours. By way of derogation, the total driving period for the week may be increased by 5 hours.

In Germany, the federal outline collective agreement for the long-distance carriage of goods by road of 2 December 1965 (in force on 9 June 1971) applies.

For drivers of heavy vehicles or semi-trailers with a permissible maximum weight of over 20 metric tons, the daily driving period may not exceed 8 hours.

For drivers of heavy vehicles or semi-trailers with a permissible maximum weight of from 3.5 to 20 metric tons and of vehicles with a permissible maximum weight of over 3.5 metric tons, the daily driving period may not exceed 9 hours, though, by way of derogation, it may be increased to 10 hours twice a week (after 1 October 1971, the daily driving period may not exceed 8 hours but, by way of derogation, it may be increased to 9 hours twice in a week).

In the event of force majeure or unforeseen delay, the driving time may be extended to enable the vehicle to reach a suitable stopping place or the place where it is based, if this is compatible with the requirements of road safety or if road safety so requires. The cases of force majeure or unforeseen delay must be recorded in the truck log-book or in the individual control book under the heading "Observations".

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In Italy, Article 14 of the national collective agreement for the carriage of goods by road of 29 May 1971 stipulates that the daily driving period may not exceed 8 hours without interruption other than for a meal (1 hour).

3. MAXIMUM WEEKLY DRIVING PERIOD (Article 7(4) and 9(d))

(a) Laws, regulations and administrative provisions

In Belgium, the provisions in force are those of the Community Regulation (see also the Royal Decree of 23 March 1970 implementing Regulation No 543/69).

In Germany, the provisions in force are those of the Community Regulation (see also the Regulation of 22 August 1969 on the application of Regulation No 543/69).

In France, the provisions in force are those of the Community Regulation (see also Decree No 71-125 of 11 February 1971 on the administrative application of the provisions of Regulation No 543/69).

In Italy, the provisions in force are those of the Community Regulation.

In Luxembourg, the provisions in force are those of the Community Regulation (see also the Grand-Ducal Regulation of 23 November 1970 implementing Regulation No 543/69).

In the Netherlands, the provisions of the "Rijttijdenbesluit" of 22 January 1971 apply.

For drivers of vehicles with a permissible maximum weight exceeding 3.5 metric tons and trains of vehicles with a permissible maximum weight not exceeding 20 metric tons and of vehicles used for the regular carriage of passengers, on routes exceeding 50 km and for the occasional carriage of passengers, the maximum driving period per week is 50 hours (48 hours starting from 1 October 1971) and 96 hours in two consecutive weeks (92 hours starting from 1 October 1971).

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For drivers of combined goods vehicles with a permissible maximum weight exceeding 20 metric tons and combined passenger vehicles, drawing a trailer, with a permissible maximum weight exceeding 5 metric tons, the maximum driving period is 48 hours per week and 96 hours in two consecutive weeks (92 hours starting from 1 October 1971).

(b) Provisions under collective agreements

In Germany, the Federal outline collective agreement for the long-distance carriage of goods of 2 December 1965 (text in force on 9 June 1971) applies. For transport by means of heavy vehicles or semi-trailers with a permissible maximum weight of over 20 metric tons, the weekly driving period may not exceed 48 hours (nor may it exceed 92 hours in two consecutive weeks starting from 1 October 1971).

For transport by means of heavy vehicles or semi-trailers with a permissible maximum weight of from 3.5 to 20 metric tons and vehicles with a permissible maximum weight of over 3.5 metric tons, the driving period may not exceed 50 hours per week (nor may it exceed 48 hours per week or 92 hours in two consecutive weeks starting from 1 October 1971).

III - REST PERIODS (Articles 11 and 12 of the Regulation)

1. Daily Rest Period (Article 11)
- A Carriage of Goods (Article 11 (1))

(a) Laws, regulations and administrative provisions

In Belgium, the provisions in force are those of the Community Regulation (see also the royal decree of 23 March 1970 implementing Regulation No. 543/69).

In Germany, the provisions in force are those of the Community Regulation (see also the Regulation of 22 August 1969 on the application of Regulation No. 543/69). However, under the provisions of Article 53 of the Regulation implementing the Hours of Work Code (AV AZO)

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of 12 December 1938, this period cannot be reduced to 9 or 8 hours for drivers and drivers' mates unless so authorized under collective agreements by way of derogation.

In France, the provisions in force are those of the Community Regulation (see also Decree No 71-125 of 11 February 1971 on the administrative application of the provisions of Regulation No 543/69).

In Italy, the provisions in force are those of the Community Regulation.

In Luxembourg, Article 2 of the Grand-Ducal Decree of 25 July 1959 regulating the working hours of personnel engaged in road transport stipulates an uninterrupted rest period of 12 hours in 24 hours for the carriage of goods. If justified by exceptional circumstances, this period can be reduced to 10 hours upon authorization granted by the Minister of Labour and Social Security.

In the Netherlands, the provisions of the "Rijtijdenbesluit" of 22 January stipulates a daily rest period of at least 11 consecutive hours during the 24-hour period preceding every period of duty.

By way of derogation, the daily rest period can be reduced to 10 hours in a 24-hour period once a week, or twice a week if the person concerned works exclusively on lorries during the week.

If the rest period falls between two periods of duty during all or part of which the crew member is engaged in transport operations abroad, other derogations permit the daily rest period to be reduced twice a week, respectively to 9 hours in a 24-hour period if the rest is taken at the place where the crew member is based, and to 8 hours in a 24-hour period if it is taken elsewhere than the place where he is based.

(b) Provisions under collective agreements

In Belgium, the collective labour agreement of 14 May and 25 July 1969

given binding force by the Royal Decree of 16 September 1969, stipulates a minimum daily rest period of 12 hours in the 6-day week system.

In Germany, the federal outline collective agreement for the long-distance carriage of goods of 2 December 1965 (text in force on 9 June 1971) stipulates a daily rest period of at least 11 consecutive hours which, by way of derogation, can be reduced to 9 hours twice a week at the most. This reduction in the rest period must be compensated during the following week at the latest.

In Italy, Article 15 of the National Collective Agreement on the carriage of goods by road of 29 May 1971 stipulates that the rest period must be 12 hours, including time for meals.

B. Carriage of passengers (Article 11 (2))

(a) Laws, regulations and administrative provisions

In Belgium, the provisions in force are those of the Community Regulation (see also the Royal Decree of 23 March 1970 implementing Regulation No 543/69).

In Germany, the provisions in force are those of the Community Regulation (see also the Regulation of 22 August 1969 on the application of Regulation No 543/69). However, under the provisions of Article 53 of the Regulation implementing the Hours of Work Code (AV AZO) of 12 December 1938, this period cannot be reduced to 10 or 9 hours unless so authorized under collective agreements by way of derogation.

In France, the provisions in force are those of the Community Regulation (see also Decree No 71-125 of 11 February 1971 on the administrative application of the provisions of Regulation No 543/69).

In Italy, the provisions in force are those of the Community Regulation.

In Luxembourg, Article 2 of the Grand-Ducal Decree of 25 July 1959 regulating the hours of work of personnel engaged in road transport operations stipulates an uninterrupted rest period of 12 hours in 24 hours for persons engaged in the carriage of passengers. If justified by exceptional circumstances, this period can be reduced to 10 hours upon authorization granted by the Minister of Labour and Social Security.

In the Netherlands, the provisions of the "Rijttijdenbesluit" of 22 January 1971 stipulate a daily rest period of at least 11 consecutive hours during the 24-hour period preceding every period of duty.

By way of derogation, the daily rest period may be reduced to 10 hours during a 24-hour period once a week and, from 1 May to 1 October, to 10 hours during a 24-hour period if it falls between two periods of duty on tourist excursions.

(b) Provisions under collective agreements

In Luxembourg, the collective agreement on the occupation of private bus drivers of 30 May 1969, given binding force by the Grand-Ducal Regulation of 27 March 1970, fixes the daily rest period between two periods of duty at 12 consecutive hours which, in justifying circumstances, can be reduced to 10 hours.

In the Netherlands, the collective agreement governing the regular carriage of passengers by bus, in Article 41 (a), provides that the daily duty period may not exceed 12 hours 30 minutes (without exception unless by agreement with the works council). In this case, the daily rest period is at least 11 hours 30 minutes.

C. Two drivers (Article 11 (3) and (4))

(a) Laws, regulations and administrative provisions

In Belgium, the provisions in force are those of the Community Regulation (see also the Royal Decree of 23 March 1970 implementing Regulation No 543/69).

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In Germany, the provisions in force are those of the Community Regulation (see also the Regulation of 22 August 1969 on the application of Regulation No 543/69).

In France, the provisions in force are those of the Community Regulation (see also Decree No 71-125 of 11 February on the administrative application of the provisions of Regulation No 543/69).

In Italy, the provisions in force are those of the Community Regulation.

In Luxembourg, the provisions in force are those of the Community Regulation (see also the Grand-Ducal Regulation of 23 November 1970 implementing Regulation No 543/69).

In the Netherlands, the provisions of the "Rijtijdenbesluit" of 22 January 1971 stipulate 10 hours of rest in each 27-hour period, or 8 hours if the vehicle has a bunk.

(b) Provisions under collective agreements

In Belgium, the collective agreement on motor-coaches stipulates a rest period of at least 9 consecutive hours for each driver during the 24 hours preceding the driving period if the vehicle is provided with a bunk.

In Germany, the federal outline collective agreement for the long-distance carriage of goods of 2 December 1965 (text in force on 9 June 1971) provides that, if the vehicle does not have a bunk, each driver must have had at least 10 hours of rest during the 27-hour period preceding all periods in which he is working, on call and available for work, or waiting. If the vehicle has a bunk, each driver must have had at least 8 hours rest during the 30-hour period preceding all periods in which he is working, on call and available for work, or waiting.

D. Special provisions (Article 11 (5) and - (6))

(a) Laws, regulations and administrative provisions

In Belgium, the provisions in force are those of the Community Regulation (see also the Royal Decree of 23 March 1970 implementing Regulation No 543/69).

However, the terms and conditions for compensating reductions in the daily rest period are not the subject of specific provisions.

In Germany, the provisions in force are those of the Community Regulation (see also the Regulation of 22 August 1969 on the application of Regulation No 543/69).

However, the terms and conditions for compensating reductions in the daily rest period are not the subject of specific provisions.

In France, the provisions in force are those of the Community Regulation (see also Decree No 71-125 of 11 February 1971 on the administrative application of the provisions of Regulation No 543/69).

Article 4 of the Decree states that compensation for a reduction in the daily rest period is given in the form of a day's rest if the hours of rest lost add up to a day's work (compensation of half a day is granted only in exceptional cases).

In Italy, the provisions in force are those of the Community Regulation.

However, terms and conditions for compensating reductions in the daily rest period are not the subject of specific provisions.

In Luxembourg, the provisions in force are those of the Community Regulation (see also the Grand-Ducal Regulation of 23 November 1970 implementing Regulation No 543/69).

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Article 6 of this Grand-Ducal Regulation stipulates that reductions in the daily rest period must be compensated at the rate of one complete day of rest for every 9 hours of rest lost.

In the Netherlands, the "Rijtijdenbesluit" of 22 January 1971 provides that the daily rest period must be taken outside the vehicle; however, if the vehicle has a bunk, the rest period may be taken on that bunk provided that the vehicle is stationary.

However, the terms and conditions for compensating reductions in the daily rest period are not the subject of specific provisions.

(b) Provisions under collective agreements

In Belgium, the collective agreements on motor coaches stipulate that, if the vehicle is provided with a bunk which complies with regulations, the rest period may be taken on that bunk except twice a week, when it must be taken outside the vehicle.

In Germany, the federal outline collective agreement for the long-distance carriage of goods of 2 December 1965 (text in force on 9 June 1971) provides that the rest period must be taken outside the vehicle, but, if the vehicle has a bunk, it may be taken on that bunk provided the vehicle is stationary.

Each week must include at least 82 hours of rest including breaks and day off. For traffic from and to Berlin, each week must include at least 81 hours of rest (82 hours starting from 1 January 1973) including breaks and the day off. In the event of force majeure or unforeseen delays, the rest period may be reduced to enable the vehicle to reach a suitable stopping point on the place where it is based if this is compatible with the requirements of road safety, or if road safety so requires. The case of force majeure or unforeseen delay must be recorded in the truck log-book or the individual control book under the heading "Observations".

2. WEEKLY REST PERIOD (Article 12)

(a) Laws, regulations and administrative provisions

In Belgium, the provisions in force are those of the Community Regulation (see also the Royal Decree of 23 March 1970 implementing Regulation No 543/69).

In Germany, under the provisions of Article 52 of the regulation implementing the hours of work code of 12 December 1938 (AV AZO), there must be two periods of uninterrupted rest of at least 36 and 24 hours in any two weeks.

In France, the provisions in force are those of the Community Regulation (see also Decree No 71-125 of 11 February 1971 on the administrative application of the provisions of Regulation No 543/69).

In Italy, the provisions in force are those of the Community Regulation.

In Luxembourg, the provisions in force are those of the Community Regulation (see also the Grand-Ducal Regulation of 23 November 1970 implementing Regulation No 543/69).

In the Netherlands, under the provisions of the "Rijtijdenbesluit" of 22 January 1971, the weekly rest period must be of at least 36 consecutive hours, at least 23 of which must fall in the same day.

Furthermore, the weekly rest period may not end between 23.00 and 03.00 hours for the carriage of goods or between 23.00 and 05.00 hours for the carriage of passengers. If the weekly rest period is taken in the Netherlands, the employee must be able to spend at least 30 hours at the place where he is based. For employees at least 23 hours of weekly rest must be taken on Sunday at least once every three weeks. For employees under 18 years of age, the weekly rest period must always include Sunday. The same legislative text also provides for derogation.

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For passenger transport coming under Regulation 543/69, if the person concerned is engaged in "regular" transport duty, the weekly rest period can be reduced to 24 hours once in two weeks upon the changeover of crews, provided that it is immediately preceded or followed by a daily rest period. Further, the total duration of two weekly rest periods can be reduced to 48 hours provided that it is immediately preceded or followed by a daily rest period. Finally, if, during the period from 1 May to 1 October, the weekly rest period falls between two periods of duty on tourist excursions, it can be reduced to 24 hours provided it is immediately preceded or followed by a daily rest period.

(b) Provisions under collective agreements

In Belgium, the provisions ensuing from collective agreements, subsequently given binding force by Royal Decree, apply in this matter.

Workers in public and special bus services have the right to a 36-hour rest period once a week if the rest period begins after 19.00 hours and before 02.00 hours (collective agreements of 22 September 1967 and 31 October 1968, given binding force by Royal Decree of 16 September 1969).

Workers engaged in goods transport operations are entitled to a minimum weekly rest period of one or two days depending on whether a 6 or 5-day working week is in force. A day's rest means that no work is performed between one midnight and the following midnight (collective agreements of 14 May 1968 and 25 July 1968, given binding force by Royal Decree of 16 September 1969).

Workers employed by removal firms are entitled to a minimum weekly rest period of one or two days depending on whether a 6 or 5-day week is in force. A day's rest means that no work is performed between one midnight and the following midnight (collective work agreement of 23 December 1970, given binding force by the Royal Decree of 13 August 1971. This agreement was superseded by that of 23 September 1971, which entered into force on 1 October 1971 but has not yet been given binding force by Royal Decree. However, it makes no changes to the system of weekly rest periods).

In Germany, the federal outline collective agreement for the long-distance carriage of goods of 2 December 1965 (text in force on 9 June 1971) provides that the worker is entitled to a weekly rest period of at least 24 consecutive hours, which must be preceded or followed by the daily rest period. In principle, the days off are taken at the place of duty or at the worker's home. At least two days off in two fortnights must be taken on Sundays.

In France, the national collective agreement on road transport provides for a weekly rest period of 36 hours per period of six days for employees spending the week on the road.

In Italy, Articles 8 and 9 of the national collective agreement for the carriage of goods by road of 29 May 1971 stipulate a weekly rest period of 24 consecutive hours, to be taken on Sunday, except where otherwise provided by law.

In Luxembourg, the provisions of the collective agreement concerning the occupation of private bus driver of 30 May 1969, given binding force by the Grand-Ducal Regulation of 27 March 1970, apply in this matter. This collective agreement was extended first until 30 April 1973 and then until 30 April 1974. Each month, every worker is entitled to a number of days of rest equalling the number of Sundays in that month. At least a third of these rest days each year must be taken on Sunday. The number of consecutive working days between two rest periods may not be less than five. No more than two consecutive rest days may be granted. Each rest day must comprise at least thirty-six hours. In certain cases, the duration of this rest period may be reduced to twenty-eight hours.

In the Netherlands, the collective agreements are based on the five day week.

In most cases, workers engaged in the carriage of goods have Saturday and Sunday free, that is to say two consecutive days.

For the regular carriage of passengers by bus two days rest per week are stipulated, but they are generally not consecutive days. It is also

possible to work a sixth day since the provisions of the Rijtijdenbesluit and of the Community Regulation so permit.

PART II - COMMENTS AND SUGGESTIONS BY THE GOVERNMENTS OF THE MEMBER STATES
AND BY THE PROFESSIONAL AND TRADE UNION ORGANIZATIONS -
CONCLUSIONS OF THE COMMISSION

In its questionnaire the Commission asked the parties concerned to offer a general appraisal of the situation as it had developed in the areas covered in the Community Regulation and to propose suitable measures for improving Regulation No 543/69 with a view to social progress and improved road safety. This report now gives a resume of the comments and suggestions which the Governments and the employers' and labour organizations have put forward.

Moreover, the Commission has thought it fit to offer its own observations and conclusions at the end of the report.

I. GOVERNMENTS

The Belgian and Italian Governments consider that the Regulation has been in force for too short a period for conclusions to be drawn or suggestions to be made.

The French Government considers that Council Regulation (EEC) No 543/69 is an important element in social and economic progress and that it helps to increase road safety; it believes that the first phase of its application must be a campaign to educate, inform and create awareness. As far as strict application of the Regulation is concerned the French Government relies heavily on the use of the tachygraph which has been introduced ahead of schedule for vehicles registered in France.

The German, Luxembourg and Netherlands Governments have made no comment on the lines suggested by the Commission.

II. EMPLOYERS' ORGANIZATIONS

The "Bundesverband des Deutschen Guterfernverkehrs" (Germany) while considering it difficult to assess the impact which the Community Regulation has had on the true situation, maintains that the Regulation has been applied only in Germany, and that this has given rise to distortions of competition,

which represents between 15 and 22% of turnover. Because of this it is absolutely indispensable that in all Member States penalties should apply to drivers as well as to employers.

The national organizations of the other Member States have made no comment on the lines suggested by the Commission.

Dutch employers consider that provision should be made for exceptions as regards the transport of both goods and passengers. These exceptions should relate to special loads, e.g., harvests, concrete, dangerous goods, perishable products, etc. They experienced very great difficulties in connection with the 450 km limit (Article 6). Finally, there should be discretion to apply the regulation as a whole more flexibly.

III. LABOUR ORGANIZATIONS

The "Centrale Chretienne des Services Publics" (Belgium) and the "Union belge des ouvriers des transports" (Belgium) in an assessment consider that the implementation of the Community Regulation has rarely affected the working conditions of the personnel concerned. Moreover, the existing national joint agreements have not yet been adapted to the Community Regulation.

The "Federation nationale des moyens de transports-(CGT)" (France) proposes that Regulation No 543/69 be supplemented by a regulation concerning the duration of the period of service.

In the view of the "Federation generale des syndicats des transports - CFDT" (France), in spite of legislative measures taken to apply the Community Regulation, it does not seem to have brought about manifest changes in actual safety and working conditions in transport throughout French territory, as employers have taken measures intended to deflect the effects of this Regulation.

The "Federation chretienne du personnel des transports" (Luxembourg)

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considers that the driving licence has decreased in importance (the professional driver's licence being partly abolished) and that as a result entry into the occupation of driver has become easier. It proposes that drivers be given a complete vocational training (technical knowledge of the vehicle, knowledge of the legislation relating to road traffic) including a sufficiently long period of training, and that a professional driver's statute be drawn up.

The "Katholieke Bond van Vervoerspersoneel" and the "Algemene Christelijke Bond van Vervoerspersoneel" (Netherlands) consider that implementation of the Community regulation and the "Rijtijdenbesluit" in practice gives rise to fewer objections or difficulties than implied in, among other things, statements made by employers' organizations.

The "Algemene Bond Mercurius" (Netherlands) contends that, in certain cases, the provisions of the "Rijtijdenbesluit" of 22 January 1971 are socially more advanced than the Community Regulation.

IV. COMMENTS AND CONCLUSIONS OF THE COMMISSION

A. General comments

In the first place, it should be noted that the Member States have instituted the laws, regulation, and administrative measures needed to implement the Regulation in question. On the reference date for this report Italy had not established measures for carrying out controls and enforcing penalties in the case of non-compliance. The situation has however been regularized in the meantime.

Secondly, although information concerning the legislative provisions in force in the Member States on the date of reference for this report was easily obtained, it is not certain whether enough is really known about the collective agreements, largely because little information thereon was supplied to the Commission.

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Thirdly, while the report shows that both national legislation and collective agreements provide for very few higher minima and lower maxima than those of the Community Regulation, it also reveals some shortcomings in Regulation No 543/69 which should be remedied.

B. Comments on specific points

MINIMUM AGE : DRIVERS - CARRIAGE OF GOODS

In Germany, the minimum age is 21 years, a more stringent standard than that laid down in Regulation No 543/69. However, the special cases giving rise to derogations have not been specified.

Only France and the Netherlands have adopted measures relating to the suspension of application, pursuant to Article 5(5) of the Community Regulation.

MINIMUM AGE : DRIVERS - CARRIAGE OF PASSENGERS

In Germany, the provisions in force, especially regarding the minimum age, which is fixed at 23 years, are more stringent than those of the Community Regulation.

Only Germany, France and the Netherlands have adopted measures relating to the suspension of application, pursuant to Article 5(5) of the Community Regulation.

MINIMUM AGE : DRIVERS' MATES AND CONDUCTORS

Measures relating to the suspension of application under Article 5(6) of the Community Regulation have been adopted only in Germany and the Netherlands, and in the latter country only as regards drivers' mates.

CONTINUOUS DRIVING PERIODS AND BREAKS

In the Netherlands, the alternative solution of granting two breaks of 20 minutes each to drivers of vehicles other than those referred to in Article 6 of Regulation No 543/69 is more favourable than that provided by Article 8(2), 2nd paragraph of the Community Regulation.

MAXIMUM DAILY DRIVING PERIOD

The provisions in force in the Netherlands specify the conditions which the drivers must fulfil in order to benefit from the derogations provided by Regulation No 543/69 (Articles 7(3) and 9(c)) for vehicles other than those referred to in Article 6 of that Regulation.

In Luxembourg, by virtue of law which come into force prior to the adoption of Regulation No 543/69, the provisions relating to the length of the daily rest period and to derogations are more generous than those of the Community Regulation.

In the Netherlands, the derogations referred to in Article 11(1), 2nd paragraph of the Community Regulation apply only to drivers engaged in transport operations abroad. For domestic transport, the daily rest period must not fall below 10 hours by way of derogation or under certain conditions, which constitutes a more favourable system than that of the Community Regulation.

In Belgium, collective agreement provisions in this field are more favourable than those of Regulation No 543/69.

DAILY REST PERIODS : CARRIAGE OF PASSENGERS

In Luxembourg, by virtue of a law which came into force prior to the adoption of Regulation 543/69, provisions relating to the length of the daily rest period and to derogations are more generous than those of the Community Regulation.

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In the Netherlands, the "Rijtijdenbesluit" introduces a permanent derogation for a specified period of a year, which is incompatible with the provisions of Regulation No 543/69.

In Luxembourg and the Netherlands collective agreement provisions in this field are more favourable than those of the Community Regulation.

TWO DRIVERS

The provisions under the collective agreement in force in Belgium are more generous than those of the Community Regulation.

SPECIAL PROVISIONS

Germany, Belgium, Italy and the Netherlands have not adopted measures for the compensation of reductions in the daily rest period.

In Belgium, provisions of the collective agreement on motor coaches are more generous than those of the Community Regulation.

WEEKLY REST PERIODS

Some provisions of the regulation implementing the Hours of Work Code in Germany do not appear to be compatible with those of Regulation 543/69.

In the Netherlands, the weekly rest period is longer than that provided for in the Community Regulation, but the derogations and the running together of two consecutive weekly rest periods are not compatible with Regulation No 543/69.

In Belgium, France and Luxembourg, the relevant collective agreement provisions are more favourable than those of the Community Regulation.

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C. Conclusions

Although one may accept the view of some governments that Regulation 543/69 has been in force for too short a period for conclusions to be drawn, the Commission considers it disturbing that a number of labour organizations have expressed the opinion that the Community Regulation has had no positive impact on the actual safety and working conditions of the personnel concerned. Admittedly the Commission stated on 22 December 1971, when it presented to the Council its first report pursuant to Article 17 of Regulation No 543/69 (1), ".....this situation can certainly be explained by the initial difficulties inherent in the implementation of new provisions". The Commission believes that the situation also shows the necessity for a coherent system of control and penalty measures throughout the countries of the Community. Otherwise, many provisions of Regulation No 543/69 will remain a dead letter, when employers and workers are tempted to disregard them.

(1) Final Doc. SEC(71) 4515 final, 20 December 1971.