

COMMISSION OF THE EUROPEAN COMMUNITIES

COM (80) 486 final

Brussels, 9th September 1980

SEVENTH REPORT BY THE COMMISSION TO THE COUNCIL

on the implementation of Regulation (EEC) No 543/69
of the Council of 25 March 1969 on the harmonization
of certain social legislation relating to road transport
(1 January to 31 December 1978)

CONTENTS

	<u>Page</u>
A. INTRODUCTION	1
B. COMPARATIVE ANALYSIS OF INFORMATION SUPPLIED BY THE MEMBER STATES	2
I. Organisation of control	2
1. Administrative organization of inspection	2
2. Authorized inspecting officers and their powers	3
3. Methods of inspection (place and frequency)	4
II. Breaches and penalties	9
1. Number of breaches of the Regulation	9
2. Comparative significance of offences committed by nationals and non-nationals	16
3. Penalties imposed	23
III. Multilateral mutual assistance between Member States and notification of breaches	35
IV. Conclusions and suggestions by the Member States	36
1. Compliance with the provisions of the Regulation	36
2. Difficulties in checking on the use of individual control books in international transport operations	37
3. Proposals for changes in the standard form of report	39
4. Proposals for measures to improve the operation of Regulation (EEC) n° 543/69	39
C. SUMMARY AND CONCLUSIONS	40

A. INTRODUCTION

1. Under Article 17 of Council Regulation (EEC) No 543/69 of 25 March 1969 the Commission is required to draw up each year a general report on the implementation of the Regulation by Member States. The Commission herewith presents the seventh such report (covering the period 1 January to 31 December 1977).

2. The Commission feels constrained to point out that, yet again, the information received was often lacking in detail and sometimes fragmentary. Though a slight improvement was discernible over the previous year, the Member States continued to be very slow in sending their submissions to the Commission and in several instances only did so after repeated reminders.

3. Implementing provisions for the application of the Community Regulation to domestic transport operations not having been enacted in Denmark until 1 February 1977, the Danish Government informed the Commission that it had been very difficult, at least initially, to induce transport operators and drivers to comply with the rules. Again according to the Government, however, these difficulties are now becoming less acute.

In Ireland and the United Kingdom, the provisions of the Regulation were not applied to domestic traffic during the period under review and the information provided by these countries consequently relates only to international traffic. The Commission would also point out that Ireland failed to use the standard form of report drawn up by the Commission after consultation with the Member States. Furthermore, no statistical information whatsoever was provided.

The position is little better as regards Italy. Whilst the Italian report did keep broadly to the standard form, there was unfortunately a complete absence of statistical information.

4. Section B contains a comparative analysis of the information supplied by the individual Member States and Section C the conclusions drawn from their reports.

B. COMPARATIVE ANALYSIS OF INFORMATION SUPPLIED BY THE MEMBER STATES

I. ORGANISATION OF CONTROL

1. Administrative organization of inspection

Some of the national reports unfortunately fail to distinguish clearly between :

- a) roadside checks and
- b) checks at operators' premises.

The Commission has therefore not attempted to consider the organization of the two types of inspection separately.

In Belgium, inspection continued to be organized on the same basis as in 1976 (and indeed since 1973), with the assistance in particular of the Transport Administration Inspectorate, which specializes in the detection of road transport offences.

The Federal Republic of Germany emphasizes that checks to monitor compliance with Regulation (EEC) No 543/79 are carried out at transport operators' premises, as well as on the road and at borders. Checks at operators' premises are the responsibility of the factory inspectorates (Gewerbeaufsichtsämter), whilst roadside and border checks are conducted by police, the BAG (Bundesanstalt für den Güterverkehr - Federal Office for Goods Transport) and factory inspectors.

In France, checks continue to be carried out both on the road and at operators' premises. Since 1976, authority to carry out checks has been extended to additional categories of officials and state employees. The police and the gendarmerie continue to assist with roadside checks.

Italy

Checks were carried out exclusively at operators' premises and vehicle depots during the report period. No statistical data was supplied to the Commission.

Luxembourg

Checks were carried out both at operators' premises (by the factory inspectorate) and on the road (by the Road Transport Inspectorate). No

statistics on these checks were supplied to the Commission.

Netherlands

The inspection system remains the same, with checks being carried out by the National Transport Inspectorate, national and local police.

Denmark

The two sets of implementing provisions only entered into force on 21 February 1975 and 1 February 1977 respectively. Whilst checks were carried out and infringements detected during the period under review, no statistics were supplied to the Commission.

There is a similar lack of information for Ireland, where roadside checks may be carried out by Customs and Excise officers, members of the Garda Siochana or specially authorized officers.

As regards the United Kingdom, there was no change during the report period in the administrative organization of checks on the road and at operators' premises, both of which therefore remained the responsibility of the Traffic Commissioners.

2. Authorized inspecting officers and their powers

In Belgium, checks were carried out by 305 members of the Factory Inspectorate (inspectors and assistant inspectors) and 50 Transport Administration personnel (traffic examiners and inspectors) plus members of the gendarmerie, customs and other departments. No further information was supplied to the Commission regarding the powers of inspecting officers.

The Federal Republic of Germany reported that, as before, some 2 500 officials (including 250-300 factory inspectorate officials) were involved, as part of their duties, in monitoring compliance with the Community rules. All these inspecting officers were empowered to carry out investigations and report offences to the competent authorities with a view to the imposition of penalties.

In France checks were carried out both on the road and at operators' premises by 42 factory inspectors and 260 traffic examiners. In addition, police and gendarmerie motorcyclists (some 6 500 in 1977) assist in monitoring compliance on the road. Offences are reported to the competent authorities for further

action. Both plain-clothes and uniformed police officers are empowered to impound vehicles if their crews have breached the rules on driving time and rest periods.

The Italian Government states that it is impossible to give figures as regards either the number of persons involved in monitoring compliance with the Community rules or the number of checks conducted, since the task is shared by a number of separate public authorities.

a) roadside checks and

In Luxembourg, there was no change in the organization of inspection

b) checks at operators' premises

during the year under review and checks were carried out by officers seconded to the Factory Inspectorate specifically for the purpose of monitoring the activities of road and rail transport operators and by the Road Transport Inspectorate. No further information has been supplied to the Commission regarding the powers of inspecting officers.

In the Netherlands, the "Rijksverkeersinspectie" (National Transport Inspectorate) had 148 inspectors in 1977 and there were plans to increase the number.

In Denmark, the task of monitoring compliance is divided between some 600 police officers (roadside checks), and 180 members of the Factory Inspectorate (checks at operators' premises).

In Ireland, authorized inspecting officers are appointed by the Minister for Labour and are furnished with a warrant of appointment. They may be either officers of Customs and Excise or members of the Garda Siochana. These authorized officers, whose number the Irish Government has not specified, are empowered to carry out inspections both on and off the road.

In the United Kingdom, steps were taken during the report period to fill 30 vacancies for Traffic Examiners. In total, there were 217 Traffic Examiners in post at the end of 1977 as against 210 a year previously. The powers of Traffic Examiners and police remained unchanged.

3. Methods of inspection (place and frequency)

In Belgium, the position was almost exactly as in 1976 - the Factory Inspectorate conducted 775 inspections at operators' premises (635 relating to road haulage operations and 140 to passenger transport) and Transport

Administration inspectors carried out 8 300 roadside checks (7 200 on road haulage vehicles and 1 100 on passenger transport vehicles). Several thousand checks are carried out each year by members of the gendarmerie, customs and other departments involved in the surveillance of road traffic, but no precise figures are available. It is also to be regretted that monitoring compliance with Regulation (EEC No 543/79 should represent such a small part of the activities of Factory Inspectors and that the latter only conduct checks incidentally, in the course of other work.

In the Federal Republic of Germany, the number of checks carried out has fallen from 82 613 in 1975 to 63 945 in 1976 and only 53 867 in 1977. Of the latter 19 710 took place at operators' premises and 34 157 on the road. Roadside checks are carried out partly in the course of general traffic surveillance and partly in the form of special checks by police, the BAG and Factory Inspectors. Regular inspections at operators' premises provide an opportunity to check supporting documents (individual control books, tachograph record sheets, etc.) covering a fairly long period. The inspecting officers also conduct random checks and investigations following up complaints or information received.

In France, roadside checks concentrate on ensuring that documentary records (individual control books) and recording equipment (tachographs) are properly used and monitoring compliance with standards directly affecting road safety during the particular transport operation under way. Checks at operators' premises involve the selection and analysis of tachograph record sheets covering the activities of individual drivers over two consecutive weeks. In this case, the records are checked for compliance with the whole range of standards laid down in Regulation (EEC) No 543/79.

The number of checks carried out rose substantially as compared with previous years : 267 829 crews were checked on the road and 17 673 at the operator's premises. In addition, 158 153 record sheets were analysed in the course of inspections at operators' premises.

The Italian Government states that checks are carried out at operators' premises and vehicle depots. Because of staff shortages and the fact that the personnel available also have other duties to perform, the frequency of inspection varies from region to region. Checks take place in the course of statutory inspections under the provisions of labour law - hence intermittently. According to the Italian authorities, they are unable to provide more precise information.

In Luxembourg, inspections continue to be carried out at operators' premises at least two or three times a year and checks are conducted regularly on the road and at borders. As in the case of Italy, however, no figures have been supplied to the Commission.

In the Netherlands, officials of the National Transport Inspectorate acting independently conduct roadside spot checks on a regular basis. In addition, each district of the Inspectorate carries out a special checking operation once a month. A table is drawn up quarterly indicating the date and place of these operations and specifying the services which will be taking part. Mention should also be made of the checks on heavy goods transport conducted regularly in collaboration with the national police force. The total number of checks carried out in 1977 was at least 150 000. In addition, members of the National Transport Inspectorate conducted 145 in-depth investigations into the activities of particular operators following the detection of infringements in the course of roadside checks.

According to the Danish Government, the situation once again remained as outlined in the fifth report (1974). No statistical information was provided.

As regards the position in Ireland, the regulations provide that an authorized officer may at all reasonable times enter any premises or place used for the purposes of international transport operations and inspect any vehicle there which is used for such operations. He may also halt and inspect vehicles on the road. No indication has been given as to the frequency of inspection.

In the United Kingdom, vehicle checks on trunk roads organized by Department of Transport Traffic Areas in conjunction with the police were conducted twice each week on average during the report period. Checks were also carried out on about 10-15 % of incoming vehicles at ports of entry into the United Kingdom. Finally, "silent" checks were carried out whereby vehicle movements were observed and noted, then subsequently checked against drivers' records at the premises of the undertaking.

A total of 17 906 goods vehicles were inspected in 1977 as against 13 022 in 1976 and 14 977 in 1975.

Though all the Member States have, broadly speaking, made the necessary arrangements, in formal terms, for the conduct of checks both on the road and at operators' premises, the organization and practice of inspection varies very widely from country to country. An attempt has nevertheless been made in this report to draw up a comparative table (p. 6b). The results would suggest that the figures supplied by the Member States as regards the number of officials actually involved in inspection as yet present no ready basis for comparison. Thus, at least according to the information supplied, there are only 217 officials actually involved in inspection in a large country such as the United Kingdom, as against 2 500 (roughly ten times as many) in another country of comparable size - the Federal Republic of Germany - and approximately 350 (or half as many again as in the UK) in a small country such as Belgium.

The figures also show that the scale of inspection remains inadequate in some Member States. In the case of roadside checks in the Federal Republic and Belgium, there is no indication as to whether the totals - 34 157 and 8 300 respectively - relate to the number of inspection operations (each involving the checking of several crews) or the number of crews checked. If the latter is the case, these totals would seem inadequate and hence not comparable with, for instance, the figures supplied by the French and Dutch Governments, which relate to the number of crews checked. As regards the United Kingdom, the Commission considers that too few vehicles were checked during the year under review.

The difficulty of comparing the national submissions was further compounded by the failure of certain Member States to supply any information regarding the number of inspecting officers and the number of checks carried out.

In the Commission's opinion, steps should be taken to increase substantially the number of checks conducted and ensure that the latter take place both on the road and at operators' premises.

ORGANIZATION OF CONTROL

	Authorized inspecting officers	Checks carried out during 1977	
		Roadside	Operators' premises
Federal Republic of Germany	Total 2 500 (police, BAG, Gewerbeaufsicht), including 250-300 members of the Gewerbeaufsichtsämter (factory inspectorates) in the various Länder.	34 157	19 710
France	42 factory inspectors, 260 traffic examiners and approximately 6 500 members of the police and gendarmerie.	267 829 ¹	17 673 ¹ + 158 153 record sheets analysed
Belgium ²	305 members of the Factory Inspectorate (inspectors and assistant inspectors), 50 Transport Administration inspectors and monitoring officers, plus gendarmerie, customs and other officials.	8 300	775
Italy	No information	No information	
Luxembourg	Police, gendarmerie and customs officers plus members of the Factory Inspectorate and the Road Transport Inspectorate.	Idem	
Netherlands	148 transport inspectors and 10 factory inspectors, plus national and local police.	150 000 ³	145 in-depth investigations
United Kingdom	217 officials under the authority of the Traffic Commissioners, the police.	17 906 ⁴	No information
Denmark	600 police officers, 180 factory inspectors	No information	
Ireland	Officers of Customs and Excise and members of the Garda Síochána	Idem	

- (1) Figures relate exclusively to roadside checks conducted by the Transport Inspectorate and checks conducted at operators' premises by the Factory Inspectorate.
- (2) No figures available for checks conducted by the gendarmerie, police, etc. but estimated to total several thousand.
- (3) Figure estimated on the basis of a survey.
- (4) Checks relate to international transport operations only.

II. BREACHES AND PENALTIES

1. Number of breaches of the Regulation

According to the information supplied by Belgium that the number of infringements detected was less during the period under review than in previous years in spite of the increase in the number of checks conducted. A total of 654 offences were detected in connection with goods transport operations, the breakdown being as follows :

(a) Distance restriction (450 km) (Art. 6)	6
(b) Driving periods (Art. 7)	
- continuous	8
- daily	10
- weekly	5
(c) Breaks (Art. 8)	3
(d) Daily rest period (Art. 11)	7
(e) Weekly rest period (Art. 12)	7
(f) Control books (Art. 14 and Annexes)	
Art. 14(1) : Crew members not carrying control book	347
Art. 14(1) : Books not handed in	0
Art. 14(2) : Books kept improperly or not at all	90
Art. 14(4) : No tachograph	1
Art. 14(7) : Registers not kept	15
Art. 14(7) : Registers improperly kept	18
Art. 14(8) : Books not retained	16
Annex : Weekly report not signed	1
(g) Checks on regular services (Art. 15)	
1. No service timetable drawn up	1
No duty roster drawn up	4
2. Extract from duty roster and/or copy of service timetable not carried by crew member	1
(h) Community tachograph (Art. 16)	3
(i) Regulation (EEC) No 1463/70	111
	(1)
	<hr/>
TOTAL	654

(1) h = Vehicles not fitted with recording equipment

i = Vehicles fitted with recording equipment (various offences)

It is worth noting that 53 % (347) of the offences relate to Article 14(1) : "crew members not carrying control books".

As far as regular passenger transport services are concerned, a total of 108 inspections were carried out at operators' premises and the following nine offences detected :

(a) Register not kept	1	It should be borne in mind that all the operators checked were Belgian and all the vehicles Belgian-registered.
(b) No service timetable drawn up (Art. 15)	2	
(c) No duty roster drawn up (Art. 15)	2	
(d) Control books kept improperly or not at all	4	
	9	

As regards occasional passenger transport operations, 32 inspections were carried out at Belgian operators' premises and the following offence was detected :

Art. 14(2) : Control book kept improperly or not at all : 1

Finally, the Transport Administration conducted approximately 1 000 checks on passenger transport operations and detected 148 offences.

In the Federal Republic of Germany, the number of infringements of Regulation (EEC) No 543/69 increased in relation to the number of checks conducted. A total of approximately 46 200 offences (goods transport ± 43 800 and passenger transport ± 2 400) were detected in the course of 53 867 checks. Some 24 200 of the offences concerned the rules on working hours and 22 000 the rules regarding the records to be kept.

Articles of the Regulation,	Goods National	Transport Non-national	Passenger transport			
			Regular services		Occasional services	
			National	Non-national	National	Non-national

Art. 6

Distance
restriction
(450 km)

989

28

1

Art. 7(1)

Maximum period
of continuous
driving 4 hours
(vehicles
referred to in
Art. 6)

3 093

256

16

6

Art. 7(2)

Daily driving
period 8 hours
(vehicles
referred to in
Art. 6)

5 865

464

3

43

6

Art. 7(4)

Weekly driving
period 48 hours
(vehicles
referred to in
Art. 6)

157

38

Art. 7(1)

Maximum period
of continuous
driving 4 hours
(vehicles not
covered by
Art. 6)

1 259

23

4

150

44

Art. 7(3)

Daily driving
period 8 hours,
extension to
9 hours twice
a week (vehicles
not covered by
Art. 6)

1 067

52

28

5

289

65

Articles of the Regulation.	Goods National	Transport Non-national	Passenger transport			
			Regular services		Occasional services	
			National	Non-national	National	Non-national
Art. 7(4)						
Weekly driving period 48 hours (vehicles not covered by Art. 6)	286	9			8	
Art. 8						
Breaks	3 035	353	8	4	140	31
Art. 11(1)						
Daily rest period (goods) not less than 11 hours in 24, reduced twice a week to 9 hours when rest taken at base or 8 hours when rest taken elsewhere	639					
Art. 11(2)						
Daily rest period (passenger transport) 10 hours in 24 or 11 hours in 24 reduced twice a week to 9 hours and twice to 10 hours			14	14	277	79
Art. 12						
Weekly rest period 24 hours immediately preceded or followed by a daily rest period	138	12			54	

Articles of the Regulation	Goods National	Transport Non-national	Passenger transport			
			Regular services		Occasional services	
			National	Non-national	National	Non-national

Art. 14(1)
and Annex

Drivers deemed
not to be in
possession of
control book

8 485	234		141	32
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Art. 14(2)
and Annex

Individual
control book
not kept in
accordance
with
provisions
of Art. 17
Reg. (EEC)
No. 1463/70

9 646	2 438	2	578	322
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Art. 15(1)

Monitoring of
regular services -
service timetable
and duty roster
to be drawn up
by operator

17		47		
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Art. 15(5)

Monitoring of
regular services -
extract from duty
roster and copy
of service
timetable to be
kept by each
crew member

10	6	35	7	
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TOTAL	39 252	4 552	141	30	1 697	585
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The following table for the Netherlands shows that the majority (65 %) of the offences detected relate to the use of documentary records and recording equipment. Of this 65 %, 11 % involve the individual control book (Art. 14(1) and (2)) and 54 % the tachograph (Art. 14(4)).

Articles of the Regulation	Goods transport	Passenger transport	
		Regular services	Occasional services
6	401	-	-
7/1	2 592	2	4
7/2	5 923	2	19
7/3	213	-	2
7/4	74	-	-
8	8	-	-
11/1	5 992	-	-
11/2	-	4	65
12	14	-	3
14/1	3 152	34	40
14/2	1 533	58	6
14/4	16 507	20	192
15/1	2	-	-
15/5	2	2	-
16	6 795	2	105
TOTAL	43.208	124	436

Denmark reports a total of 712 infringements. This figure, which relates exclusively to offences committed by Danish nationals, breaks down as follows :

Art. 7 : Driving periods	22
Art. 8 : Breaks	2
Art. 11 : Rest periods - goods transport	5
Rest periods - passenger transport	2
Art. 14 : Individual control book	<u>675</u> !
Art. 15 : Regular services	6

	712
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As regards Ireland, yet again no information was supplied to the Commission.

In the United Kingdom, 17 906 vehicles were inspected during the period under review. Of these, 181 were found to be in breach of the Regulation, which represents an increase of 0.50 %. In all, 140 of the infringements concerned Article 14(1) (failure to carry control books) and 38 Article 14(2) (failure to keep control books properly). (See Table under point 2, p. 12).

2. Comparative significance of offences committed by nationals and non-nationals

Unfortunately, since some countries such as Italy and Ireland provided no information on infringements and others (Luxembourg and Denmark) made no distinction between nationals and non-nationals, the figures supplied by the Member States are inadequate for any reliable comparison.

The tables submitted by Belgium show offences by non-nationals as constituting only 2 % of the total detected in goods transport and 28 % in passenger transport (see tables below).

BELGIUM

1. Goods transport

(a) Infringements by non-nationals

Articles	DK	NL	L	D	I	F	Total
Art. 6 :							
450 km distance restriction	-	-	-	-	-	-	0
Art. 7 :							
Driving periods - continuous	-	-	-	-	1	1	2
daily	-	-	-	-	-	-	0
weekly	-	-	-	-	-	-	0
Art. 8 :							
Breaks	-	-	-	-	-	-	0
Art. 11 :							
Daily rest period	-	-	-	-	-	-	0
Art. 12							
Weekly rest period	-	-	-	-	-	-	0
Art. 14(1) :							
No control book	-	-	-	-	2	2	4
Art. 14(2)							
Books kept improperly or not at all	-	-	-	-	1	-	1
Regulation (EEC) No 1463/70	-	5	-	-	-	-	5
TOTAL	-	5	-	-	4	3	12

b) Infringements by nationals

(a) Distance restriction (450 km) (Art. 6)	6
(b) Driving periods (Art. 7) - continuous	6
daily	10
weekly	5
(c) Breaks	3
(d) Daily rest period (Art. 11)	7
(e) Weekly rest period (Art. 12)	7
(f) Control book - Art. 14(1) : No control book	343
Art. 14(1) : Control book not handed in	0
Art. 14(2) : Control book kept improperly or not at all	89
Art. 14(4) : No tachograph	1
Art. 14(7) : No registers kept	15
Art. 14(7) : Registers kept improperly	18
Art. 14(8) : Control books not retained	16
Annex 4 - Weekly report not signed	1
(g) Checks on regular services (Art. 15)	
1. Failure to draw up service timetable	1
Failure to draw up duty roster	4
2. Copy of service timetable and/or extract from duty roster not carried by all crew members	1
(h) Community tachograph (Art. 16)	3
(i) Regulation (EEC) No 1463/70	106
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	TOTAL
	642
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2. Passenger transport

Articles	NL	D	I	F	GB	Total non-nationals	Total nationals
Art. 6 :							
Distance restriction (450 km)	-	-	-	-	-	0	0
Art. 7 :							
Driving periods	-	-	-	-	-	0	0
Art. 8 :							
Breaks	-	-	-	-	-	0	0
Art. 11 :							
Daily rest period	-	-	-	-	-	0	2
Art. 12 :							
Weekly rest period	-	-	-	-	-	0	0
Art. 14(1) :							
Control book not handed in	-	-	-	-	-	0	0
Art. 14(1) :							
No control book	1	-	4	2	2	9	31
Art. 14(2) :							
Control book kept improperly or not at all	-	-	3	-	-	3	17
Art. 14(7) :							
Register kept improperly or not at all	-	-	-	-	-	0	1
Art. 14(8) :							
Control books not retained	-	-	-	-	-	0	1
Vehicles not fitted with control equipment	1	-	3	-	-	4	19
Vehicles fitted with control equipment							
1. Discs not recorded	-	-	3	-	-	3	6
2. Rest periods not recorded	1	-	-	-	-	1	1
3. No key	-	-	-	-	-	-	1
4. Equipment out of order	-	-	-	-	-	-	1
5. No disc for periods preceding daily driving period	11	1	6	4	-	22	26
TOTAL	14	1	19	6	2	42	106

The Federal Republic of Germany supplied very detailed figures. These show little change over previous years, however, in the proportion of offences committed by foreign drivers and operators (close to 11 % - see tables p. 8a, b and c).

In France, a total of 267 829 crews (240 264 French and 27 565 foreign) were checked on the road. These checks led to the detection of 93 647 infringements by French crews and 5 016 (\pm 5%) by foreign crews.

The Netherlands supplied a detailed breakdown (see table below) which shows a total of 42 890 infringements by Dutch crews and 878 (\pm 2%), by foreign crews.

National and non-national crews

Article	Netherlands	Belgium	Germany	United Kingdom	France	Italy	Non-member countries
6	397	3	-	-	1	-	-
7/1	2.484	25	24	-	57	-	8
7/2	5 280	42	34	-	41	-	7
7/3	212	1	2	-	-	-	-
7/4	74	-	-	-	-	-	-
8	8	-	-	-	-	-	-
11/1	5 896	41	27	-	21	-	7
11/2	64	4	1	-	-	-	-
12	17	-	-	-	-	-	-
14/1	3 186	28	8	-	-	1	3
14/2	1 564	18	9	-	2	-	4
14/4	16 637	57	2	-	7	-	16
15/1	-	-	-	-	-	-	-
15/5	-	2	2	-	-	-	-
16	6 531	192	66	4	93	12	4
TOTAL	42 890	413	177	4	222	13	49

878

The United Kingdom also provided fairly detailed figures - 30 infringements by British crews as against 151 by foreign crews - approximately 90 % of the latter (132) committed by Irish crews.

Articles	UK	B	D	DK	F	I	IRL	L	NL	Non-member countries	TOTAL
Art. 6 : 450 km	-	-	-	-	-	-	-	-	-	-	-
Art. 7 : Driving periods	1	-	1	-	-	-	-	-	-	-	2
Art. 8 : Breaks	-	-	-	-	1	-	-	-	-	-	1
Art. 11 : Daily rest periods	-	-	-	-	-	-	-	-	-	-	-
Art. 14 : (i) No control book	12	-	-	-	-	1	118	-	-	9	140
(ii) Control book not entered up	17	-	-	-	1	1	14	-	3	2	38
Art. 15 : (i) Roster : driver	-	-	-	-	-	-	-	-	-	-	-
(ii) Roster : operator	-	-	-	-	-	-	-	-	-	-	-
TOTAL	30	-	1	-	2	2	131	-	3	11	181

A clear distinction was made in the information supplied by Belgium, France, the Netherlands and the Federal Republic of Germany between infringements committed by nationals and those committed by non-nationals, though the Federal Republic did warn that it was not possible to make such a distinction in the case of certain Länder. Luxembourg, the United Kingdom and Denmark, on the other hand, supplied less detailed information, whilst Italy and Ireland provided no information whatsoever in this connection. It is also interesting to note that the reports for Luxembourg and Denmark, whilst omitting details of the number of checks conducted, did contain figures regarding the number of offences detected.

The Commission nevertheless feels obliged to state that there has been no great improvement in the information supplied as regards either the number of infringements or the breakdown between nationals and non-nationals.

OFFENCES

Number of offences detected							
	Committed by nationals of the Member State concerned			Committed by non-nationals			TOTAL
	Goods	Passenger		Goods	Passenger		
		Regular	Occasional		Regular	Occasional	
Federal Republic of Germany	39 252 ¹	141 ¹	1 679 ¹	4 552	30	585	46 257
France	93 647 ²		120 209 ³		5 016 ²		218 872
Belgium	642	106		12	42		802
Italy	No details supplied						
Luxembourg	7 488 ⁴						7 488
Netherlands	42 346	121	423	862	3	13	43 768
United Kingdom	30			151			181
Denmark	712 ⁵						712
Ireland	No details supplied						

- (1) Including non-nationals where the Länder were unable to provide separate figures.
- (2) Offences on the road - no distinction between goods and passenger transport operations.
- (3) All offences detected in the course of checks at operators' premises - no breakdown.
- (4) Mainly offences committed by Luxembourg nationals engaged in international transport operations.
- (5) Figure relates exclusively to offences committed by Danish nationals.

By its very nature, a comparative table of numbers of offences should be intended to show the standard of compliance with the Community rules in the Member States. The table on p. 12a is, unfortunately, not a reliable basis for comparison in view of the extent to which the information set out there is dependent on the figures supplied by the Member States regarding numbers of checks conducted, whose lack of comparability has already been discussed. Moreover - and this is the most important point - for such a comparative table to be really useful, it would need to relate the number of offences to the number of checks conducted. This is however, not possible, since the figures supplied regarding checks are themselves not comparable. The Commission has consequently been obliged to content itself with drawing up a table based on absolute figures to which altogether less significance can be attached.

3. Penalties imposed

The Commission regrets to report that Italy, Luxembourg, Ireland and Denmark supplied no figures whatsoever in this connection.

Furthermore, only the Federal Republic and the Netherlands actually gave separate figures for penalties imposed on nationals and non-nationals. The information supplied was so heterogeneous as to make precise evaluation practically impossible. The Member States should make greater efforts to conform to the standard form of report in their submissions.

As far as Belgium is concerned, sufficient has been said in previous reports regarding the great disparity between the number of offences detected and the number of cases brought to Court. The same is true as regards the time lag between the institution of proceedings and the date of conviction (if any). In the case of goods transport, the breakdown of action taken on the 504 official reports drawn up is as follows : 10 convictions, 84 settlements, 38 no further action, 372 follow-up not known. In the case of passenger transport, the breakdown is as follows : 144 official reports - 9 settlements and 135 follow-up not known.

Breakdown of official reports and action taken as regards infringements in respect of goods transport operations.

Articles	Number of official reports	No further action	Settlements	Acquittals	Convictions	Follow-up unknown
7(2)	4	-	1	-	-	3
7(3)	1	-	-	-	-	1
7(4)	1	-	-	-	-	1
8(2)	2	1	-	-	-	1
12(1)	3	-	-	-	-	3
14(1)	345	27	44	-	9	265
14(2)	35	-	11	-	-	24
14(4)	1	1	-	-	-	-
14(8)	4	-	1	-	-	3
Annex 4*	1	-	-	-	-	1
15(2)	1	-	-	-	-	1
Reg. 1463	106	9	27	-	1	69
TOTAL	504	38	84	-	10	372

* Weekly report not signed.

Breakdown of official reports and action taken as regards infringements in respect of passenger transport.

Articles	Number of official reports	No further action	Settlements	Acquittals	Convictions	Follow-up unknown
7	-	-	-	-	-	-
11(1)	2	-	-	-	-	2
14(1)	40	-	5	-	-	35
14(2)	20	-	1	-	-	19
14(7)	1	-	-	-	-	1
14(8)	1	-	-	-	-	1
16 no control equipment	19	-	1	-	-	18
16 discs not recorded	61	-	2	-	-	59
TOTAL	144	-	9	-	-	135

In the Federal Republic, a large number of administrative orders were issued imposing penal fines on crew members for failing to keep their individual control books properly. The size of the fine to be paid in each case was calculated in accordance with a standard scale for operators and crew members. The majority of the fines imposed were less than DM 1 000 - generally between DM 50 and DM 500. In a number of cases, fines of between DM 1000 and DM 5 000 were imposed and there were isolated instances of higher fines - DM 5 700, DM 6 500, DM 10 000 and DM 40 000. In the two cases, court proceedings were instituted. According to the information supplied by the Federal Republic, 4 496 German operators and 8 049 German crew members received formal warnings and were ordered to pay a cautionary fine of between DM 10 and DM 20. A total of 6 681 oral warnings and 358 written warnings without fine were issued. In addition, administrative orders imposing penalty fines were issued to 5 324 German operators and 12 535 German crew members. The figures for foreign operators and crew members were 1 852 warnings without fine, 16 308 with cautionary fine and 14 269 administrative orders imposing penal fines.

1. Type and number of penalties imposed on national crew members

Type of penalty	Number	
Oral warning (without fine)	6 681	} 7 039
Written warning (without fine)	358	
Warning and cautionary fine		
(a) operators	4 486	} 12 535
(b) crew members	8 049	
Administrative order imposing penalty fine		
(a) operators	5 324	} 17 859
(b) crew members	12 535	
Court proceedings instituted	2	
Number of checks conducted		
(a) at operators' premises	19 710	} 53 867
(b) on the road	15 699	
(c) at borders (special checks).	18 458	

2. Type and number of penalties imposed on non-national crew members

	Informal warning, no further action	Formal warning without fine	Warning with cautionary fine	Administrative order imposing penal fine
Goods transport	925	1 824	16 307	14 217
Passenger transport	5	8	1	79
Passenger and goods transport	930	1 832	16 308	14 296

In France, 9 415 penal fines ranging from less than FF 40 to more than FF 220 were imposed during the period under review.

Penal fines

Amounts in FF	Number	%
Less than FF 40	1 784	18,9 %
FF 41 to FF 100	3 544	37,6 %
FF 101 to 160	1 888	20,1 %
FF 161 to 220	1 342	14,3 %
More than FF 220	857	9,1 %
	9 415	100 %

The Netherlands supplied a very detailed breakdown of the fines imposed in 1977 (FL 1 914 695 in total), both by type of operation (goods or passenger) and by country of origin of the operators involved.

Official reports and inspection reports in respect of goods and passenger transport operations

Country	Official reports	Inspection reports *	Infringements	Total of fines in FL	Official reports on which no further action can be taken
Netherlands	13 847	-	42 890	1 910 915	570
Belgium	99	10	413	2 005	14
Federal Republic	24	10	177	1 175	5
United Kingdom	1	1	4	-	1
France	18	3	222	390	6
Italy	1	1	13	-	1
Non-member countries	9	1	49	210	6
TOTAL	13 999	26	43 768	1 914 695	603

* No penalties imposed.

The table below gives a breakdown by Article infringed of penalties imposed on Dutch goods transport operators

Article of the Regulation	Number of official reports	Number of infringements recorded in these reports	Total of fines in FL
6	3	3	55,-
7(1)	24	75	1 835,-
7(2)	49	119	7 215,-
7(3)	7	16	675,-
11(1)	68	88	6 380,-
14(1)	1 828	1 832	113 970,-
14(2)	357	930	25 450,-
14(4)	6 054	8 602	771 820,-
16	1 678	3 363	153 170,-
Other Articles	3 522	27 287	806 125,-
TOTAL	13 590	42 315	1 886 695,-

Breakdown by Article infringed of penalties imposed on Dutch operators
in respect of regular passenger services

Article of the Regulation	Number of official reports	Number of infringements recorded in these reports	Total of fines in FL
11(2)	1	1	-
14(1)	32	32	1 885.-
14(2)	13	57	1 080.-
14(4)	9	15	905.-
16	2	2	200.-
Other Articles	5	14	345.-
TOTAL	62	121	4 415.-

Breakdown by Article infringed of penalties imposed on Dutch operators
in respect of occasional passenger services

Article of the Regulation	Number of official reports	Number of infringements recorded in these reports	Total of fines in FL
11(2)	6	8	615.-
14(1)	17	17	1 075.-
14(2)	3	4	205.-
14(4)	92	122	9 565.-
16	36	46	2 570.-
Other Articles	41	226	5 775.-
TOTAL	195	423	19 805.-

The following tables give a breakdown of penalties imposed on operators in respect of transport operations conducted in vehicles registered outside the Netherlands

1. Belgian undertakings - goods transport

Article of the Regulation	Official reports	Inspection reports	Number of infringements recorded in official reports and inspection reports	Total of fines in FL
6	1	-	1	-
7(2)	3	-	3	-
14(1)	17	-	18	430.-
14(2)	6	3	17	-
14(4)	6	-	14	30.-
16	29	4	89	350.-
Other Articles	34	3	261	1 195.-
TOTAL	96	10	403	2 005.-

Regular passenger services

Other Articles	1	-	3	-
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Occasional passenger services

Other Articles	2	-	7	-
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2. German undertakings - goods transport

Article of the Regulation	Official reports	Inspection reports	Number of infringements recorded in official reports and inspection reports	Total of fines in FL
14(1)	2	2	4	80.-
14(2)	-	2	8	-
14(4)	1	-	1	-
16	6	2	14	-
Other Articles	14	2	146	1.065.-
Total	23	8	173	1.145.-

Occasional passenger services

14(2)	-	1	1	-
16	-	1	1	-
Other Articles	1	-	2	-
Total	1	2	4	-

3. French undertakings - goods transport

Article of the Regulation	Official reports	Inspection reports	Number of infringements recorded in official reports and inspection reports	Total of fines in FL
14(2)	1	-	1	25.-
16	3	-	20	-
Other Articles	14	3	201	365.-
Total	18	3	222	390.-

4. Italian undertakings - goods transport

Article of the Regulation	Official reports	Inspection reports	Number of infringements recorded in official reports and inspection reports	Total of fines in FL
16	1	-	11	-
Other Articles	-	1	2	-
Total	1	1	13	-

5. United Kingdom undertakings - goods transport

16	1	1	4	-
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6. Undertakings from non-member countries - goods transport

14(1)	1	-	1	30
14(2)	1	-	2	-
Other Articles	7	-	44	210
Total	9	-	47	240

Occasional passenger services

Other Articles	-	1	2	-
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The following tables provide a breakdown of penalties imposed on Dutch road transport undertakings based in countries other than the Netherlands.

Dutch undertakings based in Belgium

Goods transport

Article of the Regulation	Number of official reports	Number of infringements recorded in these reports	Total of fines in FL
7(1)	1	1	50.-
14(1)	2	2	135.-
14(2)	2	2	40.-
14(4)	44	63	3.100.-
16	10	18	655.-
Other Articles	24	82	3.035.-
Total	83	168	72015.-

Occasional passenger services

Article of the Regulation	Number of official reports	Number of infringements recorded in these reports	Total of fines in FL
14(4)	1	2	150.-

In the case of the United Kingdom, the percentage of oral and written warnings fell as compared with previous years, but the number of prohibitions and prosecutions increased. It is important to note that the figures for cases brought before the Courts by the Licensing Authorities during 1977 relate only to United Kingdom undertakings. Details of the penalties imposed are given below.

Articles of the Regulation	Oral warnings	Written warnings	Prohibitions	Offences prosecuted	Total fines in £
Art. 6 - 450 km	-	-	-	-	-
Art. 7					
Continuous driving	-	-	-	1	40
Daily driving	2	-	-	-	-
Weekly driving	-	-	-	6	20
Art. 8 - Breaks	-	1	-	-	-
Art. 11 - Daily rest period	-	-	-	1	15
Art. 12 - Weekly rest period	-	-	-	6	40
Art. 14					
Carrying control books	17	-	117	8	410
Keeping control books	10	1	14	43	349
Keeping register	-	-	-	-	-
TOTALS	29	2	131	65	874

No figures were supplied to the Commission regarding penalties imposed in Italy, Luxembourg, Ireland and Denmark. The Italian authorities confined themselves to reporting the existence of administrative sanctions. In Luxembourg, the authorities issue oral and written warnings, and in the case of severe or repeated offences court proceedings are instituted. According to the Danish Government, the sanctions applied during the report period consisted of warnings in some cases and fines of up to Dkr 2 000 in others. As regards Ireland, penalties for offences against the Community regulation are laid down in Statutory Instrument No 260 of 1975 and offenders may be prosecuted by the Minister of Labour.

There continue to be substantial disparities between the Member States as regards both the sanctions available and the rigour with which these are applied. The Commission regards harmonization of the penalties imposed on offenders as essential if an equal standard of compliance with the Community Regulation is to be achieved in all Member States.

III. MULTILATERAL MUTUAL ASSISTANCE BETWEEN MEMBER STATES AND NOTIFICATION OF BREACHES

As regards mutual assistance (Art. 18(2) and (3) of the Regulation), the Belgian Transport Administration forwarded three official reports by French inspecting officers on Belgian crew members to the appropriate courts. In addition, lists of official reports on crew members of vehicles registered in other Member States were sent to the relevant authorities in the countries concerned for their information. In return, the Transport Administration was informed of offences committed by Belgian nationals in France. No details were received of penalties imposed in other Member States. Details of action taken on official reports by French inspecting officers were sent to the relevant French department.

As in previous years, the Federal Republic maintained contacts with its neighbours for the purpose of discussing the implementation of Regulation No 543/69. Bilateral talks were held with representatives of the French, Austrian and Danish Governments.

The French authorities kept other Member States informed on a regular basis of infringements committed by their nationals in France.

Neither Italy nor Ireland supplied any information to the Commission on this point. Luxembourg only notified other Member States in the event of serious offences. In two cases, Denmark received assistance from Belgian courts (notification of offences). The Danish authorities did not provide any assistance to other Member States. The Netherlands both assisted and was assisted by the Federal German authorities on a number of occasions. A total of 24 infringements were reported to the Federal Republic, whilst the Netherlands received notification of 4 943 infringements from the Federal Republic and 84 from Belgium. The Federal Republic also reported the imposition of penalties in 4 943 cases. In the United Kingdom, offences by foreign operators continued to be reported to the authorities of the Member States concerned. In return, reports were on occasion received of offences committed by United Kingdom operators in other Member States.

There is no doubt that the Member States need to adopt a more active approach in this field. There has admittedly been substantial progress as regards the reciprocal notification of infringements (prosecutions and official reports), but the Member States still provide each other with far too little information regarding penalties imposed.

IV. CONCLUSIONS AND SUGGESTIONS BY THE MEMBER STATES

1. Compliance with the provisions of the Regulation

Whilst reservations were expressed by some Member States, the consensus would appear to be that there has been a slight improvement in the situation as regards compliance with the Community rules.

The Belgian authorities reported a decrease of around 19 % in the frequency of offences, reflecting a fuller acquaintance with the provisions of Regulation (EEC) No 543/69 on the part of those working in road transport.

For their part, the Federal German authorities complain that there is a high degree of inconsistency from country to country in the application of the Regulation and that the figures show altogether too many severe offences on the part of crew members from South-East European countries. The situation is, however, reported to be improving as regards compliance with the rules by operators and crew members of vehicles registered in the Community. The effort put into monitoring has apparently paid dividends and those concerned now actively endeavour to comply both with the provisions of Regulations 543/79 and 1463/70 and with those of the AETR. The imposition of penal fines by administrative order has induced operators to plan their schedules more carefully so as to ensure that their crews comply with the rules. In addition, special monitoring operations and information campaigns continue to be conducted. However, transport operators and their associations criticize Regulation No 543/69 on the grounds that, taken as a whole, its provisions are complicated and impractical.

France and Ireland supplied no information in this connection.

According to the Italian Government, the rules are observed in substance throughout the country, even though no significant improvement can be discerned in the position as regards the keeping of documentary records. However, no statistical evidence has been supplied in support of this assertion.

The Luxembourg Government regards the decrease in the number of infringements as evidence that the provisions of Regulation (EEC) No 543/69 are closely observed in its territory but believes that a definitive assessment will not be possible until the Grand Ducal Regulation of 23 December 1972 imposing penalties for infringements of Regulation No 543/69 has been in force for a number of years.

As regards the Netherlands, the figures available show that 9,3 % of the checks carried out led to official reports, which represents a slight increase in the number of reports.

In Denmark, the Community Regulation only became applicable to domestic transport operations in February 1977 and it was, according to the Government, initially difficult to induce transport operators and drivers to comply with its provisions. These difficulties are, however, now said to be decreasing.

The United Kingdom reports that, in the field of international transport operations (the Regulation has yet to be applied to domestic traffic), the standard of compliance with Regulation No 543/69 by undertakings from all Member States continues to be high.

2. Difficulties in checking on the use of individual control books in international transport operations

With the progressive introduction of the tachograph in all Member States except Ireland and the United Kingdom, this question loses its importance as far as transport operations within the Community are concerned. Such is not, however, the case as regards operations involving non-member countries - here the situation as regards keeping control books remains unsatisfactory. Admittedly, the majority of offences detected in connection with transport operations within the Community also consist of failure either to carry individual books or to keep them properly, but the number of such offences is declining thanks to the progressive introduction of the tachograph.

.../...

Important dates in the programme for implementing the Regulation on tachographs :

The entry in force of Regulation (EEC) No 1463/70 in the six original Member States :

- (a) for new vehicles and those carrying dangerous goods : 1 January 1975
- (b) other vehicles (except those registered before 1.1.1975) : 1 January 1978
- (c) vehicles registered before 1.1.1975 and
 - i) used within a radius of 50 km
 - ii) with a total weight of less than 6 t 1 July 1979.

The entry in force of Regulation (EEC) No 1463/70 in the three new Member States (United Kingdom, Ireland and Denmark)

- (a) 1 January 1976
- (b) 1 January 1978
- (c) 1 July 1979.

However, Ireland and the United Kingdom have been allowed to work to a programme of delayed utilization and application in respect of which the Commission gave a favourable opinion, with a number of reservations.

	<u>Ireland</u>	<u>U.K.</u>
• use compulsory for international carriage	25.6.1979	14.1.1980
• installation compulsory for new vehicles	25.6.1979	1.4.1980
• use compulsory for national operations	1.1.1981	31.12.1981

In Belgium, the number of infringements continued to fall in 1977.

In Italy, there was no discernible improvement during the period under review in the situation as regards the keeping of documentary records. The Government hopes that the introduction of the tachograph will open the way to the gradual elimination of the present problems.

No difficulties were reported by France and Luxembourg, whilst the Netherlands had no new comments to make and Ireland supplied no information whatsoever.

The United Kingdom had no difficulties to report in the checking of individual control-books or tachograph charts.

Since 1 February 1977, the Community Regulation has also applied to domestic transport operations in Denmark and the Government reports that both operators and drivers had some difficulty at first in complying with the rules, but the situation is apparently now improving.

The Federal German authorities encounter serious difficulties in connection with vehicles entering the country from non-member States. The crews of these vehicles frequently keep no record of their activities, making it impossible to check driving and rest periods.

3. Proposals for changes in the standard form of report

None of the Member States made any particular suggestions in this connection, which indicates that they are satisfied with the present standard form of report.

4. Proposals for measures to improve the operation of Regulation (EEC) N° 543/69

The Belgian, French, Italian and Irish authorities had no suggestions to make in this connection. The Federal German once more called for action from the Commission to achieve uniformity in the monitoring of compliance with the social provisions relating to road transport and harmonization of the penalties for infringements. The German authorities also stressed the importance, in the interests of preserving uniformity in the rules, of bringing the provisions of the AETR into line with those of Regulation (EEC) No 543/69.

The Luxembourg Government stated that it did not consider the time to be ripe for proposals for improvements.

The Danish Government indicated that it was awaiting the outcome of the negotiations currently under way in the Council Working Party on Transport Questions.

The United Kingdom made no proposals for improvements but did point out that Regulation (EEC) No 543/69 became applicable to domestic traffic within the United Kingdom at the end of 1977 and that the report for 1978 would consequently cover all transport operations in the United Kingdom.

C. SUMMARY AND CONCLUSIONS

It is difficult as yet to draw any firm conclusions regarding uniformity in the application of Regulation No 543/69 in the various Member States. To begin with, in both the United Kingdom and Ireland the Community Regulation was applied only to international transport operations during the period under review, whilst in Denmark the provisions for the application of the Regulation to domestic traffic were not enacted until 1 February 1977. Aside from this, the fact that a number of Member States either failed to supply sufficiently comparable figures or gave no information whatsoever (as in the case of Ireland) means that any such conclusions would be unrealistic.

The information received does, however, suggest that too few checks are conducted in some Member States and that the national authorities are unable in certain cases to provide even the basic minimum of information.

There has been no great improvement in the details supplied regarding numbers of offences with the result that the situation in some Member States still cannot be assessed with any certainty and meaningful comparisons remain impossible. The Member States should make greater efforts to bring their submissions into line with the standard form of report so as to improve the transparency of the figures available.

There would also appear to be a need for examination with government experts, the possibility of approximating to some extent the different national penalty systems, at least in their practical effects in order to avoid the most flagrant differences in this field.

The situation as regards multilateral mutual assistance between Member States still leaves much to be desired in the Commission's opinion and steps should be taken to bring about an improvement as soon as possible.

The Commission is unable to escape the impression that in some Member States either checks are confined to nationals of the country concerned or no penalties are imposed on foreign nationals found to be breaking the rules. It should be remembered in this connection that Regulation No 543/69 is a Community instrument and must be applied equally to nationals of all Member States if it is to be fully effective.

.../...

The Commission would emphasize that the penalties imposed are not always sufficiently severe, particularly in the case of serious offences.

Whilst there is no mention of this in the standard form of report, the Commission would draw attention to the existence of a problem as regards liability. In some Member States liability for a worker's actions falls entirely on his employer, in others liability is shared by employer and employee and in yet others the question of whether the employee alone is liable has yet to be fully clarified.

To sum up, certain Member States need to adopt a firmer, more positive attitude if the Community provisions are to be applied properly. The Commission hopes to see the necessary steps taken in all Member States and will do everything in its power to ensure that this goal is attained.