

# European Communities

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EUROPEAN PARLIAMENT

## Working Documents

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DOCUMENT 197/73

### Report

drawn up on behalf of the Committee on Regional Policy and Transport

on the proposal from the Commission of the European Communities to the Council (Doc. 132/72) for a Regulation supplementing Council Regulation (EEC) No. 543/69 of 25 March 1969 concerning certain social legislation relating to road transport

**Rapporteur: Mr H. SEEFELD**

PE 33.071/fin.

By letter of 26 September 1972 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 75 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a regulation supplementing Council Regulation (EEC) No. 543 of 25 March 1969 on the harmonization of certain social legislation relating to road transport.

On 4 October 1972 the President of the European Parliament referred this proposal to the Transport Committee as the committee responsible and to the Social Affairs Committee for its opinion.

The Transport Committee appointed Mr Seefeld rapporteur.

On 23 March 1973, the committee arranged a hearing of the professional associations of the parties involved.

In the light of this consultation, the newly formed Committee on Regional Policy and Transport discussed the proposed regulation at its meetings of 11 September and 10 October 1973.

At its meeting of 10 October 1973 the committee unanimously adopted the motion for a resolution and explanatory statement.

The following were present: Mr James Hill, chairman; Mr Kollwelter, vice-chairman; Mr Seefeld, vice-chairman and rapporteur; Mr Aigner, Mr Ariosto, Mr Delmotte, Mr Goldberg, Mr Herbert, Mr Johnston, Mr Noè, Mr Pounder, Mr Scholten and Mr Schwabe.

The opinion of the Committee on Social Affairs and Employment is attached.

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The Committee on Regional Policy and Transport hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a regulation supplementing Council Regulation (EEC) No. 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport.

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council (COM (72) 846/fin.),
  - having been consulted by the Council pursuant to Article 75 of the EEC Treaty (Doc. 132/72),
  - having regard to the report by the Committee on Regional Policy and Transport and the opinion of the Committee on Social Affairs and Employment (Doc. 197/73),
1. Regrets that Regulation (EEC) No. 543/69 is not applied in full by some Member States and that the provisions needed to implement it are still lacking in one Member State;
  2. Strongly urges the Commission to ensure that the provisions of this regulation are observed;
  3. Considers that the supplementary proposals submitted are important for road safety and that they should apply to all vehicle drivers, i.e. both wage-earning and self-employed drivers;
  4. Recognizes an improvement in the maximum duration of shift periods by comparison with the terms of Regulation (EEC) No. 543/69 and approves these periods, noting that the Commission intends to shorten them within the next five years;
  5. Feels that a certain extension of the shift period is justified if the vehicle is equipped with a bunk enabling each of the drivers to rest in turn. This extension of the shift period encourages the manning of vehicles with two drivers, which is in the interests of road safety;
  6. Approves the banning of all bonuses which encourage carelessness and non-observance of driving time regulations and speed limits;

7. Strongly urges that the two reports proposed on developments in the fields covered by the regulation and on its implementation by the Member States should be submitted every two years;
8. Considers that these two reports should be submitted not only to the Council but also to the European Parliament;
9. Recommends that the Commission should submit proposals for the approximation of regulations governing work periods and overtime, since these matters have not yet been settled;
10. Requests the Commission to take prompt action to close the gap left by the failure to harmonize social legislation relating to transport by rail and inland waterway, which also comes under the general Decision of 1965;
11. Requests the Commission to incorporate the following amendments in its proposal, pursuant to Article 149 (2) of the EEC Treaty;
12. Instructs its President to forward this resolution and the committee's report to the Council and Commission of the European Communities.

Proposal from the Commission of the European Communities to the Council for a regulation supplementing Council Regulation (EEC) No. 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport

Preamble and recitals unchanged

Articles 1 and 2 unchanged

Article 3

After Article 4, insert a new Article 4a, worded as follows:

Article 4a

'Articles 10a, 12, 12a, 12b and 12c shall not apply to self-employed persons engaged in road transport.'

Articles 4 to 7 unchanged

Article 8

Article 13 is replaced by the following provisions:

1. This Regulation shall not affect provisions existing at the time of its entry into force and including
  - (i) Maxima lower than those fixed by Article 10a;
  - (ii) Maxima higher than those fixed by Articles 12a (1) and 12b.
2. Every Member State may apply new provisions including minima which are higher or lower than those fixed by Article 5 and by Articles 7 to 12b respectively.
3. However, the provisions of this regulation shall continue to apply to members of crews working in international transport in vehicles registered in another Member State.
4. Every two years as from the entry into force of this Regulation, the Commission shall submit to the Council a report on developments in the areas covered by this regulation.'

Article 9

The text of Article 17 is replaced by the following provisions:

1. Every two years the Commission shall provide the Council with a full report on the application of this Regulation by the Member States.

<sup>1</sup> COM (72) 846 final

Article 3

After Article 4, insert a new Article 4a, worded as follows:

Article 4a

'Articles 12b and 12c shall not apply to self-employed persons engaged in road transport.'

Article 8

Article 13 is replaced by the following provisions:

1. unchanged
2. unchanged
3. unchanged
4. Every two years as from the entry into force of this Regulation, the Commission shall submit to the Council and to the European Parliament a report on developments in the areas covered by this Regulation.

Article 9

The text of Article 17 is replaced by the following provisions:

1. Every two years the Commission shall provide the Council and the European Parliament with a full report on the application of this Regulation by the Member States.

When submitting the report, the Commission shall make such proposals to the Council as it considers necessary for progressive harmonization particularly with regard to the maximum length of shifts.

2. In order to enable the Commission to draw up the report referred to in paragraph 1, the Member States shall send to the Commission every two years all the necessary information in a standard return, the form of which shall be established by the Commission after consultation with the Member States.'

2. unchanged

Article 10 unchanged

EXPLANATORY STATEMENTINTRODUCTION : Outline provisions

1. On 13 May 1965 the Council of Ministers of the European Economic Community adopted a decision (No.65/271/EEC)<sup>1</sup> concerning the harmonization of certain provisions affecting competition in transport by rail, road and inland waterway.

The proposal submitted by the Commission was examined by the European Parliament<sup>2</sup> on the basis of a report by Mr RADEMACHER<sup>3</sup>.

2. This decision contains important outline provisions. It divides the provisions underlying artificial disparities in transport costs into three categories : provisions relating to taxation, provisions relating to certain kinds of state intervention, and social provisions.

The last-named category is dealt with in Articles 10 to 13 of the decision of 13 May 1965.

I. REGULATION NO. 543/69

3. In pursuance of this outline decision, the Council adopted, on 25 March 1969 Regulation No.543/69<sup>4</sup> on the harmonization of certain social provisions relating to road transport.

4. The object of this initial regulation was to cover crew requirements (minimum age, physical and vocational aptitudes, number of members per crew), driving periods, daily rest periods, control procedures and penalties, i.e. those areas in which harmonization is most urgently required and most easily effected.

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<sup>1</sup>OJ No.98, 24.5.1965, p.1500

<sup>2</sup>OJ No.63, 3.4.1967, p.993

<sup>3</sup>Doc. 23/64

<sup>4</sup>OJ No.L 77, 29.3.1969, p.49



It did not include provisions on : shifts, the duration of work periods, public holidays, annual leave and overtime arrangements, which were postponed to a later date because they were less urgent and because of technicolgical difficulties that stood in the way of drawing them up immediately.

5. In the report drawn up by Mr LAAN, the Committee on Transport stated that its reservations were due 'not so much to the fact that it (the regulation) does not provide for the harmonization of all social provisions that might distort competition in the road transport sector as to the view that general and correct application of the regulation does not appear to be adequately guaranteed.'<sup>1</sup>

6. The Committee on Transport concluded that this first regulation meets reasonable requirements in point of safety, the protection of workers, and competition in the road transport sector. Its provisions on control procedures and penalties, however, still clearly fall short of what could have been expected.<sup>2</sup>

7. Admittedly, such control is more difficult to achieve than in other sectors. Nevertheless, it is definitely necessary in this sector since failure to comply with the regulations constitutes a threat to the safety of road users.

## II. APPLICATION OF REGULATION NO. 543/69

8. The provisions of Regulation No. 543/69 came into force in the Community on 1 October 1969.<sup>3</sup>

Before considering what measures should be adopted to supplement this first regulation, it will be useful to examine the extent to which it is effectively and correctly applied in each of the Member States.

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<sup>1</sup> Doc. 31/67 p.8 point 27, at end

<sup>2</sup> Doc. 31/67 p.9, point 31

<sup>3</sup> 1969 in respect of international transport between the Member States  
1970 in respect of transport within the Member States

Indeed, if the regulation is applied correctly in one State but not in another it will not, by reason of this difference, have the desired effect as regards road safety and the protection of workers, and there is a risk of an even greater distortion of competition and, with it, an increase in artificial disparities between costs.

9. The former Transport Committee meeting in Rome on 19 and 20 October 1972, decided to organize a hearing of representatives and experts from the two sides of industry with a view to considering the new proposals from the Commission for a regulation supplementing Council Regulation (EEC) No.543/69 as regards certain social legislation relating to road transport.

This hearing which was organized by the new Committee on Regional Policy and Transport, was held in Brussels on 23 March 1973 in the presence of a delegation from the Committee on Social Affairs and Employment.

The problem of the application of the first regulation was considered at that meeting.

10. It appears that all the Member States have not yet adopted the legal measures which should result from Regulation No.543/69. Luxembourg has just taken implementing measures, but Italy has still not introduced the necessary legislation.

In the countries in which the legislative provisions have been adopted, the theoretical system of controls and penalties provided for in the texts seems adequate in as much as penalties, even light ones, can be effective if applied. In general, however, the application of these penalties is highly inadequate.

The Commission initiated the procedure on infringements under Article 169 of the EEC Treaty more than a year ago.

It will be necessary to bring the matter before the Court of Justice in order to ensure compliance with the first regulation, which must on no account be called into question.

11. The European Parliament has already been consulted on two amendments to the initial Regulation (No.543/69).

In the first instance (Doc.5/71) it was sought to resolve certain technical difficulties of implementation in three specific fields: delivery and collection, agricultural tractors and transport connected with building sites.

In the second instance (Doc.82/71) it was sought to permit the Community to bring into force in the Member States, 'the European Agreement concerning the work of vehicle crews engaged in international road transport' (EART) which was submitted to the Member States for signature by the Secretariat of the Economic Commission for Europe on 1 July 1970.

12. The proposed regulation under consideration aims not at modifying the first regulation but at supplementing it (Article 1), in fields it does not cover, by harmonizing provisions relating to shifts, breaks, leave and public holidays, and by banning nonuses for distance covered and tonnage carried.

III. CONSIDERATION OF THE PROPOSAL FOR A REGULATION SUPPLEMENTING REGULATION NO. 543/69

(a) Definitions

13. Article 2 merely supplements or alters the definitions contained in the first regulation. The new definitions concern the words 'week', 'break', 'interruption' and 'shift' (period between the commencement and completion of work).

The new definition of 'week' entails a modification to the text of Article 12 of the first regulation (Article 5 of the proposal).

(b) Exceptions

14. Article 3 exempts self-employed persons working in road transport from the scope of the new provisions. In its explanatory memorandum, the Commission argues that it is practically impossible to prevent self-employed persons from carrying out work during periods intended for rest.

It should be pointed out that self-employed persons remain subject to the obligations set out in the first regulation (driving time, daily and weekly rest periods).

15. During the hearing referred to in sec. 9 above, the two sides of industry opposed this derogation to the advantage of self-employed persons.

The trade union representatives feel that the provisions on the maximum length of a shift, the weekly rest periods and the minimum length of breaks do not simply represent protective measures in respect of the working conditions of employed persons; they consider that these measures are essential to ensure road safety and should therefore also apply to self-employed persons.

The employers' representatives believe that exempting self-employed persons from the scope of the new provisions, because of the obligations they impose, would create serious distortions of competition between undertakings and affect the structures of the profession.

16. By a small majority (8 votes to 6) the Committee on Social Affairs and Employment approved the Commission's proposal.

The Committee on Regional Policy and Transport discussed this question and decided not to adopt the Commission's proposal but to accept the opinion of the two sides of industry. It seems to us that difficulties in application would exclude a large number of drivers from the outset, which might limit the scope of the Commission's proposals.

(c) Shifts

17. Article 4 fixes the maximum length of shifts. It distinguishes three cases in which there are on board a vehicle

- one driver;
- two drivers without a bunk;
- two drivers with a bunk.

In these three cases, the maximum length of a shift is 12, 14 and 16 hours respectively, with the possibility of increasing the length of a shift by two hours twice a week. But the total length of shifts worked in one week must not exceed 60, 70 and 80 hours respectively.

These provisions do not apply to vehicles with one driver on board engaged in occasional passenger services. In this case, the total length of shifts worked in one week must not exceed 65 hours.

A week must not include more than 6 shifts.

Any shift commenced is counted as a minimum of five hours.

18. In its explanatory memorandum, the Commission points out that in order to fix the length of a shift, account should be taken of the need to avoid crew fatigue, of the necessary flexibility for efficient use of transport, and of the economic and social situation.

The present proposal constitutes, according to the Commission, 'a very substantial improvement in relation to the current situation in the great majority of cases. It harmonizes the norms existing within the Member States and obliges them to follow the most favourable norm at the present time.'

Nevertheless, the Commission feels that 'it will be necessary to follow the development of social progress in this field throughout the Community' and 'to reduce the length of a shift to ten hours, over a five-year period.'

19. The employers consider the proposals on shifts impracticable. They feel that they would involve a considerable increase in the number of vehicles and personnel required, and substantially slow down transport operations.

20. In contrast, the trade unions feel that the proposed shifts are too long. They are pressing for the adoption of the following proposal, which they have already submitted to the Joint Committee on Social Problems in Road Transport:

- during a transitional period of two years from the coming into force of the regulation, the maximum length of a shift shall be 10 hours per day and the maximum time worked shall be 50 hours per week (60 hours in the case of vehicles with one driver on board engaged in occasional passenger services);
- in the final stage following the transitional period of two years, the maximum length of a shift shall be 9 hours, and the maximum time worked 45 hours per week.

In neither case is any distinction made as to whether one or two drivers are on board. The trade unions feel that the same maximum lengths of shifts should apply whether one or two drivers are on board since the second driver must always be available and all the time he spends in the vehicle should therefore be considered as working time.

21. There would be no advantage in having a two-man crew on board if this proposal were accepted, whereas Regulation No. 543/69 encouraged this practice to improve road safety.

The Committee on Social Affairs and Employment moreover considers that opting for one-man crews would represent a threat to some present jobs, and that increasing the length of a shift to some extent would seem justified if the vehicle is equipped with a bunk allowing the second driver to rest during part of the shift.

The Committee on Regional Policy and Transport has reached the same conclusion and is thus opposed to the tendency for two-man crews to be abolished.

22. As regards the maximum length of shifts, it should be noted that the proposal under consideration represents some progress in relation to the first regulation.

Various provisions of Regulation No. 543/69 deal with minimum rest periods per period of 24 hours (with one driver on board); the part of the 24-hour day not devoted to daily rest corresponds to the shift. The first regulation therefore makes it possible to establish the maximum length of a shift by subtraction. The maximum length of a shift laid down by the draft regulation here under discussion is generally shorter than that to be derived from Regulation No. 543/69.

The following maximum lengths of shift can be calculated from Article 11 of Regulation No. 543/69:

(i) One driver -

- Carriage of goods (Article 11 (1) ):

The minimum daily rest period is 11 hours per 24 hours, equivalent to a 13-hour shift, with the possibility of an extension twice a week to 15 hours (if the rest is taken at the place where the crew is based) or 16 hours (if taken elsewhere).

However, the average of 13 hours must be observed (Article 11 (6) ).

- Carriage of passengers (Article 11 (2) ):

The minimum daily rest period is 10 hours per 24 hours, equivalent to a 14-hour shift, without a possibility of extension, or 11 hours per 24 hours, equivalent to a 13-hour shift, with a possibility of an extension twice a week to 14 hours or 15 hours (on condition that the transport operation includes a break of not less than 4 hours or two breaks of not less than 2 hours).

The draft regulation provides in both cases for a maximum shift length of less than 12 hours.

Although the possibility of extending a shift by two hours a week is given, this derogation is compensated

by the restriction of the total number of hours worked per week to 60.

(ii) Two drivers without a bunk

- the minimum daily rest period is 10 hours per 27 hours, equivalent to a 17-hour shift.

The draft regulation provides for a 14-hour shift, with the possibility of two extensions of 2 hours a week; the total number of hours worked during the week must not, however, exceed 70.

(iii) Two drivers with a bunk

- the minimum daily rest period is 8 hours per 30 hours, equivalent to a 22-hour shift.

The draft regulation provides for a 16-hour shift, with the possibility of two extensions of 2 hours a week; the total number of hours worked during the week is, however, limited to 80.

In all three cases, the draft regulation constitutes an improvement on the first regulation.

Consequently, the Commission on Regional Policy and Transport adopts the arrangement for shifts proposed by the Commission, while noting, as has the Committee on Social Affairs and Employment, the Commission's intention to review it within a period of five years.

(d) Breaks

23. Despite the limitations on the length of shifts, working time might be too long. Article 6 (1) therefore provides for breaks of a length that depends on that of the shift:

- 30 minutes for a shift of 5 to 8 hours
- 1 hour for a shift of 8 to 12 hours
- 1 hour and a half for a shift of 12 to 15 hours
- 2 hours for a shift of 15 hours or more.

The above interruptions of working time may be taken in the form of one or more breaks throughout the shift.

The Committee on Regional Policy and Transport approves these provisions.

(e) Annual leave and public holidays

24. A limitation of working time per day and week should be supplemented by a limitation of working time per year.

Article 6 (2) fixes the minimum number of days of annual leave and public holidays at 28, not including the weekly rest period.

In addition, the 28 days must include an uninterrupted period of at least two weeks' leave.

The Committee on Regional Policy and Transport accepts these proposals.

(f) Prohibition of bonuses for distance driven and tonnage carried

25. Bonuses represent an incitement to act carelessly and to disobey the provisions governing driving time and speed limits. In the long term, this leads to extreme tiredness and may seriously affect road safety.

Article 7 forbids the payment of bonuses for distances driven and/or tonnage carried.

To compensate for these bonuses, basic salaries should be raised accordingly.

It should be noted that there is no question of abolishing bonuses granted for accident-free driving.

In the light of these facts, the Committee on Regional Policy and Transport is in favour of the Commission's proposal.

(g) Derogations and timing of reports

26. Article 8 permits Member States to retain or adopt more favourable provisions in the principal fields covered by the regulation.

27. Articles 8 (4) and 9 (1) stipulate the same timing for the reports to be submitted to the Council by the Commission pursuant to Articles 13 and 17 of Regulation No. 543/69, that is every two years.

The report provided for in Article 8 (4) concerns developments in the fields covered by the present regulation. The report provided for in Article 9 (1) concerns the application of the present regulation in the Member States. In this case, the Commission may submit to the Council proposals for progressive harmonization, particularly with



regard to the maximum length of shifts. To allow this latter report to be drawn up, the Member States must provide the Commission with information every two years in a form still to be decided.

In its opinion, the Committee on Social Affairs and Employment urges that this period of two years be effectively observed both by the Commission and the Member States.

It also feels that the report provided for in Article 8 (4) should be submitted not only to the Council but also to the European Parliament, just as the report provided for in Article 9 (1) has to be submitted to Parliament.

The Committee on Regional Policy and Transport shares the concern on these two subjects expressed by the Committee on Social Affairs and Employment and suggests that the words 'and the European Parliament' should be added to the two abovementioned articles.

#### IV. CONCLUSION

28. With the abovementioned reservations, the Committee on Regional Policy and Transport approves this proposed regulation.

It recommends to the Commission that it submit proposals on the harmonization of the provisions concerning working time and the system of supplementary hours which are not discussed in either the first regulation or the supplementing regulation.

29. The Commission should also be asked to take urgent steps to fill the gap caused by the lack of harmonization in the social field in the case of the other two methods of transport covered by the outline decision of 1965, i.e. railway and inland waterway transport.

Opinion of the Committee on Social Affairs and Employment

Draftsman : Mr R. PÉTRE

On 24 October 1972 the Committee on Social Affairs and Employment appointed Mr Pêtre draftsman of this opinion.

The draft opinion was examined by the Committee on Social Affairs and Employment at its meeting of 10 April 1973 and adopted by 12 votes to 1.

The following were présent : Mr Bertrand, chairman; Mr Durand, vice-chairman; Mr Pêtre, draftsman of the opinion; Mr Artzinger (deputizing for Mr Mursch), Miss Barendregt, Mr Christensen, Sir Douglas Dodds-Parker, Mr Girardin, Mr Van der Gun, Mr Härzschel, Mr Marras, Lord O'Hagan, Mr Vermeulen.

## General Considerations

1. The purpose of this proposal for a Regulation is to supplement Council Regulation No. 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport<sup>1</sup> by certain social provisions.

The aim of the measures in question is to harmonize

- shifts,
- rest periods,
- leave and public holidays.

It is also proposed to ban bonuses for distance covered and tonnage carried.

2. The Committee on Social Affairs and Employment is to formulate this opinion for the Committee on Regional Policy and Transport, the committee responsible, after considering the social aspects of the proposal.

After a preliminary discussion of the proposal for a Regulation, the committee decided to reserve its opinion pending the outcome of the hearing of the representatives and experts of both sides of industry organized by the Transport Committee and devoted to the harmonization of social legislation relating to road transport. This hearing took place on 23 March 1973 in Brussels, in the presence of a delegation from the Committee on Social Affairs and Employment.

Your rapporteur has taken account of the outcome of this hearing in preparing the draft opinion.

## II Examination of the provisions of the proposal for a Regulation

3. The Committee wishes to make it clear that there can in principle be no question of reconsidering Council Regulation No. 543/69 of 25 March 1969 (hereinafter referred to as the 'basic regulation'). However, this regulation will have to be applied much more strictly than it has been hitherto in the various Member States. All those present at the hearing were agreed on this point:

The object is therefore simply to adapt the basic regulation to the development of social progress, making additions where appropriate, without

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<sup>1</sup> OJ No. L 77, 29 March 69, p.49

losing sight of certain economic necessities, for example the maintenance of jobs.

A proposal to omit the mention of economic necessities from the preceding subparagraph was rejected by 7 votes to 6, with 2 abstentions. The first two subparagraphs of paragraph 3 of this opinion were then approved by 13 votes to 1, with 1 abstention.

4. Article 1 stipulates that the basic regulation should be supplemented in accordance with the provisions of this proposal for a Regulation.

Article 2 alters or supplements the definitions contained in the basic regulation. The new definitions concern the terms 'week', 'break', 'interruption', and 'shift'.

During the hearing, attention was called to the differences in the definition of 'interruption' in the German text ('jede Unterbrechung der Anwesenheitszeit' - any interruption in the attendance period) and the French text ('toute interruption du travail').

The Committee on Social Affairs and Employment invites the executive to harmonize the two texts so as to exclude all misunderstandings.

5. According to Article 3, the provisions relating to work periods, rest periods, breaks, leave, and public holidays shall not apply to self-employed persons engaged in road transport. Such persons are also ipso facto exempted from the ban on bonuses for distance covered and/or amount of goods carried.

The Commission justifies this exception by saying that it is practically impossible to prevent self-employed persons from carrying out certain work during periods intended for rest. It is, however, necessary in this context to stipulate that self-employed persons must respect those provisions which concern driving time and daily and weekly rest periods.

During the hearing, the trade union representatives expressed their opposition to the derogations proposed in favour of self-employed persons. They pointed out that these exceptions constitute a danger to road safety. It was also mentioned that the transport committee of the Bundestag had also declared itself in favour of the application of the Community regulations to self-employed road hauliers.

The Committee debated whether to adopt the Commission's proposal or endorse the trade union view, and decided for the Commission's proposal by

8 votes to 6. A considerable minority is therefore of the opinion that the provisions of Article 3 should also apply to self-employed persons.

6. Article 4 stipulates that the maximum length of a shift shall be

- (a) 12 hours in respect of vehicles with only one driver;
- (b) 14 hours in respect of vehicles with two drivers on board and not having a bunk on which members of the crew can lie down comfortably;
- (c) 16 hours in respect of vehicles with two drivers on board and having a bunk on which members of the crew can lie down comfortably.

These shifts may be increased by two hours twice per week.

However, at no time may the total length of time in one week exceed:

- (a) 60 hours in respect of vehicles with only one driver;
- (b) 70 hours in respect of vehicles with two drivers on board and not having a bunk;
- (c) 80 hours in respect of vehicles with two drivers on board and having a bunk.

The length of shifts stipulated for vehicles with only one driver - 12 hours per day and 60 hours per week respectively - do not apply to vehicles with only one driver, occasionally carrying passengers. In such cases, the total length of shifts must not exceed 65 hours per week.

One week shall not include more than six shifts.

Any shift, once started, shall be counted as a minimum of five hours.

As stated by the Commission in that part of its explanatory memorandum dealing with Article 4, in order to fix the length of a shift, the following factors should be taken into account:

- the need to avoid crew fatigue;
- the necessary flexibility for an efficient use of transport;
- the economic and social situation.

The Commission concedes that its proposal, which represents no more than a first stage, still includes relatively long shifts 'to avoid disturbances in the use of road transport'. The Commission adds, however, that this first stage already constitutes a very substantial improvement in relation to the current situation in the great majority of cases. Its proposal is based on the most favourable norm at the present time. It recommends that the length of a shift be reduced to 10 hours, over a period of about 5 years.

Maximum values are stipulated for the total length of shifts in one week (60, 70, or 80 hours), and for the number of shifts per week (6), in order to prevent crew fatigue.

The employers regard the shift arrangements proposed by the Commission as impracticable. They would entail a considerable increase in the number of vehicles and personnel required, and would seriously delay transport operations.

The trade unions, on the other hand, consider the shifts recommended by the Commission to be too long. They call for the following:

- (a) during a two-year transitional period:
  - limitation of the maximum length of a shift to 10 hours;
  - a total length of shifts in one week of not more than 50 hours;
  - limitation of the shift to 60 hours for vehicles with only one driver, occasionally carrying passengers;
- (b) final arrangements:
  - limitation of the maximum length of a shift to 9 hours;
  - a total length of shifts in one week of not more than 45 hours.

At the same time, the trade unions are falling into line with the general tendency to do away with two-man crews. They consider that it is by no means always justifiable to lay down a longer length of shift for these crews, since the co-driver must always be available and this time ought to be regarded as a work period.

The Committee on Social Affairs and Employment cannot accept the arguments put forward by the trade unions as regards the elimination of two-man crews. The presence of a second crew member on board a vehicle on the road quite plainly constitutes an additional safety factor. Moreover, a decision in favour of a single-driver manning would place part of the existing jobs at risk. Besides, some extension of the shift appears to be justified when the vehicle is fitted with a bunk on which the co-driver can rest during part of the shift.

The Committee approved, by 11 votes with 3 abstentions, the Commission's proposals for regulating the length of shifts with the proviso that these provisions should remain in force for five years only, after which they should be reviewed in the light of social progress.

7. Article 5 merely amends the wording of the corresponding provision of Article 12 of the basic regulation, to bring it into line with the new definition of a week.

8. Article 6(i) lays down the following rules for breaks, whose duration depends on the length of a shift :

- 30 minutes in respect of a shift of at least 5 and less than 8 hours;
- 1 hour in respect of a shift of at least 8 hours and less than 12 hours;
- 1½ hours in respect of a shift of at least 12 hours and less than 15 hours;
- 2 hours in respect of a shift of 15 hours or more.

The breaks may be taken in one or more parts within the shift.

No objections were raised to these provisions during the hearing.

The Committee on Social Affairs and Employment also approves them.

9. According to Article 6(2), every crew member shall have a minimum of 28 days of annual leave, including public holidays. Weekly rest periods shall not be included in those 28 days.

In view of the wide differences existing at present between the arrangements relating to annual leave and public holidays in the Member States, the Commission leaves it to the latter to decide how these 28 days should be apportioned between days of leave and public holidays. The harmonization therefore relates only to the total number of these rest days.

These 28 days must include an unbroken leave of at least two consecutive weeks. This provision is essential for the crews to recover their physical strength.

During the hearing it was pointed out that these leave arrangements would set a ceiling to the number of hours worked each year.

Your committee shares this point of view.

The committee approved paragraph 9 of this opinion by 12 votes to 1.

10. According to Article 7, it is forbidden to make payment to members of a crew according to distances travelled and/or the amount of goods carried.

The committee agrees with the Commission that the payment of bonuses for distances driven and tonnage carried are an inducement to drive at a high speed, which, because of the resultant nervous tension and extreme tiredness, can in the long term lead to premature invalidity. Moreover, the system of bonuses may seriously prejudice road safety.

From the exchange of views on this point during the hearing, it emerges that there is complete agreement on the need to reduce the payment of bonuses based exclusively on performance. A total ban on them, as proposed by the Commission, was however deemed to be too restrictive. It appears that it would be sufficient to forbid the retention of the system of piecework payments. To compensate for the elimination of piecework bonuses, the basic wages would have to be raised appropriately. Finally, it was noted that the proposal for a regulation did not envisage the elimination of bonuses paid for driving without accident.

After debating the opinions of the two sides of industry, the committee voted unanimously for the wording of Article 7 as proposed by the Commission.

11. Article 8 offers Member States the opportunity to maintain or introduce more favourable provisions in the following areas:

- length of shifts
- length of breaks
- number of days of annual leave and public holidays
- length of driving periods
- length of daily and weekly rest periods.

However, the provisions of the regulation continue to apply to members of crews working in international transport in vehicles registered in another Member State.

Finally, it is provided that every two years the Commission shall submit to the Council a report on developments in the areas covered by this regulation.

The Committee on Social Affairs and Employment welcomes this provision but insists on the need for this period of two years to be effectively observed. Furthermore, it is the wish of the committee that this report should be submitted to the European Parliament as well as to the Council. Accordingly, the words 'and to the European Parliament' should be inserted in Article 8(4).

12. Pursuant to Article 9(1), the Commission shall every two years provide the Council with a full report on the application of the regulation by the Member States. When submitting the report, the Commission shall make such proposals to the Council as it considers necessary for progressive harmonization, particularly with regard to the length of shifts. In order to enable the Commission to draw up its full report, the Member States shall send to the Commission every two years all the necessary information in a standard return, the form of which shall be established by the Commission after con-



sultation with the Member States.

In this connection, too, the committee insists that the Member States and the Commission abide by the stipulated period of two years. Moreover, the committee considers it essential that the full report should also be submitted to the European Parliament for information, to enable it to exercise its supervisory powers in a proper manner. The words 'and to the European Parliament' should therefore be inserted in Article 9(1), first sentence.

13. Article 10 provides that the regulation shall be applied six months after its entry into force. However, the Commission has not proposed any date for this entry into force.

14. Subject to the foregoing remarks, the Committee on Social Affairs and Employment approves the proposal for a regulation. It regrets, however, that the document under consideration still contains no proposal on the harmonization of rules relating to the duration of work and to overtime. It therefore calls upon the Commission to remedy this shortcoming by submitting further proposals as soon as possible.

15. The Committee on Regional Policy and Transport, as the committee responsible, is invited to take full account of all the requests and suggestions made by the Committee on Social Affairs and Employment in the present opinion.

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