

# COMMISSION OF THE EUROPEAN COMMUNITIES

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Report from the Commission to the Council on the application of  
Council Regulation (EEC) No 543/69 of 15 March 1969 on the  
harmonization of social legislation relating to road  
transport

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A. INTRODUCTION

1. This is the third General Report by the Commission on the implementation of Council Regulation (EEC) N° 543/69 of 25 March 1969<sup>1</sup> by the Member States. Under Article 17 of that Regulation the Commission must present such a report to the Council each year<sup>2</sup>. This report concerns the period before the Community was enlarged and therefore relates only to the original Member States, referred to as the Member States in this document<sup>3</sup>.

The information furnished by the Member States for the preparation of this report were evaluated according to the amended standard form of report sent out in the Commission Decision of 16 October 1974<sup>4</sup>.

2. Although there was a certain degree of improvement in comparison with the first and second reports the Member States were still very late in sending in their contribution this year and, in certain cases, reminders were necessary. This delay can be only partly explained by the change in the period covered by the report. Belgium's contribution was not available when this report was prepared, so details about this country are missing.

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<sup>1</sup>OJ N° L 77, 29 March 1969, p. 49.

<sup>2</sup>At the request of all the Member States future reports will deal with a complete calendar year, in other words the period from 1 January until 31 December. However, as the period covered by the last report ended on 30 September 1971, the present report covers the period from 1 October 1971 until 31 December 1972.

<sup>3</sup>Regulation (EEC) 543/69 applies in the new Member States from 1 April 1973 as regards international transport operations and from 1 January 1976 as regards national transport operations; see Annex VII(III) (1) and Annex X (I) (5) of the Accession documents.

Thus, the next report will also include the new Member States.

<sup>4</sup>OJ N° L 250, 6 November 1972, p. 16.

As a result of these delays the preparation of the report did not get under way until nine months after the period in question, and in fact the Council will not be informed about the state of the implementation of Regulation (EEC) N° 543/69 until one year after the end of this period.

The Commission must again point out that the information which it has received is often not detailed enough and, in certain cases, is incomplete. Consequently, there are inevitable gaps in the report and numerous questions are left open; its usefulness is thus somewhat limited.

In many cases, no doubt, only after the Regulation has been applied for a fairly long period will it be possible for information to be gathered in order to produce a more detailed and more informative report. Consequently, future meetings between experts and the Commission will have to clear up such questions, including that of the most efficient standard form of report, in order to improve the reports on the application of the Regulation<sup>1)</sup>.

B. SUMMARY OF THE INFORMATION FURNISHED BY THE MEMBER STATES CONCERNING THE APPLICATION OF REGULATION (EEC) N° 543/69

I. Organization of supervision

1. Administrative checks

- a) on the road;
- b) on the premises of the undertaking.

As the information furnished by the Member States does not make a clear distinction between a) and b) , checks on the street and on the premises must be considered together.

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1) It should be noted that the Commission had two meetings with Government experts about matters relating to the application of the Regulation, on 29 February, 1 April and 8 and 9 November 1972.

Germany indicated that, as regards the organization of checks taken as a whole, the information furnished in the first report (1 October 1969 until 30 September 1970) still applied.

In accordance with the Regulations, checks in France are carried out on the road and on the premises of undertakings.

Italy indicated that the checks on the premises of undertakings, as provided for in the Regulations, are carried out by one or more inspection agencies. No information was furnished concerning inspections on the road. The duties and responsibilities in question are laid down in Laws N° 520, 19 April 1955 and N° 628, 20 July 1961.

Luxembourg has dealt with inspections on the road and on premises on the basis of the Luxembourg Regulation (Règlement grand-ducal) of 23 December 1972 concerning penalties for breaches of the provisions of Regulation (EEC) N° 543/69. The following are responsible for carrying out inspections: (Judiciary) Police Officers, Gendarmerie, Traffic Police, Customs Police, Industrial Inspectors and Officials of the authorities for the supervision of road transport. The inspections during the period covered by the report mainly just before the entry into force of the said Luxembourg Regulation, were generally carried out by the Inspectorate of Labour and Mines (Inspection du travail et des mines) on the premises of the undertakings.

In the Netherlands the most important method of checking during inspections on the road is the work log. This log consists of an "origin sheet" with the personal details of the crew members, a work sheet bearing the information referred to in Article 14 (7) and an individual log book. When checks are carried out the letter of authorization for the vehicle is also examined in connection with the information given in point 2 of the daily sheet.

On the premises of undertakings a check is carried out on the log books and weekly reports handed in, the service timetable and duty roster mentioned in Article 14.

mentioned in Article 15 of the Regulation and, where appropriate, the register of individual control books, which contains various information about the crew members.

## 2. Inspecting officers and their powers

Germany confirmed the information furnished in the first report<sup>1)</sup>. More detailed information about the powers of inspecting officers is not available.

In France forty inspectors were authorized to carry out checks. In addition, numerous checks were carried out by police officers (the 6 500 officers in the Gendarmerie Mobile). Reports were drawn up for each recorded case of breach of Regulation N° 543/69 and the provisions adopted in order to implement that Regulation.

As a result of an amendment to the Highway Code (Code de la Route) by the Decree of 6 September 1972, police officers and traffic police may immobilize vehicles if their crew members have infringed the provisions concerning driving periods and rest periods.

In Luxembourg checks were carried out by a specially seconded official of the Inspectorate of Railway and Road Transport Undertakings. This official has the right of access to the premises of the undertaking to be inspected and need not give prior notice; all relevant information must be given to him on request.

The information furnished by Italy merely indicates that the number of inspectors is not fixed in advance, but depends on the type and scope of the inspections to be carried out. No details are given concerning the powers of the inspectors.

Netherlands

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<sup>1</sup>Germany: 2 500 inspecting officers.

Netherlands. There are 123 officials in the Inspection Department of the Transport Inspectorate (Rijksverkeersinspectie) in the Ministry of Transport and Waterways (Ministerie van Verkeer en Waterstaat). The Inspectorate of Labour (Arbeitsinspectie) - which has ten inspectors -, the gendarmerie and the national and local police also carry out checks.

These officials are authorized to immobilize vehicles in the event of serious breaches of the Decree concerning driving periods (Rijtijdenbesluit), in which case any costs are payable by the transport undertaking. After consultation with the public prosecutor's office they may also confiscate transport permits. They have the right of access at all times and in all places where this is necessary for the performance of their duties and may demand to examine all relevant information in order to check adequately whether the Rijtijdenbesluit is being observed.

### 3. Methods of inspection (place and frequency of checks)

As regards Germany, which refers to the details given in the previous reports, checks are carried out on the road at different points and at irregular intervals, and, similarly, on the premises of the undertaking at irregular intervals and without prior notice.

Checks are carried out on the road in France by inspectors of the Industrial Inspectorate and Transport Inspectorate (inspecteurs du travail et de la main d'oeuvre des transports), at what they consider to be the most appropriate place and time, so as not to impede traffic, they are assisted in this by the Gendarmerie. Under a "concerted procedure", checks are carried out by the Regional Directors for equipment (Directeur Régionaux de l'Équipement) in accordance with a programme drawn up in advance<sup>1</sup>.

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<sup>1</sup> Checks on the premises of Inspectors of the Inspectorate of Labour (inspecteurs du travail et de la main d'oeuvre) carried out a total of 859 checks during the period covered by the report, including 526 with the cooperation of representatives of other authorities and 333 on their own authority. In addition, the inspectors examined a total of 6 474 individual log books on the premises of undertakings.

Checks on the premises of undertakings are carried out by inspectors of the Industrial Inspectorate and Transport Inspectorate in accordance with a programme of visits drawn up in advance. Checks are also carried out at the request of employees or their representatives in the event of complaints.

Italy indicated that the documents which must be carried ~~are~~ examined and, as far as possible, the employee is interviewed on the premises. Checks normally apply to all types of large and small transport undertakings, but particularly to goods transport undertakings.

In the Netherlands the officials mentioned in point 2 above carry out inspections on the road within the limits of the powers accorded to them. In addition, lorry traffic is checked with the cooperation of the national police force (Rijkspolitie), the police being responsible for technical matters and the transport inspectorate (Rijksverkeersinspectie) responsible for administrative matters. Regular checks are carried out on the premises of undertakings and during such checks the papers referred to in point 1 are checked.

The Netherlands indicated that, as from the 1973 report year detailed information would be available concerning the number of checks carried out on the road and on the premises of undertakings as a result of which summonses were served.

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<sup>1</sup> Inspectors of the Inspectorate of Labour (inspecteurs du travail et de la main d'oeuvre) carried out a total of 859 checks during the period covered by the report, including 526 with the cooperation of representatives of other authorities and 333 on their own authority. In addition, the inspectors examined a total of 6 474 individual log books on the premises of undertakings.



## II. Breaches and penalties

### 1. Number of recorded breaches of the provisions of the Regulation

According to the information furnished by Germany, there were about 24 800 recorded and penalized breaches of Regulation (EEC) N° 543/69 during the period covered by the report, including about 1 700 in the passenger transport sector and 22 100 in the goods transport sector.

For all, 6 700 of the 24 800 breaches concerned the provisions relating to the duration of driving periods, and about 28 100 concerned the documents relating to driving periods.

The information furnished by France was divided into checks carried out by the Industrial and Labour Inspectorates (Inspection du travail et de la main d'oeuvre des transports), on the one hand, and by the Gendarmerie on the other.

A total of 21 372 French crew members were checked by the Industrial and Labour Inspectorates including about 70% on the road and about 30% on the premises of undertakings. Further action was taken in about 57% of the cases checked. Breaches concerning passenger transport operations amounted to only 0.72% of the total.

The Gendarmerie recorded a total of 8 465 breaches by French and foreign crew members of vehicles of more than 10 metric tons between 1 January 1972 and 31 December 1972. For all, 10.3% concerned non-compliance with the rules relating to continuous driving periods, 29.9% non-compliance with the rules relating to daily rest periods, 11.2% were for exceeding the 450 km limit and 27.7% concerned inadequate maintenance of individual log-books.

Further details are contained in Annex I.

Italy did not provide any figures. Reference was made to the data given in the last report. It was stated that the difficulties encountered with regard to the last report had not yet been resolved because of the lack

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of domestic penalties relating to the Community provisions.

The details given concerning breaches of the Community provisions are limited to the following general remarks: as regards checks carried out in Italy, reference is made to obligations arising from the Regulation, particularly concerning the maintenance of individual logbooks and service timetables (Articles 14 and 15).

In general, the checks revealed that although medium-sized and larger undertakings complied with the Community provisions there was a tendency for smaller undertakings to ignore them in many cases.

More detailed information indicated that only a relatively small percentage of crew members were in possession of an individual logbook in accordance with Article 14 and that even if they had logbooks they were not always satisfactory. On the other hand, the provisions concerning continuous driving periods (Article 7(1) and Article 9 (a)), daily driving periods (Article 7(2) and (3) and Article 9(b), weekly driving periods (Article 9(c)) were complied with satisfactorily and in accordance with the Community provisions.

Some industrial inspectorates also indicated that, as regards working periods, the collective agreements in force provided for more favourable rules than those in the Regulation, in certain cases.

The data provided by Luxembourg relates solely to Luxembourg nationals carrying out international goods transport operations with the vehicles referred to in Article 6 of Regulation (EEC) 543/69 (vehicles covering distances in excess of 450 km). No information is available concerning other vehicles. A total of 4 201 breaches were recorded during the inspections,

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mainly concerning non-compliance with the provisions relating to a second crew member (450 km), for which 1 124 breaches were recorded, and non-observance of the daily driving period, for which 1 384 breaches were recorded. More detailed information is given in Annex I.

No breaches were recorded concerning breaks in driving or the weekly rest period.

As regards the maintenance of individual logbooks, no objections were raised during controls in larger undertakings where regular services are concerned (Article 15), the provisions concerning service timetables and duty rosters were generally respected.

The information furnished by the Netherlands related to the data given in Annex I regarding breaches of the most important provisions of the Regulation. Most of the 9 031 recorded breaches in goods and passenger transport operations concern non-possession of the individual logbook (goods transport: 2 625/passenger transport: 221), inadequate maintenance of the individual logbook (goods transport 2 444/passenger transport: 208) and non-observance of the daily driving period (goods transport: 1 271/passenger transport: 7).

2. Seriousness of breaches committed by nationals and non-nationals respectively

Germany merely indicated that the proportion of breaches committed by foreign crew members and foreign undertakings (about 14%) had remained much the same as in previous years.

The Federal Institute for Long-distance Goods Transport (Bundesanstalt für den Güterfernverkehr) intends to take appropriate steps to make it possible, at a later date, for the lists of foreign nationals to be subdivided according to their countries of origin and the type of breach committed by them.

France and the Netherlands have submitted detailed figures covering the recorded breaches of the provisions of the Regulation committed by foreign crew members. These figures are set out in Annex II.

France checked a total of 540 crew members; no further action was taken in 59% of the cases. The Netherlands recorded 1 097 breaches committed by foreign crew members, as against 7 934 committed by Dutch crew members. Most of the breaches concerned non-compliance with the rules relating to the daily driving periods and non-possession or inadequate maintenance of the individual logbook.

Italy and Luxembourg did not submit any information. However, Italy indicated that appropriate steps would be taken, at a later date, for breaches to be subdivided according to the country of origin of the foreign nationals concerned.

### 3. Penalties imposed

Germany, Italy, Luxembourg and the Netherlands did not provide any information on this point. The Netherlands merely stated that data may be provided about penalties in the next report year.

On the other hand, France provided a wealth of figures which are set out in Annex III. The penalties in question were imposed by courts on French undertakings (employers).

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III. Multilateral mutual assistance between Member States and notification of breaches

According to the information supplied by Germany, bilateral contacts have been established only with the competent Dutch authorities. Other negotiations are anticipated<sup>1</sup>. Talks have also taken place with the Swiss authorities concerning the implementation of social legislation relating to road transport, with particular reference to inspection measures.

It was also stated that the German Government would endeavour to establish contacts with the other Member States in order to prevent the occurrence of difficulties in respect of transport and to promote multilateral mutual assistance. As the Commission has meanwhile appointed central authorities in the individual Member States, it may be possible to improve the prosecution and penalizing of breaches in international transport operations.

According to information supplied by France, Italy, Luxembourg and the Netherlands, there were either no cases of mutual assistance, or no data available.

In the case of France, it was also indicated that the authorities intended to seek assistance from other Member States in dealing with breaches recorded in France but committed on the premises of foreign undertakings.

The Netherlands reported that 699 notifications had been received concerning breaches in the first nine months of 1972 and that 152 notifications had been made by the Netherlands. The notifications did not relate to penalties.

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<sup>1</sup> Bilateral negotiations between Germany and the Netherlands took place on 9 and 10 November 1971 in Stuttgart. They were continued on 16 and 17 October in The Hague.

#### IV. Conclusions and suggestions

##### 1. General assessment of the operation of the Regulation

None of the Member States expressed complete satisfaction about the provisions for applying the Regulation.

As in the previous report, Germany indicated that the difficulties arising from the change in the legal position, which had been experienced in the 1969/70 and 1970/71 report years, had not yet been remedied, and that there was not sufficient awareness of the provisions of the Regulation, mainly because logbooks are not available in many third countries.

Emphasis is laid on the fact that many drivers and employers are still not adequately briefed about the provisions in force, and that appropriate measures need to be taken in all Member States in order to provide information concerning provisions. For this reason, the individual logbook should be supplemented as soon as possible by a summary to be published by the Commission - of the major provisions of Regulation (EEC) N° 543/69. This would also be of great importance for drivers from non-member countries.

As in the last report, it was stressed that it was in the interests of fair competition, transport safety and work safety to achieve uniform application and monitoring of the Regulation, particularly by harmonizing the provisions governing supervision and penalties throughout the Community.<sup>1</sup>

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<sup>1</sup>The German Bundesrat indicated in its deliberations concerning the Commission Proposal for a Regulation amending Regulation (EEC) N° 543/69 (Second Regulation on Social Legislation) that the harmonization of social legislation was being impeded by the lack of uniform application of Regulation (EEC) N° 543/69. The competent committees of the German Bundestag took the same attitude towards the proposal for an amendment. Both organs requested the Federal Government to make every effort to ensure that the social legislation relating to road transport is applied uniformly in all Member States.

France referred to the difficulties mentioned in the last report, concerning the excessively inflexible rules relating to driving periods and inadequate provision for exceptions. Nevertheless, France had stepped up its efforts to improve compliance with the provisions of the Regulation.

Italy believes that compliance with the Regulation as regards working and rest periods can be considered satisfactory.

Luxembourg indicated that the Regulation was being applied more satisfactorily than in the period covered by the last report, but that compliance with the provisions was still not universal. This was attributable to the absence of adequate provisions concerning sanctions. After the introduction of the Luxembourg Regulation of 23 December 1972 laying down the rules concerning breaches of Regulation (EEC) N° 543/69, a considerable improvement can be expected in the next report year.

In the opinion of the Netherlands existing checks and the statistical data obtained do not provide a reliable assessment of how the Regulation is really being applied. As 61% of all recorded breaches concern non-possession or inadequate maintenance of the individual logbook (Article 14(1) and (2)), it was difficult to ascertain which of the other provisions had been infringed.

2. Difficulties arising in the use of the individual logbook in international transport

Germany is of the opinion that the individual logbook should be supplemented by a summary of the major provisions of the Regulation in order to strengthen the inspection measures.

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In this connection, the problem of transport operations in third countries was emphasized and it was indicated that drivers from third countries had no documents concerning working periods or, after being challenged, received them only after entry into the Federal Republic. It was the intention of the German Government to validize Austrian and Swiss methods of supervision. To this end the German Government requested the Commission to recognise the Swiss logbook pursuant to Article 14(1) second subparagraph<sup>1</sup>. A similar proposal for the Austrian logbook was being prepared.

Germany considered it essential for the national Governments concerned to brief employers and crew members from non-member States about the provisions in force in the Community logbooks in the States concerned in the language of the country). Joint measures concerning breaches should be worked out among the Member States.

In this connection, mention was made that the Federal Government was preparing to ratify the AETR and felt that it would be useful for the Member States to work out a common approach. It was also pointed out that instruments of ratification had to be handed in to the Secretary General of the United Nations in Geneva by 30 June 1974 at the latest in order to allow the AETR to enter into force on 1 January 1975<sup>2</sup>.

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<sup>1</sup> After consulting Government experts on 31 December 1972, the Commission turned down the application by the Federal Government of 16 October 1972 for recognition of the Swiss logbook in its Decision of 4 October 1973 on the grounds that the Swiss logbook deviated in important points from the standard pattern of logbook (COM(73) 1457 final).

<sup>2</sup> The entry into force of the European Agreement concerning the work of Crews of Vehicles engaged in International Road Transport (AETR), done at Geneva on 1 July 1970, will solve or simplify many of the problems arising in respect of transport operations in third countries. For this reason, the Commission, which agrees with the proposal which Germany has again made in this report (see also IV (2) above), will endeavour to get the Member States to agree on speedy and uniform action in order to implement the AETR. So far the AETR has been ratified by Norway (28 October 1971) and signed by the following States: Austria, Belgium, France, Italy, Luxembourg, Norway, the Netherlands, Poland, Portugal, Federal Republic of Germany, United Kingdom, Sweden, Switzerland. This means that all current Member States, apart from Ireland and Denmark, have signed the AETR.



France, Italy and Luxembourg did not provide any particular information on this point. France indicated merely that a considerable improvement was expected in supervision of actions and consequently an equivalent improvement in compliance with the Regulation, with the gradual introduction of the course recorder.

The Netherlands recalled that it was not immediately possible, when checking foreign drivers on the road, to ascertain whether the individual logbook produced was in fact the book recorded in the register of individual logbooks provided for in Article 14(7) of the Regulation. It should therefore be possible to carry several books.

Consequently, a suggestion was made that an examination should be carried out into whether or not the Dutch system of a work dossier would also be adopted by the other Member States. In this system the register of individual logbooks is carried by the driver himself in the form of a "work sheet". The use of different logbooks could then be detected immediately<sup>2</sup>.

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<sup>1</sup> At present the machinery of supervision in Germany, Belgium, Luxembourg and France is the result of national provisions. Pursuant to Regulation N° 1463/70 of 20 July 1970 (OJ N° L 164/70, 27 July 1970, p. 1) the machinery will be introduced throughout the Community from 1 January 1975 and in the new Member States from 1 January 1976.

<sup>2</sup> The Netherlands mentioned that in Point 1(2) of the Explanatory Memorandum to the Regulation implementing Regulation (EEC) N° 543/69 of 22 August 1969 Germany had referred to the Dutch system as being exemplary, but had adopted the system only by entering the letters and numbers of individual control logbooks in a register kept on the premises of undertakings. This did not prevent the possibility of using more than one logbook.

3. Proposals for amending the standard form of report

None of the Member States made any proposals on this point.

It should be recalled, however, that during the Council discussion of the two previous reports in the Working Party on Transport of the Committee of Permanent Representatives, several delegations expressed a desire for certain improvements (data about serious accidents as a result of breaches of the provisions of the Regulation) and simplifications (data concerning breaches).

4. Proposals for measures which could be taken to improve operation of the Regulation

The Netherlands recommended the introduction of a uniformly-applied system in all Member States by means of an appropriate amendment to Article 14 of the Regulation, in order to prevent the use of different logbooks<sup>1</sup>.

The other Member States made no specific proposals. France merely emphasized once again that the operation of the Regulation could be considerably improved if certain provisions (concerning daily driving periods, for example) were better adapted to practical needs by means of appropriate rules concerning exceptions.

The Dutch proposal and the German proposals mentioned in points 1 and 2 above (better information about the Regulation, harmonization of supervision and penalty provisions, recognition of supervision methods of non-member countries) will be discussed at the next meetings with government experts concerning the operation of the Regulation.

As regards the French observations, it should be remembered that account was taken of the need for more flexible rules in the amendments to the Regulation by Council Regulation (EEC) N° 514/72 of 28 February 1972 (supplementing Article 12 and introducing Article 13a) and by Council Regulation (EEC) N° 515/72, also of 28 February 1972, (introducing Article 14a<sup>2</sup> concerning international goods transport, and particularly transport

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<sup>1</sup> See point 3 above.

<sup>2</sup> Both in OJ N° L 87, 20 March 1972, p. 1 and p. 11.

operations carried out over short distances, such as the transport of harvest produce and the transport of milk). For these special cases provision was made for exceptions concerning driving periods and daily and weekly rest periods<sup>1</sup>.

### C. CONCLUSION AND ASSESSMENT

Because of the incomplete and disjointed information furnished by the Member States for this report, it is impossible to assess the data properly and compare them thoroughly.

The main points can be summarized as follows.

#### - Regulations

In all the Member States mentioned in this report, with the exception of Italy, regulations have been introduced concerning checks on the road and on the premises of undertakings. In Italy the checks are carried out on the premises of undertakings<sup>2</sup>. Only Luxembourg and Italy indicate the legal bases.

#### - Inspecting officers and their powers

Only the data given by Germany, France, Luxembourg and the Netherlands give an indication of how many inspecting officers are in active service. The data given by Germany (referring to the earlier reports), concerning 2 500 officers, seems too general and not specific enough.

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<sup>1</sup> So far Germany (Commission opinion of 4 April 1973, OJ N° L 153, 9 June 1973), Belgium (Commission Opinion of 6 October 1972, OJ N° L 238/31, 20 October 1972), France (Commission Opinion of 18 July 1972, OJ L 230/12, 6 November 1972) and the Netherlands (Commission Opinion of 15 February 1973, OJ L 217/1, 6 August 1973), after consulting the Commission, took measures to introduce provisions for exceptions pursuant to Regulation (EEC) 515/72 (Article 14a of Regulation (EEC) N° 543/69).

<sup>2</sup> As Italy had not yet taken measures to implement the Regulation, the Commission, after waiting for a long time, was compelled to lodge a complaint with the Court of Justice on 15 October 1973 for non-application of the Regulation.

Only France, Luxembourg and the Netherlands have provided data about the powers of inspecting officers, but this data needs to be more detailed if the effect of the regulations in the individual Member States is to be assessed.

- Methods of supervision

Only France has provided information about the frequency of checks, so that no comparative picture can be drawn for all the Member States. Similarly, it is impossible to determine whether the majority of checks are carried out on the road or on the premises, and to determine the reasons for this. No information was furnished concerning individual methods of supervision, so no assessment can be made of the quality of checks carried out.

The available data implies that the checks carried out were inadequate. If one takes the number of checks carried out by the inspection authorities on French crew members (21 327), for example, and considers at the same time the number of breaches recorded by the Gendarmerie (8 535), and presupposing a considerably lower number of checks in the latter case (about 6 000, for example), the relatively modest average of 72 checks per day on French territory is arrived at. The data provided by Luxembourg concerning the 4 201 recorded breaches in long-distance transport operations gives similar results. These breaches presuppose about 2 000 checks per year. The total number of breaches recorded in the Netherlands committed by non-national EEC crew members (1 097) indicates a total of three breaches (i.e. one or two checks) per day. This is not altogether reconcilable with the data concerning the number of active inspecting officers.

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- Number of breaches

Only Germany, France, Luxembourg and the Netherlands provided information about the number of breaches committed, and only the last-mentioned three countries subdivided the breaches according to the individual provisions of the Regulation, as provided for in the standard form of report. It would be advantageous for all the Member States to give the number of cases in which objections were raised, in addition to the number of checks carried out, as was done in the data supplied by France.

It would be desirable for all the Member States to compare the number of checks carried out with the number of recorded and penalized breaches and with the total number of vehicles or transport operations. This is the only way to achieve comparable and meaningful information about the extent and intensiveness of checks.

It is interesting to note that, whereas Germany gives the proportion of breaches in passenger transport operations as 12%, in France such breaches account for only 0.72% of the total number of breaches recorded. These results cast doubt on the comparability of the data in question.

A comparison of the frequency of breaches of individual provisions shows, for example, that breaches of the provisions concerning driving periods (continuous and daily) amounted to 40.2% of all breaches in France, about 45% in Luxembourg, and only about 45% in the Netherlands, however, which, to say the least, brings into question the comparability of the data in question.

Another notable fact is that non-possession of an individual log-book (breach of Article 14(1) accounted for 5.2% of all breaches in France, but about 32% in the Netherlands (if the data given has been interpreted correctly), inadequate entries (Article 14(2) accounted for 27.7% of all breaches in France and 29% in the Netherlands. In this connection, Luxembourg indicated that no objections were raised concerning relatively large undertakings.

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If one considers the concept "inadequate documents concerning working periods" (as used in Germany) to include both non-possession of an individual logbook and inadequate entries, the comparative figures for Germany, France and the Netherlands are about 72%, 32.9% and about 51% respectively, indicating considerable variations.

- Breaches committed by non-nationals

Only France and the Netherlands have provided detailed figures on this point. Here again really satisfactory information can be gleaned only if the number of checks carried out is compared with the number of breaches recorded and with the total number of international transport operations.

Only the information furnished by France is subdivided to any extent. The following figures should be recalled as representative findings: where foreigners were checked, no further action was taken in respect of 64% of German, 42% of Belgian, 46% of Italian, 59% of Dutch and 56% of Luxembourg drivers. It is interesting to note that no objections were raised in respect of 57% of French crew members, as opposed to 49% of all non-national EEC crew members. This again raises the general question of whether or not the number of checks carried out in respect of international transport operations was adequate (in France 540 EEC crew members were checked).

- Penalties imposed

Only France gave complete information on this point. It would be highly desirable to receive adequate data from the other Member States as well as it is in the interest of effective checking, fairness of competition and the principle of equal treatment, not to mention the question of penalties, to have uniform and sound practice in all Member States.

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- Multilateral, mutual assistance

Real multilateral, mutual assistance, as provided for in Article 18(2) of the Regulation, was not achieved in the period covered by the report. With the exception of negotiations between Germany and the Netherlands, no further bilateral contacts were established.

- Conclusions and proposals

None of the Member States expressed complete satisfaction with the way in which the Regulation was being applied, but some useful proposals were made with a view to improvements. These proposals are to be discussed with government experts.

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In conclusion, the results show that practical operation of the provisions laid down for the implementation of the Regulation and the varying degree of supervision and penalties from one Member State to another (as far as this can be assessed on the basis of the data provided by the Member States) still leave a lot to be desired. Consequently, the Member States will have to make every effort to improve the operation of the Regulation by means of improved checks and sanctions, but especially through multilateral mutual assistance in accordance with Article 18(2) of the Regulation.

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ANNEX IBREACHES OF PROVISIONS OF REGULATIONS DURING INVESTIGATION PERIODFRANCE

The following detailed information is available for France:

Supervision by professional authorities and authorized traffic inspectors:

Number of French crew members checked:

(a) Number of crew members checked	21 372
of which	
- on the road	14 898 (some 70%)
- on premises	6.474 (some 30%)
(b) Number of crew member in respect	
of whom no action taken	12 133
	(i.e. 75%)
Breaches established	38 048
of which, recorded in inspector's reports	22 974
	or about 60%
	of breaches established
Number of reports made	3 901

Note: Breaches in road transport of passengers (regular passenger services and occasional passenger services) amount to only 0.72% of all breaches established. Results for this branch of road transport were included in the total results since their small volume does not permit any particularly informative conclusions to be drawn with regard to the road transport of passengers.

Checks carried out by the police (Gendarmerie):

In contrast to the information given above, the following police figures refer only to the period, 1 January to 31 December 1972 and cover breaches of driving periods by French and foreign drivers in charge of vehicles of over 10 metric tons.

.../...



The 8 465 established breaches break down as follows:

Motorways and expressways	<u>P L A C E</u>		<u>VEHICLE CATEGORY</u>		
	Other roads local	main	10-19 metric tons	over 19 metric tons	of which, vehicles over 10 metric tons transporting dangerous goods
5 713	1 130	1 622	3 522	4 943	115
8.465			8 465		

On the basis of the regulations breached, the infringements established (French drivers) can be broken down into:

	<u>Number of breaches</u>	<u>Percentage</u>
Breach of continuous driving period	3 917	10.3
Breach of daily driving period	11 362	29.9
Breach of daily rest period	3 772	9.9
Breach of weekly driving period	699	1.8
Exceeding distance of 450 km (second driver required by Article 6, EEC Regulation 543/69)	4 274	11.2
Unsatisfactory maintenance of logbook	10 519	27.7
Missing documents	1 999	5.2
Miscellaneous	1 506	4.0
	<u>38.048</u>	<u>100,-</u>

.../...

LUXEMBOURG

The number of established breaches of the provisions of the Community regulations by nationals of Luxembourg engaged in transport of goods across borders in vehicles listed in Article 6 of the road transport regulations (distances over 450 km and second driver) break down as follows:

(a) Second driver (4450 km)	1 124
(b) continuous driving period (4 hours for distances over 450 km/cf. Article 6 of EEC road transport regulations)	926
No breaches for other types of vehicles	
(c) daily driving period (8 hours for vehicles used for distances over 450 km)	1 384
(d) weekly driving period (48 hours, distances over 450 km)	322
and driving period within two consecutive weeks (92 hours)	21
(e) daily rest period for drivers of vehicles used for carriage of goods (no data available for passenger services)	714

.../...

NETHERLANDS

Regulations breached	Carriage of goods	Passenger services	
		Regular services	Occasional services
(a) Article 6 (driving distance limited to 450 km with one driver only)	534	-	-
(b) Article 7, Paragraph 1 (continuous driving period)	677	-	1
Art. 7, Paragraph 2 (daily driving period)	1271	-	7
Art. 7, Paragraph 3 (prolongation of daily driving period)	186	-	13
Art. 7, Paragraph 4 (weekly driving period)	65	-	-
(c) Article 8 (break in driving period)	-	-	-
(d) Article 11, Paragraph 1 (daily rest period, carriage of goods)	733	-	-
Article 11, Paragraph 2 (daily rest period, carriage of passengers)	-	-	41
(e) Article 12 (weekly rest period)	-	-	4
(f) Article 14; Paragraph 2 (entries in individual logbook)	2625	27	194
(g) Article 15, Paragraph 1 (duty of operators of regular services)	-	-	-
Article 15, Paragraph 5 (duty of drivers in regular services)	-	-	-
<b>TOTAL</b>	<b>8535</b>	<b>39</b>	<b>457</b>

ANNEX IIBREACHES BY NATIONALS OF OTHER MEMBER STATES1. FRANCE

Results of checks carried out in France on crew members of other Member States are given below:

## Checks on crew members from EEC countries

- number of crew members checked	540
- of which, cases where no further action was taken	279 (i.e. 59%)
- number of breaches established	507
- number of breaches recorded in reports	362
- number of reports made	191

These figures break down according to individual countries as follows:

## German Federal Republic

- crew members checked	147
- of which, cases where no further action was taken	94 (i.e. 64%)
- number of breaches	170
- breaches recorded	97
- number of reports made	39

## Belgium

- crew members checked	191
- of which, cases where no further action was taken	80 (i.e. 42%)
- number of breaches	202
- breaches recorded	137
- number of reports made	85

TOTAL

.../...

Italy

- crew members checked	79
- of which, cases where no further action was taken	36 (i.e. 46%)
- number of breached	63
- breaches recorded	57
- number of reports made	31

Netherlands

- crew members checked	97
- of which, cases where no further action was taken	57 (i.e. 59%)
- number of breaches	69
- breaches recorded	56
- number of reports made	33

Luxembourg

- crew members checked	16
- of which, cases where no further action was taken	9 (i.e. 56%)
- number of breaches	3
- breaches recorded	3
- number of reports made	3

2. NETHERLANDS

The following data on breaches of the various provisions in the Community regulations by nationals of the Netherlands and by foreign crew members have been received from the Netherlands;

.../...

Regulation breached	Niederlande	Belgien	Deutschland	Frankreich	Italien	Luxembourg	Andere Länder
Second driver (Article 6)	516	5	10	1	-	2	-
Continuous driving period (Article 7, paragraph 1)	678	-	-	-	-	-	-
Daily driving period (Article 7, paragraph 2)	1263	2	12	1	-	-	-
Prolongation of daily driving period - 9 hours (Article 7, paragraph 3)	199	-	-	-	-	-	-
Weekly driving period (Article 7, paragraph 4)	65	-	-	-	-	-	-
Breaks in driving (Article 8)	-	-	-	-	-	-	-
Daily rest periods, carriage of goods (Article 11, paragraph 1)	717	1	13	2	-	-	-
Daily rest period, carriage of passengers (Article 11, paragraph 2)	41	-	-	-	-	-	-
Weekly rest period (Article 12)	4	-	-	-	-	-	-
Individual logbook (Article 14, paragraph 1)	2282	185	357	4	3	3	12
Daily sheets (Article 14, paragraph 2)	2169	62	393	21	4	1	2
Service timetable and duty roster of business (Article 15, paragraph 1)	-	-	-	-	-	-	-
Possession of extracts from duty roster and copy of service timetable (Article 15, paragraph 5)	-	1	-	-	-	-	-
<b>TOTAL</b>	<b>7934</b>	<b>256</b>	<b>785</b>	<b>29</b>	<b>7</b>	<b>6</b>	<b>14</b>

ANNEX IIIPENALTIES IMPOSED IN FRANCE

The data listed below gives information on penalties imposed by the French courts on French undertakings (employers).

(a) Second and third quarter, 1972.

Figures are only available from 1 April 1972. Figures for the period up to 30 September do not distinguish between breaches against Community regulations and those against French laws. In addition, only those penalties imposed on the evidence of statements taken during the previous year were taken into account.

	Number of penalties on the basis of a report, 2nd quarter, 1971	Number of penalties on the basis of a report, 3rd quarter, 1972	Total	Perce- tage
Fine less than FF 12.00	165	350	515	22,8
from FF. 12,01 to FF.20.00	174	159	343	15.2
from FF. 20.01 to FF.30.00	107	181	348	15.2
from FF. 30.01 to FF.50.00	158	189	347	15.2
from FF. 50.01 to FF.100.00	287	237	524	23.2
from FF.100.01 to FF.150.00	28	14	42	1.9
from FF.150.01 to FF.200.00	9	15	24	1.1
from FF.200.01 to FF.240.00	1	1	2	0.-
FF. 240.00	81	42	123	5.4
<b>TOTAL:</b>	<b>1.070</b>	<b>1.198</b>	<b>2.268</b>	<b>100,0</b>

(b) Third quarter 1972. From October 1972, infringements of Community Regulations have been recorded and evaluated independently of the date of the report in the statistics.

	<u>Number</u>	<u>Percentage</u>
Proceedings initiated	524	100
Filed without further proceedings	7	1.3
Suspended	8	1.5
Penalties imposed	509	97.2
Fines imposed	1 868	-

	<u>number</u>	<u>Per-centage</u>	<u>Cumulative Percentage</u>
Fines less than FF. 12.00	123	7 %	7 %
Fines from FF. 12.01 to FF. 20.00	49	3 %	10 %
from FF. 20.01 to FF. 30.00	312	16 %	26 %
from FF. 30.01 to FF. 40.00	259	14 %	40 %
from FF. 40.01 to FF. 60.00	466	25 %	65 %
from FF. 60.01 to FF.100.00	414	22 %	87 %
from FF.100.01 to FF.150.00	97	5 %	92 %
from FF.150.01 to FF.200.00	36	2 %	94 %
from FF.200.01 to FF.240.00	5	-	90 %
FF. 240.00	107	6 %	100 %
<u>TOTAL:</u>	<u>1.868</u>	<u>100 %</u>	<u>100 %</u>

Although the figures are comparable only to a limited degree, it can be seen that during the third quarter there was an increasing tendency to impose higher fines. Thus, for example, the number of fines of over FF. 100.00 increased from 6.5 % to 13 %.

The fine imposed for certain penalties can further be explained by the fact that several fines would be imposed at one hearing and that, when fixing the individual amounts, the courts took this into account and tended to modify the sum for each fine downwards, although this is not permissible under strict application of the law.