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FIFTEENTH REPORT BY THE COMMISSION

on the implementation in 1985 of Council Regulation (EEC) No 543/69
of 25 March 1969 on the harmonization of certain social legislation
relating to road transport

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INTRODUCTION

Article 17 of Council Regulation (EEC) No 543/69 lays down that "each year the Commission shall present to the Council a general report on the implementation of this Regulation by the Member States" and that "... Member States shall communicate to the Commission the necessary information using a standard form of report ...".

This report covers 1985 and gives a summary of the information supplied by the Member States on the implementation of Regulations (EEC) Nos 543/69 and 1463/70 in the European Community.

It should be noted, however, that two Member States (IRL and NL) have sent the Commission information relating not only to 1985 but also to the period up to 28.09.1986, the date of repeal of the Regulation in question, which was subsequently replaced on 29.09.1986 by Regulation (EEC) No 3820/85.

It should be pointed out, furthermore, that the report covers only ten Member States, Spain and Portugal not having joined the European Community until 1 January 1986.

Then reader should therefore take account of these differences.

I. ORGANIZATION AND NUMBER OF CHECKS

In Belgium, the number of assistant inspectors operating within the social inspectorate and assigned to inspection is set at 253, but the number available is only 215; the transport administration has 47 controllers and inspectors out of a technical staff complement of 61. The gendarmerie has a specialized body of over 1 500 staff assigned to road checks.

In the Federal Republic of Germany, special checks are carried out on passenger transport; tourism firms are checked more intensively during or after the high season.

In Denmark, roadside checking is carried out by some 500 members of the national police; the labour inspectors who carry out checks on operators' premises are 230 in number, 35 of whom are specially assigned to inspections in respect of Reg. (EEC) No 543/69.

In Greece, 600 staff of the Ministry of Labour are authorized - within a framework of broader powers - to inspect working premises at any time during the 24-hour day. The intensiveness of the checks may vary during the year according to the season (tourism period), traffic fluctuations, etc. and, where appropriate, in response to trade union complaints.

In France, the number of inspectors and assistant inspectors authorized to carry out checks under Regs. (EEC) No 543/69 and 1463/70 fell from 348 to 340 in 1985; the staff complement of the labour inspectorate is 92. Irrespective of the customary penal procedure, the inspectorate makes wide use of a number of means at its disposal, such as:

- (i) the possibility of immobilizing vehicles where the driver is in infringement of daily driving or rest times, and
- (ii) the possibility of imposing on non-resident offenders a fine of FF 600 per infringement. Since 1 October 1985, this sum has been increased to FF 900 per infringement. In 1985, 63% of infringements involving vehicles not registered in France resulted in such a fine.

Land transport controllers are authorized both to immobilize vehicles and collect fines; inspectors may immobilize vehicles.

Of the checks carried out on operators' premises in 1985, 50% were done on a random basis and 50% selectively, most often the operators chosen being those whose conduct gave most grounds for criticism as far as the regulations were concerned.

In Italy, inspectors who carry out checks with a degree of regularity are estimated as numbering more than 50 staff; a larger number of staff carry out checks as part of a broader activity. The inspectors set the period within which the offender must regularize a situation involving infringements of the regulation.

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In Luxembourg, checks are carried out by two inspectors of the Labour and Mining Inspectorate and by two inspecting officers from the Ministry of Transport.

In the United Kingdom, traffic examiners now number 222 and it is planned to increase their strength to 235.

Computer analysis of tachograph printouts continues to be a good means of checking that driving hours are in compliance with the regulations. In 1985, some 100 000 discs were analysed using a system with additional back-up from private analysis agencies. Department of Transport equipment is being further improved in order to speed up analyses with a view to the entry into force of the new Regulation.

In the other Member States there have been no substantive changes in relation to previous years as regards the organization and methods of inspection.

NUMBER OF CHECKS CARRIED OUT IN 1985 ¹		
Member State	Roadside	Operators' premises
BELGIUM	Social inspectorate : 52 Transport admin.: approx. 8 000	491
DENMARK	Approx. 55 000	654
GERMANY	343 892	18 386
FRANCE	762 343 crew 2 586 349 discs	34.608 crew 311.944 discs
GREECE	26 644 (roadside and operators' premises)	
IRELAND ²	36 990	4 241
ITALY	no information	no information
LUXEMBOURG	1 079	507 vehicles
NETHERLANDS ²	270 000	2 144
UNITED KINGDOM	216 316 36 000 silent checks	12 205

¹ The number of checks shown above is incomplete in certain cases, because they do not always include the checks carried out by all the authorities concerned.

² Ireland/Netherlands: figure relating to the period 1.1.1985 to 28.9.1986 (see introduction).

II. INFRINGEMENTS AND PENALTIES

Although there are differences in the manner in which the Regulation is applied and monitored in the Member States, it is nevertheless useful to compare the figures for infringements and official reports by inspectors; the following table is limited to these two factors, because they are the only ones for which the Commission has data for almost all the Member States.

INFRINGEMENTS - 1985 (overall figures relate both to goods and national and foreign passenger traffic)		
MEMBER STATE	Infringements detected	Reports
BELGIUM	651	267
DENMARK	5 629	2 730 ¹
GERMANY	131 252	55 739
FRANCE ²	296 796	139 570
GREECE	12 807	9 163
IRELAND ³	11 805	6 964
ITALY	228 110	-
LUXEMBOURG	254	66
NETHERLANDS ³	61 515	10 627
UNITED KINGDOM	15 283 25 310 ⁴	8 802 approx. 20 000
TOTAL COMMUNITY	789 412	253 928

¹ Denmark: plus proceedings against 494 persons

² France: the figure for the number of cases in which action was taken on official reports drawn by labour inspectors (transport) and road traffic controllers is 13 958. The action taken on official reports drawn up by other inspectors (police/gendarmerie) is not known.

³ Ireland/Netherlands: figures relating to the period 1.1.1985/28.9.1986 (see introduction).

⁴ United Kingdom: infringements detected by the police authorities and which give rise to legal proceedings. Of the 20 000 or so cases where penalties were imposed, some 13 700 were because of a failure to maintain correct recordings.

On the subject of penalties, it should be added that Greece is the sole Member State which reports having had recourse to prison sentences, these totalling 1 136 days. The convictions concern infringements committed in 1984 (366 days) and 1985 (770 days); for 1985, no final figure is available, because when Greece sent its report to the Commission, there were still cases pending.

III. MULTILATERAL MUTUAL ASSISTANCE BETWEEN MEMBER STATES AND NOTIFICATION OF INFRINGEMENTS¹

In Belgium, the transport authorities were informed of 1 024 official reports drawn up by German, Dutch and French inspectors in respect of Belgian crews and forwarded to the competent authorities in the other Member States, for their information, lists of the official reports drawn up in respect of members of crews of vehicles registered in those countries. However, no information was received concerning penalties imposed in the other Member States.

Denmark received 30 notifications of infringements committed by Danish nationals in the Netherlands (20) and France (10) and an unspecified number of notifications of fines paid by Danish drivers driving in Germany. The labour inspectorate has taken measures to prosecute in respect of such infringements.

The Federal Republic of Germany, Greece and Italy have nothing to report on this matter.

France reports that it sent to other Member States lists of their nationals who had infringed Regulations Nos 543/69 and 1463/70 on French territory. Conversely, France says it received notice of infringements alleged to have been committed by French drivers in other Member States from Germany, Belgium, the Netherlands and the United Kingdom. The number of infringements was not specified.

Ireland reports that it informed the United Kingdom authorities of 43 infringements and the French authorities of one infringement and had been informed by the United Kingdom of 77 infringements, by France of 14 and by the Netherlands of two committed by Irish drivers in those countries.

Luxembourg was informed of 54 official reports drawn up by German, Belgian, Dutch and French inspectors in respect of Luxembourg drivers and said, without specifying the number, that it had sent lists of official reports drawn up in respect of foreign drivers to their countries of origin.

¹ For Ireland and the Netherlands, the reference period extends until 28 September 1986 (see introduction).

The Netherlands sent 2 707 notifications of infringements to all the other Member States and received from them over 7 000, broken down as follows:

Notifications sent to:

Belgium	1216	Greece	5	Ireland	5	United Kingdom	10	other countries 31
Denmark	146	Spain	64	Italy	59	Potugal	2	
Germany	691	France	458	Luxembourg	20	Total E.C. 2676		

Notifications received from:

Belgium	178	Germany	± 7200	Total: ± 7388
Denmark	3	France	7	

The United Kingdom sends every three months to the other Member States a list of infringements committed on its territory by foreign drivers and says it received a number of reports concerning infringements committed by British drivers in the other Member States. No figures were given.

When the Court of Justice hands down judgments concerning social legislation in the field of road transport, the Commission communicates them for information purposes to the Member States. It would be desirable and useful for the Member States to inform the Commission of rulings by their national courts in this field. The Commission will send to the Member States those national judgments which seem to be of value for the interpretation and implementation of the Regulations concerned. We feel that such an exchange of information is extremely important and is one factor likely to improve the implementation of these Regulations in the Community.

IV. COMMENTS AND SUGGESTIONS BY THE MEMBER STATES

As last year, Belgium regrets the lack of information from the gendarmerie. It is therefore reasonable to assume that the number of infringements detected was higher.

The Danish authorities feel that the level of compliance with the Regulations is satisfactory in Denmark and reiterate their proposal for amendment of the standard report in which infringements are recorded separately according to whether they were committed by the driver or by the undertaking, by residents or non-residents; in addition, there are two further tables covering respectively AETR infringements and the level of fines imposed.

The Federal Republic of Germany points out that the only checks accurately recorded are those carried out on operators' premises. It is impossible to determine the precise number of roadside checks because these are frequently carried out at the same time as checks concerning more general road traffic regulations.

The German authorities noted a considerable increase in infringements concerning absence of monitoring equipment in relation to passenger transport; in addition, 100 or so fines resulted from infringements of the rules prohibiting piece-work payments.

The Federal Government attaches great importance to an early approximation of the various regulations in force (3820/85 and AETR). It supports all measures aimed at standardizing inspection and making the implementation of the rules in the Member States more effective.

Italy, which introduced a ruling that tachographs be installed also in school buses, feels that Community rules are being complied with, but points out that there are still too many infringements due to a fraudulent manipulation of the tachograph and seeks the introduction of anti-fraud devices and the progressive numbering of discs. The large increase in penalties post-1985 should, in principal, reduce the number of infringements.

Checks carried out on operators' premises cause problems due to the large number of operators who are owner-drivers and are therefore rarely present at the place of business. To deal with this problem, the Italian authorities are considering stepping up roadside checks.

The Netherlands also notes that 60.4% of infringements concern the use of the tachograph.

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The United Kingdom, while welcoming the entry into force (in 1986) of the new regulations, would like to see automatic exemptions for the operation of private passenger transport vehicles with more than 17 seats and for historic vehicles, of which there are a very large number in the United Kingdom.

V. FINAL CONCLUSIONS BY THE COMMISSION

Although in certain cases the information sent by the Member States is still incomplete and unsatisfactory in the Commission's view, it is necessary nevertheless to record an improvement in quality compared with previous years. There remains a lack of information concerning checks in Italy: the Italian authorities have, however, assured the Commission that they will do what is necessary to eliminate this problem. Also of note is the major decline, compared with 1984, in the number of checks carried out on operators' premises (from 723 to 491) and in the number of infringements detected (from 3 444 to 651) in Belgium: this is due to a special campaign by the Belgian authorities which, as far as the Commission is aware, was undertaken in 1984 and not repeated in 1985.

The Commission also considers there continues to be insufficient progress as regards contacts and mutual assistance between Member States. A brief study of this chapter reveals that the statements submitted by the Member States sometimes fail to correspond with each other: the figures representing notifications of infringements submitted by certain countries do not correspond to those (which should be the same) declared to have been received by other countries, and vice versa. In this connection, it is sufficient to compare some of the statistics reproduced on pages 6 and 7.

As regards submission by the Member States of the information they are required to supply to the Commission, the Commission hopes that the final version of the standard form referred to in Article 16(3) of Reg. (EEC) No 3820/85, which will appear during 1988, will further improve the current situation.

It should be stressed, moreover, that the Commission is currently endeavouring to improve the implementation of these regulations. To this end, on 20 December 1985, coinciding with the approval of the new Regulations (EEC) Nos 3820/85 and 3821/85, it succeeded in getting a resolution adopted by the Council and the representatives of the Governments of the Member States. At the beginning of 1988, the Commission put forward a proposal consisting of a draft amendment to the new Regulation and a draft Directive on checking procedures. The adoption by the Council of these measures and, in particular, of the Directive on uniform checking procedures in respect of social legislation should serve as a common basis not only for more effective and more uniform inspection, but should also improve collaboration between the Member States; moreover, it is hoped that one effect of the implementation of these measures will be to ensure stricter compliance with the legislation by users.

It should not be forgotten either that the Commission has convened a "tachograph committee" to study the improvements which modern technology could make to this instrument; it is too soon yet to forecast the outcome of these discussions.

All the work in which the Commission is involved with the Member States and with representatives of the categories concerned will undoubtedly improve application of the relevant social legislation in the road transport sphere, but the aim of such joint action should not be restricted purely to improvements in implementation. Strenuous and continuous efforts are required in order to achieve the underlying objectives of this legislation which are not merely to harmonize the conditions under which the various modes of transport compete, but also to achieve social progress and road safety which, ultimately, are of concern to everyone.