

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 170 final.

Brussels, 13 May 1977.

FIFTH REPORT BY THE COMMISSION TO THE COUNCIL

on the implementation of Regulation (EEC) n°543/69
of the Council of 25 March 1969 on the harmonisation
of certain social legislation relating to road transport

Period covered by the report: 1 January to 31 December 1974

A. INTRODUCTION

1. Under Article 17 of Council Regulation (EEC) n° 543/69 of 25 March 1969 the Commission is required to present to the Council an annual report on the application of the Regulation by the Member States. The Commission herewith presents the fifth general report (covering the period 1 January to 31 December 1974).

2. As stated in the report for the year 1973, the necessary implementing regulation permitting normal application of the Community Regulation in Denmark for international transport was not adopted until 21 February 1975; as a result this report contains no information relating to Denmark for the year 1974. Similarly Ireland did not adopt implementing regulations for international transport until 1 December 1975 and no information regarding the year 1974 is therefore available.

3. The information received from the other Member States continues to be supplied with varying degrees of detail. In addition non-uniform presentation of statistical data makes a comparative presentation by the Commission extremely difficult. Some Member States supply extensive statistical information whereas others provide very little.

4. The Commission has attempted to reduce the volume of the report by no longer reproducing the detailed individual data provided by each Member State but rather by a summary of this information in tabular form. This summary is contained in the annex to the report.

5. Part B of the report contains a summary of comments and remarks made by the individual Member States in their reports to the Commission as well as listed details of the statistical information supplied by that Member State and not reproduced in the Annex to this report. Part C contains the appreciations and conclusions drawn by the Commission from the reports made by individual Member States.

B. SUMMARY OF INFORMATION SUPPLIED BY THE MEMBER STATES

Federal Republic of Germany

Controls continue to be effected as described in the report for 1973. Details of agents charged with control operations and the number of controls effected are shown in Annex Table 1.

The German Federal Republic makes special reference to difficulties encountered with vehicles from third countries which it is said - in contrast to most German vehicles - are not equipped with a tachograph or where the crew members are either not in possession of or have incorrectly completed the individual control book. These breaches to the provisions concerning the control book continue to form the majority of the infringements to the Regulation.

Mutual assistance continues to be rendered between the Federal Republic and the neighbouring countries to ensure compliance with the Regulation's provisions and to avoid difficulties in transport flows.

In its conclusions, the Federal Republic emphasizes that despite numerous employers and crew members respecting the most important provisions of the Regulation this has not been enough to show any marked improvement in compliance. Information and explanation are still necessary particularly in third countries. Reference is also made to complaints from the road haulage industry that controls and fines in other Member States either do not take place or on only a much smaller scale. Such distortion of competition has led the industry to protest actions at the frontiers.

The Federal Republic further considers that common measures in respect of the breaches of the provisions of the Regulation should be drawn up by the Member States.

Statistical data

Details of actions by the B.A.G. (Bundesanstalt für Güterkraftfernverkehr) recording types of infringements and follow up given to breaches of the Regulation committed by non-german nationals subdivided by company and crew members and by goods and passenger transport.

France

A new law, drawn up in 1973 and adopted by the Senate in 1974, aimed at extending control authority, in respect of the Regulation, to transport inspectors and road controllers (some 340 in number) as well as to customs officials, had not, in the report period, been passed by the National Assembly. This widening of authority and close coordination with the Industrial Inspection Board's inspectors will in future permit more effective controls to be carried out.

France further states that, in the report period, road controls have only concentrated on the verification of certain norms such as - installation and proper use of control equipment (tachograph), continuous and daily driving periods and daily rest periods. In 1974 the control effort has concentrated on in depth and systematic controls at company premises, the efficacy of which has been enhanced by the compulsory introduction of the tachograph. As from 1975 it is intended to make these controls even more efficient with the introduction of automated reading of the tachograph discs.

The reduction in the number of fines from 11.788 in 1973 (Annex of COM(75)616 final) to 8.944 in 1974 (Table 3 b in the Annex) can to a certain extent be explained by the amnesty promulgated by the law of 16 July 1974 following the election of the President of the Republic.

Mutual assistance between Member States in 1974 concerned the communication between States of breaches committed by the respective nationals on French territory and by French nationals in Belgium. Both Germany and Italy advised France of the penalties imposed on their nationals who had committed offences in France.

In its conclusions France draws special attention to the need for a normalisation of tachograph discs to enable their reading by automatic devices furthermore it is suggested that the recording equipment agreed at national level under article 20 of regulation (EEC) n°1463/70 should be assimilated to the community model for international transport where they record the speeds and the temporal norms prescribed by the Regulation (EEC) n°543/69. A plea is made to examine, with a view to reduction, the need for the retention of 14 days' discs in the vehicle which according to the French Government often causes excessive immobilisation of vehicles when checks are being carried out.

Statistical data - The division of the offences by nature as shown in the annex is compared in percentage terms with the previous year. The breaches committed by non-nationals are divided by Member State and by third countries and the proportion of controls which resulted in the establishment of offences is shown.

Belgium

Controls were organised as described in the report for 1973 details of the number of controls are shown in the Annex Table 1.

The Industrial Inspection Boards effected nearly all their controls at company premises, only one control being effected on the road. The lack of sufficient assistant inspectors is one of the main reasons given as to why these authorities have virtually abandoned road controls; they have a great number of other control obligations other than those imposed by the Regulation 543/69. In 1972 and 1973 they had concentrated their efforts on control of this Regulation to the detriment of their other responsibilities and therefore in 1974 the main control task for the Regulation was left to the Transport Administration and the Gendarmerie.

The disproportion between the number of breaches (Annex Table 2 (a)) and number of charges brought (Annex Table 3 (c)) is accounted for by the fact that the inspectors are authorised to issue warnings and not obliged to report such cases for a court action.

Mutual assistance was given in the advice to other Member States of offences committed by their respective nationals. Information on breaches committed by Belgian nationals was received from the German and French authorities and the follow up by the Belgian authorities to certain offences committed in France by Belgian nationals were communicated to the French authorities.

Statistical data

The break down by type of offence is given also for the breaches committed by both nationals and non-nationals.

Italy

Controls were carried out only at company premises by the inspecting officers of the Ministry of Labour and Social Security. Regular inspections were delayed in the first eight months of the report period by a strike of these officers. As a result only spot checks were effected at companies having more than 20 employees.

Breaches generally stem from inaccurate keeping of registers by employers and failure to write up the individual control books by the crew members. The inspecting officers considered it necessary to provide clearer explanations and instructions on the proper keeping of these documents.

The Italian Ministry is currently examining the possibility of harmonising the duties of inspecting officers with similar activities carried out by the traffic police.

In conclusion Italy considers that in general the provisions of the Regulation are adequately applied and that better implementation might be achieved through close collaboration between road traffic control authorities and the inspecting officers of the Ministry of Labour and Social Security.

Statistical data: no information supplied.

Luxemburg

Controls were effected as described in the report for the year 1973. The breaches reported by Luxemburg concern primarily those effected by Luxemburg nationals engaged in international transport operations. The reduction in the number of offences compared to the previous year [10.797 in 1973 (Annex XI COM(75)616 final) and 9.632 in 1974 (Annex Table 2 (a))] represents a certain progress and can be in the main attributed to the implementation of the Grand Ducal regulation of 23 December 1972 imposing penalties for breaches of the provisions of the Regulation (EEC) n°543/69.

Several serious infractions committed by non-nationals were advised to the other Member States.

Statistical data - The data supplied by Luxemburg is contained within the tables of the Annex.

Netherlands

Controls were effected as described in the report for the year 1973. The compulsory introduction of the tachograph in 1974 for certain vehicles can be regarded as a contributory factor to the effect that the number of offences relating to the incomplete or non-carrying of individual control-books has reduced from 66% of total offences to 44% of total offences.

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The Netherlands informed Germany of 99 breaches and received advice of 2136 offences from Germany, 297 offences from Belgium and two from France. In addition the German Federal Republic informed the Netherlands authorities of details of 2136 penalties they had imposed.

From sampling it can be established that about 9% of the controls resulted in the establishment of proceedings.

In its conclusions the Netherlands once again draws attention to the need for simplification and to the discussions concerning the Commission's proposal laid before the Council (COM(76)85).

Statistical data

In addition to the data reproduced in the Annex the Netherlands have provided a breakdown of the offences committed by crew members and nationals of the Member States established in the Netherlands showing the articles against which offence had been committed and the penalties imposed. In addition details of offences by Dutch companies in Belgium are given in the same form.

Denmark and Ireland

No information - See Introduction

United Kingdom

In the United Kingdom, in the report period, control was only in respect of international transport, in accordance with the Treaty of Accession Annex VII Part III paragraph 1.

Controls were effected in the same manner as described in the report for 1973. Discussions on mutual assistance were held with the German Authorities. The United Kingdom considered the number of offences established as insignificant in relation to the number of vehicles which were found to be in order, with 98,4% of drivers carrying the individual control book and 97,2% of drivers having completed it correctly. This high degree of compliance in international traffic is however likely to be considerably affected when the regulation becomes applicable to national transport. According to the British Government the situation will be greatly eased if greater flexibility is introduced following the present proposal from the Commission currently before the Council.

C. EVALUATION

Provision for checks, authorised inspecting officers and their powers

Provisions for road and company checks have been introduced in all Member States (those for Denmark and for Ireland do not enter into force until after the end of the period covered by this report).

In order to appreciate the thoroughness of checking in the respective Member States the Commission has tried in Table 1 in the Annex to summarize for each Member State the number of authorised inspecting officers, the number of checks made and the statistics available concerning the stock of motor vehicles within the State concerned in the report year.

Checking - procedures

The Federal Republic of Germany, France and Belgium have supplied the most detailed information concerning location and quantity of checks effected. No such details have been forthcoming from Italy and Luxemburg.

Such data is essential in order to gain an insight into the degree of compliance with the provisions of the Regulation. Although such data alone may not be totally conclusive it would, form a sounder base for harmonisation within the Community to be effectively judged. The non standardisation of procedures and presentation of data at present makes such comparisons difficult.

The relatively low number of controls in some Member States and the failure of others to provide details of the number of controls effected is regretted by the Commission. Such minimum control data makes the gauging of the degree of compliance in the Regulation very difficult.

The Commission welcomes the moves in France to exploit the tachograph discs by automated reading devices and hopes that the report for 1975 will reflect positively this capability.

Infringements, prosecutions and fines

In total the amount of data supplied by the Member States maintains the improvement recorded in 1973 and is becoming more useful for comparative purposes.

It is however, essential that the recording of such data be more standardised and presented to the Commission in a more standardised form to enable effective appreciation of harmonious treatment throughout the Community.

The particular problems raised by the United Kingdom and by Belgium concerning the incompatibility of data on offences and charges brought, due to the time lag for court proceedings, may be valid in any one year, however, the relevant details would then in such cases be evident in the reports for subsequent years. Examination of the data supplied by Belgium for the year 1974

(Annex VII of Document COM(75) 616 final) and the year 1974 see Annex Table 3 (c), indicate a very high proportion of cases where the follow up is still unknown some 2-3 years after the offence. Such delays seem excessive and the Commission would impress upon Member States the need for more vigilance to be given to such matters.

In addition whereas some Member States provide details of fines imposed (France, United Kingdom and the Netherlands) others provide no such details. A true comparison is therefore practically impossible to make (See conclusions concerning harmonisation of measures and penalties).

Offences by foreigners

Belgium, France, the Netherlands, the United Kingdom and the Federal Republic give details of offences by nationals and non-nationals although the German Federal Republic refers to its inability at present to provide, for all of its Länder, such a division. Italy and Luxemburg however provide no such details and a valid comparison of the problem of foreign offenders is not possible.

Mutual assistance and notification of offences

The progress under this heading recorded in the report for 1973 continues and in particular the notification of offences and communication of penalties imposed is improved over previous years.

The comments of the Member States on their appreciation of this improvement would have been of value to the Commission as would have been a clearer indication from certain Member States of the numbers and respective Member States concerned.

Conclusions formed and proposals made by Member States Implementation of the Regulation

Whereas the United Kingdom, Luxemburg and Italy seem content that the Regulation is being applied and generally respected and that France notes some improvements the German Federal Republic brings forth the complaints levied against it by the road haulage industry that it alone meticulously and methodically applies the provisions of the Regulation. The fact that France in its report specifies that road controls concentrate on certain norms and the comments in the Netherlands report would seem to confirm this opinion.

Individual log book

The vast majority of breaches continue to lie in the non-carrying or incorrect completion of the individual log book although the reduction of such offences in both France and Netherlands with the compulsory introduction of the tachograph is to be welcomed. The Federal Republic lays particular stress on the problems encountered with third countries in respect of this document and the Commission welcomes the efforts made by the authorities in Germany to produce necessary leaflets explaining to drivers from third countries the need for possession and correct completion of these documents.

Proposals for increasing efficiency and implementation of the Regulation

The Commission on 9 March 1976 presented to the Council a new proposal for a regulation in the field covered by this report which was aimed at meeting certain of the wishes expressed by Member States in previous years to simplify and at the same time make more flexible the provisions of the Regulation in order to achieve a more harmonised compliance throughout the Community. This proposal is currently before the Council for consideration.

France raises certain problems related to the progressive introduction of the tachograph and in particular the need for crew members to retain 14 days' discs in the vehicle. The Commission will consider this point in conjunction with the eventual modification of Regulation (EEC) n° 543/69.

CONCLUSIONS

It remains extremely difficult for the Commission to draw any concrete conclusions concerning the harmonised application of the Regulation in all Member States; firstly the Regulation applied in the United Kingdom only to international transport during the report period and neither Denmark or Ireland had adopted the necessary implementing regulations and secondly the lack, from several States, of sufficient comparable data makes such conclusions of little value.

It is evident however from the information which has been supplied that the number of controls effected in certain States are insufficient and that other States are still not in a position to provide even this minimum data. The Commission would impress upon the Member States the need for a more concentrated effort in this field in order that the objectives of the Regulation are not lost sight of.

In the opinion of the Commission it is necessary to review the format for the presentation of the relevant data with a view to effecting at least a minimum of standardisation of presentation. This may well indicate the need for a more simplified yet more statistically detailed report format.

It is also evident from that information supplied that a more harmonised approach to the question of control measures and penalties is necessary to ensure equal respect of the Regulation throughout the Community.

The appreciation by the Commission of the need to amend certain provisions in the existing Regulation by its new proposal to the Council shows its vital interest in meeting the criticisms of complicatedness and non-flexibility of the existing provisions. At the same time the need for some Member States to take a firmer and more positive approach to ensuring the correct respect of Community legislation is clear and the Commission will continue to do all within its power to this end.

TABLE 1 - ORGANISATION OF CONTROL

	Officers authorised to effect controls	Motor vehicle stock 1974 (1)	Controls effected in the report year (1974)		
			roadside	company premises	frontiers
Federal Republic of Germany	250-300 officers of the State Industrial Inspection Boards and approx. 2500 officers of police and customs authorities as part of normal traffic surveillance	680.009	17.964	12.142	48.393
France	40 Inspectors of the Transport Inspectorate and the Ministry of Labour Inspectorate and approx. 6500 officers of police and gendarmerie	480.070	4.853 (2)	3.405 (2)	
Belgium	122 Inspectors of the Industrial Inspection Boards, 39 Inspectors of the Road Transport Administration and officers of police and gendarmerie	115.157	8.001 (3)	617 (4)	
Italy	Inspecting officers of the Ministry of Labour and Social security	1.706.524	no details available		
Luxembourg	Officers of the police, gendarmerie and customs authorities and the Inspectors of the Inspectorate for Industry and Mines and the Road Transport Inspectorate	4.031	no details available		
Netherlands	123 Inspectors of the Transport Directorate of Ministry of Transport and Waterways and 10 Inspectors of the Ministry of Labour, officers of the gendarmerie, local and national police	120.450		220.000 (5)	
United Kingdom	250 officials under the Traffic Commissioners of 11 Traffic areas	1.838.201	11.821	(6)	

(1) Statistical Yearbook of Transport - Tables 3.3.(3) plus Table 3.5 (4) reduced by vehicles up to 2.995 kg load carrying capacity (OSCE - 1976)

(2) Details only available of controls effected by Transport Inspectorate (roadside) and Ministry of Labour Inspectorate (company premises)

(3) Estimate of controls effected by police and gendarmerie plus one control effected by the Industrial Inspection Boards

(4) Controls effected by the Industrial Inspection Boards

(5) Estimate on the basis of sampling as to number of controls effected

(6) International transports only

Table 2 - Offences

2 a) Total

	Number of offences established										Total
	Committed by nationals of the Member State concerned					Committed by non-nationals					
	Goods	Passenger		Goods	Passenger	Goods	Passenger		Goods	Passenger	
		Regular	Irregular				Regular	Irregular			
Federal Republic of Germany	64.507 (1)	750 (1)	1.647 (1)	3.568	2	309	70.783				
France	14.337 (2)	2	49	110	-	26	14.402				
Belgium	1.567	-	no details available				1.754				
Italy											
Luxembourg											
Netherlands	53.747	1	474	385	1	7	54.615				
United Kingdom	101	-	-	232	-	-	333				

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(1) These figures include non-nationals where it has been impossible for the Länder to provide a distinction
 (2) In addition 4886 offences concerning the introduction and use of the tachograph were recorded

2 b) by provision

Offences against Regulation (EEC) n° 543/69 Article

	6	7 (1)	7 (2-3)	7 (4)	8	11	12	14 (1)	14 (2-7)	15	Misc.
D	4.036	4.211	8.507	806	2.408	5.840	259	26.633	17.454	629	
F	3.083	1.394	2.912			1.730		465	4.055		772
B	4	8	11			32		1.167	518	8	
I						no details available					
L	2.751		3.967	119	1.506	1.102	27		160		
NL	7.799	3.846	13.108	331	54	5.536	94	11.942	11.904	1	
GB			1		1	4		184	143		

Table 3 : Penalties

a) Federal Republic of Germany

Type of Penalty	No.
Oral warnings (without fine)	11.871
Written warnings(" ")	322
Cautionary fines a) companies	9.329
b) crew members	9.141
Penalty fines a) companies	9.329
b) crew members	10.594
Prosecutions	17

b) France

Number of offences subject of written proceedings 6470
 Number of written proceedings 1367

Fines imposed by the courts				
Fine	No. of fines	%	Cumulated %	Cumulated % 1973
< 12 FF	1517	17	17	18
12 FF - 20 FF	566	6	23	24
21 FF - 30 FF	959	10	33	38
31 FF - 60 FF	2546	29	62	69
61 FF - 100 FF	1460	16	78	84
101 FF - 150 FF	1008	12	90	90
151 FF - 200 FF	611	7	97	95
201 FF - 240 FF	103	1	98	96
> 240 FF	224	2	100	100
TOTAL	8994	100		

c) Belgium

Number of written proceedings	1303
Filed without follow-up	149
Settled	285
Payments discharged	-
Convictions	65
Follow-up not known	804

d) Netherlands

Nationality of offenders	Written proceedings	Control reports*	Offences	Penalties Hfl.	Special remarks
Dutch	19,713		54,222	934,733,50	270 cases dropped
Belgian	19	75	193	260,-	12 cases dropped
German	16	99	162	360,-	5 cases dropped
French		8	16		
Italian		8	9		
Luxemburg	2	-	2	60,-	
Other countries		5	11		

* no penalties imposed

e) United Kingdom

Oral warnings	237
Written warnings	35
Prohibitions	41
Fines imposed	27
Total of fines imposed £	385

Italy and Luxemburg provided no details.