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IDEA II

Transport Dialogue and Networks Interoperability

Pilot roadmap on regulatory approximation

Annex to the fifth Interim Progress Report

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This project is implemented by TRT Trasporti e Territorio
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1 Introduction

The present document, developed in the frame of the IDEA II project, follows the Project Logical Framework Matrix for the component on Legal Approximation. The Pilot Roadmap on regulatory approximation initiates the “Third step – methodology implementation” of the approach, described in details in sub-section 3.2. Legal approximation of the IDEA II inception report (2013).

During previous project phase (IDEA II Report, October 2014) was presented a Toolbox on legal approximation, including methodological guidelines for legal harmonisation that can be used to assess and identify gaps in the current level of legal harmonisation in TRACECA countries. The toolbox is intended to provide substantially to the specific objectives of the project as training and transfer of ownership, to address the key challenges facing law harmonisation/approximation in TRACECA countries by providing concrete methodology and expertise in order to facilitate the clear understanding of the context and rationale of international law and *acquis communautaire*.

The methodology implementation aims to achieve several targets:

- To get detailed gap analysis on a country by country basis;
- Periodical regulatory impact assessment of the present situation;
- Improved knowledge of the TRACECA countries legal experts.

The Pilot Roadmap on regulatory approximation is based on the methodology. Detailed gap analyses were initiated country by country in September 2014 by the project experts.

Based on the last year development of the relationship between the EU and the Eastern Partnership neighbouring countries (Ukraine, Moldova, Georgia, Azerbaijan and Armenia) and considering signed bilateral agreements, the IDEA II project analysed the existing level of regulatory approximation for each one of the countries.

The Pilot Roadmap aims to develop a plan for the countries to reach compliance with the *acquis communautaire* in the field of road and rail transport. That is why it is necessary to define the start point at the existing level and to identify the gaps.



After this introductory section, the Pilot Roadmap document is organised in the following way:

- Section 2 presents the scope of work and approach.
- Section 3 presents a scoring system to evaluate and compare the performance of regulatory approximation.
- Section 4 consists of needed future steps for each one of the countries.

There are two appendixes:

- Appendix I List of *acquis communautaire* applicable to Ukraine, Moldova and Georgia with divided into: A (road transport) and B (rail transport)
- Appendix II Questionnaires on *acquis communautaire* consisting of tables for each legal act in Appendix I.



2 Scope of work and approach

2.1 Scope of work

The extent of work is narrowed in two main directions:

- Regulatory approximation to the *acquis communautaire*;
- Accession to international conventions and agreements.

2.1.1 Regulatory approximation to the *acquis communautaire*

The leaders of Ukraine, Moldova and Georgia, together with their EU counterparts, signed landmark Association Agreements, which includes a Deep and Comprehensive Free Trade Agreement (DCFTA) on 27.06.2014.

In the Association Agreements, countries agreed to carry out an approximation of their legislation to the EU acts and international instruments referred to in Appendixes to the Agreements.

The goals for regulatory approximation for these three countries are very similar with minor differences.

For better implementation of the Association Agreements, each country approved National Action Plans which contains measures to amend their legislation. First direction of the scope of the present document is based on the National Action Plans on implementation of Association Agreements.

The Appendix I List of *acquis communautaire* shows the targeted legal instruments in the field of road transport (A) and in the field of rail transport (B).

Ukraine

The European Parliament gave its consent to the EU-Ukraine Association Agreement, which includes a Deep and Comprehensive Free Trade Agreement (DCFTA), on 15.09.2014 in Strasbourg. On 16.09.2014, the Agreement was also ratified by the Ukrainian Parliament in Kiev.

On 17.09.2014 by Decree No. 847-p, the Government of Ukraine adopted a decision on approving the Plan of implementation of the Association Agreement with the European Union.



On 26.11.2014 by Decree No. 1160-p, the Government approved a proposal of the Ministry of Infrastructure for implementation of individual acts of the EU legislation. In the Appendix to the decree are given seven directives and three regulations in the field of road transport¹.

The Ministry of Infrastructure has also approved the General Departmental Plan (Загальний відомчий план) for the period 2014-2017 by Ordinance No 512/14.10.2014². This Plan defines measures, terms and the working group responsible for the implementation. There are different working groups, settled by the same ordinance, including: transport policy and infrastructure; security and carriage of dangerous goods; aviation sector; road transport and traffic management; the rail industry; maritime and river transport; postal service; tourism and approve their warehouses attached.

The ordinance of the Ministry of Infrastructure established the Coordinating Council on the implementation of the Association Agreement between the Ukraine and the European Union.

The measures to be implemented during 2014-2017, are grouped in the field of transport policy and infrastructure; carriage of dangerous goods; road transport and railway transport.

A number of national laws regulate the issues covered by the directives and regulations, included in the Plan of implementation above:

- Law on road transport
- Law on road traffic
- Law on the transport of dangerous goods
- Law on transit of goods"
- Law on the freight forwarding activities
- Law on compulsory insurance of civil liability of owners of transport
- Code of Administrative Offences
- Law on licencing of certain economic activity.

There are many by-laws, approved by the Government, the Minister of transport or other competent authorities, which regulate the implementation of the laws or technical issues.

Moldova

¹ [Directive 92/6/EEC](#) 2. [Directive 96/53/EC](#) 3. [Directive 99/62/EC](#) 4. [Directive 2002/15/EC](#) 5. [Directive 2003/59/EC](#) 6. [Directive 2006/22/EC](#) 7. [Directive 2009/40/EC](#) 8. [Regulation \(EEC\) № 3821/85](#) 9. [Regulation \(EEC\) № 561/2006](#) 10. [Regulation \(EC\) № 1071/2009](#)

² http://www.mtu.gov.ua/uk/action_plan/45802.html



Moldova has ratified its EU association agreement on 02.07.2014. The European Parliament gave its consent to the EU-Moldova Association Agreement on 13.11.2014.

The Moldovan Government approved the National Action Plan for implementing the Association Agreement with the EU on 25.06.2014.

The National Action Plan comprises a period of three years and includes the key priorities of cooperation, in order to ensure the political association and economic integration with the EU.

The document represents an essential instrument for monitoring the EU integration process over the next three years. Thus, the plan includes actions due to being carried out by the institutions in charge in the indicated periods and by specifying the money needed to this end.

The transport sector in Moldova in the field of road transport and railways is regulated by³:

- Railway Transport Code (no. 309/17.07.2003);
- Road Transport Code (no. 116/29.07.1998);
- Law on Motor Roads (no. 509/22.06.1995);
- Law on Road Fund (no. 720 -XIII/02.02.1996);
- Law on Transport (no. 1194-XIII/21. 05. 97);
- Law on Road Safety (no. 131/07.06.2007);
- Law on Business Licensing (no. 451-XV/30.07.2001).

Georgia

The Parliament of Georgia unanimously voted in favour of ratification of the AA/DCFTA Agreement on 18 July 2014. The European Parliament gave its consent to ratification of the EU-Georgia Association Agreement on the 18th of December.

On 3 September 2014, the Government of Georgia approved the 2014 National Action Plan for the Implementation of the Association Agreement. A three-year Action Plan on DCFTA was also elaborated⁴. The Ministry of Economy and Sustainable Development of Georgia will coordinate the DCFTA implementation process and will ensure regular cooperation with responsible line ministries, national bodies and stakeholders.

Georgia shall carry out an approximation of its legislation to the EU acts and international instruments referred to in Appendixes to Association Agreement.

³ http://mtid.gov.md/index.php?option=com_content&view=article&id=65&Itemid=80&lang=en

⁴ http://www.economy.ge/uploads/dcfta/DCFTA_action_plan_GEO.pdf



For this project the following legal acts of Georgia have been studied:

- Law of Transport ;
- Law on Road Transport;
- Railway Code;
- Law on Roads;
- Law on Road Safety ; and
- Law on Business Licensing.

The subordinate regulatory acts realise technical regulation in the transport sector, in particular, the list of technical regulations is given in the order №1-1/883 of the Minister of Economy and Sustainable Development of Georgia.

2.1.2 Accession to international conventions and agreements

Second direction of the present document covers five beneficiary countries - Ukraine, Moldova and Georgia, but additionally Azerbaijan and Armenia as they are TRACECA countries implementing the European Neighbourhood Policy Instruments. All of them are aiming for accessing to international conventions and agreements in the field of road and rail transport, related to the *acquis communautaire* and in line with the TRACECA strategy.

The Toolbox, presented with IDEA II, phase 3 report (July,2014), contains a Working book on Legal framework, where Chapter 3 International conventions and agreements indicates the common targets for legal harmonisation. The document describes the main international conventions and agreements.

The IDEA II project turns the attention of the TRACECA countries at some more legal instruments with a purpose to further enhance the process of international harmonisation as follows:

- **1975, TIR Convention**⁵;
- **1998, Global Agreement (GTR)** or Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ("Parallel Agreement")⁶;

⁵ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-A 16&chapter=11&lang=en

⁶ http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29glob_registry.html



- **1970. ATP Agreement** or Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage⁷.

TIR convention is mentioned in TRACECA Action Plan 2010-2012 as a common goal.

There is a general target in the TRACECA Action Plan 2013-2015 for accession and implementation of the requirements and standards deriving from the European conventions/agreements in the field of road transport. That's why the GTR and ATP Agreement are recommended and included in the present document.

In the field of railways, the TRACECA Action Plan for 2013-2015 provides accession to and implementation of Annex C to the COTIF "Rules for International Railway Carriage of Dangerous Goods" (RID). To clarify the present status, the legal experts have studied how many of TRACECA countries acceded to the COTIF⁸.

In addition to the report "Proposals for Improvement of Legal Environment for MoS and Logistics" (Draft LOGMOS Master plan – Annex I), (October, 2013), produced by the LOGMOS II project, two more conventions are recommended in the IDEA II Working book on Legal framework:

- **International Convention on the Harmonization of Frontier Controls of Goods (Geneva, 21 October 1982)**⁹, and
- **Customs Convention on Containers (Geneva, 2 December 1972)**¹⁰.

Some of international conventions and agreements are indicated by directives and regulations, targeted by the National Plans on implementation of Association Agreement of the countries.

Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonization of certain social legislation relating to road transport, links to the **European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR)** (Geneva, 1 July 1970). The regulation is in the scope of Association Agreements with Ukraine, Moldova and Georgia.

The same time, AETR was included in the TRACECA Action Plan 2010 – 2012.

⁷ <http://www.unece.org/trans/main/wp11/atp.html>

⁸ <http://www.cit-rail.org/en/rail-transport-law/cotif/>

⁹ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-A-17&chapter=11&lang=en

¹⁰ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-A-15&chapter=11&lang=en



The AETR is one of the main subjects of Road Safety II ongoing project, started in February, 2014. In the present document the agreement was taken to illustrate the corridor approach, because arises from an EU regulation.

Another subject of the Road Safety II ongoing project is ADR (European Agreement concerning the International Carriage of Dangerous Goods by Road, concluded at Geneva on 30 September 1957), arises from the Directive 2008/68/EC, included in the National plans of the Ukraine, Moldova and Georgia also.

Directive 2008/68/EC of the European Parliament and the Council of 24 September 2008 on the inland transport of dangerous goods relates to three international legal instruments:

- **ADR: the European Agreement concerning the International Carriage of Dangerous Goods by Road**, concluded at Geneva on 30 September 1957;
- **RID: the Regulations concerning the International Carriage of Dangerous Goods by Rail, appearing as Appendix C to the Convention concerning International Carriage by Rail (COTIF)** concluded at Vilnius on 3 June 1999, and
- ADN: the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways concluded at Geneva on 26 May 2000.

The membership of the countries to the European Agreement concerning the International Carriage of Dangerous Goods by Road, done at Geneva on 30 September 1957, and the Regulations concerning the International Carriage of Dangerous Goods by Rail, appearing as Appendix C to the Convention concerning International Carriage by Rail (COTIF) concluded at Vilnius on 3 June 1999, has been analysed and illustrated aswell.

The European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN) is out of the scope of road or railways, so it is not an object of the present study.

2.2 Approach

Because the scope of work is narrowed in two main directions – *acquis communautaire* and international conventions and agreements, respective approach was implemented.

The Appendix I with two sub-sections defines the scope of work and goals for each one of the countries – Ukraine, Moldova and Georgia, for regulatory approximation on EU-TRACECA and TRACECA-TRACECA level.

To analyse the current situation and to develop the Pilot Roadmap on a regulatory approximation to the *acquis communautaire*, during the present phase of the project were considered Codes and Laws in force in the field of road transport, roads and railways in each of the countries.



Legal experts implemented a questionnaire for cross-checking the texts of the goals and existing national legislation.

The assessment of the results detects legal and institutional differences between the existing EU regulation and national regulation, and investigates the gaps in the existing national law.

The tool was introduced in detail in Methodology on the legal approximation (IDEA II report, 3 phase).

The questionnaire is developed as a table, making it easy to use.

1. Title of the EU legislation and the subject and objective of its regulatory scope			
2. Title of the law and the subject and objective of its regulatory scope			
3. Existence of the matter of EU legislation (secondary source of law) in national legislation			
The main provisions of the EU legislation	Yes	No	Notes (Contradiction)
a)	b)	c)	d)

Appendix II “Questionnaires on *acquis communautaire*” consists of tables for each one legal act in Appendix I. There are the main texts from the legal acts of the EU, which are the base for crosschecking to the relative national laws of Ukraine, Moldova and Georgia.

The national laws, taken under consideration, are listed in respective sub-section (2.1.1) in the present document for each one of the countries. The source of information for national legislation in force is internet based in official web-sites of the Parliament or Government of the countries on Ukrainian, Russian and Georgian languages.

This process of gap analysis once started never stops. As it is mentioned in the Methodology on legal harmonisation, the *acquis communautaire* is alive and countries shall study on a regular basis the level of regulatory approximation.

That is why the Questionnaires in the Appendix II start with a row for name of the state and the date of the tool implementation. This way will indicate exactly which one of the TRACECA countries analysed the gaps, and when – what EU legal act and national legal act are in force in that particular moment.

State:	Date
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The second row indicates the name of the National Action Plan (in case such plan exists) and links to it.

Link to Action Plan:			
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The questionnaire, based on the *acquis*, gives the answer **WHERE** the gaps in the national law.



The main question is if the national law stipulated such a principle as defined by the directive or regulation.

If the answer is "Yes" - there is no gap, and thenationallaw is approximated.

If the answer is "No" - the next step is to identify if there is any contradiction between this principle of the EU law and a text of the national law.

If the answer is "No" again, there is a gap but the national law needs an amendment to reach the aimed level of regulatory approximation.

In case there is a contradiction between the EU legal act and national law, the national law needs revision.



This approach summarises the best practises for regulatory approximation, implemented by different countries - Bulgaria, Romania, Turkey, Montenegro, Croatia, and other countries with such a goal. It allows to any TRACECA country to implement, aiming legal harmonisation with the main principles of the *acquis communautaire* in the field of transport, as it was defined by the Strategy on development of TRACECA corridor for the period 2006-2015 (Sofia, 02.05.2006).

The next project phase during the Legal expert group meeting, gap analyses will cover the rest of TRACECA countries. Also, the tables of concordance will be exercised as a tool to answer **HOW** to eliminate the gaps by proposals of new regulatory draught.

Second direction of the Pilot Roadmap - international conventions and agreements, covers five TRACECA countries - Ukraine, Moldova and Georgia, but also Azerbaijan and Armenia and their accession to the international conventions and agreements. The current situation was analysed, and the gaps are identified. The findings and recommendations for each one country are given in Section 4 of the document.



3 Evaluation and outcomes

3.1 TRAnsport Corridor LEGislation – TRAC Lex

To evaluate and compare the performance of regulatory approximation, the Consultant implemented a scoring system. The scoring system aims to give an indication of the countries' performance - Ukraine, Moldova, Georgia, Armenia and Azerbaijan, and to help them identify and address the gaps.

Why is scoring needed?

There should be a mechanism for the countries to measure their efforts in:

- Elimination of gaps between national legal system and the *acquis communautaire*;
- evaluation and assignation a grade to law approximation - full compliance, or partial compliance or noncompliance;
- visualisation of the reached levels of regulatory approximation and measurement of the achievements.

What is scoring?

Scoring is a measurement approach, applicable to several countries, targeting to achieve a common goal (in a particular case three neighbouring countries aiming legal approximation).

When scoring is suitable?

During all the process as regulatory approximation started ones is a continuous process. It needs a periodic assessment of new legislation or amendments to existing legislation.

Where the scoring is applicable?

First, scoring exercise by one country gives a picture of the level of regulatory approximation and implementation of the National Plan as approved by the Government.

Second, the scoring serves the bilateral relationship of the EaP countries with the EU.

Third, scoring gives a measure to compare between two or more countries, their national goals in parallel or their common goals (based on the TRACECA Strategy, 2006).



Who is scoring?

Depending on the purpose of the approximation of legislation (individual from a country or region - for several countries), the process could be launched and scored by a national or regional authority respectively.

In TRACECA case, where the countries have a common goal in legal approximation, and implementing a corridor approach, the scoring system could be carried out by PS staff in compliance with the PS Rules and Procedures.

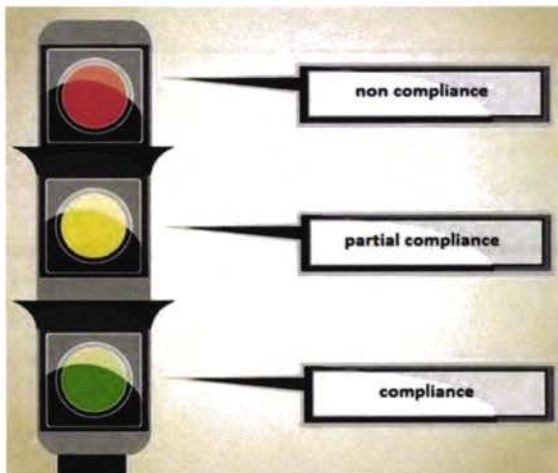
The scoring is based on three main criteria:

- Existence in national law – harmonisation of law
- Level of implementation – administrative structures established/authorised
- Enforcement – penalties and sanctions.

These criteria might be implemented as a complex or one by one depending on the aim of the study.

During the scoring process, the project applied the measure “existence in the national law”, seeking to make a snapshot of the present level of legal harmonisation.

To access and visualise the findings the legal experts used a traffic light symbolism. When the criterion is covered by the national law a green symbol is given. In cases when there are only two of the main three criterion included the yellow symbol scores partial compliance, and the red symbol shows where the non-compliance is.



Summarising the results of scoring within two joint tools - one for *acquis communautaire*, and another for international conventions and agreements for all addressed countries gives the hall picture of the level of legal harmonisation/ approximation.

Exercising only one of the three measures above - “existence in the national law”, there are two colours only – green for an existence and red – for a gap.

Where the accession to international agreements and conventions is the object of the study, having this one criterion there are also two colours only – green for accessing and red – for not yet accessing.

During the next project phase, the Legal Experts Group work-shop shall study and analyse the rest two criteria: level of implementation and enforcement for each one of the countries.



TRansport **C**orridor **L**egislation – **TRAC Lex** stands for TRACECA legal systems attractiveness. **TRAC Lex** represents the methodology for measuring the legal environment of the Corridor. **TRAC Lex** scores the level of the compliance between different national legal systems on EU-TRACECA level and TRACECA-TRACECA level, depending on the object of the study. The compliance, reached by the national legal systems of the respective countries, increases the attractiveness for the transport business.

3.2 Outcomes

3.2.1 Regulatory approximation to the *acquis communautaire*

In October, 2014 the key legal expert of the project visited the Ministry of Infrastructure in Kiev, Ukraine and Ministry of Transport in Kishinev, Moldova. During the meetings with the respective departments, responsible for road transport, railways and regulatory approximation, the first outcomes were identified.

Analyses are based on the screening of the national laws only. Bylaws are not considered, but the experts were looking for the legal base in the laws and respectively authorisation by the legislation to the competent state bodies to issue such bylaws.

This approach of presenting the scoring for each country in a separate column gives the opportunity to other countries with similar goals to be included and implement **TRAC Lex** when needed. There is also last column to summarise the scores for all the Association Agreement' countries.

After implementation of the questionnaires for each one of directives or regulations, and evaluation the results, the final outcomes are presented hereto in the next two tables as:

- **Scoreboard in the area of road transport, and**
- **Scoreboard in the area of railway transport.**

Looking at the final column, summarising the results for all the countries, the yellow color indicates that not all the countries approximated their legislation with the *acquis communautaire*.



A. Scoreboard in the area of road transport

	Title of Action	Ukraine		Moldova		Georgia		Summary for AA countries
		National law	Score	National law	Score	National law	Score	
1.	Council Directive 92/6/EEC on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community, and to ensure effective control for: <ul style="list-style-type: none"> - vehicles used for international transportation; - vehicles used for international passenger traffic 	Only for road transport of dangerous goods		Code on road transport				
2.	Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers	Law "On transport" Law "On road transport"		Code on road transport				



	Title of Action	Ukraine		Moldova		Georgia		Summary for AA countries
		National law	Score	National law	Score	National law	Score	
3.	<p>Directive 2006/22/EC on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities</p> <ul style="list-style-type: none"> - for international road transport; - for internal road transport 	<p>Law "On transport"</p> <p>Law "On road transport"</p>		<p>Code on road transport</p>				
4.	<p>Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator</p>	<p>Law "On licencing of certain economic activity"</p> <p>Law "On road transport"</p>		<p>Code on road transport</p> <p>Law on regulation of entrepreneurial activity by licencing.</p>		<p>Law on licencing of certain economic activity</p>		





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	Title of Action	Ukraine		Moldova		Georgia		Summary for AA countries
		National law	Score	National law	Score	National law	Score	
5.	Council Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic	Law "On motor roads" Law "On some issues of import to the territory of Ukraine and registration of vehicles"		Code on road transport		Law on road traffic		
6.	Directive 99/62/EC on charging the heavy goods vehicles for the use of certain infrastructures	Law "On motor roads"		Code on road transport				
7.	Directive 2006/126/EC on driving licences (Recast)	Law "On road traffic"		Law on safety road traffic		Law on road traffic		
8.	Directive 2008/68/EC on the inland transport of dangerous goods: (road transport)	Law "On the transport of dangerous goods"		Code on road transport		Law on road traffic		



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	Title of Action	Ukraine		Moldova		Georgia		Summary for AA countries
		National law	Score	National law	Score	National law	Score	
9.	Regulation (EC) № 561/2006 on the harmonisation of certain provisions of social legislation in the field of road transport	Law "On road transport"		Code on road transport		Law on road traffic		
	Council Regulation (EEC) № 3821/85 on recording equipment in road transport	Law "On road transport"		Code on road transport		Law on road traffic		
10.	Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities	Law "On road transport"		Code on road transport				
11.	Directive 2009/40/EC on roadworthiness tests for motor vehicles and their trailers	Law "On road transport"		Law on safety road traffic				





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B. Scoreboard in the area of rail transport

Title of Action	Ukraine		Moldova		Georgia		Summary for AA countries
	National law	Score	National law	Score	National law	Score	
Directive 2008/68/EC on the inland transport of dangerous goods (concerning transportation by railway transport)	Law "On transport of dangerous goods"		Code on railway transport		Railway Code		
Directive 2004/49/EC on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive)	Law "On railway transport"		Code on railway transport		Railway Code		



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	Title of Action	Ukraine		Moldova		Georgia		Summary for AA countries
		National law	Score	National law	Score	National law	Score	
	Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways: adoption and implementation of legal acts ensuring the implementation of the Directive	Law "On railway transport" Law "On transport"		Code on railway transport		Railway Code		
	Council Directive 95/18/EC of 19 June 1995 on the licencing of railway undertakings	Law "On railway transport" Law "On licencing of certain economic activity"		Code on railway transport		Railway Code		
	Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification	Law "On railway transport" Law "On transport"		Code on railway transport		Railway Code		





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	Title of Action	Ukraine		Moldova		Georgia		Summary for AA countries
		National law	Score	National law	Score	National law	Score	
	Council Directive 92/106/EEC on the establishment of common rules for certain types of transport of goods	Law "On railway transport"		Code on railway transport		Railway Code		



3.2.2 Accession to international conventions and agreements

When the object of the study is the accession to the international agreements and conventions, there are two colours only – green for accessing and red – for not yet accessing.

With the aim of clarification and visualisation of the TRACECA corridor-approach, during the implementation of the TRAC Lex were also included Romania, Bulgaria and Turkey. The results are visualised by scoreboard. The columns follow the geographical position of the countries along the corridor from West to East, and the last column gives a summary for the particular part of the corridor:

Goal	Ukraine	Moldova	Romania	Bulgaria	Turkey	Georgia	Azerbaijan	Armenia	This part of the Corridor
1957, ADR									
1970, AETR									
1975, TIR Convention									
1998, GTR Global Agreement									
1970, ATP Agreement									
1982, International Convention on Frontier Controls of Goods									
1972, Customs Convention on Containers									
1999, RID protocol (COTIF)									

The summary score visualise there are only three conventions and agreements applicable to all the countries in this part of TRACECA.



For the other five agreements are the gaps – not all the countries of this part of the transport corridor participated. The countries should pay attention to include these agreements in their National Plans and to accede.

As it was mentioned above in sub-section 3.1., the full evaluation of the recent status shall be based on three main criteria:

- Existence in national law – harmonisation of law
- Level of implementation – administrative structures established/authorised
- Enforcement – penalties and sanctions.

The present document indicates the first criterion – the country acceded or does not yet accede to the international legal instrument.

The rest two criteria - level of implementation and enforcement, will be considered and evaluated during Legal Expert Group Work-shops.



4 Recommendations

4.1 Regulatory approximation to the *acquis communautaire*

4.1.1 Ukraine

Road transport

The Ukrainian laws in the field of road transport are drafted and approved by the Parliament in a precise manner. They define the main principles and for the rest of the regulatory process, the laws authorise the competent authority – Government or Ministry, or another state body to issue respective ordinance or order.

This approach allows the legislative process to be completed faster and to respond to the needs of the economy or other amendments in the legal environment.

The results of scoring 3.2.1 give a picture, where is not any contradiction between the existing laws and EU laws. That is why there is not an amendment need on the law level, but just more clarification of the current secondary legislation.

Railway transport

Not this case with the Law of Ukraine on the Railway Transport (The Official Journal of the Verkhovna Rada (OJVR), 1996, No. 40, Art. 183), being the main legal act in the field.

Looking for existence of the several primary criterion, stipulated by the EU legislation, there is a lack. There are not any regulations about:

- charges for the use of railway infrastructure and safety certification (Railway Safety Directive);
- distinction of infrastructure management and train operation;
- clarify the formal relationship between the State and the infrastructure manager, on the one side, and between the infrastructure manager and railway undertakings (train operators) on the other;
- set out the conditions that freight operators must meet in order to be granted a licence to operate services on the rail network;
- introduce a defined policy for capacity allocation and infrastructure charging.

Railway is defined as: “a statute territorial and branch association that includes enterprises, institutions and organizations of the rail transport, which, with the centralized control,



provide the transportation of passengers and cargoes in the particular region of transportation network”.

The art.8, par. 3 of the law stipulates that: “Economic activity concerning provision of transportation services to passengers and of freights by the railway transport shall be done on the base of license issued according to an order established by the legislation.”. Here is a license provided, but it is not enough where the infrastructure is not separated from the operation (transportation).

Safety rules are limited to one article 11. Railroads and enterprises of the railway transport of public use shall ensure life safety and health protection of the individuals who use its services, and traffic safety of trains, environment protection according to the current legislation. The state control shall be executed by the Ministry of Transport of Ukraine, Ukrzaliznytsya and their bodies on site according to an order established by the Government.

The Ukrainian railway needs general transformation because of regulatory approximation with the EU law.

The main aspects of the proposed legal reform in the rail sub-sector are envisaged as:

- Separation of accounts for rail transport services and infrastructure management, with an additional distinction between operators, related to passenger transport and those concerning freight. Cross-subsidization is to be avoided;
- Separation between core functions: capacity allocation, billing, licencing and monitoring of public service obligations about transport activities. The infrastructure manager has to act neutrally in allocating capacity and charging for infrastructure use, especially where the separation of functions is not ensured by means of institutional separation. Access to the infrastructure must be transparent and non-discriminatory;
- Establishment and strengthening the role of the regulatory body as Railway Regulator by defining in the law the primary functions and responsibilities. Railway Regulator shall be established having the status of a state legal entity. This body must have human, financial and administrative resources on a sufficient scale to allow it to play the lead role in sub-sector supervision;
- Introduction of an infrastructure charging system based on the marginal cost principle. It is necessary to avoid cross-funding between freight trains and passenger trains through the infrastructure charging system.



The highlights of the bill will be that it:

- introduces a number of definitions in the Act that are essential to understanding the importance of legal figures, including those pertaining to railway rules and the level of rail safety, professional competence and staff working hours;
- clarifies the Regulator and responsibilities of the Minister with respect to railway matters, including safety and security;
- improves the oversight capacity by requiring a railway operating licence in order for a person to operate or maintain a railway and also to managerial road equipment for such a railway;
- obliges for the establishment by the railway companies of safety management systems that include inter alia the designation of an executive, who is legally responsible for the safety, and protection for employees of rail companies who raise safety concerns;
- strengthens regulation-making authorities throughout the Act; and
- enforcement powers of the Railway Regulator by introducing administrative financial and legal penalties.

By an Ordinance No 651-r/27.08.2006 the Government approved a Concept for State Program on railway transport reformation. One of the primary targets is integration to the European railways and principles of the European transport policy by legal and structural reforms.

Such a new law, based on new principles, stipulated by the *acquis*, might become in force gradually in several steps, provided within, according the agreed by Association Agreement time frames.

4.1.2 Moldova

Road transport

According the Law Nr.131/07.06.2007 of safety road traffic, the Government of Moldova is the competent authority to define by an ordinance the terms and categories of driving licence (Art.20, par.1). In this field, the law has not a contradiction with the **Directive 2006/126/EC**.

Code on road transport is a new law, published on 17.07.2014. This code is the legal basis for the development of the central public administration authorities in the field of road transport and the approval of the Government of the following bylaws relating to the road transport activities:

- road transportation of passengers and luggage;



- road transport of goods;
- road transport of perishable and highly perishable goods;
- road transport of dangerous goods;
- implementation of road transport of goods, weight and/or dimensions exceed certain limits, on public roads;
- bus stations;
- periodic technical inspection of road vehicles;
- installation, repair and inspection of tachographs and speed limiters;
- issuing, exchange, replacement and renovation of the tachograph cards, downloading and storing data from the tachographs and tachograph cards;
- issuance and use of permits for road transport;
- conformity assessment and certification of vehicles of their constituents.

The Authority, which ensures the implementation of documents of public policies and national development strategies in the field of road transport, monitors and supervises the observance of road transport operators and enterprises engaged in the accompanying road transport activities, national and international legislation in this area is the National Road Transport Agency (art.8, par.1).The agency is an administrative body under the Ministry, and has the status of a legal entity and is funded by fees for permits in accordance with applicable law.

Transport company duly registered in the Republic of Moldova, intention to carry out the activities of road transport operator, receives a licence if it meets all of the following conditions:

- the availability of technical base;
- having a good reputation;
- that the financial viability;
- availability of expertise.

There are also provisions for licencing transport operators in compliance with the **Regulation (EC) No 1071/2009** establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator.

The vehicles for goods and passengers shall be equipped with tachographs and speed limiters (art. 46, par.2). The Code is in a compliance with the **Council Directive 92/6/EEC and Council Regulation (EEC) No 3821/85**.



Dangerous goods are accepted for carriage of road transport operator in the manner and in cases stipulated by the Rules of road transport of dangerous goods and international agreements and conventions to which the Republic of Moldova.

Super heavy and oversized cargo are accepted for transportation of road transport operator in the manner and in cases stipulated by the Regulation on the implementation of freight, weight and / or dimensions exceed certain limits, on public roads (art.56, par. 2 and 3).

The Code has not a contradiction with *Directive 2008/68/EC* and *Directive 99/62/EC*. The Government shall issue the bylaws for full regulatory approximation.

Section VI. "Driving time and rest period" is in compliance with the social legislation of the EU in the field of road transport.

Chapter 5. Professional certification for managers and drivers is in concordance with *Directive 2003/59/EC* on the initial qualification and periodic training of drivers of certain road vehicles.

The Law "On safety road traffic" (no. 131/07.06.2007) authorises the Government to define by regulations the content and category of driving licence and conditions for obtaining.

In conclusion, there is not a gap in legislation in the field of road transport. The Government has to continue the regulatory approximation on the level of secondary legislation.

Railway transport

According the definition in the Code on railway transport, "railway" is a rail system for transportation of passengers and cargo, which includes:

- railway track and associated facilities (railway tunnels, bridges, etc.);
- operating facilities;
- rolling stock, and
- structure for the operation of the above elements and operating agencies for transportation of passengers and cargo.

The rail transportation is defined as related to a natural monopoly, which determines the specific conditions for the development and operation of railway transport (art. 4, par.4).

Based on the definition above, combining all the elements of the railways - infrastructure and transport service, and on the stipulation for the monopoly, it is seen that the Code does not allow any market relations.

Code stipulates the state enterprise "**Calea Ferată din Moldova**" to operate on the entire territory of the Republic of Moldova.



Management and regulation of rail transport carried out by the central public administration authorities - the Ministry of Transport.

Tariffs for transportation of passengers and cargo by rail are set by the central public administration authorities on the basis of state price. The tariff policy is the prerogative of the Government.

Further, the Code regulates the primary functions of railways and its interaction with the shippers, consignees, passengers, other individuals and legal entities.

The Moldavian railway needs general transformation because of regulatory approximation with the EU law. The solution is a new Code on railways.

That is why the terms for these reforms are agreed in bigger terms than in the road transport sector, where the laws are in compliance with the *acquis*.

4.1.3 Georgia

Road transport

There are several laws to be considered in Georgia in the field of road transport.

The "Law of Georgia on management and regulation of the transport sector"(30.03.2007) determines a main organisational principles and management, state policy and technical regulating bodies and division of their activities. This law does not regulate the railway transport, but the road, civil aviation and maritime (art.4, par.2).

The law determines three agencies; one of them is the Agency on road transport, supervision and control over the activities of which are implemented by the Ministry.

The main functions of the Agency are:

- operate with the powers granted to him under the laws of Georgia;
- the exercise of delegated to him under international treaties and agreements of Georgia functions in the areas of the air, land and the sea transport;
- the development of technical regulations on safety when driving vehicles, passenger and freight traffic, as well as the transport of persons and cargo during emergencies;
- supervising the execution of technical regulations, except for supervision of compliance with technical regulations in the field of specialised transport, which provides a legal entity of public law, part of the Ministry of Economy and Sustainable Development of Georgia - Agency technical and construction supervision;
- the issuance of permits by the Law of Georgia "On Licenses and Permits ", within the powers granted to him.



Considering the Law of Georgia "On Licenses and Permits" (18.07.2005, consolidated version up to April, 2014), the transport activity for passengers and cargo is not listed. There is a need of regulatory approximation with **Regulation (EC) No 1071/2009** of the European Parliament and the Council of 21 October 2009, to establish common rules concerning the conditions to be complied with to pursue the occupation of road transport operator.

The Law on road traffic gives a definition of dangerous goods as "substances and (or) articles classified according to international standards, the type of hazard class 9, prohibited to international road transport in accordance with the European Agreement concerning the International Carriage transport of dangerous goods (ADR) or authorized only under certain conditions". According art.19, par.1, letter c), the enterprises, engaged in road transport operation in the territory of Georgia, are required to install on the vehicles marks "Dangerous goods". It seems this law is applicable to the national transport as well and in line with **Directive 2008/68/EC** on the **inland transport of dangerous goods**.

Drivers in international traffic shall be obliged to provide the vehicle with technical control devices (tachograph) in accordance with the requirements established by the European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR) (**Council Regulation (EEC) No 3821/85**).

There are several legal instruments still remain in the field of road transport:

- **Council Directive 92/6/EEC of 10 February 1992** on the installation and use of speed limitation devices for certain categories of motor vehicles
- **Directive 2003/59/EC** on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers
- **Directive 2006/22/EC** on minimum conditions concerning social legislation relating to road transport activities
- **Regulation (EC) No 1071/2009** establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator
- **Regulation (EC) No 561/2006** on the harmonisation of certain provisions of social legislation in the field of road transport
- **Directive 2002/15/EC** on the organisation of the working time of persons performing mobile road transport activities
- **Directive 2009/40/EC** of on roadworthiness tests for motor vehicles and their trailers.

Railway transport

The Railway Code of Georgia (adopted on 28 December 2002) is the major legal act in the rail sector. The Code determines the economic, legal, organizational and technologic basis of



functioning of the transport, its place and role in the economy and social sphere of Georgia, and regulates the relationships arisen while using the railway service and determines rights, obligations and responsibilities of the parties.

The scope of this code spreads on transporting the passengers, cargo, luggage, cargo-luggage and post by the railway of common use.

The role of the state is to support developing of the rail transport and, derived from its strategic and social role, creating the supporting conditions for functioning of this field (art.1, par.3).

Georgian legislation grants special status and significance to the railway. Provisions concerning the railway are found in the Constitution (*Constitutional Law of Georgia No 3710 of 15 October 2010 - LHG I, No 62, 5.11.2010, Art. 379*).

Article 3, par.1, letter j) of the Constitution defines the issues that are subject to the exclusive domain of the supreme state authorities of Georgia, are "railways and motor roads of state significance". However, the Railway Code does not specifically legal definition of "railways of state significance" or "railways roads of state significance". It is not clear how should the "state significance" of the railway be reflected in by-laws.

The Code gives a definition on "Railway" as "complex organization for transporting the passengers, cargo, luggage, cargo-luggage, and post, equipped with all technical means, service of which fulfill specialists providing organization of carrying and exploiting the means, service of which is regulated by the "Law of Georgia on entrepreneurs" and other legal acts".

The Code regulates following issues:

- rights and obligations of the railway and passengers/freight operators during carriage-transportation;
- establishes technical norms and standards in relation to transport means and equipment of rail carriage-transportation, as well as general rules and criteria that have to be taken into account during the fixation of tariffs and additional levies for passenger transportation and cargo, luggage, and mail carriage;
- establishes general rules for cargo transportation and defines normative acts that should regulate these issues in detail;
- sets obligations of the railway with respect to passenger transportation, cargo, luggage, and mail carriage, and degree of adequate services;
- establishes specific rights and duties of passengers when travelling by various types of trains (international, local, suburban);



- regulates the issue of responsibility for the railway, passengers, and freight operators in case of violations of the Code, other normative acts, and contractual obligations;
- identifies legal documents that should prove circumstances related to responsibility of participants of railway traffic; establishes types of these documents and rules for a draught them;
- sets general rules for transportation safety, organisation of safety, protection of cargo and rail transport items, etc.
- rights and obligations of the railway and passengers/freight operators during carriage-transportation;
- establishes technical norms and standards in relation to transport means and equipment of rail carriage-transportation, as well as general rules and criteria that have to be taken into account during the fixation of tariffs and additional levies for passenger transportation and cargo, luggage, and mail carriage;
- establishes general rules for cargo transportation and defines normative acts that should regulate these issues in detail;
- sets obligations of the railway with respect to passenger transportation, cargo, luggage, and mail carriage, and degree of adequate services;
- establishes specific rights and obligations of passengers when travelling by various types of trains (international, local, suburban);
- regulates the issue of responsibility for the railway, passengers, and freight operators in case of violations of the Code, other normative acts, and contractual obligations;
- identifies legal documents that should prove circumstances related to responsibility of participants of railway traffic;
- establishes general rules for transportation safety, organisation of safety, protection of cargo and rail transport items, etc.

The objective of the law is focused on the relations between Railways and passengers and forwarders rather than the role of the state in budgeting and regulating the hall aspect of transport operations and railways infrastructure.

The Code is not giving regulations on separation between transport service and infrastructure. There is not regulatory body independent from the railway company. The rail company is responsible for safety, but there is not a state agency to regulate or to be responsible for the safety (*"The rules on staying, performing works in the most dangerous zones, communication and crossing the railroads, are established by the Railway."*Art.59).

There is liability of the Railways for allocation of cars (art.44, par.1), but not for the allocation of infrastructure capacity.



There is a definition of “Transporter” (“person, who based on the agreement transports passengers, cargo, luggage, cargo-luggage, and post by the railway mean in his property”), but does not exist explicit regulation on how the transporter may use the infrastructure.

Currently in Georgia there is no institution with direct function of technical regulation and control of the railway transport, just like there is not available body exercising tariff regulation.

Even so, important topics as a classification of violations of rules of rail communication and fire safety, official investigation and calculation, are determined by the railroad solely (art.59, par.3).

A bill of legislative amendments foreseeing a rule for tariff and technical regulation, control of the railway transport, as well as deletion from the Railway Code of vague provisions and provisions undermining contractual freedom, should be drafted.

Georgia has not as many goals as Ukraine and Moldova, for regulatory approximation with the *acquis* in the field of railways. Nevertheless, there is a need of reform according modern rail industry.

4.2 Accession to international conventions and agreements

4.2.1 Ukraine

The Ukraine has to accede only to the GTR Global Agreement, 1975.

4.2.2 Moldova

Moldova has two targets: 1972, Customs Convention on Containers and 1999, RID protocol (COTIF).

The priority one is COTIF. From the scoreboard is seen that two neighbour countries of Moldova – Ukraine and Romania are already member-states of this convention.

4.2.3 Georgia

Georgia also has two targets: 1957, ADR and 1998, GTR Global Agreement.

Although, the Law on road traffic of Georgia recognises the ADR for international transport of dangerous goods further regulatory approximation needs for national transport too.



4.2.4 Armenia

Armenia not yet acceded to 1998, GTR Global Agreement and 1970, ATP Agreement (Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage).

4.2.5 Azerbaijan

Azerbaijan has to access to 1999, COTIF and to 1957, ADR. Through it will harmonise the rules for this middle section of TRACECA – Caucasus region.



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Pilot Roadmap on regulatory approximation

Appendix I

List of *acquis communautaire*

A. Road transport

B. Railway transport



A. List of *acquis communautaire* in the field of road transport

	Title of Action	Ukraine		Moldova		Georgia	
		Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Association Agreement
1.	<p>Council Directive 92/6/ on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community, and to ensure effective control for:</p> <ul style="list-style-type: none"> - vehicles used for international transportation; - vehicles used for international passenger traffic 	December 2015 December 2017	Chapter VII. Transport Item 282.	2014-2015	Chapter XV. Transport Part 85 Item 2.	Within two years of the entry into force of this Agreement	ANNEX XXIV TRANSPORT Item 1.
2.	<p>Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers</p>	December 2016	Chapter VII. Transport Item 283.	2014-2015	Chapter XV. Transport Part 85 Item 10.	Within two years of the entry into force of this Agreement	ANNEX XXIV TRANSPORT Item 11.





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	Title of Action	Ukraine		Moldova		Georgia	
		Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Association Agreement
3.	<p>Directive 2006/22/EC on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities:</p> <ul style="list-style-type: none"> - for international road transport; - for internal road transport 	December 2015 December 2016	Chapter VII. Transport Item 284.	2014-2015	Chapter XV. Transport Part 85 Item 7.	Within five years of the entry into force of this Agreement	ANNEX XXIV TRANSPORT Item 8.
4.	<p>Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator</p> <p>Articles 3, 4, 5, 6, 7 (without monetary value of financial position), 8, 10, 11, 12, 13, 14, 15 and Annex I</p>	December 2017	Chapter VII. Transport Item 285.	2014-2015	Chapter XV. Transport Part 85 Item 8.	For international transport: within two years of the entry into force of this Agreement For national transport: within four years of the entry into force of this Agreement	ANNEX XXIV TRANSPORT Item 9.





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	Title of Action	Ukraine		Moldova		Georgia	
		Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Association Agreement
5.	<i>Council Directive 96/53/EC</i> laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic	December 2016	Chapter VII. Transport Item 287.	2016	Chapter XV. Transport Part 85 Item 3.	within two years of the entry into force of this Agreement	ANNEX XXIV TRANSPORT Item 2.
6.	<i>Directive 99/62/EC</i> on charging the heavy goods vehicles for the use of certain infrastructures	December 2017	Chapter VII. Transport Item 288.	2016	Chapter XV. Transport Part 85 Item 11.	Once Georgia decides to introduce tolls or charges for the use of certain infrastructure.	ANNEX XXIV TRANSPORT Item12.
7.	<i>Directive 2006/126/EC</i> on driving licences (Recast)	November 2017	Chapter VII. Transport Item 289.	-	-	Within four years of the entry into force of this Agreement	ANNEX XXIV TRANSPORT Item4.





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	Title of Action	Ukraine		Moldova		Georgia	
		Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Association Agreement
8.	<i>Directive 2008/68/EC</i> on the inland transport of dangerous goods: development, adoption and implementation of legal acts ensuring the implementation of the Directive (concerning transportation by automobile transport)	December 2017	Chapter VII. Transport Item 290.	2014-2015	Chapter XV. Transport Part 85 Item 5	For international transport: Within three years of the entry into force of this Agreement For national transport: Within five years of the entry into force of this Agreement	ANNEX XXIV TRANSPORT Item5.



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	Title of Action	Ukraine		Moldova		Georgia	
		Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Association Agreement
9.	<p>Regulation (EC) № 561/2006 on the harmonization of certain provisions of social legislation in the field of road transport</p> <p>Council Regulation (EEC) № 3821/85 on recording equipment in road transport</p>	-	-	2014	Chapter XV. Transport Part 85 Item 6.	<p>For international transport: upon entry into force of this Agreement</p> <p>For national transport: Within five years of the entry into force of this Agreement</p> <p>For international transport: upon entry into force of this Agreement</p> <p>For national transport: Within five years of the entry into force</p>	<p>ANNEX XXIV TRANSPORT Item6.</p> <p>ANNEX XXIV TRANSPORT Item7.</p>





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	Title of Action	Ukraine		Moldova		Georgia	
		Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Action Plan	Implementation timeline	Reference to the Association Agreement
10.	<i>Directive 2002/15/EC</i> on the organisation of the working time of persons performing mobile road transport activities	December 2015 December 2016	Chapter VII. Transport Item 284	2014	Chapter XV. Transport Part 85 Item 9	Within four years of the entry into force of this Agreement	ANNEX XXIV TRANSPORT Item10.
11.	<i>Directive 2009/40/EC</i> on roadworthiness tests for motor vehicles and their trailers	-	-	2015	Chapter XV. Transport Part 85 Item 4	for buses and trucks: within two years of the entry into force of this Agreement for other categories of vehicles: within four years	ANNEX XXIV TRANSPORT Item3.



B. List of *acquis communautaire* in the field of rail transport

	Title of Action	Ukraine		Moldova		Georgia	
		Implementation timeline	Reference to Action Plan/AA	Implementation timeline	Reference to Action Plan/AA	Implementation timeline	Reference to Action Plan/AA
1.	<i>Directive 2008/68/EC</i> on the inland transport of dangerous goods: development, adoption and implementation of legal acts ensuring the implementation of the Directive (concerning transportation by railway transport)	December 2017	Chapter VII. Transport Item 291.	2015	Chapter XV Transport Part 85 Item 19.	International transport: upon entry into force of this Agreement National transport: Within seven years of the entry into force of this Agreement	ANNEX XXIV TRANSPORT Item6.





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	Title of Action	Ukraine		Moldova		Georgia	
		Implementation timeline	Reference to Action Plan/AA	Implementation timeline	Reference to Action Plan/AA	Implementation timeline	Reference to Action Plan/AA
2.	Directive 2004/49/EC on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive)	December 2017	Chapter VII. Transport Item 292.	2014-2015	Chapter XV. Transport Part 85 Item 16.	Within seven years of the entry into force of this Agreement	ANNEX XXIV TRANSPORT Item 15.
3.	Council Directive 91/440/EEC on the development of the Community's railways	2015–2017	Chapter VII. Transport Item 293.	2015-2016	Chapter XV. Transport Part 85 Item 12.	-	-



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	Title of Action	Ukraine		Moldova		Georgia	
		Implementation timeline	Reference to Action Plan/AA	Implementation timeline	Reference to Action Plan/AA	Implementation timeline	Reference to Action Plan/AA
4.	Council Directive 95/18/EC on the licensing of railway undertakings The following provisions shall apply: introduction of licenses in accordance with the conditions set out in Articles 1, 2, 3, 4 (with the exception of Article 4.5.), 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15	2014–2017	Chapter VII. Transport Item 294.	2014-2015	Chapter XV. Transport Part 85 Item 13.	-	-
5.	Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification	2014–2017	Chapter VII. Transport Item 295.	2014-2015	Chapter XV. Transport Part 85 Item 14.	-	-
6.	Council Directive 92/106/EEC on the establishment of common rules for certain types of transport of goods between Member States	December 2017	Chapter VII. Transport Item 297.	2016	Chapter XV. Transport Part 85 Item 20.	-	-





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Pilot Roadmap on regulatory approximation

Appendix II

Questionnaires on *acquis communautaire*

A. Road transport

B. Railway transport



A. Road transport

1

State:	Date		
Link to Action Plan:			
Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community			
Object and purpose of the regulation: the available engine power for heavy goods vehicles and buses needed for climbing slopes enables them to be driven on level roads at excessive speeds that are not compatible with the specifications of other components of those vehicles such as brakes and tyres; whereas, for that reason and for reasons of environmental protection in certain Member States, speed limitation devices were made compulsory for certain categories of motor vehicles			
The name of the national legal act			
Object and purpose of the regulation			
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

Article 1
For the purpose of this Directive, 'motor vehicle' means any power-driven vehicle falling within one of the categories listed below, intended for use on the road and having at least four wheels and a maximum design speed exceeding 25 km/h:
- category M3 vehicles having a maximum weight exceeding 10 metric tonnes,
- category N3 vehicles,
categories M3 and N3 being understood to be those defined in Annex I to Directive 70/156/EEC (4).
Article 2
Member States shall take the necessary steps to ensure that motor vehicles of the category M3 referred to in Article 1 shall be used on the road only if speed limitation devices are installed for which the maximum speed is set at 100 km/h.



Article 3

1. Member States shall take the necessary measures to ensure that motor vehicles of category N3 shall be used on the road only if equipped with a device set in such a way that their speed cannot exceed 90 km/h; bearing in mind the technical tolerance which is allowed, at the present state of technology, between the regulating value and the actual speed of traffic, the maximum speed on this device shall be set at 86 km/h.

2. Member States shall be authorized to set the maximum speed of the **device at less than 85 km/h in vehicles used exclusively for the carriage of dangerous goods** and registered in their territory.

Article 6

The requirements of Articles 2 and 3 do not apply to motor vehicles used by armed forces, civil defence, fire and other emergency services and forces responsible for maintaining public order.

The same shall apply for motor vehicles which:

- by their construction, cannot drive faster than the limits provided for in Articles 2 and 3,
- are used for scientific tests on roads,
- are used only for public services in urban areas.



2

State:	Date		
Link to Action Plan:			
<p>Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC, Official Journal L 226 , 10/09/2003 P. 0004 - 0017</p> <p>Object and purpose of the regulation:</p> <p>To enable drivers to meet the new demands arising from the development of the road transport market, Community rules should be made applicable to all drivers, whether they drive as self-employed or salaried workers, and whether on own account or for hire or reward.</p> <p>The establishment of new Community rules is aimed at ensuring that, by means of his or her qualification, the driver is of a standard to have access to and carry out the activity of driving.</p> <p>More particularly, the obligation to hold an initial qualification and to undergo periodic training is intended to improve road safety and the safety of the driver, including during operations carried out by the driver while the vehicle is stopped. Furthermore, the modern nature of the profession of driver should arouse young people's interest in the profession, contributing to the recruitment of new drivers at a time of shortage.</p> <p>The minimum requirements to be met for the initial qualification and the periodic training concern the safety rules to be observed when driving and while the vehicle is stopped. The development of defensive driving - anticipating danger, making allowance for other road users - which goes hand in hand with rational fuel consumption, will have a positive impact both on society and on the road transport sector itself.</p>			
<p>The name of the national legal act</p> <p>Object and purpose of the regulation</p>			
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

Article 1
Scope
This Directive shall apply to the activity of driving carried out by:
(a) nationals of a Member State; and
(b) nationals of third countries who are employed or used by an undertaking established in a Member State; hereinafter referred to as "drivers", engaged in road transport within the Community, on roads open to the



public, using:
- vehicles for which a driving licence of category C1, C1+E, C or C+E, as defined in Directive 91/439/EEC, or a driving licence recognised as equivalent, is required,
- vehicles for which a driving licence of category D1, D1+E, D or D+E, as defined in Directive 91/439/EEC, or a driving licence recognised as equivalent, is required.
Article 2 Exemptions
This Directive shall not apply to the drivers of:
(a) vehicles with a maximum authorised speed not exceeding 45 km/h;
(b) vehicles used by, or under the control of, the armed forces, civil defence, the fire service and forces responsible for maintaining public order;
(c) vehicles undergoing road tests for technical development, repair or maintenance purposes, or of new or rebuilt vehicles which have not yet been put into service;
(d) vehicles used in states of emergency or assigned to rescue missions;
(e) vehicles used in the course of driving lessons for any person wishing to obtain a driving licence or a CPC, as provided for in Article 6 and Article 8(1);
(f) vehicles used for non-commercial carriage of passengers or goods, for personal use;
(g) vehicles carrying material or equipment to be used by the driver in the course of his or her work, provided that driving the vehicle is not the driver's principal activity.
Article 3 Qualification and training
1. The activity of driving as defined in Article 1 shall be subject to a compulsory initial qualification and compulsory periodic training. To this end Member States shall provide for:
(a) a system of initial qualification. Member States shall choose between the following two options:
(i) option combining both course attendance and a test
In accordance with section 2(2.1) of Annex I, this type of initial qualification involves compulsory course attendance for a specific period. It shall conclude with a test. Upon successful completion of the test, the qualification shall be certified by a CPC as provided for in Article 6(1)(a);
(ii) option involving only tests
2. Member States may also provide for a system of accelerated initial qualification so that a driver may drive in



the cases referred to in Article 5(2) (a)(ii) and (b) and in Article 5(3)(a)(i) and (b).
In accordance with section 3 of Annex I, the accelerated initial qualification shall involve compulsory course attendance. It shall conclude with a test. Upon successful completion of the test, the qualification shall be certified by a CPC as provided for in Article 6(2).
3. Member States may exempt drivers who have obtained the certificate of professional competence provided for in Directive 96/26/EC(8) from the tests referred to in paragraph 1(a)(i) and (ii) and in paragraph 2 in the subjects covered by the test provided for in that Directive and, where appropriate, from attending the part of the course corresponding thereto.
Article 4 Acquired rights
The following drivers shall be exempted from the requirement to obtain an initial qualification:
(a) drivers who hold a category D1, D1+E, D or D+E licence, or a licence recognised as equivalent, issued no later than two years after the final date for the transposition of this Directive;
(b) drivers who hold a category C1, C1+E, C or C+E licence, or a licence recognised as equivalent, issued no later than three years after the final date for the transposition of this Directive.
Article 5 Initial qualification
1. Access to an initial qualification shall not require the corresponding driving licence to be obtained beforehand.
2. Drivers of a vehicle intended for the carriage of goods may drive:
(a) from the age of 18:
(i) a vehicle in licence categories C and C+E, provided they hold a CPC as referred to in Article 6(1);
(ii) a vehicle in licence categories C1 and C1+E, provided they hold a CPC as referred to in Article 6(2);
(b) from the age of 21, a vehicle in licence categories C and C+E, provided they hold a CPC as referred to in Article 6(2).
3. Drivers of a vehicle intended for the carriage of passengers may drive:
(a) from the age of 21:
(i) a vehicle in licence categories D and D+E to carry passengers on regular services where the route does not exceed 50 kilometres and a vehicle in licence categories D1 and D1+E, provided they hold a CPC as referred to in Article 6(2).



Any Member State may authorise drivers of vehicles in one of the abovementioned categories to drive such vehicles within its territory from the age of 18, provided they hold a CPC as referred to in Article 6(1);
(ii) a vehicle in licence categories D and D+E, provided they hold a CPC as referred to in Article 6(1).
Any Member State may authorise drivers of vehicles in one of the abovementioned categories to drive such vehicles within its territory from the age of 20, provided they hold a CPC as referred to in Article 6(1). This may be reduced to the age of 18 where the driver drives such vehicles without passengers;
(b) from the age of 23, a vehicle in licence categories D and D+E, provided they hold a CPC as referred to in Article 6(2).
5. Drivers undertaking carriage of goods who broaden or modify their activities in order to carry passengers, or vice versa, and who hold a CPC as provided for in Article 6, shall not be required to repeat the common parts of the initial qualification, but rather only the parts specific to the new qualification.
Article 6 CPC certifying the initial qualification
1. CPC certifying an initial qualification
(a) CPC awarded on the basis of course attendance and a test
(b) CPC awarded on the basis of tests



2. CPC certifying an accelerated initial qualification

In accordance with Article 3(2), Member States shall require trainee drivers to attend courses in an approved training centre. These courses shall cover all the subjects referred to in section 1 of Annex I.

Article 7

Periodic training

Periodic training shall consist of training to enable holders of a CPC as referred to in Article 6 and the drivers referred to in Article 4 to update the knowledge which is essential for their work, with specific emphasis on road safety and the rationalisation of fuel consumption.

This training shall be organised by an approved training centre, in keeping with section 5 of Annex I. If a driver moves to another undertaking, the periodic training already undergone must be taken into account.

Periodic training shall be designed to expand on, and to revise, some of the subjects referred in section 1 of Annex I.

Article 8

CPC certifying periodic training

1. When a driver has completed the periodic training referred to in Article 7, the Member States' competent authorities or the approved training centre shall issue him or her with a CPC certifying periodic training.

3. A driver who has completed a first course of periodic training as referred to in paragraph 2 shall undergo periodic training every five years, before the end of the period of validity of the CPC certifying periodic training.

Article 9

Place of training

Drivers referred to in Article 1(a) shall obtain the initial qualification referred to in Article 5 in the Member State in which they have their normal residence, as defined in Article 14 of Regulation (EEC) No 3821/85(9).

Drivers referred to in Article 1(b) shall obtain that qualification in the Member State in which the undertaking is established or in the Member State which issued a work permit to them.

Drivers referred to in Article 1(a) and 1(b) shall undergo the periodic training referred to in Article 7 in the Member State in which they have their normal residence or the Member State in which they work.



3

State:	Date		
Link to Action Plan:			
<p>DIRECTIVE 2006/22/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC</p> <p>Object and purpose of the regulation: the available engine power for heavy goods vehicles and buses needed for climbing slopes enables them to be driven on level roads at excessive speeds that are not compatible with the specifications of other components of those vehicles such as brakes and tyres; whereas, for that reason and for reasons of environmental protection in certain Member States, speed limitation devices were made compulsory for certain categories of motor vehicles</p>			
<p>The name of the national legal act</p> <p>Object and purpose of the regulation</p>			
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

Article 1
For the purpose of this Directive, 'motor vehicle' means any power-driven vehicle falling within one of the categories listed below, intended for use on the road and having at least four wheels and a maximum design speed exceeding 25 km/h:
- category M3 vehicles having a maximum weight exceeding 10 metric tonnes,
- category N3 vehicles,
categories M3 and N3 being understood to be those defined in Annex I to Directive 70/156/EEC (4).



Article 2

Member States shall take the necessary steps to ensure that motor vehicles of the category M3 referred to in Article 1 shall be used on the road **only if speed limitation devices are installed** for which the maximum speed is set at 100 km/h.

Article 3

1. Member States shall take the necessary measures to ensure that motor vehicles of category N3 shall be used on the road only if equipped with a device set in such a way that their speed cannot exceed 90 km/h; bearing in mind the technical tolerance which is allowed, at the present state of technology, between the regulating value and the actual speed of traffic, the maximum speed on this device shall be set at 86 km/h.

2. Member States shall be authorized to set the maximum speed of the **device at less than 85 km/h in vehicles used exclusively for the carriage of dangerous goods** and registered in their territory.

Article 5

1. Until Community provisions on these matters are applied, the speed limitation devices referred to in Articles 2 and 3 must satisfy **the technical requirements laid down by the competent national authorities.**

Article 6

The requirements of Articles 2 and 3 do not apply to motor vehicles used by armed forces, civil defence, fire and other emergency services and forces responsible for maintaining public order.

The same shall apply for motor vehicles which:

- by their construction, cannot drive faster than the limits provided for in Articles 2 and 3,

- are used for scientific tests on roads,

- are used only for public services in urban areas.



4

State:	Date		
Link to Action Plan:			
REGULATION (EC) No 1071/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC			
Object and purpose of the regulation: This Regulation governs admission to, and the pursuit of, the occupation of road transport operator			
2.The name of the national legal act Object and purpose of the regulation			
3.The presence of the provisions of the EU legislation (secondary sources of law) into national legislation			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

<p>Article 1</p> <p>Subject matter and scope</p> <p>4. By way of derogation from paragraph 2, this Regulation shall, unless otherwise provided for in national law, not apply to:</p> <p>(a) undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles the permissible laden mass of which does not exceed 3,5 tonnes. Member States may, however, lower this limit for all or some categories of road transport operations;</p> <p>(b) undertakings engaged in road passenger transport services exclusively for non-commercial purposes or which have a main occupation other than that of road passenger transport operator;</p> <p>(c) undertakings engaged in the occupation of road transport operator solely by means of motor vehicles with a maximum authorised speed not exceeding 40 km/h.</p>
<p>Article 2</p> <p>Definitions</p> <p>For the purposes of this Regulation:</p> <p>‘the occupation of road haulage operator’ means the activity of any undertaking transporting goods for hire or reward by means either of motor vehicles or combinations of vehicles;</p> <p>‘the occupation of road passenger transport operator’ means the activity of any undertaking operating, by means of motor vehicles so constructed and equipped as to be suitable for carrying more than nine persons, including the driver, and intended for that purpose, passenger transport services for the public or for specific categories of</p>



users in return for payment by the person transported or by the transport organiser;
'the occupation of road transport operator' means the occupation of road passenger transport operator or the occupation of road haulage operator;
'undertaking' means any natural person, any legal person, whether profit-making or not, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such personality, engaged in the transport of passengers, or any natural or legal person engaged in the transport of freight with a commercial purpose;
'transport manager' means a natural person employed by an undertaking or, if that undertaking is a natural person, that person or, where provided for, another natural person designated by that undertaking by means of a contract, who effectively and continuously manages the transport activities of that undertaking;
'authorisation to pursue the occupation of road transport operator' means an administrative decision which authorises an undertaking which satisfies the conditions laid down in this Regulation to pursue the occupation of road transport operator;
'competent authority' means a national, regional or local authority in a Member State which, for the purpose of authorising the pursuit of the occupation of road transport operator, verifies whether an undertaking satisfies the conditions laid down in this Regulation, and which is empowered to grant, suspend or withdraw an authorisation to pursue the occupation of road transport operator;
'Member State of establishment' means the Member State in which an undertaking is established, regardless of whether its transport manager originates from another country.
<p>Article 3</p> <p>Requirements for engagement in the occupation of road transport operator</p> <p>1. Undertakings engaged in the occupation of road transport operator shall:</p> <p>(a) have an effective and stable establishment in a Member State;</p> <p>(b) be of good repute;</p> <p>(c) have appropriate financial standing; and</p> <p>(d) have the requisite professional competence.</p>
<p>Article 4</p> <p>Transport manager</p> <p>1. An undertaking which engages in the occupation of road transport operator shall designate at least one natural person, the transport manager, who satisfies the requirements set out in Article 3(1)(b) and (d) and who:</p> <p>(a) effectively and continuously manages the transport activities of the undertaking;</p> <p>(b) has a genuine link to the undertaking, such as being an employee, director, owner or shareholder or administering it, or, if the undertaking is a natural person, is that person;</p>



3. Member States may decide that a transport manager designated in accordance with paragraph 1 may not in addition be designated in accordance with paragraph 2, or may only be so designated in respect of a limited number of undertakings or a fleet of vehicles that is smaller than that referred to in paragraph 2(c).

4. The undertaking shall notify the competent authority of the transport manager or managers designated.

CHAPTER II

CONDITIONS TO BE MET TO SATISFY THE REQUIREMENTS LAID DOWN IN ARTICLE 3

Article 5

Conditions relating to the requirement of establishment

In order to satisfy the requirement laid down in Article 3(1)(a), an undertaking shall, in the Member State concerned:

have an establishment situated in that Member State with premises in which it keeps its core business documents, in particular its accounting documents, personnel management documents, documents containing data relating to driving time and rest and any other document to which the competent authority must have access in order to verify compliance with the conditions laid down in this Regulation. Member States may require that establishments on their territory also have other documents available at their premises at any time;

once an authorisation is granted, have at its disposal one or more vehicles which are registered or otherwise put into circulation in conformity with the legislation of that Member State, whether those vehicles are wholly owned or, for example, held under a hire-purchase agreement or a hire or leasing contract;

conduct effectively and continuously with the necessary administrative equipment its operations concerning the vehicles mentioned in point (b) and with the appropriate technical equipment and facilities at an operating centre situated in that Member State.

Article 6

Conditions relating to the requirement of good repute

1. Subject to paragraph 2 of this Article, Member States shall determine the conditions to be met by undertakings and transport managers in order to satisfy the requirement of good repute laid down in Article 3(1)(b).

In determining whether an undertaking has satisfied that requirement, Member States shall consider the conduct of the undertaking, its transport managers and any other relevant person as may be determined by the Member State. Any reference in this Article to convictions, penalties or infringements shall include convictions, penalties or infringements of the undertaking itself, its transport managers and any other relevant person as may be determined by the Member State.

The conditions referred to in the first subparagraph shall include at least the following:

that there be no compelling grounds for doubting the good repute of the transport manager or the transport undertaking, such as convictions or penalties for any serious infringement of national rules in force in the fields of: commercial law; insolvency law; pay and employment conditions in the profession; road traffic; professional liability; trafficking in human beings or drugs;



that the transport manager or the transport undertaking have not in one or more Member States been convicted of a serious criminal offence or incurred a penalty for a serious infringement of Community rules relating in particular to:

the driving time and rest periods of drivers, working time and the installation and use of recording equipment;
the maximum weights and dimensions of commercial vehicles used in international traffic;
the initial qualification and continuous training of drivers;
the roadworthiness of commercial vehicles, including the compulsory technical inspection of motor vehicles;
access to the market in international road haulage or, as appropriate, access to the market in road passenger transport;
safety in the carriage of dangerous goods by road;
the installation and use of speed-limiting devices in certain categories of vehicle;
driving licences;
admission to the occupation;
animal transport.

Article 7

Conditions relating to the requirement of financial standing

1. In order to satisfy the requirement laid down in Article 3(1)(c), an undertaking shall at all times be able to meet its financial obligations in the course of the annual accounting year. To this end, the undertaking shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, it has at its disposal capital and reserves totalling at least EUR 9 000 when only one vehicle is used and EUR 5 000 for each additional vehicle used.

For the purposes of this Regulation, the value of the euro in the currencies of Member States which do not participate in the third stage of the economic and monetary union shall be fixed every year. The rates to be applied shall be those obtained on the first working day of October and published in the *Official Journal of the European Union*. They shall have effect from 1 January of the following calendar year.

Article 8

Conditions relating to the requirement of professional competence

1. In order to satisfy the requirement laid down in Article 3(1)(d), the person or persons concerned shall possess knowledge corresponding to the level provided for in Part I of Annex I in the subjects listed therein. That knowledge shall be demonstrated by means of a compulsory written examination which, if a Member State so decides, may be supplemented by an oral examination. Those examinations shall be organised in accordance with Part II of Annex I. To this end, Member States may decide to impose training prior to the examination.

3. Only the authorities or bodies duly authorised for this purpose by a Member State, in accordance with criteria defined by it, may organise and certify the written and oral examinations referred to in paragraph 1. Member States shall regularly verify that the conditions under which those authorities or bodies organise the examinations are in accordance with Annex I.



4. Member States may duly authorise, in accordance with criteria defined by them, bodies to provide applicants with high-quality training to prepare them for the examinations and transport managers with continuous training to update their knowledge if they wish to do so. Such Member States shall regularly verify that these bodies at all times fulfil the criteria on the basis of which they were authorised.

5. Member States may promote periodic training on the subjects listed in Annex I at 10-year intervals to ensure that transport managers are aware of developments in the sector.

8. A certificate issued by the authority or body referred to in paragraph 3 shall be produced as proof of professional competence. That certificate shall not be transferable to any other person. It shall be drawn up in accordance with the security features and the model certificate set out in Annexes II and III and shall bear the seal of the duly authorised authority or body which issued it.

CHAPTER III

AUTHORISATION AND MONITORING

Article 10

Competent authorities

Each Member State shall designate one or more competent authorities to ensure the correct implementation of this Regulation. Those competent authorities shall be empowered to:

examine applications made by undertakings;

grant authorisations to engage in the occupation of road transport operator, and suspend or withdraw such authorisations;

declare a natural person to be unfit to manage the transport activities of an undertaking in the capacity of transport manager;

carry out the requisite checks to verify whether an undertaking satisfies the requirements laid down in Article 3.

2. The competent authorities shall publish all the conditions laid down pursuant to this Regulation, any other national provisions, the procedures to be followed by interested applicants and the corresponding explanations.

Article 11

Examination and registration of applications

1. A transport undertaking which complies with the requirements laid down in Article 3 shall, upon application, be authorised to engage in the occupation of road transport operator. The competent authority shall ascertain that an undertaking which submits an application satisfies the requirements laid down in that Article.

2. The competent authority shall record in the national electronic register referred to in Article 16 the data relating to undertakings which it authorises and which are referred to in points (a) to (d) of the first subparagraph of Article 16(2).

5. Undertakings with an authorisation to engage in the occupation of road transport operator shall, within a period of 28 days or less, as determined by the Member State of establishment, notify the competent authority which granted the authorisation of any changes to the data referred to in paragraph 2.



Article 12

Checks

1. Competent authorities shall monitor whether undertakings which they have authorised to engage in the occupation of road transport operator continue to fulfil the requirements laid down in Article 3.

To that end, Member States shall carry out checks targeting those undertakings which are classed as posing an increased risk. For that purpose, Member States shall extend the risk classification system established by them pursuant to Article 9 of Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities ⁽¹⁰⁾ to cover all infringements specified in Article 6 of this Regulation.

Article 13

Procedure for the suspension and withdrawal of authorisations

1. Where a competent authority establishes that an undertaking runs the risk of no longer fulfilling the requirements laid down in Article 3, it shall notify the undertaking thereof. Where a competent authority establishes that one or more of those requirements is no longer satisfied, it may set one of the following time limits for the undertaking to rectify the situation:

(a) a time limit not exceeding 6 months, which may be extended by 3 months in the event of the death or physical incapacity of the transport manager, for the recruitment of a replacement transport manager where the transport manager no longer satisfies the requirement as to good repute or professional competence;

(b) a time limit not exceeding 6 months where the undertaking has to rectify the situation by demonstrating that it has an effective and stable establishment;

(c) a time limit not exceeding 6 months where the requirement of financial standing is not satisfied, in order to demonstrate that that requirement will again be satisfied on a permanent basis.

2. The competent authority may require an undertaking whose authorisation has been suspended or withdrawn to ensure that its transport managers have passed the examinations referred to in Article 8(1) prior to any rehabilitation measure being taken.

3. If the competent authority establishes that the undertaking no longer satisfies one or more of the requirements laid down in Article 3, it shall suspend or withdraw the authorisation to engage in the occupation of road transport operator within the time limits referred to in paragraph 1 of this Article.

Article 14

Declaration of unfitness of the transport manager

1. Where a transport manager loses good repute in accordance with Article 6, the competent authority shall declare that transport manager unfit to manage the transport activities of an undertaking.

2. Unless and until a rehabilitation measure is taken in accordance with the relevant provisions of national law, the certificate of professional competence, referred to in Article 8(8), of the transport manager declared to be unfit, shall no longer be valid in any Member State.



Article 22

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation, and shall take all the measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 4 December 2011 at the latest and shall notify it without delay of any subsequent amendment affecting them. Member States shall ensure that all such measures are applied without discrimination as to the nationality or place of establishment of the undertaking.

2. The penalties referred to in paragraph 1 shall include, in particular, suspension of the authorisation to engage in the occupation of road transport operator, withdrawal of such authorisation and a declaration of unfitness of the transport manager.

ANNEX IV

Most serious infringements for the purposes of Article 6(2)(a)

(a) Exceeding the maximum 6-day or fortnightly driving time limits by margins of 25 % or more.

(b) Exceeding, during a daily working period, the maximum daily driving time limit by a margin of 50 % or more without taking a break or without an uninterrupted rest period of at least 4,5 hours.

Not having a tachograph and/or speed limiter, or using a fraudulent device able to modify the records of the recording equipment and/or the speed limiter or falsifying record sheets or data downloaded from the tachograph and/or the driver card.

Driving without a valid roadworthiness certificate if such a document is required under Community law and/or driving with a very serious deficiency of, inter alia, the braking system, the steering linkages, the wheels/tyres, the suspension or chassis that would create such an immediate risk to road safety that it leads to a decision to immobilise the vehicle.

Transporting dangerous goods that are prohibited for transport or transporting such goods in a prohibited or non-approved means of containment or without identifying them on the vehicle as dangerous goods, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle.

Carrying passengers or goods without holding a valid driving licence or carrying by an undertaking not holding a valid Community licence.

Driving with a driver card that has been falsified, or with a card of which the driver is not the holder, or which has been obtained on the basis of false declarations and/or forged documents.

Carrying goods exceeding the maximum permissible laden mass by 20 % or more for vehicles the permissible laden weight of which exceeds 12 tonnes, and by 25 % or more for vehicles the permissible laden weight of which does not exceed 12 tonnes.



5

State:	Date		
Link to Action Plan:			
<p>Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic. Official Journal L 235, 17/09/1996 P. 0059 - 0075</p> <p>Object and purpose of the regulation: differences between standards in force in the Member States with regard to the weights and dimensions of commercial road vehicles could have an adverse effect on the conditions of competition and constitute an obstacle to traffic between Member States; common standards on the dimensions of vehicles intended for the carriage of goods should remain stable in the long term; it is necessary to clarify the concept of 'indivisible load' in order to ensure uniform application of this Directive in respect of permits for vehicles or vehicle combinations carrying such loads;</p>			
The name of the national legal act			
Object and purpose of the regulation			
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

Article 1
1. This Directive applies to:
(a) the dimensions of motor vehicles in categories M2, M3 and N2 and N3 and their trailers in categories 03 and 04, as defined in Annex II to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type approval of motor vehicles and their trailers (7);
(b) the weights and certain other characteristics of the vehicles defined in (a) and specified in Annex I (2) to this Directive.
2. All the values of weights indicated in Annex I are valid as circulation standards and thus refer to loading conditions, not production standards, which will be defined in a later Directive.



Article 2
For the purposes of this Directive:
- 'motor vehicle` shall mean any power-driven vehicle which travels on the road by its own means,
- 'trailer` shall mean any vehicle intended to be coupled to a motor vehicle excluding semi-trailers, and constructed and equipped for the carriage of goods,
- 'semi-trailer` shall mean any vehicle intended to be coupled to a motor vehicle in such a way that part of it rests on the motor vehicle with a substantial part of its weight and of the weight of its load being borne by the motor vehicle, and constructed and equipped for the carriage of goods,
- 'vehicle combination` shall mean either:
- a road train consisting of a motor vehicle coupled to a trailer; or
- an articulated vehicle consisting of a motor vehicle coupled to a semi-trailer,
- 'conditioned vehicle` shall mean any vehicle whose fixed or movable superstructures are specially equipped for the carriage of goods at controlled temperatures and whose side walls, inclusive of insulation, are each at least 45 mm thick,
- 'bus` shall mean a vehicle with more than nine seats including the driver's seat, constructed and equipped to carry passengers and their luggage. It may have one or two decks and may also draw a luggage trailer,
- 'articulated bus` shall mean a bus consisting of two rigid sections connected to each other by an articulated section. On this type of vehicle the passenger compartments in each of the two rigid sections shall be intercommunicating. The articulated section shall permit the free movement of travellers between the rigid sections. Connection and disconnection of the two sections shall be possible only in a workshop,
- 'maximum authorized dimensions` shall mean the maximum dimensions for use of a vehicle, as laid down in Annex I to this Directive,
- 'maximum authorized weight` shall mean the maximum weight for use of a laden vehicle in international traffic,
- 'maximum authorized axle weight` shall mean the maximum weight for use in international traffic of a laden axle or group of axles,
- 'indivisible load` shall mean a load that cannot, for the purpose of carriage by road, be divided into two or more loads without undue expense or risk of damage and which owing to its dimensions or mass cannot be carried by a motor vehicle, trailer, road train or articulated vehicle complying with this Directive in all respects,



- 'tonne' shall mean the weight executed by the mass of a tonne and shall correspond to 9,8 kilonewtons (kN),

Article 3

1. A Member State may not reject or prohibit the use in its territory:

- in international traffic, of vehicles registered or put into circulation in any other Member State for reasons relating to their weights and dimensions,

- in national traffic, of goods vehicles registered or put into circulation in any other Member State for reasons relating to their dimensions, provided that such vehicles comply with the limit values specified in Annex I.

(b) the competent authority of the Member State in which the vehicles are registered or put into circulation has authorized limits not referred to in Article 4 (1) exceeding those laid down in Annex I.

2. However, paragraph 1 (a) shall not affect the right of Member States, with due regard to Community law, to require vehicles registered or put Annex I.

3. Member States may require conditioned vehicles to carry an ATP certificate or ATP certification plate provided for in the Agreement of 1 September 1970 on the international carriage of perishable foodstuffs and on the special equipment to be used for such carriage.

Article 4

3. Vehicles or vehicle combinations which exceed the maximum dimensions may only be allowed to circulate on the basis of special permits issued without discrimination by the competent authorities, or on the basis of similar non-discriminatory arrangements agreed on a case-by-case basis with those authorities, where these vehicles or vehicle combinations carry or are intended to carry indivisible loads.

5. Member States may allow vehicles or vehicle combinations incorporating new technologies or new concepts which cannot comply with one or more requirements of this Directive to carry out certain local transport operations for a trial period. Member States shall inform the Commission thereof.

Article 6

1. Member States shall take the necessary measures to ensure that Article 1 vehicles referred to in Article 1 and complying with this Directive carry one of the proofs referred to in (a), (b) and (c):

(a) a combination of the following two plates:

- the 'manufacturer's plate' established and attached in accordance with Directive 76/114/EEC (8),

- the plate relating to dimensions, in accordance with Annex III, established and attached in accordance with Directive 76/114/EEC;



(b) a single plate established and attached in accordance with Directive 76/114/EEC and containing the information on the two plates referred to in (a);

(c) a single document issued by the competent authorities of the Member State in which the vehicle is registered or put into circulation. Such document shall bear the same headings and information as the plates referred to in (a). It shall be kept in a place easily accessible to inspection and shall be adequately protected.

2. If the characteristics of the vehicle no longer correspond to those indicated on the proof of compliance, the Member State in which the vehicle is registered shall take the necessary steps to ensure that the proof of compliance is altered.

3. The plates and documents referred to in paragraph 1 shall be recognized by the Member States as the proof of vehicle compliance provided for in this Directive.

4. Vehicles carrying proof of compliance may be subject:

- as regards common standards on weights, to random checks,

- as regards common standards on dimensions, only to checks where there is a suspicion of non-compliance with this Directive.



6

State:		Date		
Link to Action Plan:				
<p>Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures. <i>Official Journal L 187, 20/07/1999 P. 0042 - 0050</i></p> <p>Object and purpose of the regulation: The elimination of distortions of competition between transport undertakings in the Member States calls for both the harmonisation of levy systems and the establishment of fair mechanisms for charging infrastructure costs to hauliers;</p>				
<p>The name of the national legal act</p> <p>Object and purpose of the regulation</p>				
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation				
The main provisions of EU law		Yes	No	Notes (contradiction)
a)		b)	c)	d)

Preamble
(7) The use of road-friendly and less polluting vehicles should be encouraged through differentiation of taxes or charges, provided that such differentiation does not interfere with the functioning of the internal market;
(12) Existing distortions of competition cannot be eliminated solely by harmonising taxes or fuel excise duties; however, until technically and economically more appropriate forms of levy are in place, such distortions may be attenuated by the possibility of retaining or introducing tolls and/or user charges for the use of motorways; in addition Member States should be allowed to levy charges for the use of bridges, tunnels and mountain passes;
(14) Tolls and user charges should not be discriminatory nor entail excessive formalities or create obstacles at internal borders; therefore, adequate measures should be taken to permit the payment of tolls and user charges at any time and with different means of payment;
(15) The rates of user charges should be based on the duration of the use made of the infrastructure in question and be differentiated in relation to the costs caused by the road vehicles;



(18) Member States should be able to attribute to environmental protection and the balanced development of transport networks a percentage of the amount of the user charge or of the toll, provided that this amount is calculated in accordance with the provisions of this Directive;

CHAPTER I

General provisions

Article 1

This Directive applies to vehicle taxes, tolls and user charges imposed on vehicles as defined in Article 2.

(a) "motorway" means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

(i) is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other either by a dividing strip not intended for traffic or, exceptionally, by other means;

(ii) does not cross at grade with any road, railway or tramway track, or footpath;

(iii) is specifically designated as a motorway;

(b) "toll" means payment of a specified amount for a vehicle travelling the distance between two points on the infrastructures; the amount shall be based on the distance travelled and the type of the vehicle;

(c) "user charge" means payment of a specified amount conferring the right for a vehicle to use for a given period the infrastructures referred to in Article 7(2);

(d) "vehicle" means a motor vehicle or articulated vehicle combination intended exclusively for the carriage of goods by road and having a maximum permissible gross laden weight of not less than 12 tonnes;

(e) "EURO I vehicle" means a vehicle having the characteristics set out in line A of the table in Section 8.3.1.1 of Annex I to Council Directive 88/77/EEC of 3 December 1987 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from diesel engines for use in vehicles(10);

CHAPTER III

Tolls and user charges

Article 7

3. Tolls and user charges may not both be imposed at the same time for the use of a single road section. However, Member States may also impose tolls on networks where user charges are levied for the use of bridges, tunnels, and mountain passes.



5. Tolls and user charges shall be applied and collected and their payment monitored in such a way as to cause as little hindrance as possible to the free flow of traffic and avoid any mandatory controls or checks at the Community's internal borders. To this end, Member States shall cooperate in establishing methods for enabling hauliers to pay user charges 24 hours a day, at least at the major sales outlets, using all common means of payment, inside and outside the Member States in which they are applied. Member States shall provide adequate facilities at the points of payment for tolls and user charges so as to maintain normal road-safety standards.

6. A Member State may provide that vehicles registered in that Member State shall be subject to user charges for the use of the whole road network in its territory.

7. User charges, including administrative costs, for all vehicle categories shall be set by the Member State concerned at a level which is not higher than the maximum rates laid down in Annex II.

On 1 July 2002 and every second year thereafter these maximum rates shall be reviewed. When necessary, the Commission shall make proposals for appropriate adjustments and the European Parliament and the Council shall act on them, in accordance with the conditions laid down in the Treaty.

Member States applying a user charge shall, until two years after entry into force of this Directive, apply a 50 % reduction in the rates of user charges for vehicles registered in Greece because of its geopolitical position. The Commission may decide to authorise an extension of this reduction by these Member States from year to year.

8. User-charge rates shall be in proportion to the duration of the use made of the infrastructure.

A Member State may apply only annual rates for vehicles registered in that State.

9. The weighted average tolls shall be related to the costs of constructing, operating and developing the infrastructure network concerned.

10. Without prejudice to the weighted average tolls referred to in paragraph 9, Member States may vary the rates at which tolls are charged according to:

(a) vehicle emission classes, provided that no toll is more than 50 % above the toll charged for equivalent vehicles meeting the strictest emission standards;

(b) time of day, provided that no toll is more than 100 % above the toll charged during the cheapest period of the day.

Any variation in tolls charged with respect to vehicle emission classes or the time of day shall be proportionate to the objective pursued.

Article 8

1. Two or more Member States may cooperate in introducing a common system for user charges applicable to their territories as a whole. In that case, those Member States shall ensure that the Commission is closely involved therein and in the system's subsequent operation and possible amendment.



7

State:		Date		
Link to Action Plan:				
<p>DIRECTIVE 2006/126/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 December 2006 on driving licences (OJ L 199, 31.7.1985, p. 56.)</p> <p>Object and purpose of the regulation: The model driving licence as set out in Directive 91/439/EEC should be replaced by a single model in the form of a plastic card. At the same time, this model driving licence needs to be adapted on account of the introduction of a new category of driving licences for mopeds and of a new category of driving licences for motorcycles.</p>				
The name of the national legal act				
Object and purpose of the regulation				
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation				
The main provisions of EU law		Yes	No	Notes (contradiction)
a)		b)	c)	d)

<p><i>Article 2</i></p> <p>Mutual recognition</p> <p>1. Driving licences issued by Member States shall be mutually recognised.</p>
<p><i>Article 4</i></p> <p>Categories, definitions and minimum ages</p> <p>1. The driving licence provided for in Article 1 shall authorise the driving of power-driven vehicles in the categories defined hereafter.</p> <p>It may be issued from the minimum age indicated for each category.</p> <p>A 'power-driven vehicle' means any self-propelled vehicle running on a road under its own power, other than a rail-borne vehicle.</p> <p>2. mopeds:</p> <p>Category AM:</p>



-Two-wheel vehicles or three-wheel vehicles with a maximum design speed of not more than 45 km/h, as defined in Article 1(2)(a) of Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles ^[5] (excluding those with a maximum design speed under or equal to 25 km/h), and light quadricycles as defined in Article 1(3)(a) of Directive 2002/24/EC,
-the minimum age for category AM is fixed at 16 years;
3. motorcycles with or without a sidecar and motor tricycles:
-‘motorcycle’ means two-wheel vehicles with or without a sidecar, as defined in Article 1(2)(b) of Directive 2002/24/EC,
-‘motor tricycle’ means vehicles with three symmetrically arranged wheels, as defined in Article 1(2)(c) of Directive 2002/24/EC;
(a)Category A1:
-motorcycles with a cylinder capacity not exceeding 125 cubic centimetres, of a power not exceeding 11 kW and with a power/weight ratio not exceeding 0,1 kW/kg,
-motor tricycles with a power not exceeding 15 kW,
-the minimum age for category A1 is fixed at 16 years;
Category A2:
-motorcycles of a power not exceeding 35 kW and with a power/weight ratio not exceeding 0,2 kW/kg and not derived from a vehicle of more than double its power,
-the minimum age for category A2 is fixed at 18 years;
Category A:
motorcycles
-The minimum age for category A is fixed at 20 years. However, access to the driving of motorcycles of this category shall be subject to a minimum of two years' experience on motorcycles under an A2 licence. This requirement as to previous experience may be waived if the candidate is at least 24 years old.
(ii) motor tricycles with a power exceeding 15 kW
-The minimum age for motor tricycles exceeding 15 kW is fixed at 21 years.



4. motor vehicles:
- 'motor vehicle' means any power-driven vehicle, which is normally used for carrying persons or goods by road or for drawing, on the road, vehicles used for the carriage of persons or goods. This term shall include trolleybuses, i.e. vehicles connected to an electric conductor and not rail-borne. It shall not include agricultural or forestry tractors,
- 'Agricultural or forestry tractor' means any power-driven vehicle running on wheels or tracks, having at least two axles, the principal function of which lies in its tractive power, which is specially designed to pull, push, carry or operate certain tools, machines or trailers used in connection with agricultural or forestry operations, and the use of which for carrying persons or goods by road or drawing, on the road, vehicles used for the carriage of persons or goods is only a secondary function;
Category B1:
- quadricycles, as defined in Article 1(3)(b) of Directive 2002/24/EC,
- the minimum age for category B1 is fixed at 16 years,
- category B1 is optional; in Member States which do not introduce this category of driving licence, a driving licence for category B shall be required to drive such vehicles;
Category B:
motor vehicles with a maximum authorised mass not exceeding 3 500 kg and designed and constructed for the carriage of no more than eight passengers in addition to the driver; motor vehicles in this category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kg.
The minimum age for category B is fixed at 18 years;
Category BE:
- without prejudice to the provisions of type-approval rules for the vehicles concerned, combination of vehicles consisting of a tractor vehicle in category B and a trailer or semi-trailer where the maximum authorised mass of the trailer or semi-trailer does not exceed 3 500 kg,
- the minimum age for category BE is fixed at 18 years;
Category C1:
motor vehicles other than those in categories D1 or D, the maximum authorised mass of which exceeds 3 500 kg, but does not exceed 7 500 kg, and which are designed and constructed for the carriage of no more than eight passengers in addition to the driver; motor vehicles in this category may be combined with a trailer having a maximum authorised mass not exceeding 750 kg;
Category C1E:
- without prejudice to the provisions of type-approval rules for the vehicles concerned, combinations of vehicles where the tractor vehicle is in category C1 and its trailer or semi-trailer has a maximum authorised mass of over



750 kg provided that the authorised mass of the combination does not exceed 12 000 kg,
-without prejudice to the provisions of type-approval rules for the vehicles concerned, combinations of vehicles where the tractor vehicle is in category B and its trailer or semi-trailer has an authorised mass of over 3 500 kg, provided that the authorised mass of the combination does not exceed 12 000 kg,
-the minimum age for categories C1 and C1E is fixed at the age of 18 years, without prejudice to the provisions for the driving of such vehicles in Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers ⁽⁶⁾ ;
Category C:
motor vehicles other than those in categories D1 or D, whose maximum authorised mass is over 3 500 kg and which are designed and constructed for the carriage of no more than eight passengers in addition to the driver; motor vehicles in this category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kg;
Category CE:
-without prejudice to the provisions of type-approval rules for the vehicles concerned, combinations of vehicles where the tractor vehicle is in category C and its trailer or semi-trailer has a maximum authorised mass of over 750 kg,
-the minimum age for categories C and CE is fixed at 21 years, without prejudice to the provisions for the driving of such vehicles in Directive 2003/59/EC;
Category D1:
motor vehicles designed and constructed for the carriage of no more than 16 passengers in addition to the driver and with a maximum length not exceeding 8 m; motor vehicles in this category may be combined with a trailer having a maximum authorised mass not exceeding 750 kg;
Category D1E:
-without prejudice to the provisions of type-approval rules for the vehicles concerned, combinations of vehicles where the tractor vehicle is in category D1 and its trailer has a maximum authorised mass of over 750 kg,
-the minimum age for categories D1 and D1E is fixed at 21 years, without prejudice to the provisions for the driving of such vehicles in Directive 2003/59/EC;
Category D:
motor vehicles designed and constructed for the carriage of more than eight passengers in addition to the driver; motor vehicles which may be driven with a category D licence may be combined with a trailer having a maximum authorised mass which does not exceed 750 kg;
Category DE:
-without prejudice to the provisions of type-approval rules for the vehicles concerned, combinations of vehicles



where the tractor vehicle is in category D and its trailer has a maximum authorised mass of over 750 kg,
-the minimum age for categories D and DE is fixed at 24 years, without prejudice to the provisions for the driving of such vehicles in Directive 2003/59/EC;
6. Member States may raise or lower the minimum age for issuing a driving licence:
(a) for category AM down to 14 years or up to 18 years;
(b) for category B1 up to 18 years;
(c) for category A1 up to 17 or 18 years;
(d) for categories B and BE down to 17 years.
<i>Article 5</i> Conditions and restrictions
1. Driving licences shall state the conditions under which the driver is authorised to drive.
2. If, because of a physical disability, driving is authorised only for certain types of vehicle or for adapted vehicles, the test of skills and behaviour provided for in Article 7 shall be taken in such a vehicle.
<i>Article 6</i> Staging and equivalences between categories
1. The issue of driving licences shall be subject to the following conditions:
Licences for categories C1, C, D1 and D shall be issued only to drivers already entitled to drive vehicles in category B;
Licences for categories BE, C1E, CE, D1E and DE shall be issued only to drivers already entitled to drive vehicles in categories B, C1, C, D1 and D respectively.
<i>Article 7</i> Issue, validity and renewal
1. Driving licences shall be issued only to those applicants:
who have passed a test of skills and behaviour and a theoretical test and who meet medical standards, in accordance with the provisions of Annexes II and III;
who have passed a theory test only as regards category AM; Member States may require applicants to pass a test of skills and behaviour and a medical examination for this category.



<p>who have, as regards category A2 or category A, on the condition of having acquired a minimum of 2 years' experience on a motorcycle in category A1 or in category A2 respectively, passed a test of skills and behaviour only, or completed a training pursuant to Annex VI;</p>
<p>who have completed a training or passed a test of skills and behaviour, or completed a training and passed a test of skills and behaviour pursuant to Annex V as regards category B for driving a vehicle combination as defined in the second subparagraph of Article 4(4)(b);</p>
<p>2.(a) As from 19 January 2013, licences issued by Member States for categories AM, A1, A2, A, B, B1 and BE shall have an administrative validity of 10 years.</p>
<p>A Member State may choose to issue such licences with an administrative validity of up to 15 years;</p>
<p>(b) As from 19 January 2013, licences issued by Member States for categories C, CE, C1, C1E, D, DE, D1, D1E shall have an administrative validity of 5 years;</p>
<p>3. The renewal of driving licences when their administrative validity expires shall be subject to:</p>
<p>continuing compliance with the minimum standards of physical and mental fitness for driving set out in Annex III for driving licences in categories C, CE, C1, C1E, D, DE, D1, D1E; and</p>
<p>normal residence in the territory of the Member State issuing the licence, or evidence that applicants have been studying there for at least six months.</p>
<p><i>Article 10</i> Examiners</p>
<p>From the entry into force of this Directive, driving examiners shall meet the minimum standards set out in Annex IV.</p>
<p><i>Article 11</i> Various provisions concerning the exchange, the withdrawal, the replacement and the recognition of driving licences</p>
<p>1. Where the holder of a valid national driving licence issued by a Member State has taken up normal residence in another Member State, he may request that his driving licence be exchanged for an equivalent licence. It shall be for the Member State affecting the exchange to check for which category the licence submitted is in fact still valid.</p>
<p>3. The Member State affecting the exchange shall return the old licence to the authorities of the Member State which issued it and give the reasons for doing so.</p>
<p>4. A Member State shall refuse to issue a driving licence to an applicant whose driving licence is restricted, suspended or withdrawn in another Member State.</p>
<p>A Member State may also refuse to issue a driving licence to an applicant whose licence is cancelled in another Member State.</p>



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5. A replacement for a driving licence which has, for example, been lost or stolen may only be obtained from the competent authorities of the Member State in which the holder has his normal residence; those authorities shall provide the replacement on the basis of the information in their possession or, where appropriate, proof from the competent authorities of the Member State which issued the original licence.

6. Where a Member State exchanges a driving licence issued by a third country for a Community model driving licence, such exchange shall be recorded on the Community model driving licence as shall any subsequent renewal or replacement.



8

State:	Date		
Link to Action Plan:			
<p>DIRECTIVE 2008/68/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 September 2008 on the inland transport of dangerous goods (OJ C 256, 27.10.2007, p. 44.)</p> <p>Object and purpose of the regulation: The transport of dangerous goods by road, rail or inland waterway presents a considerable risk of accidents. Measures should therefore be taken to ensure that such transport is carried out under the best possible conditions of safety;</p> <p>In order to set up a common regime covering all aspects of the inland transport of dangerous goods, Directives 94/55/EC and 96/49/EC should be replaced with a single Directive which also lays down provisions in relation to inland waterways;</p> <p>Such rules should also be extended to national transport in order to harmonise across the Community the conditions under which dangerous goods are transported and to ensure the proper functioning of the common transport market.</p>			
<p>The name of the national legal act</p> <p>Object and purpose of the regulation</p>			
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

Whereas:
<p>(4) The majority of Member States are contracting parties to the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), subject to the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID) and, in so far as is relevant, contracting parties to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN).</p>
<p>(5) The ADR, RID and ADN lay down uniform rules for the safe international transport of dangerous goods. Such rules should also be extended to national transport in order to harmonise across the Community the conditions under which dangerous goods are transported and to ensure the proper functioning of the common transport market.</p>



(6) This Directive should not apply to the transport of dangerous goods in certain exceptional circumstances linked to the nature of the vehicles or vessels involved, or to the limited nature of the transport undertaken.

(7) Nor should the provisions of this Directive apply to the transport of dangerous goods under the direct and physical responsibility or supervision of the armed forces. The transport of dangerous goods carried out by commercial contractors working for the armed forces should, however, fall within the scope of this Directive unless the contractual duties are carried out under the direct and physical responsibility or supervision of the armed forces.

(12) The use of means of transport registered in third countries should be allowed for the international transport of dangerous goods within the territories of the Member States, subject to compliance with the relevant provisions of the ADR, RID or ADN and of this Directive.

Article 1

Scope

1. This Directive shall apply to the transport of dangerous goods by road, by rail or by inland waterway within or between Member States, including the activities of loading and unloading, the transfer to or from another mode of transport and the stops necessitated by the circumstances of the transport.

It shall not apply to the transport of dangerous goods:

4. Member States may lay down specific safety requirements for the national and international transport of dangerous goods within their territory as regards:

the transport of dangerous goods by vehicles, wagons or inland waterway vessels not covered by this Directive;

where justified, the use of prescribed routes including the use of prescribed modes of transport;

special rules for the transport of dangerous goods in passenger trains.

5. Member States may regulate or prohibit, strictly for reasons other than safety during transport, the transport of dangerous goods within their territory.

Article 2

Definitions

For the purposes of this Directive:

1. 'ADR' shall mean the European Agreement concerning the International Carriage of Dangerous Goods by Road, concluded at Geneva on 30 September 1957, as amended;



2.'RID' shall mean the Regulations concerning the International Carriage of Dangerous Goods by Rail, appearing as Appendix C to the Convention concerning International Carriage by Rail (COTIF) concluded at Vilnius on 3 June 1999, as amended;

3.'ADN' shall mean the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways, concluded at Geneva on 26 May 2000, as amended;

4.'vehicle' shall mean any motor vehicle intended for use on the road, having at least four wheels and a maximum design speed exceeding 25 km/h, and any trailer, with the exception of vehicles which run on rails, mobile machinery and agricultural and forestry tractors that do not travel at a speed exceeding 40 km/h when transporting dangerous goods;

5.'wagon' shall mean any rail vehicle without its own means of propulsion that runs on its own wheels on railway tracks and is used for the carriage of goods;

6.'vessel' shall mean any inland waterway or seagoing vessel.

Article 4

Third countries

The transport of dangerous goods between Member States and third countries shall be authorised in so far as it complies with the requirements of the ADR, RID or ADN, unless otherwise indicated in the Annexes.

Article 6

Derogations

1. Member States may authorise the use of languages other than those provided for in the Annexes for transport operations performed within their territories.

2. (a) Provided that safety is not compromised, Member States may request derogations from Annex I, Section I.1, Annex II, Section II.1, and Annex III, Section III.1, for the transport within their territories of small quantities of certain dangerous goods, with the exception of substances having a medium or high level of radioactivity, provided that the conditions for such transport are no more stringent than the conditions set out in those Annexes.

(b) Provided that safety is not compromised, Member States may also request derogations from Annex I, Section I.1, Annex II, Section II.1, and Annex III, Section III.1, for the transport of dangerous goods within their territory in the case of:

(i) local transport over short distances; or

(ii) local transport by rail on particular designated routes, forming part of a defined industrial process and being closely controlled under clearly specified conditions.



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3. Derogations under paragraph 2 shall be valid for a period not exceeding six years from the date of authorisation, such period to be fixed in the authorisation decision. As regards the existing derogations set out in Annex I, Section I.3, Annex II, Section II.3, and Annex III, Section III.3, the date of authorisation shall be deemed to be 30 June 2009. Unless indicated otherwise, derogations shall be valid for a period of six years.

Derogations shall be applied without discrimination.

5. Every Member State may, exceptionally and provided that safety is not compromised, issue individual authorisations to carry out transport operations of dangerous goods within its territory which are prohibited by this Directive or to carry out such operations under conditions different from those laid down in this Directive, provided that those transport operations are clearly defined and limited in time.



9

State:	Date		
Link to Action Plan:			
<p>REGULATION (EC) No 561/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85</p> <p>Object and purpose of the regulation: This Regulation lays down rules on driving times, breaks and rest periods for drivers engaged in the carriage of goods and passengers by road in order to harmonise the conditions of competition between modes of inland transport, especially with regard to the road sector, and to improve working conditions and road safety. This Regulation also aims to promote improved monitoring and enforcement practices by Member States and improved working practices in the road transport industry.</p>			
<p>The name of the national legal act</p> <p>Object and purpose of the regulation</p>			
<p>The presence of the provisions of the EU legislation (secondary sources of law) into national legislation</p>			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

Article 2

1. This Regulation shall apply to the carriage by road:

- (a) of goods where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 3,5 tonnes, or
- (b) of passengers by vehicles which are constructed or permanently adapted for carrying more than nine persons including the driver, and are intended for that purpose.

Article 3

This Regulation shall not apply to carriage by road by:

- (a) vehicles used for the carriage of passengers on regular services where the route covered by the service in question does not exceed 50 kilometres;
- (b) vehicles with a maximum authorised speed not exceeding 40 kilometres per hour;
- (c) vehicles owned or hired without a driver by the armed services, civil defence services, fire services, and forces responsible for maintaining public order when the carriage is undertaken as a consequence of the tasks assigned to these services and is under their control;
- (d) vehicles, including vehicles used in the non-commercial transport of humanitarian aid, used in emergencies or rescue operations;
- (e) specialised vehicles used for medical purposes;
- (f) specialised breakdown vehicles operating within a 100 km radius of their base;



- (g) vehicles undergoing road tests for technical development, repair or maintenance purposes, and new or rebuilt vehicles which have not yet been put into service;
- (h) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7,5 tonnes used for the non-commercial carriage of goods;
- (i) commercial vehicles, which have a historic status according to the legislation of the Member State in which they are being driven and which are used for the non-commercial carriage of passengers or goods.

Article 4

For the purposes of this Regulation the following definitions shall apply:

- (a) 'carriage by road' means any journey made entirely or in part on roads open to the public by a vehicle, whether laden or not, used for the carriage of passengers or goods;
- (b) 'vehicle' means a motor vehicle, tractor, trailer or semi-trailer or a combination of these vehicles, defined as follows:
 - 'motor vehicle': any self-propelled vehicle travelling on the road, other than a vehicle permanently running on rails, and normally used for carrying passengers or goods,
 - 'tractor': any self-propelled vehicle travelling on the road, other than a vehicle permanently running on rails, and specially designed to pull, push or move trailers, semi-trailers, implements or machines,
 - 'trailer': any vehicle designed to be coupled to a motor vehicle or tractor,
 - 'semi-trailer': a trailer without a front axle coupled in such a way that a substantial part of its weight and of the weight of its load is borne by the tractor or motor vehicle;
- (c) 'driver' means any person who drives the vehicle even for a short period, or who is carried in a vehicle as part of his duties to be available for driving if necessary;
- (d) 'break' means any period during which a driver may not carry out any driving or any other work and which is used exclusively for recuperation;
- (e) 'other work' means all activities which are defined as working time in Article 3(a) of Directive 2002/15/EC except 'driving', including any work for the same or another employer, within or outside of the transport sector;
- (f) 'rest' means any uninterrupted period during which a driver may freely dispose of his time;
- (g) 'daily rest period' means the daily period during which a driver may freely dispose of his time and covers a 'regular daily rest period' and a 'reduced daily rest period':
 - 'regular daily rest period' means any period of rest of at least 11 hours. Alternatively, this regular daily rest period may be taken in two periods, the first of which must be an uninterrupted period of at least 3 hours and the second an uninterrupted period of at least nine hours,



- 'reduced daily rest period' means any period of rest of at least nine hours but less than 11 hours;
- (h) 'weekly rest period' means the weekly period during which a driver may freely dispose of his time and covers a 'regular weekly rest period' and a 'reduced weekly rest period':
 - 'regular weekly rest period' means any period of rest of at least 45 hours,
 - 'reduced weekly rest period' means any period of rest of less than 45 hours, which may, subject to the conditions laid down in Article 8(6), be shortened to a minimum of 24 consecutive hours;
- (i) 'a week' means the period of time between 00.00 on Monday and 24.00 on Sunday;

- (j) 'driving time' means the duration of driving activity recorded:
 - automatically or semi-automatically by the recording equipment as defined in Annex I and Annex IB of Regulation (EEC) No 3821/85, or
 - manually as required by Article 16(2) of Regulation (EEC) No 3821/85;
- (k) 'daily driving time' means the total accumulated driving time between the end of one daily rest period and the beginning of the following daily rest period or between a daily rest period and a weekly rest period;
- (l) 'weekly driving time' means the total accumulated driving time during a week;
- (m) 'maximum permissible mass' means the maximum authorised operating mass of a vehicle when fully laden;

(o) 'transport undertaking' means any natural person, any legal person, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such a personality, which engages in carriage by road, whether for hire or reward or for own account;

(p) 'transport undertaking' means any natural person, any legal person, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such a personality, which engages in carriage by road, whether for hire or reward or for own account;

(q) 'driving period' means the accumulated driving time from when a driver commences driving following a rest period or a break until he takes a rest period or a break. The driving period may be continuous or broken.

CHAPTER II CREWS, DRIVING TIMES, BREAKS AND REST PERIODS

Article 5



1. The minimum age for conductors shall be 18 years.
<i>Article 6</i>
1. The daily driving time shall not exceed nine hours. However, the daily driving time may be extended to at most 10 hours not more than twice during the week.
2. The weekly driving time shall not exceed 56 hours and shall not result in the maximum weekly working time laid down in Directive 2002/15/EC being exceeded.
3. The total accumulated driving time during any two consecutive weeks shall not exceed 90 hours.
4. Daily and weekly driving times shall include all driving time on the territory of the Community or of a third country.
<i>Article 7</i>
After a driving period of four and a half hours a driver shall take an uninterrupted break of not less than 45 minutes, unless he takes a rest period. This break may be replaced by a break of at least 15 minutes followed by a break of at least 30 minutes each distributed over the period in such a way as to comply with the provisions of the first paragraph.
<i>Article 8</i>
2. Within each period of 24 hours after the end of the previous daily rest period or weekly rest period a driver shall have taken a new daily rest period. If the portion of the daily rest period which falls within that 24 hour period is at least nine hours but less than 11 hours, then the daily rest period in question shall be regarded as a reduced daily rest period. 3.4.5....
6. In any two consecutive weeks a driver shall take at least: - two regular weekly rest periods, or - one regular weekly rest period and one reduced weekly rest period of at least 24 hours. However, the reduction shall be compensated by an equivalent period of rest taken en bloc before the end of the third week following the week in question. A weekly rest period shall start no later than at the end of six 24-hour periods from the end of the previous weekly rest period.
7. Any rest taken as compensation for a reduced weekly rest period shall be attached to another rest period of at least nine hours.
<i>Article 9</i>
1. By way of derogation from Article 8, where a driver accompanies a vehicle which is transported by ferry or train, and takes a regular daily rest period, that period may be interrupted not more than twice by other activities not exceeding one hour in total. During that regular daily rest period the driver shall have access to a bunk or couchette.
<i>CHAPTER III LIABILITY OF TRANSPORT UNDERTAKINGS</i>
<i>Article 10</i>
1. A transport undertaking shall not give drivers it employs or who are put at its disposal any payment, even in the form of a bonus or wage supplement, related to distances travelled and/or the amount of goods carried if that



payment is of such a kind as to endanger road safety and/or encourages infringement of this Regulation.

4. Undertakings, consignors, freight forwarders, tour operators, principal contractors, subcontractors and driver employment agencies shall ensure that contractually agreed transport time schedules respect this Regulation.

CHAPTER IV EXCEPTIONS

Article 11

A Member State may provide for longer minimum breaks and rest periods or shorter maximum driving times than those laid down in Articles 6 to 9 in the case of carriage by road undertaken wholly within its territory. In so doing, Member States shall take account of relevant collective or other agreements between the social partners. Nevertheless, this Regulation shall remain applicable to drivers engaged in international transport operations.

CHAPTER V CONTROL PROCEDURES AND SANCTIONS

Article 16

1. Where no recording equipment has been fitted to the vehicle in accordance with Regulation (EEC) No 3821/85, paragraphs 2 and 3 of this Article shall apply to:

- (a) regular national passenger services, and
- (b) regular international passenger services whose route terminals are located within a distance of 50 km as the crow flies from a border between two Member States and whose route length does not exceed 100 km.

2. A service timetable and a duty roster shall be drawn up by the transport undertaking and shall show, in respect of each driver, the name, place where he is based and the schedule laid down in advance for various periods of driving, other work, breaks and availability.

Each driver assigned to a service referred to in paragraph 1 shall carry an extract from the duty roster and a copy of the service timetable.

3. The duty roster shall:

- (a) include all the particulars specified in paragraph 2 for a minimum period covering the previous 28 days; these particulars must be updated on regular intervals, the duration of which may not exceed one month;
- (b) be signed by the head of the transport undertaking or by a person authorised to represent him;
- (c) be kept by the transport undertaking for one year after expiry of the period covered by it. The transport undertaking shall give an extract from the roster to the drivers concerned upon request; and
- (d) be produced and handed over at the request of an authorised inspecting officer.

Article 18

Member States shall adopt such measures as may be necessary for the implementation of this Regulation.

Article 19

1. Member States shall lay down rules on penalties applicable to infringements of this Regulation and Regulation (EEC) No 3821/85 and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective, proportionate, dissuasive and non-discriminatory. No infringement of this Regulation and Regulation (EEC) No 3821/85 shall be subjected to more than one penalty or procedure.



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2. A Member State shall enable the competent authorities to impose a penalty on an undertaking and/or a driver for an infringement of this Regulation detected on its territory and for which a penalty has not already been imposed, even where that infringement has been committed on the territory of another Member State or of a third country.

4. Member States shall ensure that a system of proportionate penalties, which may include financial penalties, is in force for infringements of this Regulation or Regulation (EEC) No 3821/85 on the part of undertakings, or associated consignors, freight forwarders, tour operators, principal contractors, subcontractors and driver employment agencies.



9a

State:		Date	
Link to Action Plan:			
<p>Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (OJ L 370, 31.12.1985, p. 8-21)</p> <p>Object and purpose of the regulation: Recording equipment within the meaning of this Regulation shall, as regards construction, installation, use and testing, comply with the requirements of this Regulation and of Annexes I and II thereto, which shall form an integral part of this Regulation.</p>			
<p>The name of the national legal act</p> <p>Object and purpose of the regulation</p>			
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

Article 3
4. In the case of national transport operations, Member States may require the installation and use of recording equipment in accordance with this Regulation in any of the vehicles for which its installation and use are not required by paragraph 1.
CHAPTER II Type approval
Article 5
A Member State shall grant EEC approval to any type of recording equipment or to any model record sheet which conforms to the requirements laid down in Annex I to this Regulation, provided the Member State is in a position to check that production models conform to the approved prototype.
Any modifications or additions to an approved model must receive additional EEC type approval from the Member State which granted the original EEC type approval.



Article 6
Member States shall issue to the applicant an EEC approval mark, which shall conform to the model shown in Annex II, for each type of recording equipment or model record sheet which they approve pursuant to Article 5.
Article 8
1. If a Member State which has granted EEC type approval as provided for in Article 5 finds that certain recording equipment or record sheets bearing the EEC type approval mark which it has issued do not conform to the prototype which it has approved, it shall take the necessary measures to ensure that production models conform to the approved prototype. The measures taken may, if necessary, extend to withdrawal of EEC type approval.
2. A Member State which has granted EEC type approval shall withdraw such approval if the recording equipment or record sheet which has been approved is not in conformity with this Regulation or its Annexes or displays in use any general defect which makes it unsuitable for the purpose for which it is intended.
3. If a Member State which has granted EEC type approval is notified by another Member State of one of the cases referred to in paragraphs 1 and 2, it shall also, after consulting the latter Member State, take the steps laid down in those paragraphs, subject to paragraph 5.
4. A Member State which ascertains that one of the cases referred to in paragraph 2 has arisen may forbid until further notice the placing on the market and putting into service of the recording equipment or record sheets. The same applies in the cases mentioned in paragraph 1 with respect to recording equipment or record sheets which have been exempted from EEC initial verification, if the manufacturer, after due warning, does not bring the equipment into line with the approved model or with the requirements of this Regulation. In any event, the competent authorities of the Member States shall notify one another and the Commission, within one month, of any withdrawal of EEC type approval or of any other measures taken pursuant to paragraphs 1, 2 and 3 and shall specify the reasons for such action.
Article 10
No Member State may refuse to register any vehicle fitted with recording equipment, or prohibit the entry into service or use of such vehicle for any reason connected with the fact that the vehicle is fitted with such equipment, if the equipment bears the EEC approval mark referred to in Article 6 and the installation plaque referred to in Article 12.
Article 11
All decisions pursuant to this Regulation refusing or withdrawing approval of a type of recording equipment or model record sheet shall specify in detail the reasons on which they are based. A decision shall be communicated to the party concerned, who shall at the same time be informed of the remedies available to him under the laws of the Member States and of the time-limits for the exercise of such remedies.



Article 12

1. Recording equipment may be installed or repaired only by fitters or workshops approved by the competent authorities of Member States for that purpose after the latter, should they so desire, have heard the views of the manufacturers concerned.

2. The approved fitter or workshop shall place a special mark on the seals which it affixes. The competent authorities of each Member State shall maintain a register of the marks used.

3. The competent authorities of the Member States shall send each other their lists of approved fitters or workshops and also copies of the marks used.

CHAPTER IV Use of equipment

Article 13

The employer and drivers shall be responsible for seeing that the equipment functions correctly.

Article 14

1. The employer shall issue a sufficient number of record sheets to drivers, bearing in mind the fact that these sheets are personal in character, the length of the period of service and the possible obligation to replace sheets which are damaged, or have been taken by an authorized inspecting officer. The employer shall issue to drivers only sheets of an approved model suitable for use in the equipment installed in the vehicle.

2. The undertaking shall keep the record sheets in good order for at least a year after their use and shall give copies to the drivers concerned who request them. The sheets shall be produced or handed over at the request of any authorized inspecting officer.

Article 15

1. Drivers shall not use dirty or damaged record sheets. The sheets shall be adequately protected on this account.

7. Whenever requested by an authorized inspecting officer to do so, the driver must be able to produce record sheets for the current week, and in any case for the last day of the previous week on which he drove.

Article 16

1. In the event of breakdown or faulty operation of the equipment, the employer shall have it repaired by an approved fitter or workshop, as soon as circumstances permit.

If the vehicle is unable to return to the premises within a period of one week calculated from the day of the breakdown or of the discovery of defective operation, the repair shall be carried out en route.



Measures taken by Member States pursuant to Article 19 may give the competent authorities power to prohibit the use of the vehicle in cases where break own or faulty operation has not been put right as provided in the foregoing subparagraphs.

2. While the equipment is unserviceable or operating defectively, drivers shall mark on the record sheet or sheets, or on a temporary sheet to be attached to the record sheet, all information for the various periods of time which is not recorded correctly by the equipment.

CHAPTER V Final provisions

Article 19

Such measures shall cover, inter alia, the reorganization of, procedure for, and means of carrying out, checks on compliance and the penalties to be imposed in case of breach.

ANNEX I

REQUIREMENTS FOR CONSTRUCTION, TESTING, INSTALLATION AND INSPECTION

II. GENERAL CHARACTERISTICS AND FUNCTIONS OF RECORDING EQUIPMENT

III. CONSTRUCTION REQUIREMENTS FOR RECORDING EQUIPMENT

IV. RECORD

VI. CHECKS AND INSPECTIONS

The Member States shall nominate the bodies which shall carry out the checks and inspections.

1. Certification of new or repaired instruments

Every individual device, whether new or repaired, shall be certified in respect of its correct operation and the accuracy of its readings and recordings, within the limits laid down in Chapter III (f) 1, by means of sealing in accordance with Chapter V (4) (f).

3. Periodic inspections

(a) Periodic inspections of the equipment fitted to vehicles shall take place at least every two years and may be carried out in conjunction with roadworthiness tests of vehicles.

These inspections shall include the following checks:

- that the equipment is working correctly,
- that the equipment carries the type approval mark, - that the installation plaque is affixed,
- that the seals on the equipment and on the other parts of the installation are intact,
- the actual circumference of the tyres.



(b) An inspection to ensure compliance with the provision of Chapter III (f) 3 on the maximum tolerances in use shall be carried out at least once every six years, although each Member State may stipulate a shorter interval or such inspection in respect of vehicles registered in its territory. Such inspections must include replacement of the installation plaque.

4. Measurement of errors

The measurement of errors on installation and during use shall be carried out under the following conditions, which are to be regarded as constituting standard test conditions:

- vehicle unladen, in normal running, order

- tyre pressures in accordance with the manufacturer's instructions,

- tyre wear within the limits allowed by law,

- movement of the vehicle: the vehicle must proceed, driven by its own engine, in a straight line and on a level surface, at a speed of 50 ± 5 km/h; provided that it is of comparable accuracy, the test may also be carried out on an appropriate test bench.



10

State:		Date		
Link to Action Plan:				
<p>Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities <i>OJ L 80, 23.3.2002, p. 35-39</i></p> <p>Object and purpose of the regulation: The scope of this Directive covers only mobile workers employed by transport undertakings established in a Member State participating in mobile road transport activities covered by Regulation (EEC) No 3820/85 or, failing that, by the European agreement concerning the work of crews of vehicles engaged in international road transport (AETR).</p> <p>In order to improve road safety, prevent the distortion of competition and guarantee the safety and health of the mobile workers covered by this Directive, the latter should know exactly which periods devoted to road transport activities constitute working time and which do not and are thus deemed to be break times, rest times or periods of availability. These workers should be granted minimum daily and weekly periods of rest, and adequate breaks. It is also necessary to place a maximum limit on the number of weekly working hours.</p> <p>The purpose of this Directive shall be to establish minimum requirements in relation to the organisation of working time in order to improve the health and safety protection of persons performing mobile road transport activities and to improve road safety and align conditions of competition.</p>				
The name of the national legal act				
Object and purpose of the regulation				
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation				
The main provisions of EU law	Yes	No	Notes (contradiction)	
a)	b)	c)	d)	

Article 4
Maximum weekly working time
Member States shall take the measures necessary to ensure that:
(a) the average weekly working time may not exceed 48 hours . The maximum weekly working time may be extended to 60 hours only if, over four months, an average of 48 hours a week is not exceeded. The fourth and fifth subparagraphs of Article 6(1) of Regulation (EEC) No 3820/85 or, where necessary, the fourth subparagraph of Article 6(1) of the AETR Agreement shall take precedence over this Directive, in so far as the drivers concerned do not exceed an average working time of 48 hours a week over four months;
(b) working time for different employers is the sum of the working hours . The employer shall ask the mobile worker concerned in writing for an account of time worked for another employer. The mobile worker shall provide such information in writing.



Article 5
Breaks
<p>1. Member States shall take the measures necessary to ensure that, without prejudice to the level of protection provided by Regulation (EEC) No 3820/85 or, failing that, by the AETR Agreement, persons performing mobile road transport activities, without prejudice to Article 2(1), in no circumstances work for more than six consecutive hours without a break. Working time shall be interrupted by a break of at least 30 minutes, if working hours total between six and nine hours, and of at least 45 minutes, if working hours total more than nine hours.</p>
<p>2. Breaks may be subdivided into periods of at least 15 minutes each.</p>
Article 7
Night work
<p>1. Member States shall take the measures necessary to ensure that:</p>
<p>- if night work is performed, the daily working time does not exceed ten hours in each 24 period,</p>
<p>- compensation for night work is given in accordance with national legislative measures, collective agreements, agreements between the two sides of industry and/or national practice, on condition that such compensation is not liable to endanger road safety.</p>
Article 8
Derogations
<p>1. Derogations from Articles 4 and 7 may, for objective or technical reasons or reasons concerning the organisation of work, be adopted by means of collective agreements, agreements between the social partners, or if this is not possible, by laws, regulations or administrative provisions provided there is consultation of the representatives of the employers and workers concerned and efforts are made to encourage all relevant forms of social dialogue.</p>
Article 9
Information and records
<p>Member States shall ensure that:</p>



(a) **mobile workers are informed of the relevant national requirements, the internal rules of the undertaking and agreements between the two sides of industry**, in particular collective agreements and any company agreements, reached on the basis of this Directive, without prejudice to Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship(6);

(b) without prejudice to Article 2(1), **the working time of persons performing mobile road transport activities is recorded**. Records shall be kept for at least two years after the end of the period covered. Employers shall be responsible for recording the working time of mobile workers. Employers shall upon request provide mobile workers with copies of the records of hours worked.

Article 11

Penalties

Member States shall lay down **a system of penalties for breaches of the national provisions** adopted pursuant to this Directive and shall take all the measures necessary to ensure that these penalties are applied. The penalties thus provided for shall be effective, proportional and dissuasive.



11

State:	Date		
Link to Action Plan:			
<p>Directive 2009/40/EC of the European Parliament and of the Council of 6 May 2009 on roadworthiness tests for motor vehicles and their trailers (Recast) (Text with EEA relevance) <i>OJ L 141, 6.6.2009, p. 12–28</i></p> <p>Object and purpose of the regulation: to harmonise the rules on roadworthiness tests, to prevent distortion of competition as between road hauliers and to guarantee that vehicles are properly checked and maintained,</p> <p>The motor vehicles registered in that State and their trailers and semi-trailers shall undergo periodic roadworthiness tests in accordance with this Directive.</p> <p>The categories of vehicles to be tested, the frequency of the roadworthiness tests and the items which must be tested are listed in Annexes I and II.</p>			
The name of the national legal act			
Object and purpose of the regulation			
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

Article 2

The roadworthiness tests provided for in this Directive shall be carried out by the Member State, or by a public body entrusted with the task by the State or by bodies or establishments designated and directly supervised by the State, including duly authorised private bodies. In particular, where establishments designated as vehicle testing centres also perform motor vehicle repairs, Member States shall make every effort to ensure the objectivity and high quality of the vehicle testing.

Article 3

1. Member States shall take such measures as they deem necessary to make it possible to prove that a vehicle has passed a roadworthiness test complying with at least the provisions of this Directive.



2. Each Member State shall, on the same basis as if it had itself issued the proof, recognise the proof issued in another Member State showing that a motor vehicle registered on the territory of that other State, together with its trailer or semi-trailer, has passed a roadworthiness test complying with at least the provisions of this Directive.

CHAPTER II EXCEPTIONS

Article 4

1. Member States shall have the right to exclude from the scope of this Directive vehicles belonging to the armed forces, the forces of law and order and the fire service.

Article 5

Notwithstanding the provisions of Annexes I and II, Member States may:

- (a) bring forward the date for the first compulsory roadworthiness test and, where appropriate, require the vehicle to be submitted for testing prior to registration;
- (b) shorten the interval between two successive compulsory tests;
- (c) make the testing of optional equipment compulsory;
- (d) increase the number of items to be tested;
- (e) extend the periodic test requirement to other categories of vehicles;
- (f) prescribe special additional tests;
- (g) require for vehicles registered on their territory higher minimum standards for braking efficiency than those specified in Annex II and include a test on vehicles with heavier loads, provided such requirements do not exceed those of the vehicle's original type-approval.



B. Railway transport

12

State:		Date		
Link to Action Plan:				
<p>DIRECTIVE 2008/68/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 September 2008 on the inland transport of dangerous goods (OJ C 256, 27.10.2007, p. 44.)</p> <p>Object and purpose of the regulation: The transport of dangerous goods by road, rail or inland waterway presents a considerable risk of accidents. Measures should therefore be taken to ensure that such transport is carried out under the best possible conditions of safety;</p> <p>In order to set up a common regime covering all aspects of the inland transport of dangerous goods, Directives 94/55/EC and 96/49/EC should be replaced with a single Directive which also lays down provisions in relation to inland waterways;</p> <p>Such rules should also be extended to national transport in order to harmonise across the Community the conditions under which dangerous goods are transported and to ensure the proper functioning of the common transport market.</p>				
<p>The name of the national legal act</p> <p>Object and purpose of the regulation</p>				
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation				
The main provisions of EU law		Yes	No	Notes (contradiction)
a)		b)	c)	d)
Whereas:				
(4) The majority of Member States are contracting parties to the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), subject to the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID) and, in so far as is relevant, contracting parties to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN).				
(5) The ADR, RID and ADN lay down uniform rules for the safe international transport of dangerous goods. Such rules should also be extended to national transport in order to harmonise across the Community the conditions under which dangerous goods are transported and to ensure the proper functioning of the common transport market.				
(6) This Directive should not apply to the transport of dangerous goods in certain exceptional circumstances linked to the nature of the vehicles or vessels involved, or to the limited nature of the transport undertaken.				
(7) Nor should the provisions of this Directive apply to the transport of dangerous goods under the direct and physical responsibility or supervision of the armed forces. The transport of dangerous goods carried out by				



commercial contractors working for the armed forces should, however, fall within the scope of this Directive unless the contractual duties are carried out under the direct and physical responsibility or supervision of the armed forces.

(12) The use of means of transport registered in third countries should be allowed for the international transport of dangerous goods within the territories of the Member States, subject to compliance with the relevant provisions of the ADR, RID or ADN and of this Directive.

Article 1

Scope

1. This Directive shall apply to the transport of dangerous goods by road, by rail or by inland waterway within or between Member States, including the activities of loading and unloading, the transfer to or from another mode of transport and the stops necessitated by the circumstances of the transport.

It shall not apply to the transport of dangerous goods:

4. Member States may lay down specific safety requirements for the national and international transport of dangerous goods within their territory as regards:

the transport of dangerous goods by vehicles, wagons or inland waterway vessels not covered by this Directive;

where justified, the use of prescribed routes including the use of prescribed modes of transport;

special rules for the transport of dangerous goods in passenger trains.

5. Member States may regulate or prohibit, strictly for reasons other than safety during transport, the transport of dangerous goods within their territory.

Article 2

Definitions

For the purposes of this Directive:

1. 'ADR' shall mean the European Agreement concerning the International Carriage of Dangerous Goods by Road, concluded at Geneva on 30 September 1957, as amended;

2. 'RID' shall mean the Regulations concerning the International Carriage of Dangerous Goods by Rail, appearing as Appendix C to the Convention concerning International Carriage by Rail (COTIF) concluded at Vilnius on 3 June 1999, as amended;

3. 'ADN' shall mean the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways, concluded at Geneva on 26 May 2000, as amended;



4. 'vehicle' shall mean any motor vehicle intended for use on the road, having at least four wheels and a maximum design speed exceeding 25 km/h, and any trailer, with the exception of vehicles which run on rails, mobile machinery and agricultural and forestry tractors that do not travel at a speed exceeding 40 km/h when transporting dangerous goods;

5. 'wagon' shall mean any rail vehicle without its own means of propulsion that runs on its own wheels on railway tracks and is used for the carriage of goods;

6. 'vessel' shall mean any inland waterway or seagoing vessel.

Article 4

Third countries

The transport of dangerous goods between Member States and third countries shall be authorised in so far as it complies with the requirements of the ADR, RID or ADN, unless otherwise indicated in the Annexes.

Article 6

Derogations

1. Member States may authorise the use of languages other than those provided for in the Annexes for transport operations performed within their territories.

2. (a) Provided that safety is not compromised, Member States may request derogations from Annex I, Section I.1, Annex II, Section II.1, and Annex III, Section III.1, for the transport within their territories of small quantities of certain dangerous goods, with the exception of substances having a medium or high level of radioactivity, provided that the conditions for such transport are no more stringent than the conditions set out in those Annexes.

(b) Provided that safety is not compromised, Member States may also request derogations from Annex I, Section I.1, Annex II, Section II.1, and Annex III, Section III.1, for the transport of dangerous goods within their territory in the case of:

(i) local transport over short distances; or

(ii) local transport by rail on particular designated routes, forming part of a defined industrial process and being closely controlled under clearly specified conditions.

3. Derogations under paragraph 2 shall be valid for a period not exceeding six years from the date of authorisation, such period to be fixed in the authorisation decision. As regards the existing derogations set out in Annex I, Section I.3, Annex II, Section II.3, and Annex III, Section III.3, the date of authorisation shall be deemed to be 30 June 2009. Unless indicated otherwise, derogations shall be valid for a period of six years.

Derogations shall be applied without discrimination.

5. Every Member State may, exceptionally and provided that safety is not compromised, issue individual authorisations to carry out transport operations of dangerous goods within its territory which are prohibited by this Directive or to carry out such operations under conditions different from those laid down in this Directive, provided that those transport operations are clearly defined and limited in time.



13

State:		Date		
Link to Action Plan:				
<p>Directive 2004/49/EC of the European parliament and of the council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive)</p> <p>Object and purpose of the regulation: it is necessary to establish a common regulatory framework for railway safety.</p> <p>All those operating the railway system, infrastructure managers and railway undertakings, should bear the full responsibility for the safety of the system, each for their own part. Whenever it is appropriate, they should cooperate in implementing risk control measures. Member States should make a clear distinction between this immediate responsibility for safety and the safety authorities' task of providing a national regulatory framework and supervising the performance of the operators.</p> <p>It is necessary to establish common safety indicators (CSIs) in order to assess that the system complies with the CSTs and to facilitate the monitoring of railway safety performance. However, national definitions relating to the CSIs may apply during a transitional period and due account should therefore be taken of the extent of the development of common definitions of the CSIs when the first set of CSTs is drafted.</p>				
The name of the national legal act				
Object and purpose of the regulation				
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation				
The main provisions of EU law	Yes	No	Notes (contradiction)	
a)	b)	c)	d)	

<p><i>Article 2</i></p> <p><i>Scope</i></p> <p>2. Member States may exclude from the measures they adopt in implementation of this Directive:</p> <p>(a) metros, trams and other light rail systems;</p> <p>(b) networks that are functionally separate from the rest of the railway system and intended only for the operation of local, urban or suburban passenger services, as well as railway undertakings operating solely on these networks;</p> <p>(c) privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations.</p>
<p><i>Article 3</i></p> <p><i>Definitions</i></p> <p>For the purpose of this Directive, the following definitions shall apply:</p>



(a) «railway system» means the totality of the subsystems for structural and operational areas, as defined in Directives 96/48/EC and 2001/16/EC, as well as the management and operation of the system as a whole;

(b) «infrastructure manager» means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure, or a part thereof, as defined in Article 3 of Directive 91/440/EEC, which may also include the management of infrastructure control and safety systems. The functions of the infrastructure manager on a network or part of a network may be allocated to different bodies or undertakings;

(c) «railway undertaking» means railway undertaking as defined in Directive 2001/14/EC, and any other public or private undertaking, the activity of which is to provide transport of goods and/or passengers by rail on the basis that the undertaking must ensure traction; this also includes undertakings which provide traction only;

(d) «technical specification for interoperability (TSI)» means the specifications by which each subsystem or part of a subsystem is covered in order to meet the essential requirements and ensure the interoperability of the trans-European high-speed and conventional rail systems as defined in Directive 96/48/EC and Directive 2001/16/EC;

(e) «common safety targets (CSTs)» means the safety levels that must at least be reached by different parts of the rail system (such as the conventional rail system, the high speed rail system, long railway tunnels or lines solely used for freight transport) and by the system as a whole, expressed in risk acceptance criteria;

(f) «common safety methods (CSMs)» means the methods to be developed to describe how safety levels and achievement of safety targets and compliance with other safety requirements are assessed;

(g) «safety authority» means the national body entrusted with the tasks regarding railway safety in accordance with this Directive or any binational body entrusted by Member States with these tasks in order to ensure a unified safety regime for specialised cross-border infrastructures;

(h) «national safety rules» means all rules containing railway safety requirements imposed at Member State level and applicable to more than one railway undertaking, irrespective of the body issuing them;

(i) «safety management system» means the organisation and arrangements established by an infrastructure manager or a railway undertaking to ensure the safe management of its operations;

(j) «investigator-in-charge» means a person responsible for the organisation, conduct and control of an investigation;

(k) «accident» means an unwanted or unintended sudden event or a specific chain of such events which have harmful consequences; accidents are divided into the following categories: collisions, derailments, level-crossing accidents, accidents to persons caused by rolling stock in motion, fires and others;

(l) «serious accident» means any train collision or derailment of trains, resulting in the death of at least one person or serious injuries to five or more persons or extensive damage to rolling stock, the infrastructure or the environment, and any other similar accident with an obvious impact on railway safety regulation or the management of safety; «extensive damage» means damage that can immediately be assessed by the investigating body to cost at least EUR 2 million in total;

(m) «incident» means any occurrence, other than accident or serious accident, associated with the operation of trains and affecting the safety of operation;

(n) «investigation» means a process conducted for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and, when appropriate, the making of safety recommendations;

(o) «causes» means actions, omissions, events or conditions, or a combination thereof, which led to the accident



<p>or incident;</p>
<p>(p) «Agency» means the European Railway Agency, the Community agency for railway safety and interoperability;</p>
<p>(q) «notified bodies» means the bodies which are responsible for assessing the conformity or suitability for use of the interoperability constituents or for appraising the EC procedure for verification of the subsystems, as defined in Directives 96/48/EC and 2001/16/EC;</p>
<p>(r) «interoperability constituents» means any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into a subsystem upon which the interoperability of the high-speed or conventional rail system depends directly or indirectly, as defined in Directive 96/48/EC and 2001/16/EC. The concept of a «constituent» covers both tangible objects and intangible objects such as software.</p>
<p><i>CHAPTER II DEVELOPMENT AND MANAGEMENT OF SAFETY</i></p> <p><i>Article 4</i></p> <p>Development and improvement of railway safety</p> <p>3. Member States shall ensure that the responsibility for the safe operation of the railway system and the control of risks associated with it is laid upon the infrastructure managers and railway undertakings, obliging them to implement necessary risk control measures, where appropriate in cooperation with each other, to apply national safety rules and standards, and to establish safety management systems in accordance with this Directive.</p> <p>Without prejudice to civil liability in accordance with the legal requirements of the Member States, each infrastructure manager and railway undertaking shall be made responsible for its part of the system and its safe operation, including supply of material and contracting of services, vis-à-vis users, customers, the workers concerned and third parties.</p>
<p><i>Article 5</i></p> <p><i>Common safety indicators</i></p> <p>1. In order to facilitate the assessment of the achievement of the CST and to provide for the monitoring of the general development of railway safety Member States shall collect information on common safety indicators (CSIs) through the annual reports of the safety authorities as referred to in Article 18.</p> <p>The CSIs shall be established as set out in Annex I.</p> <p>2. Before 30 April 2009 Annex I shall be revised in accordance with the procedure referred to in Article 27(2), in particular to include common definitions of the CSI and common methods to calculate accident costs.</p>
<p><i>Article 8</i></p> <p><i>National safety rules</i></p> <p>1. In application of this Directive, Member States shall establish binding national safety rules and shall ensure that they are published and made available to all infrastructure managers, railway undertakings, applicants for a safety certificate and applicants for a safety authorisation in clear language that can be understood by the parties concerned.</p>
<p><i>Article 9</i></p> <p><i>Safety management systems</i></p> <p>1. Infrastructure managers and railway undertakings shall establish their safety management systems to ensure that the railway system can achieve at least the CSTs, is in conformity with the national safety rules described in</p>



Article 8 and Annex II and with safety requirements laid down in the TSIs, and that the relevant parts of CSMS are applied.

3. The safety management system of any infrastructure manager shall take into account the effects of operations by different railway undertakings on the network and make provisions to allow all railway undertakings to operate in accordance with TSIs and national safety rules and with conditions laid down in their safety certificate. It shall furthermore be developed with the aim of coordinating the emergency procedures of the infrastructure manager with all railway undertakings that operate on its infrastructure.

4. Each year all infrastructure managers and railway undertakings shall submit to the safety authority before 30 June an annual safety report concerning the preceding calendar year. The safety report shall contain:

- (a) information on how the organisation's corporate safety targets are met and the results of safety plans;
- (b) the development of national safety indicators, and of the CSIs laid down in Annex I, as far as it is relevant to the reporting organisation;
- (c) the results of internal safety auditing;
- (d) observations on deficiencies and malfunctions of railway operations and infrastructure management that might be relevant for the safety authority.

CHAPTER III SAFETY CERTIFICATION AND AUTHORISATION

Article 10

Safety certificates

1. In order to be granted access to the railway infrastructure, a railway undertaking must hold a safety certificate as provided for in this Chapter. The safety certificate may cover the whole railway network of a Member State or only a defined part thereof.

2. The safety certificate shall comprise:

- (a) certification confirming acceptance of the railway undertaking's safety management system as described in Article 9 and Annex III,
and
- (b) certification confirming acceptance of the provisions adopted by the railway undertaking to meet specific requirements necessary for the safe operation of the relevant network. The requirements may include application of TSIs and national safety rules, acceptance of staff's certificates and authorisation to place in service the rolling stock used by the railway undertaking. The certification shall be based on documentation submitted by the railway undertaking as described in Annex IV.

3. The safety authority in the Member State where the railway undertaking first establishes its operation shall grant the certification in accordance with paragraph 2.

The certification granted in accordance with paragraph 2 must specify the type and extent of the railway operations covered. The certification granted in accordance with paragraph 2(a) shall be valid throughout the Community for equivalent rail transport operations.

4. The safety authority in the Member State in which the railway undertaking is planning to operate additional rail transport services shall grant the additional national certification necessary in accordance with paragraph 2(b).



5. The safety certificate shall be renewed upon application by the railway undertaking at intervals not exceeding five years. It shall be wholly or partly updated whenever the type or extent of the operation is substantially altered.

Article 11

Safety authorisation of infrastructure managers

1. In order to be allowed to manage and operate a rail infrastructure the infrastructure manager must obtain a safety authorisation from the safety authority in the Member State where he is established.

Article 12

Application requirements relating to safety certification and safety authorisation

1. The safety authority shall take a decision on an application for safety certification or safety authorisation without delay and in any event not more than four months after all information required and any supplementary information requested by the safety authority has been submitted. If the applicant is requested to submit supplementary information, such information shall be submitted promptly.

Article 13

Access to training facilities

1. Member States shall ensure that railway undertakings applying for a safety certificate have fair and non-discriminatory access to training facilities for train drivers and staff accompanying the trains, whenever such training is necessary for the fulfilment of requirements to obtain the safety certificate.

4. In every case each railway undertaking and each infrastructure manager shall be responsible for the level of training and qualifications of its staff carrying out safety-related work as set out in Article 9 and Annex III.

Article 14

Placing in service of in-use rolling stock

1. Rolling stock that has been authorised to be placed in service in one Member State in accordance with Article 10(2)(b) and is not fully covered by the relevant TSIs shall be authorised to be placed in service in another or other Member States in accordance with this Article, if an authorisation is required by the latter Member State or States.

CHAPTER IV SAFETY AUTHORITY

Article 16

Tasks

1. Each Member State shall establish a safety authority. This authority may be the Ministry responsible for transport matters and shall be independent in its organisation, legal structure and decision making from any railway undertaking, infrastructure manager, applicant and procurement entity.

2. The safety authority shall be entrusted with at least the following tasks:

(a) authorising the bringing into service of the structural subsystems constituting the trans-European high-speed rail system in accordance with Article 14 of Directive 96/48/EC and checking that they are operated and maintained in accordance with the relevant essential requirements;

(b) authorising the bringing into service of the structural subsystems constituting the trans-European conventional rail system, in accordance with Article 14 of Directive 2001/16/EC and checking that they are



operated and maintained in accordance with the relevant essential requirements;
(c) supervising that the interoperability constituents are in compliance with the essential requirements as required by Article 12 of Directives 96/48/EC and 2001/16/EC;
(d) authorising the placing in service of new and substantially altered rolling stock that is not yet covered by a TSI;
(e) the issue, renewal, amendments and revocation of relevant parts of safety certificates and of safety authorisations granted in accordance with Articles 10 and 11 and checking that conditions and requirements laid down in them are met and that infrastructure managers and railway undertakings are operating under the requirements of Community or national law;
(f) monitoring, promoting, and, where appropriate, enforcing and developing the safety regulatory framework including the system of national safety rules;
(g) supervising that rolling stock is duly registered and that safety-related information in the national register, established in accordance with Article 14 of Directive 96/48/EC and of Directive 2001/16/EC, is accurate and kept up-to-date;
3. The tasks referred to in paragraph 2 may not be transferred or subcontracted to any infrastructure manager, railway undertaking or procurement entity.
<i>Article 17</i> <i>Decision-making principles</i> In the process of developing the national regulatory framework, the safety authority shall consult all persons involved and interested parties, including infrastructure managers, railway undertakings, manufacturers and maintenance providers, users and staff representatives.
2. The safety authority shall be free to carry out all inspections and investigations that are needed for accomplishment of its tasks and it shall be granted access to all relevant documents and to premises, installations and equipment of infrastructure managers and railway undertakings.
<i>Article 18</i> <i>Annual report</i> Each year the safety authority shall publish an annual report concerning its activities in the preceding year and send it to the Agency by 30 September at the latest. The report shall contain information on:
(a) the development of railway safety, including an aggregation at Member State level of the CSIs laid down in Annex I;
(b) important changes in legislation and regulation concerning railway safety;
(c) the development of safety certification and safety authorisation;
(d) results of and experience relating to the supervision of infrastructure managers and railway undertakings.
<i>CHAPTER V ACCIDENT AND INCIDENT INVESTIGATION</i>
<i>Article 19</i> <i>Obligation to investigate</i> 1. Member States shall ensure that an investigation is carried out by the investigating body referred to in Article 21 after serious accidents on the railway system, the objective of which is possible improvement of railway



safety and the prevention of accidents.
4. The investigation shall in no case be concerned with apportioning blame or liability.
<p><i>Article 20</i></p> <p><i>Status of investigation</i></p> <p>1. Member States shall define, in the framework of their respective legal system, the legal status of the investigation that will enable the investigators-in-charge to carry out their task in the most efficient way and within the shortest time.</p>
<p>2. In accordance with the legislation in force in the Member States and, where appropriate, in cooperation with the authorities responsible for the judicial inquiry, the investigators shall, as soon as possible, be given:</p> <p>(a) access to the site of the accident or incident as well as to the rolling stock involved, the related infrastructure and traffic control and signalling installations;</p>
<p>(b) the right to an immediate listing of evidence and controlled removal of wreckage, infrastructure installations or components for examination or analysis purposes;</p>
<p>(c) access to and use of the contents of on-board recorders and equipment for recording of verbal messages and registration of the operation of the signalling and traffic control system;</p>
<p>(d) access to the results of examination of the bodies of victims;</p>
<p>(e) access to the results of examinations of the train staff and other railway staff involved in the accident or incident;</p>
<p>(f) the opportunity to question the railway staff involved and other witnesses;</p>
<p>(g) access to any relevant information or records held by the infrastructure manager, the railway undertakings involved and the safety authority.</p>
3. The investigation shall be accomplished independently of any judicial inquiry.
<p><i>Article 21</i></p> <p><i>Investigating body</i></p> <p>1. Each Member State shall ensure that investigations of accidents and incidents referred to in Article 19 are conducted by a permanent body, which shall comprise at least one investigator able to perform the function of investigator-in-charge in the event of an accident or incident. This body shall be independent in its organisation, legal structure and decision-making from any infrastructure manager, railway undertaking, charging body, allocation body and notified body, and from any party whose interests could conflict with the tasks entrusted to the investigating body. It shall furthermore be functionally independent from the safety authority and from any regulator of railways.</p>
<p><i>Article 23</i></p> <p><i>Reports</i></p> <p>1. An investigation of an accident or incident referred to in Article 19 shall be the subject of reports in a form appropriate to the type and seriousness of the accident or incident and the relevance of the investigation findings. The reports shall state the objectives of the investigations as referred to in Article 19(1) and contain, where appropriate, safety recommendations.</p>



2. The investigating body shall make public the final report in the shortest possible time and normally not later than 12 months after the date of the occurrence. The report shall, as close as possible, follow the reporting structure laid down in Annex V. The report, including the safety recommendations, shall be communicated to the relevant parties referred to in Article 22(3) and to bodies and parties concerned in other Member States.

3. Each year the investigating body shall publish by 30 September at the latest an annual report accounting for the investigations carried out in the preceding year, the safety recommendations that were issued and actions taken in accordance with recommendations issued previously.

Article 25

Safety recommendations

1. A safety recommendation issued by an investigating body shall in no case create a presumption of blame or liability for an accident or incident.

Article 32

Penalties

The Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate, non-discriminatory and dissuasive.



14

State:	Date		
Link to Action Plan:			
<p>Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways OJ L 237, 24.8.1991, p. 25-28</p> <p>Object and purpose of the regulation: The aim of this Directive is to facilitate the adoption of the Community railways to the needs of the Single Market and to increase their efficiency;</p> <ul style="list-style-type: none"> -by ensuring the management independence of railway undertakings; -by separating the management of railway operation and infrastructure from the provision of railway transport services, separation of accounts being compulsory and organizational or institutional separation being optional, -by improving the financial structure of undertakings, -by ensuring access to the networks of Member states for international groupings of railway undertakings and for railway undertakings engaged in the international combined transport of goods. 			
The name of the national legal act			
Object and purpose of the regulation			
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

Article 2
2. Member States may exclude from the scope of this Directive railway undertakings whose activity is limited to the provision of solely urban, suburban or regional services.
Article 3
For the purpose of this Directive:
-'railway undertaking` shall mean any private or public undertaking whose main business is to provide rail transport services for goods and/or passengers with a requirement that the undertaking should ensure traction,
-'infrastructure manager` shall mean any public body or undertaking responsible in particular for establishing and maintaining railway infrastructure, as well as for operating the control and safety systems,
-'railway infrastructure` shall mean all the items listed in Annex I.A to Commission Regulation (EEC) N° 2598/70 of 18 December 1970 specifying the items to be included under the various headings in the forms of accounts shown in Annex I to Regulation (EEC) N° 1108/70(1), with the exception of the final indent which, for the



purposes of this Directive only, shall read as follows: 'Buildings used by the infrastructure department',
-'international grouping` shall mean any association of at least two railway undertakings established in different Member States for the purpose of providing international transport services between Member States;
-'urban and suburban services` shall mean transport services operated to meet the transport needs of an urban centre or conurbation, as well as the transport needs between such centre or conurbation and surrounding areas;
-'regional services` shall mean transport services operated to meet the transport needs of a region.
SECTION II Management independence of railway undertakings
Article 4
Member States shall take the measures necessary to ensure that as regards management, administration and internal control over administrative, economic and accounting matters railway undertakings have independent status in accordance with which they will hold, in particular, assets, budgets and accounts which are separate from those of the State.
Article 5
1. Member States shall take the measure necessary to enable railway undertakings to adjust their activities to the market and to manage those activities under the responsibility of their management bodies, in the interests of providing efficient and appropriate services at the lowest possible cost for the quality of service required.
Railway undertakings shall be managed according to the principles which apply to commercial companies; this shall also apply to their public services obligations imposed by the State and to public services contracts which they conclude with the competent authorities of the Member State.
2. Railway undertakings shall determine their business plans, including their investment and financing programmes. Such plans shall be designed to achieve the undertakings' financial equilibrium and the other technical, commercial and financial management objectives; they shall also lay down the method of implementation.
3. In the context of the general policy guidelines determined by the State and taking into account national plans and contracts (which may be multiannual) including investment and financing plans, railway undertakings shall, in particular, be free to:
-establish with one or more other railway undertakings an international grouping;
-establish their internal organization, without prejudice to the provisions of Section III;
-control the supply and marketing of services and fix the pricing thereof, without prejudice to Council Regulation (EEC) N° 1191/69 of 26 June 1969 on action by Member States concerning the obligation inherent in the concept of a public service in transport by rail, road and inland waterway(1),
-take decisions on staff, assets and own procurement,



-expand their market share, develop new technologies and new services and adopt any innovative management techniques;

-establish new activities in fields associated with railway business.

SECTION III Separation between infrastructure management and transport operations

Article 6

1. Member States shall take the measures necessary to ensure that the accounts for business relating to the provision of transport services and those for business relating to the management of railway infrastructure are kept separate. Aid paid to one of these two areas of activity may not be transferred to the other.

The accounts for the two areas of activity shall be kept in a way which reflects this prohibition.

2. Member States may also provide that this separation shall require the organization of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.

Article 7

1. Member States shall take the necessary measures for the development of their national railway infrastructure taking into account, where necessary, the general needs of the Community.

They shall ensure that safety standards and rules are laid down and that their application is monitored.

2. Member States may assign to railway undertakings or any other manager the responsibility for managing the railway infrastructure and in particular for the investment, maintenance and funding required by the technical, commercial and financial aspects of that management.

Article 8

The manager of the infrastructure shall charge a fee for the use of the railway infrastructure for which he is responsible, payable by railway undertakings and international groupings using that infrastructure. After consulting the manager, Member States shall lay down the rules for determining this fee.

The user fee, which shall be calculated in such a way as to avoid any discrimination between railway undertakings, may in particular take into account the mileage, the composition of the train and any specific requirements in terms of such factors as speed, axle load and the degree or period of utilization of the infrastructure.

SECTION IV Improvement of the financial situation

Article 9

1. In conjunction with the existing publicity owned or controlled railway undertakings, Member States shall set up appropriate mechanisms to help reduce the indebtedness of such undertakings to a level which does not impede sound financial management and to improve their financial situation.

2. To that end, Member States may take the necessary measures requiring a separate debt amortization unit to be



set up within the accounting departments of such undertakings.

The balance sheet of the unit may be charged, until they are extinguished, with all the loans raised by the undertaking both to finance investment and to cover excess operating expenditure resulting from the business of rail transport or from railway infrastructure management. Debts arising from subsidiaries' operations may not be taken into account.

3. Aid accorded by Member States to cancel the debts referred to in this Article shall be granted in accordance with Articles 77, 92 and 93 of the EEC Treaty.

SECTION V Access to railway infrastructure

Article 10

1. International groupings shall be granted access and transit rights in the Member States of establishment of their constituent railway undertakings, as well as transit rights in other Member States, for international services between the Member States where the undertakings constituting the said groupings are established.

2. Railway undertakings within the scope of Article 2 shall be granted access on equitable conditions to the infrastructure in the other Member States for the purpose of operating international combined transport goods services.

3. Railway undertakings engaged in international combined transport of goods and international groupings shall conclude the necessary administrative, technical and financial agreements with the managers of the railway infrastructure used with a view to regulating traffic control and safety issues concerning the international transport services referred to in paragraphs 1 and 2. The conditions governing such agreements shall be non-discriminatory.



15

State:		Date		
Link to Action Plan:				
<p>Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings <i>Official Journal L 143, 27/06/1995 P. 0070 - 0074</i></p> <p>Object and purpose of the regulation: This Directive concerns the criteria applicable to the issue, renewal or amendment of licences by a Member State intended for railway undertakings which are or will be established in the Community when they provide the services referred to in Article 10 of Directive 91/440/EEC under the conditions laid down in that Article.</p> <p>A licence shall be valid throughout the territory of the Community.</p>				
The name of the national legal act				
Object and purpose of the regulation				
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation				
The main provisions of EU law	Yes	No	Notes (contradiction)	
a)	b)	c)	d)	

Article 2
For the purpose of this Directive:
'Railway undertaking' shall mean any public or private undertaking the principal business of which is to provide services for the transport of goods and/or passengers by rail with a requirement that the undertaking must ensure traction; this also includes undertakings which provide traction only;
- 'licence' shall mean an authorization issued by a Member State to an undertaking, by which its capacity as a railway undertaking is recognized. That capacity may be limited to the provision of specific types of services;
- 'licensing authority' shall mean the body charged by a Member State with the issue of licences.
- 'urban and suburban services' shall mean transport services operated to meet the transport needs of an urban centre or conurbation, as well as the transport needs between such centre or conurbation and surrounding areas;
- 'regional services' shall mean transport services operated to meet the transport needs of a region.
Article 3



Each Member State shall designate the body responsible for issuing licences and for carrying out the obligations imposed by this Directive. The task of issuing licences shall be carried out by a body which does not provide rail transport services itself and is independent of bodies or undertakings that do so.

SECTION II

Licences

Article 4

A railway undertaking shall be entitled to apply for a licence in the Member State in which it is established.

2. Member States shall not issue licences or extend their validity where the requirements of this Directive are not complied with.
3. A railway undertaking which fulfils the requirements imposed in this Directive shall be authorized to receive a licence.
4. No railway undertaking shall be permitted to provide the rail transport services covered by this Directive unless it has been granted the appropriate licence for the services to be provided.

However, such a licence shall not itself entitle the holder to access to the railway infrastructure.

5. A licence shall be valid throughout the territory of the Community.

Article 5

1. A railway undertaking must be able to demonstrate to the licensing authorities of the Member State concerned before the start of its activities that it will at any time be able to meet the requirements relating to good repute, financial fitness, professional competence and cover for its civil liability listed in Articles 6 to 9.

2. For the purposes of paragraph 1, each applicant shall provide all relevant information.

Article 6

Member States shall define the conditions under which the requirement of good repute is met to ensure that an applicant railway undertaking or the persons in charge of its management:

- has/have not been convicted of serious criminal offences, including offences of a commercial nature,
- has/have not been declared bankrupt,
- has/have not been convicted of serious offences against specific legislation applicable to transport,
- has/have not been convicted of serious or repeated failure to fulfil social- or labour-law obligations, including obligations under occupational safety and health legislation, and customs-law obligations in case of a company seeking to operate cross-border goods transport subject to customs procedures.

Article 7

1. The requirements relating to financial fitness shall be met when an applicant railway undertaking can demonstrate that it will be able to meet its actual and potential obligations, established under realistic



<p>assumptions, for a period of twelve months.</p> <p>2. For the purposes of paragraph 1, each applicant shall give at least the particulars listed in section I of the Annex.</p>
<p>Article 8</p>
<p>The requirements relating to professional competence shall be met when an applicant railway undertaking has or will have a management organisation which possesses the knowledge and/or experience necessary to exercise safe and reliable operational control and supervision of the type of operations specified in the licence.</p>
<p>Article 9</p>
<p>A railway undertaking shall be adequately insured or make equivalent arrangements for cover, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of passengers, luggage, freight, mail and third parties.</p>
<p>SECTION III</p>
<p>Validity of the licence</p>
<p>Article 10</p>
<p>1. A licence shall be valid as long as the railway undertaking fulfils the obligations laid down in this Directive. A licensing authority may, however, make provision for a regular review at least every five years.</p>
<p>2. Specific provisions governing the suspension or revocation of a licence may be incorporated in the licence itself.</p>
<p>Article 11</p>
<p>1. If there is serious doubt that a railway undertaking which it has licensed complies with the requirements of this Directive, and in particular Article 5 thereof, the licensing authority may, at any time, check whether that railway undertaking does in fact comply with those requirements.</p> <p>Where a licensing authority is satisfied that a railway undertaking can no longer meet the requirements of the Directive, and in particular Article 5 thereof, it shall suspend or revoke the licence.</p>
<p>2. Where the licensing authority of a Member State is satisfied that there is serious doubt regarding compliance with the requirements laid down in this Directive on the part of a railway undertaking to which a licence has been issued by the licensing authority of another Member State, it shall inform the latter authority without delay.</p>
<p>3. Notwithstanding paragraph 1, where a licence is suspended or revoked on grounds of non-compliance with the requirement for financial fitness, the licensing authority may grant a temporary licence pending the re-organization of the railway undertaking, provided that safety is not jeopardized. A temporary licence shall not, however, be valid for more than six months after its date of issue.</p>



4. When a railway undertaking has ceased operations for six months or has not started operations six months after the grant of a licence, the licensing authority may decide that the licence shall be submitted for approval or be suspended.

As regards the start of activities, the railway undertaking may ask for a longer period to be fixed, taking account of the specific nature of the services to be provided.

5. In the event of a change affecting the legal situation of an undertaking and, in particular, in the event of a merger or takeover, the licensing authority may decide that the licence shall be resubmitted for approval. The railway undertaking in question may continue operations, unless the licensing authority decides that safety is jeopardized; in that event, the grounds for such a decision shall be given.

6. Where a railway undertaking intends significantly to change or extend its activities, its licence shall be resubmitted to the licensing authority for review.

7. A licensing authority shall not permit a railway undertaking against which bankruptcy or similar proceedings are commenced to retain its licence if that authority is convinced that there is no realistic prospect of satisfactory financial restructuring within a reasonable period of time.

8. When a licensing authority issues, suspends, revokes or amends a licence, the Member State concerned shall immediately inform the Commission accordingly. The Commission shall inform the other Member States forthwith.

Article 12

1. In addition to the requirements of this Directive, a railway undertaking shall also comply with national law and regulatory provisions which are compatible with Community law and are applied in a non-discriminatory manner, in particular:

- (a) specific technical and operational requirements for rail services;
- (b) safety requirements applying to staff, rolling stock and the internal organisation of the undertaking;
- (c) provisions on health, safety, social conditions and the rights of workers and consumers;
- (d) requirements applying to all undertakings in the relevant railway sector designed to offer benefits or protection to consumers.

2. A railway undertaking may at any time refer to the Commission the question of the compatibility of the requirements of national law with Community law and also the question of whether such requirements are applied in a non-discriminatory manner. If the Commission considers that the provisions of this Directive have not been fulfilled, it shall deliver an opinion on the correct interpretation of the Directive without prejudice to Article 226 of the Treaty.

Article 13

Railway undertakings shall respect the agreements applicable to international rail transport in force in the Member States in which they operate. They also shall observe the relevant customs and tax provisions.

SECTION IV



<p>Transitional provision</p> <p>Article 14</p>
<p>Railway undertakings operating rail services shall be granted a transitional period of twelve months as at the final date of transposition referred to in Article 16 (2) in order to comply with the provisions of this Directive. That transitional period shall not cover any provision which might affect the safety of railway operations.</p>
<p>SECTION V</p>
<p>Final provisions</p>
<p>Article 15</p>
<p>1. The procedures for the granting of licences shall be made public by the Member State concerned, which shall inform the Commission thereof.</p>
<p>2. The licensing authority shall take a decision on an application as soon as possible, but not more than three months after all relevant information, notably the particulars referred to in the Annex, has been submitted, taking into account all the available information. The decision shall be communicated to the applicant railway undertaking. A refusal shall state the grounds therefore.</p>
<p>3. Member States shall take the measures necessary to ensure that the licensing authority's decisions are subject to judicial review.</p>
<p>Article 16</p>
<p>1. The Commission shall, two years after the application of this Directive, submit to the Council a report on such application accompanied, if necessary, by proposals concerning continued Community action, with particular regard to the possibility of enlarging the scope of the Directive.</p>
<p>2. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive within two years of the date of its entry into force. They shall forthwith inform the Commission thereof.</p>
<p>3. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such reference at the time of their official publication. The methods of making such a reference shall be laid down by the Member States.</p>
<p>Article 17</p>
<p>This Directive shall enter into force on the date of its publication in the Official Journal of the European Communities.</p>
<p>Article 18</p>
<p>This Directive is addressed to the Member States.</p>
<p>ANNEX</p>



I. Particulars referred to in Article 7 (2)

1. Financial fitness will be verified by means of an undertaking's annual accounts or, in the case of applicant undertakings unable to present annual accounts, a balance sheet. Detailed particulars must be provided, in particular on the following aspects:

- (a) available funds, including the bank balance, pledged overdraft provisions and loans;
- (b) funds and assets available as security;
- (c) working capital;
- (d) relevant costs, including purchase costs of payments to account for vehicles, land, buildings, installations and rolling stock;
- (e) charges on an undertaking's assets.

2. In particular, an applicant is not financially fit if considerable arrears of taxes or social security are owed as a result of the undertaking's activity.

3. The authority may in particular require the submission of an audit report and suitable documents from a bank, public savings bank, accountant or auditor. These documents must include information concerning the matters referred to in paragraph 1.



16

State:	Date		
Link to Action Plan:			
<p>Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification <i>L 75, 15.3.2001, p. 29-46</i></p> <p>Object and purpose of the regulation:</p> <p>This Directive concerns the principles and procedures to be applied with regard to the setting and charging of railway infrastructure charges and the allocation of railway infrastructure capacity.</p> <p>This Directive applies to the use of railway infrastructure for domestic and international rail services.</p>			
<p>The name of the national legal act</p> <p>Object and purpose of the regulation</p>			
<p>The presence of the provisions of the EU legislation (secondary sources of law) into national legislation</p>			
The main provisions of EU law	Yes	No	Notes (contradiction)
a)	b)	c)	d)

Article 2 Definitions
For the purpose of this Directive:
a) "allocation" means the allocation of railway infrastructure capacity by an infrastructure manager;
b) "applicant" means a licensed railway undertaking and/or an international grouping of railway undertakings, and, in Member States which provide for such a possibility, other persons and/or legal entities with public service or commercial interest in procuring infrastructure capacity, such as public authorities under Regulation (EEC) No 1191/69(12) and shippers, freight forwarders and combined transport operators, for the operation of railway service on their respective territories;
c) "congested infrastructure" means a section of infrastructure for which demand for infrastructure capacity cannot be fully satisfied during certain periods even after coordination of the different requests for capacity;
d) "capacity enhancement plan" means a measure or series of measures with a calendar for their implementation which are proposed to alleviate the capacity constraints leading to the declaration of a section of infrastructure as "congested infrastructure";
e) "coordination" means the process through which the allocation body and applicants will attempt to resolve situations in which there are conflicting applications for infrastructure capacity;



<p>f) "framework agreement" means a legally binding general agreement on the basis of public or private law, setting out the rights and obligations of an applicant and the infrastructure manager or the allocation body in relation to the infrastructure capacity to be allocated and the charges to be levied over a period longer than one working timetable period;</p>
<p>g) "infrastructure capacity" means the potential to schedule train paths requested for an element of infrastructure for a certain period;</p>
<p>h) "infrastructure manager" means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure. This may also include the management of infrastructure control and safety systems. The functions of the infrastructure manager on a network or part of a network may be allocated to different bodies or undertakings;</p>
<p>i) "network" means the entire railway infrastructure owned and/or managed by an infrastructure manager;</p>
<p>j) "network statement" means the statement which sets out in detail the general rules, deadlines, procedures and criteria concerning the charging and capacity allocation schemes. It shall also contain such other information as is required to enable application for infrastructure capacity;</p>
<p>k) "railway undertaking" means any public or private undertaking, licensed according to applicable Community legislation, the principal business of which is to provide services for the transport of goods and/or passengers by rail with a requirement that the undertaking must ensure traction; this also includes undertakings which provide traction only;</p>
<p>l) "train path" means the infrastructure capacity needed to run a train between two places over a given time-period;</p>
<p>m) "working timetable" means the data defining all planned train and rolling-stock movements which will take place on the relevant infrastructure during the period for which it is in force.</p>
<p>Article 3 Network statement</p>
<p>1. The infrastructure manager shall, after consultation with the interested parties, develop and publish a network statement obtainable against payment of a duty which may not exceed the cost of publishing that statement.</p>
<p>2. The network statement shall set out the nature of the infrastructure which is available to railway undertakings. It shall contain information setting out the conditions for access to the relevant railway infrastructure. The content of the network statement is laid down in Annex I.</p>
<p>3. The network statement shall be kept up to date and modified as necessary.</p>
<p>4. The network statement shall be published no less than four months in advance of the deadline for requests for infrastructure capacity.</p>
<p>CHAPTER II INFRASTRUCTURE CHARGES</p>
<p>Article 4 Establishing, determining and collecting charges</p>
<p>1. Member States shall establish a charging framework while respecting the management independence laid down in Article 4 of Directive 91/440/EEC.</p>



Subject to the said condition of management independence, Member States shall also establish specific charging rules or delegate such powers to the infrastructure manager. The determination of the charge for the use of infrastructure and the collection of this charge shall be performed by the infrastructure manager.

2. Where the infrastructure manager, in its legal form, organisation or decision-making functions, is not independent of any railway undertaking, the functions, described in this chapter, other than collecting the charges shall be performed by a charging body that is independent in its legal form, organisation and decision-making from any railway undertaking.

5. Infrastructure managers shall ensure that the application of the charging scheme results in equivalent and non-discriminatory charges for different railway undertakings that perform services of equivalent nature in a similar part of the market and that the charges actually applied comply with the rules laid down in the network statement.

6. An infrastructure manager or charging body shall respect the commercial confidentiality of information provided to it by applicants.

Article 5 Services

1. Railway undertakings shall, on a non-discriminatory basis, be entitled to the minimum access package and track access to service facilities that are described in Annex II. The supply of services referred to in Annex II, point 2 shall be provided in a non-discriminatory manner and requests by railway undertakings may only be rejected if viable alternatives under market conditions exist. If the services are not offered by one infrastructure manager, the provider of the "main infrastructure" shall use all reasonable endeavours to facilitate the provision of these services.

Article 6 Infrastructure cost and accounts

1. Member States shall lay down conditions, including where appropriate advance payments, to ensure that, under normal business conditions and over a reasonable time period, the accounts of an infrastructure manager shall at least balance income from infrastructure charges, surpluses from other commercial activities and State funding on the one hand, and infrastructure expenditure on the other.

5. A method for apportioning costs shall be established. Member States may require prior approval. This method should be updated from time to time to the best international practice.

Article 7 Principles of charging

1. Charges for the use of railway infrastructure shall be paid to the infrastructure manager and used to fund his business.

3. Without prejudice to paragraphs 4 or 5 or to Article 8, the charges for the minimum access package and track access to service facilities shall be set at the cost that is directly incurred as a result of operating the train service.

4. The infrastructure charge may include a charge which reflects the scarcity of capacity of the identifiable segment of the infrastructure during periods of congestion.

Article 11 Performance scheme

1. Infrastructure charging schemes shall through a performance scheme encourage railway undertakings and the infrastructure manager to minimise disruption and improve the performance of the railway network. This may



include penalties for actions which disrupt the operation of the network, compensation for undertakings which suffer from disruption and bonuses that reward better than planned performance.
2. The basic principles of the performance scheme shall apply throughout the network.
Article 12 Reservation charges
Infrastructure managers may levy an appropriate charge for capacity that is requested but not used. This charge shall provide incentives for efficient use of capacity.
The infrastructure manager shall always be able to inform any interested party of the infrastructure capacity which has been allocated to user railway undertakings.
CHAPTER III ALLOCATION OF INFRASTRUCTURE CAPACITY
Article 13 Capacity rights
1. Infrastructure capacity shall be allocated by an infrastructure manager, and once allocated to an applicant may not be transferred by the recipient to another undertaking or service.
Any trading in infrastructure capacity shall be prohibited and shall lead to exclusion from the further allocation of capacity.
2. The right to use specific infrastructure capacity in the form of a train path may be granted to applicants for a maximum duration of one working timetable period.
3. The definition of respective rights and obligations between infrastructure managers and applicants in respect of any allocation of capacity shall be laid down in contracts or legislation.
Article 14 Capacity allocation
1. Member States may establish a framework for the allocation of infrastructure capacity while respecting the management independence laid down in Article 4 of Directive 91/440/EEC. Specific capacity allocation rules shall be established. The infrastructure manager shall perform the capacity allocation processes. In particular, the infrastructure manager shall ensure that infrastructure capacity is allocated on a fair and non-discriminatory basis and in accordance with Community law.
2. Where the infrastructure manager, in its legal form, organisation or decision-making functions is not independent of any railway undertaking, the functions referred to in paragraph 1 and described in this chapter shall be performed by an allocation body that is independent in its legal form, organisation and decision-making from any railway undertaking.
Article 23 Ad hoc requests
1. The infrastructure manager shall respond to ad hoc requests for individual train paths as quickly as possible, and in any event, within five working days. Information supplied on available spare capacity shall be made available to all applicants who may wish to use this capacity.
2. Infrastructure managers shall where necessary undertake an evaluation of the need for reserve capacity to be kept available within the final scheduled working timetable to enable them to respond rapidly to foreseeable ad



<p>hoc requests for capacity. This shall also apply in cases of congested infrastructure.</p>
<p>Article 27 Use of train paths</p>
<p>1. In particular for congested infrastructure the infrastructure manager shall require the surrender of a train path which, over a period of at least one month, has been used less than a threshold quota to be laid down in the network statement, unless this was due to non-economic reasons beyond the operator's control.</p>
<p>2. An infrastructure manager may specify in the network statement conditions whereby it will take account of previous levels of utilisation of train paths in determining priorities for the allocation process.</p>
<p>Article 28 Infrastructure capacity for scheduled maintenance</p>
<p>1. Requests for infrastructure capacity to enable maintenance to be performed shall be submitted during the scheduling process.</p>
<p>2. Adequate account shall be taken by the infrastructure manager of the effect of infrastructure capacity reserved for scheduled track maintenance on applicants.</p>
<p>CHAPTER IV GENERAL MEASURES</p>
<p>Article 30 Regulatory body</p>
<p>1. Without prejudice to Article 21(6), Member States shall establish a regulatory body. This body, which can be the Ministry responsible for transport matters or any other body, shall be independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. The body shall function according to the principles outlined in this Article whereby appeal and regulatory functions may be attributed to separate bodies.</p>
<p>2. An applicant shall have a right to appeal to the regulatory body if it believes that it has been unfairly treated, discriminated against or is in any other way aggrieved, and in particular against decisions adopted by the infrastructure manager or where appropriate the railway undertaking concerning:</p>
<p>a) the network statement;</p>
<p>b) criteria contained within it;</p>
<p>c) the allocation process and its result;</p>
<p>d) the charging scheme;</p>
<p>e) level or structure of infrastructure fees which it is, or may be, required to pay;</p>
<p>f) safety certificate, enforcement and monitoring of the safety standards and rules.</p>
<p>3. The regulatory body shall ensure that charges set by the infrastructure manager comply with chapter II and are non-discriminatory. Negotiation between applicants and an infrastructure manager concerning the level of infrastructure charges shall only be permitted if these are carried out under the supervision of the regulatory body. The regulatory body shall intervene if negotiations are likely to contravene the requirements of this Directive.</p>



4. The regulatory body shall have the power to request relevant information from the infrastructure manager, applicants and any third party involved within the Member State concerned, which must be supplied without undue delay.

5. The regulatory body shall be required to remedy the situation within a maximum period of two months from receipt of all information.

Notwithstanding paragraph 6, a decision of the regulatory body shall be binding on all parties covered by that decision.

In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm that no modification of the infrastructure manager's decision is required, or it shall require modification of that decision in accordance with directions specified by the regulatory body.

6. Member States shall take the measures necessary to ensure that decisions taken by the regulatory body are subject to judicial review.

Article 32 Safety certification

1. The arrangements for safety certification for railway undertakings which are or will be established in the Community and the international groupings which they form shall be in accordance with this Article.

2. The Member States shall provide for their respective territories that a safety certificate in which the railway undertakings' safety requirements are set out be submitted in order to ensure safe service on the routes concerned.



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State:		Date		
Link to Action Plan:				
<p>Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States , OJ L 368, 17.12.1992, p. 38-42</p> <p>Object and purpose of the regulation:</p> <p>This Directive shall apply to combined transport operations, without prejudice to Regulation (EEC) No 881/92</p>				
<p>The name of the national legal act</p> <p>Object and purpose of the regulation</p>				
The presence of the provisions of the EU legislation (secondary sources of law) into national legislation				
The main provisions of EU law	Yes	No	Notes (contradiction)	
a)	b)	c)	d)	

Article 1
<p>For the purposes of this Directive, 'combined transport' means the transport of goods between Member States where the lorry, trailer, semi-trailer, with or without tractor unit, swap body or container of 20 feet or more uses the road on the initial or final leg of the journey and, on the other leg, rail or inland waterway or maritime services where this section exceeds 100 km as the crow flies and make the initial or final road transport leg of the journey;</p> <p>- between the point where the goods are loaded and the nearest suitable rail loading station for the initial leg, and between the nearest suitable rail unloading station and the point where the goods are unloaded for the final leg, or;</p> <p>- within a radius not exceeding 150 km as the crow flies from the inland waterway port or seaport of loading or unloading.</p>
Article 2
Each of the Member States shall, by 1 July 1993, liberalize the combined transport operations referred to in Article 1 from all quota systems and systems of authorization.
Article 3
In the case of combined transport for hire or reward, a transport document which fulfils at least the requirements laid down in Article 6 of Council Regulation No 11 of 27 June 1960 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79 (3) of the Treaty establishing the European Economic Community (6), shall also specify the rail loading and unloading stations relating to the



rail leg, or the inland waterway loading and unloading ports relating to the inland waterway leg, or the maritime loading and unloading ports relating to the maritime section of the journey. These details shall be recorded before the transport operation is carried out and shall be confirmed by means of a stamp affixed by the rail or port authorities in the railway stations or inland waterway or sea ports concerned when that part of the journey carried out by rail or inland waterway or by sea has been completed.

Article 4

All hauliers established in a Member State who meet the conditions of access to the occupation and access to the market for transport of goods between Member States shall have the right to carry out, in the context of a combined transport operation between Member States, initial and/or final road haulage legs which form an integral part of the combined transport operation and which may or may not include the crossing of a frontier.

Article 6

1. Member States shall take the measures necessary to ensure that the taxes listed in paragraph 3 which are applicable to road vehicles (lorries, tractors, trailers or semi-trailers) when routed in combined transport are reduced or reimbursed either by a standard amount, or in proportion to the journeys that such vehicles undertake by rail, within limits and in accordance with conditions and rules they fix after consultation with the Commission.

The reductions of reimbursements referred to in the first paragraph shall be granted by the State in which the vehicles are registered, on the basis of the rail journeys effected within that State.

Member States may, however, grant these reductions or reimbursements on the basis of the rail journeys which take place partially or wholly outside the Member State in which the vehicles are registered.

2. Without prejudice to the provisions resulting from a possible reorganization of national taxation systems for commercial vehicles at Community level, vehicles used exclusively for road haulage in feeder or final delivery carriage by combined transport may be exempted, if they are taxed separately, from the taxes listed in paragraph 3.

Article 7

Where a trailer or semi-trailer belonging to an undertaking engaged in own-account transport is hauled on a final section by a tractor belonging to an undertaking engaged in transport for hire or reward, the transport operation so effected shall be exempt from presentation of the document provided for in Article 3; however, another document shall be provided giving evidence of the journey covered or to be covered by rail, by inland waterway or by sea.

Article 8

Initial or final road haulage legs forming part of combined transport operations shall be exempted from compulsory tariff regulations.

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