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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**ON THE APPLICATION BY THE MEMBER STATES OF COUNCIL DIRECTIVE
95/50/EC ON UNIFORM PROCEDURES FOR CHECKS ON THE TRANSPORT OF
DANGEROUS GOODS BY ROAD**

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1. INTRODUCTION

Council Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road was adopted on 6 October 1995. It prescribes that Member States must ensure that a representative proportion of consignments of dangerous goods transported by road is subject to specified checks and that their safety conditions comply with the relevant laws. In order to carry out the checks provided for in the Directive, Member States shall use the checklist established in its Annex I and refer to the risk categorisation of the possible detected infringements as established in its Annex II.

Directive 95/50/EC provides that each Member State shall send to the Commission for each calendar year, not later than twelve months after the end of that year, a report on the application of the Directive¹. The Directive also provides that the Commission shall send to the European Parliament and the Council at least every three years a report on the application of the Directive by the Member States².

The report from the Commission is based on the annual reports received from the Member States. This is the seventh report on the application of Council Directive 95/50/EC in the Member States and it covers years 2015-2017. The first report³ covered years 1997-1998, the second report⁴ years 1999-2002, the third report⁵ years 2003-2005, the fourth report⁶ years 2006-2007, the fifth report⁷ years 2008-2011 and the sixth report⁸ years 2012-2014.

Until 30 June 2009 the conditions for safe transport of dangerous goods by road were established in Council Directive 94/55/EC⁹, as amended. As from 1st July 2009 this was repealed and replaced by Directive 2008/68/EC¹⁰, as amended.

Directive 2008/68/EC continues the approach of Directive 94/55/EC in applying identical technical and administrative provisions to those annexed to the *European Agreement concerning the International Carriage of Dangerous Goods by Road - ADR*¹¹, making them compulsory for all national and international transport within the EU. As ADR does not contain specific provisions for its enforcement, these have been established in Directive 95/50/EC.

This Directive includes a harmonised checklist to be used by Member States for such checks and guidelines for the classification of infringements. In 2004, the Annexes to the Directive were amended¹² and the infringement classification system was modified to have three risk categories as from 2005.

¹ Article 9(1) thereof

² Article 9(2) thereof

³ COM(2000) 517 final, 6.9.2000

⁴ COM(2005) 430 final, 15.9.2005

⁵ COM(2007) 795 final, 13.12.2007

⁶ COM(2010) 364 final, 7.7.2010

⁷ COM(2013) 815 final, 25.11.2013

⁸ COM(2017) 112 final, 6.3.2017

⁹ Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road, OJ L 319, 12.12.1994, p. 7

¹⁰ Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods, OJ No L 260, 30.09.2008, p. 13

¹¹ European Agreement concerning the International Carriage of Dangerous Goods by Road concluded in Geneva on 30 September 1957, as amended, under the auspices of United Nations Economic Commission for Europe (UNECE).

¹² Commission Directive 2004/112/EC of 13 December 2004 adapting to technical progress Council Directive 95/50/EC (OJ No L 367, 14.12.2004, p. 23)

These uniform checks concern all road transport operations of dangerous goods on the territory of a Member State or entering it from third countries, irrespective of the country of registration of the transport unit. The Directive aims at ensuring that a representative proportion of consignments of dangerous goods transported by road is randomly checked, while covering an extensive portion of the road network at the same time.

As a preventive measure, or after having recorded infringements at the roadside which jeopardise safety, checks may be also carried out at the premises of undertakings. There is, however, no reporting requirement on these checks in Directive 95/50/EC.

2. REPORTS FROM EU MEMBER STATES AND NORWAY

When making their reports, Member States are requested to use the risk categories of Annex II to Directive 95/50/EC and to present the report in accordance with Annex III to the Directive. Norway has submitted its annual reports and has requested to be included in the Commission's report to the European Parliament and the Council.

Most Member States and Norway have submitted their reports largely on time. Some national reports were affected by delays due to administrative procedures for collecting, analysing and transmitting the information to the Commission, in particular when these procedures involve different public authorities. Although the situation had temporarily improved in 2015 compared to the past, the same pace was not observed for the following years, so the Commission had to reiterate its request to the Member States and invite them to improve the format and consistency of the data to be provided in future.

The Commission has received reports from all Member States for the whole period but, notwithstanding major improvements, not all the information has been received in the correct format. Moreover, some of them were incomplete or wrongly filled in, leading to gaps and irrelevant results in the tables presented in this report, where they are indicated by the sign '#N/A' ('not available'). A summary of the contributions from the Member States is presented in the annexes to the present report.

Earlier Commission reports noted certain systematic inconsistencies in the statistical reports by Member States. Since uniform reporting by Member States is crucial for the quality, comparability and reliability of the Commission reports, the Commission adopted in 2011 a recommendation¹³ seeking to improve the quality of these reports.

After the publication of the recommendation the reports have improved substantially and only some occasional and minor inconsistencies have been noted.

Some of these inconsistencies, which tend to diminish, relate to the number of infringements according to the risk category¹⁴. Paragraph 1.4 of the annex to the Commission recommendation underlines that only the most serious infringement should be reported even if several infringements are detected. Consequently, the total number of infringements by risk categories should be equal to the number of transport units not conforming to the provisions.

It appears that this principle is not yet correctly applied in every Member States, as several infringements per transport unit are still being reported.

¹³ Commission recommendation of 21.2.2011 on reporting of checks concerning the transport of dangerous goods by road, C(2011) 909 final

¹⁴ The definition of risk categories and guidelines of infringements belonging to these categories are provided in Annex II of Directive 95/50/EC as amended by Directive 2004/112/EC

Another major issue addressed by the recommendation was the concept of penalties imposed when an infringement is detected during a roadside check. Due to the differences in legal and administrative arrangements, some Member States were unable to track the outcome of the judicial process following checks revealing suspected infringements. The recommendation proposed a common compromise that could be used in all Member States, namely recording the decision made by the enforcement official following the check on the spot. However, one Member State (France) is not yet able to report such data.

3. CALCULATION OF DATA

Member States are requested to provide, if possible, their estimate of the amount of the annual transport of dangerous goods in tonnes or in tonnes-kilometres carried out on their territory. For 2017, there were 16 Member States and Norway that provided an estimate. For the previous years, 2015 and 2016, only 14 Member States and Norway provided the estimated total quantity of dangerous goods.

As not all Member States were able to provide those data, in order to allow for an objective comparison between the Member States, the volume of dangerous goods transport mentioned in this report is based on the information available in the Eurostat database¹⁵. This information is used to estimate the frequency of checks relative to the volume of transport, although the Directive does not require a minimum number of checks (either in absolute terms or in %) to be performed.

There are however no statistics at Eurostat for Malta, as a derogation is granted to it regarding the application of Regulation (EU) No 70/2012 of the European Parliament and of the Council of 18 January 2012 on statistical returns in respect of the carriage of goods by road. The volume of dangerous goods transport in Malta is therefore estimated on the basis of the data provided by the competent Maltese authority.

The statistics from Eurostat are presented in Annex IX to this report.

4. EVOLUTION OF CHECKS AND THEIR OUTCOMES

Annex I presents the evolution of the number of checks performed by Member States, the proportion of transport units not conforming to the provisions and the proportion of infringements of risk category I, i.e. the most serious category of infringements, where failure to comply with the relevant ADR provisions creates a high-level risk of death, serious personal injury or significant damage to the environment, thus calling for immediate and appropriate corrective measures, such as immobilisation of the vehicle.

At the end of the table, averages for the European Union and the statistics from Norway are reported.

The amount of data collected allows for both detailed and aggregated analyses. Among the major considerations deriving from them, the following can be highlighted:

- there is a certain imbalance between the data reported for the number of transport units checked and the number of transport units conforming to ADR. As an example, Greece reported having checked 324 transport units in 2015, out of which only one was noted as presenting a risk category I infringement. The situation seemed to improve for 2016 with

¹⁵ Eurostat table "DS-073082": Annual road freight transport of dangerous goods, by type of dangerous goods and broken down by activity

6290 checks and 39 non-conformities reported (i.e. 0.62% of the total number of checks), but for the final year of the reporting period, 2017, the number of non-conformities, i.e. 42, remained very low in comparison with the total number of checks which increased to 20870: this gives a non-conformity rate of 0.20%, which is 8 times lower than the EU average. In comparison, for Germany those figures were corresponding to 11548 non-conformities out of 45961 checks in 2015, 11137 out of 41290 in 2016 and 10429 out of 40956 in 2017; i.e. a non-conformity rate of around 25%;

- there are several Member States (Denmark, Estonia, Spain, Italy, Cyprus, Latvia and Portugal) that did not report any immobilisation during the three year period covered by this report. This could be due to the fact that, in some countries, enforcement authorities do not dispose of powers to immobilize vehicles. In other cases (Greece, Luxemburg and Slovakia) this only happened once in the reference period;
- the share of risk category I is missing for the whole reporting period for Cyprus, as well as for 2016 and 2017 for Lithuania, in spite of the fact that the latter country reports immobilisations for these specific years.

The indicator of the share of risk category I infringements is particularly sensitive to correct reporting. If more than one infringement per transport unit has been recorded, the share of category I infringements is lower than the correct value.

In 2015, some Member States have reported fewer total infringements than there were transport units found to be not conforming (e.g. Belgium, the Czech Republic, Germany, Ireland, Latvia, Hungary, the Netherlands and Finland), while other Member States reported more total infringements than there were transport units found non conforming (e.g. Denmark, Croatia and Slovakia). This imbalance was maintained for 2016 and 2017. There are cases where the enforcement authorities reported only that infringements were found, but did not provide any further information on those infringements or on penalties applied.

The mixed information received concerning the total infringements, the constant absence of risk category I infringements in certain Member States and the lack of coherence between the non-conformity rate at EU level could be due to a lack of appropriate training of the enforcement authorities. The Commission herewith wants to encourage the further exchange of information and best practices in this field between Member States.

5. COMPARISON OF DATA

The total number of checks performed in the EU+Norway during the period included in this report was not constant on a yearly basis, varying from 136,966 in 2015 (in comparison to 150,348 in 2014) to 133,360 in 2016 and 144,056 in 2017. It can be noted that the number of checks decreased in 2015 by 10.68% compared to 2014, and the tendency to decrease was maintained in 2016, while a slight increase in the number of checks could be observed for 2017 (although not reaching the levels of 2014).

The national trends vary, as only 6 Member States (Greece, Luxembourg, Estonia, Slovenia, Ireland and Sweden) increased the number of checks over the period covered by this report with more than 25%, while Belgium, Denmark, Croatia, Italy, Bulgaria and the United Kingdom showed the highest reductions in the number of checks performed.

In terms of absolute number of checks in the EU, the share of Germany was the highest in 2015 (33.56%), followed by Poland (14.95%) and Austria (9.44%). The same ranking was observed in 2016 with 30.96% of the EU checks performed by Germany, 12.03% by Poland and 8.96% by Austria, while in 2017 Germany had the highest share (28.43%) followed by

Greece (14.49%) and Poland (11.27%). It shall be underlined that this indicator is largely related to the size of the Member State.

5.1. Frequency of checks

Annex II presents an overview of the frequency of roadside checks in the Member States for the period 2015 - 2017. The frequency is calculated as the ratio of the number of checks per million tonne-kilometre of dangerous goods transported in each Member State.

In 2015, the average in the EU was 1.70 checks per million tonne-kilometre; in 2016 it declined to 1.65 implying an annual decrease of 3%, while in 2017 this figure came back to 1.75. The highest frequency of checks in 2015 was recorded in Austria (13.94 per million tonne-kilometre), Slovakia (9.04) and Hungary (5.69), while in 2016 this ranking saw at the first places Austria (11.38), Slovakia (8.39) and Greece (7.88), to conclude in 2017 with Greece (14.38), Austria (10.71) and Slovakia (7.09). It can be observed that in 2015 the frequency of checks in Austria was 8.2 times the EU average, and that a similar ratio was achieved by Greece in 2017.

5.2. Breakdown of checks by place of origin

Annex III to this report shows the breakdown of checks by place of origin of the transport unit.

This indicator is affected not only by the decisions of the enforcement authorities, but also by the geography of the Member State; for example on islands there is less international transit by road. In particular, in this reporting period, Malta and Cyprus have not checked any transport units registered outside the EU.

The share of transport units registered in the country of the check was 63% in 2015, 62% in 2016 and 65% in 2017. The share of units checked coming from other EU countries corresponded to 32% in 2015 and 2016, and decreased to 29% in 2017, while the share of checks concerning units registered outside the EU was stable, varying between 5% and 6% depending on the reporting year.

5.3. Proportion of non-conforming transport units

The share of transport units checked having at least one infringement is presented in Annex IV.

The proportion of non-conforming units out of the total number of checks was constant in 2015 and 2016 i.e. 20%, and decreased in 2017 to 17%. Some Member States (Bulgaria, Greece, Romania and Slovakia) reported less than 5% non-conformities each year, while others presented 0% infringements for one (Slovakia) or two years (Italy) and Cyprus reported 0% infringements for the whole period.

5.4. Breakdown of non-conforming transport units by place of origin

The graphs in Annex V show the distribution of transport units not conforming to the provisions according to the place of origin of the transport unit.

As it was noted in § 5.2 above, the geography of the Member State considerably affects this indicator too (e.g. an island or a peripheral Member State can present significant variations in traffic from 3rd countries).

5.5. Frequency of immobilisation of transport units

The graph in Annex VI illustrates the share of immobilised vehicles amongst those that were reported to have an infringement. Immobilisation is due to the presence of a risk category I

infringement and means that the vehicle is stopped until it is either brought in compliance with ADR or the load is transferred to another ADR compliant vehicle. There was little variation in relation to the frequency of immobilisation of transport units during the reporting period: the proportion of vehicles immobilised in 2015 was 28%, and decreased to 27% for 2016 and 2017.

As an example, the highest frequencies of immobilisation in 2015 were recorded in Norway (67%), the Netherlands (54%), Germany (46%) and Lithuania (36%). Denmark, Estonia, Spain, Italy, Cyprus, Latvia and Portugal did not report any immobilisations between 2015 and 2017, while Slovakia started reporting immobilisations since 2016.

5.6. Breakdown by risk categories

The graphs of Annex VII illustrate the distribution of severity of the infringements. Only the highest risk category detected during a check should be reported.

Most Member States have reported at least one category of infringements per transport unit checked. However, Cyprus did not report any infringements from any risk categories for the whole reporting period 2015-2017, while Lithuania did not report any infringements for any risk categories in 2016 and 2017.

Among the checks carried out in the EU in 2015, 40% of detected infringements were classified in risk category I (high-level risk of death, serious personal injury or significant damage to the environment, requiring immediate and appropriate corrective measures, such as immobilisation of the vehicle), 37% in risk category II (infringements which create a risk of personal injury or damage to the environment, where however appropriate corrective measures can be taken either at the site of the control if possible and appropriate, or at the completion of the current transport movement at the latest) and the remaining 23% in risk category III (infringements resulting in a low level of risk of personal injury or damage to the environment and where appropriate corrective measures do not need to be taken at the roadside).

5.7. Types of penalties

The graphs in Annex VIII show the distribution of penalties by Member State.

Before the publication of the Commission recommendation referred to in § 2 of this report, fundamental difficulties existed in the collection of this information. After the recommendation was published, the situation has improved dramatically and in the period 2015-2017 only France did not report any statistics on penalties.

As an example, during the inspections carried out in the EU in 2015 there were 3,216 cautions issued; fines were imposed in 14,446 cases, while 2,777 cases led to other penalties, including criminal and administrative judicial processes. In other words, at EU level in percentage terms the infringements detected led to fines in 71% of the cases, to cautions in 17% and to other penalties in 13% of the cases (although with a large variation between Member States).

6. CONCLUSIONS

Directive 95/50/EC was transposed in Member States' national legislation since 1 January 1997. The details of reporting provisions were amended in 2004 and became applicable on 14 December 2005. Following certain systematic inconsistencies in reporting, the Commission published a recommendation on the matter in 2011.

The latest reports clearly show a moderate decrease since 2014 in the number of checks. When compared with the reference period of the previous report (2012-2014), it can be seen that the number of checks reported decreased in 2015 to an EU total of 136,966. A further decrease of the EU total to 133,360 can be observed in 2016, while a slight come back was recorded for 2017, i.e. 144,056. However, this recovery is still lagging behind the numbers for 2014 with 150,348 checks, and is dramatically lower in comparison with 2006 with 244,710 checks or 2007 with 285,466 checks¹⁶ (i.e. the first reference years for which EU27 data are available).

The number of infringements remained relatively stable during the reference period of the present report: in 2015 one check out of 5 affirmed or suspected an infringement in the carriage of dangerous goods, while in 2017 it was one out of 5.8 checks. In figures, this corresponds to 79,103 out of the 417,343 total roadside checks performed in the EU+Norway in the three years covered by this report.

Where infringements were detected, in 40% of the cases these were of the most serious type. Consequently, 7,442 vehicles were immobilised in 2015, 7,282 in 2016 and 6,706 in 2017.

It shall be noted that the high number of infringements reported by the Member States may also be due to their targeted check policy, aiming at identifying and sanctioning the worst performing transport operators in order to maximise the efficiency of the scarce resources available. This implies that the statistics presented might not be wholly representative of the EU market for the transport of dangerous goods, which in practice would be much safer than it may appear from the data reported.

In summary, as required by Directive 95/50/EC, all Member States carry out checks on vehicles carrying dangerous goods by road, and in general report these checks quite accurately. Some inconsistencies persist though, and the Commission continues its efforts to ensure that the reporting requirements under Directive 95/50/EC are complied with, and that compliance progressively improves each year.

In view of the data reported and their analysis presented in this report, it can be observed a general trend of decrease in the number of annual checks performed by the Member States, as well as a persistent problem in the way the reporting is made.

As it is in the interest of the Member States to detect and prevent any dangers that may arise in the transport of these goods, the Commission would like to encourage more investment in this field, in particular to improve training of enforcement authorities and the exchange of expertise and best practices.

¹⁶ COM(2010)364 final, page 10