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Commission Regulation (EU) 2016/403

of 18 March 2016

supplementing Regulation (EC) No 1071/2009 of the European Parliament and of the Council with regard to the classification of serious infringements of the Union rules, which may lead to the loss of good repute by the road transport operator, and amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council

(Text with EEA relevance)

Introductory Text

Article 1 (1) This Regulation establishes a common list of categories, types...
Article 2 *Deleted*
Article 3 *Deleted*

ANNEX 1 - Categorisation of serious infringements

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2. Groups of infringements against Regulation (EU) No 165/2014 of the European Parliament and of the Council (Tachograph)
3. Groups of infringements against Directive 2002/15/EC of the European Parliament and of the Council (Working time rules - Road Transport (Working Time) Regulations 2005 and Part IVA of the Transport Act 1998)
4. Groups of infringements against Council Directive 96/53/EC (Weight and dimension rules - Vehicles (Construction, Equipment and Maintenance) Regulations)
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8. Groups of infringements against Directive 2006/126/EC of the European Parliament and of the Council (Driving licences requirements - Traffic (Licensing and Registration) Regulations)
9. Groups of infringements against Directive 2008/68/EC of the European Parliament and of the Council (Transport of dangerous goods by road - Transport (Carriage of Dangerous Goods by Road) Regulations 2010 and the Transportable Pressure Equipment Regulations 2011)
10. Groups of infringements against Regulation (EC) No 1072/2009 of the European Parliament and of the Council (Access to the international road haulage market)

11. Groups of infringements against Regulation (EC) No 1073/2009 of the European Parliament and of the Council (Access to the market for coach and bus services)
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ANNEX 2 - Frequency of occurrence of serious infringements

ANNEX 3 - *Deleted*

Commission Regulation (EU) 2016/403

of 18 March 2016

supplementing Regulation (EC) No 1071/2009 of the European Parliament and of the Council with regard to the classification of serious infringements of the Union rules, which may lead to the loss of good repute by the road transport operator, and amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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, and in particular Article 6(2) thereof,

Having regard to 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, and in particular Article 9(3) thereof,

Whereas:

(1) The Commission is required by Article 6(2)(b) of Regulation (EC) No 1071/2009 to draw up a list of categories, types and degrees of seriousness of serious infringements of Union rules, which in addition to those set out in Annex IV to that Regulation, may lead to the loss of good repute of the road transport undertaking or the transport manager.

(2) To this end, the Commission should define the degree of seriousness of infringements by reference to the risk of fatalities or serious injuries and should provide the frequency of occurrence beyond which repeated infringements shall be regarded as more serious.

(3) The list of categories, types and degrees of seriousness of serious infringements to be established should contain infringements of the Union rules relating to the areas outlined in Article 6(1)(b) of Regulation (EC) No 1071/2009.

(4) Member States should take into account information on those infringements when setting priorities for the checks targeting undertakings which are classified as posing increased risk, as required by Article

12(1) of Regulation (EC) No 1071/2009.

(5) The measures to be adopted are necessary to ensure transparency, fairness and legal certainty in appraising the seriousness of infringements and their implications for good repute of the transport undertaking or the transport manager.

(6) However, it is the responsibility of the Member State's competent authority to carry out a complete national administrative procedure to determine whether a loss of good repute would constitute a proportionate response in an individual case. Such a national examination procedure should include, where appropriate, checks at the premises of the undertaking concerned. In assessing the good repute Member States should consider the conduct of the undertaking, of its managers and of any other relevant person.

(7) The harmonised categorisation of serious infringements should provide the basis for extending the national risk rating system established by each Member State pursuant to Article 9 of Directive 2006/22/EC, in order to cover all serious infringements of the Union road transport rules, indicated in Article 6(1)(b) of Regulation (EC) No 1071/2009, which may affect the good repute of the transport undertaking or the transport manager.

(8) Article 16(2) of Regulation (EC) No 1071/2009 also provides that Member States should include those serious infringements in the national electronic register of road transport undertakings on 1 January 2016 at the latest. The harmonised categorisation of infringements is thus an important step forward ensuring fair competition between undertakings, more harmonised enforcement and an effective functioning of the European Register of Road Transport Undertaking system of exchange of information.

(9) In the interest of transparency and fair competition a common method should be established for the calculation of a frequency of occurrence beyond which repeated infringements shall be regarded as more serious by the competent authority of the Member State of establishment. Such repeated infringements may lead to launching the national administrative procedure, which, subject to the discretion of the competent authority, may result in the loss of good repute by a transport operator.

(10) As a general rule, the frequency should be determined by taking into account the seriousness of the infringement, the time and the average number of drivers. It shall be seen as the maximum threshold, whilst leaving Member States a possibility to apply lower thresholds, as envisaged in their national administrative procedure for assessing good repute.

(11) To ensure the legal consistency and transparency it is also necessary to amend Annex III to Directive 2006/22/EC by changing the level of seriousness of certain infringements set out therein in accordance with the list of most serious infringements set out in Annex IV to Regulation (EC) No 1071/2009.

(12) The list of categories, types and degrees of seriousness of serious infringements has been determined in consultation with Member States and the Union stakeholders, where the assessment of the level of seriousness has been based on best practice and experience in the enforcement of the relevant legislative provisions in Member States. The most serious infringements established in Annex IV to Regulation (EC) No 1071/2009 constituted the reference upper threshold for the assessment of the level of seriousness of other relevant infringements.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Road Transport set up by Article 18(1) of Council Regulation (EEC) No 3821/85,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation establishes a common list of categories, types and degrees of serious infringements of the rules in commercial road transport, as laid down in Annex I to this Regulation, which, in addition to those set out in Annex IV to Regulation (EC) No 1071/2009, may lead to the loss of good repute of a road transport operator.

2. This Regulation provides for the maximum frequency of occurrence beyond which repeated serious infringements shall be regarded as more serious, by taking into account the number of drivers used for the transport activities managed by the transport manager, as laid down in Annex II.

3. The Transport Commission shall take into account information on the serious infringements referred to in paragraphs 1 and 2 when carrying out the national administrative procedure on assessing good repute.

Article 2

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Article 3

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Done at Brussels, 18 March 2016.

ANNEX I

Categorisation of serious infringements

(referred to in Article 1)

The following tables contain categories and types of serious infringements against the Union rules in commercial road transport, divided into three categories of seriousness according to their potential to create a risk of fatalities or serious injuries.

1. Groups of infringements against Regulation (EC) No 561/2006 of the European Parliament and of the Council (Driving and resting time)

[a] MSI = most serious infringements/VSI = very serious infringement/SI = serious infringement.

No	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESSa		
				MSI	VSI	SI
Crew						
1.	Article 5.1	Not respecting minimum ages for conductors				X
Driving periods						
2.	Article 6.1	Exceed daily driving time of 9h if possibilities to extend to 10h not allowed	10h ? … < 11h			X
3.			11h ? …		X	

4.	Exceed daily driving time of 9h by 50 % or more without taking a break or without any rest of at least 4,5 hours	13h30 ? … and no break/rest	X			
5.	Exceed extended daily driving time of 10h if extension allowed	11h ? … < 12h			X	
6.		12h ? …		X		
7.	Exceed daily driving time of 10h by 50 % or more without taking a break of or without any rest of at least 4,5 hours	15h ? … and no break/rest	X			
8.	Article 6.2	Exceed weekly driving time	60h ? … < 65h			X
9.			65h ? … < 70		X	
10.		Exceed weekly driving time by 25 % or more	70h ? …	X		
11.	Article 6.3	Exceed maximum total driving time during 2 consecutive weeks	100h ? … < 105h			X
12.			105h ? … < 112h30		X	
13.		Exceed maximum total driving time during 2 consecutive weeks by 25 % or more	112h30? …	X		
Breaks						
14.	Article 7	Exceed uninterrupted driving time of 4,5 hours before taking the break	5h ? … < 6h			X
15.			6h ? …		X	

Rest Periods						
16.	Article 8.2	Insufficient daily rest period of less than 11h if reduced daily rest period not allowed	8h30 ? … < 10h			X
17.			… < 8h30		X	
18.		Insufficient reduced daily rest period of less than 9h if reduce allowed	7h ? … < 8h			X
19.			… < 7h		X	
20.		Insufficient split daily rest period of less than 3h + 9h	3h + [7h ? … < 8h]			X
21.			3h + […< 7h]		X	
22.	Article 8.5	Insufficient daily rest period of less than 9h for multi-manning	7h ? … < 8h			X
23.			… < 7h		X	
24.	Article 8.6	Insufficient reduced weekly resting period of less than 24 h	20h ? … < 22h			X
25.			… < 20h		X	
26.		Insufficient weekly resting period of less than 45 h if reduced weekly resting period not allowed	36h ? … < 42h			X
27.			… < 36h		X	
28	Article 8.6	Exceeding 6 consecutive 24-hour periods following the previous weekly rest period	3h ? … < 12h			X
			12h ? …		X	
12-day rule derogation						
29.	Article 8.6a.	Exceeding 12 consecutive 24-hour periods following a previous regular weekly rest	3h ? … < 12h			X
			12h ? …		X	
30.	Article 8.6a. (b)(ii)	Weekly rest period taken following 12 consecutive 24-hour periods	65h < … ? 67h			X
			… ? 65h		X	
31.	Article 8.6a. (d)	Driving period, between 22.00 and 6.00, of more than 3 hours before the break, if the vehicle is not multi-manned	3h < … < 4,5 h			X
			4,5 h ? …		X	
Work organisation						
32.	Article 10.1	Link between wage and distance travelled or amount of goods carried			X	

33.	Article 10.2	No or improper organisation of driver's work, no or improper instructions given to driver enabling him to comply with the law		X	

2. Groups of infringements against Regulation (EU) No 165/2014 of the European Parliament and of the Council (Tachograph)

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Installation of tachograph					
1.	Article 3.1 and Article 22	Not having type-approved tachograph installed and used (*e.g.: not having a tachograph installed by fitters, workshops or vehicle manufacturers approved by the competent authorities of the Member States, using a tachograph without the necessary seals placed or replaced by an approved fitter, workshop or vehicle manufacturer or using a tachograph without the installation plaque*)	X		
Use of tachograph, driver card or record sheet					
2.	Article 23.1	Using a tachograph not inspected by an approved workshop		X	
3.	Article 27	Driver holding and/or using more than one own driver card		X	
4.		Driving with a driver card that has been falsified (*considered as driving without driver card*)	X		
5.		Driving with a driver card of which the driver is not the holder (*considered as driving without driver card*)	X		
6.		Driving with a driver card which has been obtained on the basis of false declarations and/or forged documents (*considered as driving without driver card*)	X		
7.	Article 32.1	Tachograph not correctly functioning (*e.g.: tachograph not properly inspected, calibrated and sealed*)		X	
8.	Article 32.1 and Article 33.1	Tachograph improperly used (*e.g.: deliberate, voluntary or imposed misuse, lack of instructions on correct use, etc.*)		X	
9.	Article 32.3	Using a fraudulent device able to modify the records of the tachograph	X		
10.		Falsifying, concealing, supressing or destroying data recorded on the record sheets or stored and downloaded from the tachograph and/or the driver card	X		
11.	Article 33.2	Undertaking not keeping record sheets, printouts and downloaded data		X	

12.	Recorded and stored data not available for at least a year		X		
13.	Article 34.1	Incorrect use of record sheets/driver card		X	
14.		Unauthorised withdrawal of record sheets or driver card which has an impact on the record of relevant data		X	
15.		Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost		X	
16.	Article 34.2	Use dirty or damaged record sheets or drivers card and data not legible		X	
17.	Article 34.3	Not using manual input when required to do so		X	
18.	Article 34.4	Not using correct record sheet or driver card not in the correct slot (multi-manning)			X
19.	Article 34.5	Incorrect use of switch mechanism		X	
Producing information					
20.	Article 36	Refusing to be checked		X	
21.	Article 36	Unable to produce records of current day and the previous 28 days		X	
22.		Unable to produce records of the driver card if the driver holds one		X	
23.	Article 36	Unable to produce manual records and printouts made during the current day and the previous 28 days		X	
24.	Article 36	Unable to produce a driver card, if the driver holds one		X	
Malfunctioning					
25.	Article 37.1 and Article 22.1	Tachograph not repaired by an approved fitter or workshop		X	
26.	Article 37.2	Driver not marking all required information for the periods of time which are no longer recorded while tachograph is unserviceable or malfunctioning		X	

3. Groups of infringements against Directive 2002/15/EC of the European Parliament and of the Council (Working time rules - Road Transport (Working Time) Regulations 2005 and Part IVA of the Transport Act 1998)

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS

MSI	VSI	SI				
Maximum weekly working time						
1.	Article 4	Exceeding maximum weekly working time of 48h if possibilities to extend to 60h already consumed	56h ? … 60h			X
2.			60h ? …		X	
3.		Exceeding maximum weekly working time of 60h if no derogation under Article 8 granted	65 ? … < 70h			X
4.			70h ? …		X	
Breaks						
5.	Article 5.1	Insufficient obligatory break taken when working time between 6 and 9 hours	10 < … ? 20 min			X
6.			… ? 10 min		X	
7.		Insufficient obligatory break taken when working time over 9 hours	20 < … ? 30min			X
8.			… ? 20 min		X	
Night work						
9.	Article 7.1	Daily working time in each 24h when night work performed if no derogation under Article 8 granted	11h ? … < 13h			X
10.			13h ? …		X	
Records						
11.	Article 9	Employers falsifying working time records or refusing to provide records to inspection officer			X	
12.		Employed/self-employed drivers falsifying records or refusing to provide records to inspection officer			X	

4. Groups of infringements against Council Directive 96/53/EC (Weight and dimension rules - Vehicles (Construction, Equipment and Maintenance) Regulations)

No	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESS		
				MSI	VSI	SI
Weights						
1.	Article 1	Exceed maximum permissible weight for N3 vehicles	5 % ? … < 10 %			X

2.	10 % ? … < 20 %		X			
3.	20 % ? …	X				
4.	Exceed maximum permissible weight for N2 vehicles	5 % ? … < 15 %			X	
5.		15 % ? … < 25 %		X		
6.		25 % ? …	X			
Lengths						
7.	Article 1	Exceed maximum permissible length	2 % < … < 20 %			X
8.			20 % ? …		X	
Width						
9.	Article 1	Exceed maximum permissible width	2,65 ? … < 3,10 metres			X
10.			3,10 metres ? …		X	

5. Groups of infringements against Directive 2014/45/EU of the European Parliament and of the Council (Periodic roadworthiness tests - Motor Vehicle Test Regulations 1987) and Directive 2014/47/EU of the European Parliament and of the Council (Technical roadside inspection - Transport (Roadside Test) Regulations 2003)

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Roadworthiness					
1.	Article 8 and 10 Directive 2014/45/EU and Article 7.1 of Directive 2014/47/EU	Driving without a valid proof of roadworthiness tests passed, as required by the EU law	X		
2.	Article 12.2 of Directive 2014/47/EU	Not keeping a vehicle in a safe and roadworthy condition resulting in a very serious deficiency of the braking system, the steering linkages, the wheels/tires, the suspension or chassis or other equipment that would create such an immediate risk to road safety that it leads to a decision to immobilise the vehicle	X		

Transport (Roadside Test) Regulations 2003 contains in Schedule 2 a detailed classification of technical deficiencies divided, according to their level of severity, into minor, major and dangerous deficiencies. Defined as follows :

(a) **minor** deficiencies having no significant effect on the safety of the vehicle or impact on the environment, and other minor non-compliances;

(b) **major** deficiencies that may prejudice the safety of the vehicle or have an impact on the environment or put other road users at risk, or other more significant non-compliances;

(c) **dangerous** deficiencies constituting a direct and immediate risk to road safety or having an impact on the environment.

The level of infringements against the provisions of the roadworthiness directives shall reflect the classification of deficiencies contained in Schedule 2 of the Transport (Roadside Test) Regulations 2003, namely: SI = major deficiencies; VSI = dangerous deficiencies; MSI = driving with deficiencies, which creates immediate risk to road safety. Minor deficiencies would be equal to the level of minor infringements.

6. Groups of infringements against Council Directive 92/6/EEC (Speed limitation devices - Vehicles (construction, Equipment and Maintenance) Regulations)

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Article 2 and 3	Speed limitation device not fitted	X		
2.	Article 5	Speed limitation device not satisfying the applicable technical requirements		X	
3.	Article 5	Speed limitation device not fitted by an approved workshop			X
4.		Using a fraudulent device able to falsify data of speed limitation device or using a fraudulent speed limitation device	X		

7. Groups of infringements against Directive 2003/59/EC of the European Parliament and of the Council (Initial qualification and periodic training of drivers - Traffic (Drivers' Qualification and Training) Regulations 2008)

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Training and licence					
1.	Article 3	Carrying goods or passengers without a compulsory initial qualification and/or compulsory periodic training		X	
2.	Article 10 and Annex II	Driver unable to present the valid qualification card or the driving licence with the marking, as required by the national law (*e.g.: lost, forgotten, damaged, unreadable*)			X

8. Groups of infringements against Directive 2006/126/EC of the European Parliament and of the Council (Driving licences requirements - Traffic (Licensing and Registration) Regulations)

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Articles 1 and 4 of Directive 2006/126/EC	Carrying passengers or goods without holding a valid driving licence	X		
2.	Article 1 Annex I	Using a driving licence which is damaged or unreadable or not in line with common model			X

9. Groups of infringements against Directive 2008/68/EC of the European Parliament and of the Council (Transport of dangerous goods by road - Transport (Carriage of Dangerous Goods by Road) Regulations 2010 and the Transportable Pressure Equipment Regulations 2011)

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex I, Section I.1 to Directive 2008/68/EC	Transporting dangerous goods that are prohibited for transport	X		
2.		Transporting dangerous goods in a prohibited or non-approved means of containment, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle	X		
3.		Transporting dangerous goods 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	X		
4.		Leakage of dangerous substances		X	
5.		Carriage in bulk in a container which is not structurally serviceable		X	
6.		Carriage in a vehicle without an appropriate certificate of approval		X	
7.		Vehicle no longer complies with the approval standards and presents an immediate danger		X	
8.		The rules governing the securing and stowage of the load have not been complied with		X	
9.		The rules governing mixed loading of packages have not been complied with		X	

10.	The provisions limiting the quantities carried in one transport unit have not been complied with, including permissible degrees of filling tanks or packages;		X	
11.	Information relevant to the substance being carried enabling determination of level of seriousness of offence is missing (*e.g. UN number, proper shipping name, packing group*)		X	
12.	Driver does not hold a valid vocational training certificate		X	
13.	Fire or an unprotected light is being used		X	
14.	The ban on smoking is not being observed.		X	
15.	The vehicle is not properly supervised or parked			X
16.	The transport unit comprises more than one trailer/semi-trailer			X
17.	Vehicle no longer complies with the approval standards but does not present an immediate danger			X
18.	The vehicle is not carrying operational fire extinguishers as required			X

19.	The vehicle does not carry the equipment required in the ADR or in the instructions in writing			X
20.	Packages with damaged packaging, IBCs or large packaging or damaged uncleaned empty packaging are being carried			X
21.	Carriage of packaged goods in a container which is not structurally serviceable			X
22.	Tanks/tank containers (including ones that are empty and uncleaned) have not been closed properly			X
23.	Incorrect labelling, marking or placarding on the vehicle and/or containment			X
24.	There are no instructions in writing conforming to the ADR, or the instructions in writing are not relevant to the goods carried			X

Commission Directive 2004/112/EC, adapting Council Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road, contains in its Annex II a detailed classification of infringements against the relevant provisions, divided, according to their level of severity, into three risk categories: risk category I, risk category II, risk category III.

The level of infringements against the provisions shall reflect the risk categories provided in Annex II to Directive 2004/112/EC, in such a way that **risk category I = VSI** (except those infringements which are already defined as MSI in Annex IV to Regulation (EC) No 1071/2009); **risk category II = SI**. Risk category III is equal to the level of minor infringement.

This table covers only those infringements for which a carrier shall be held fully or partially liable. The level of liability of a carrier for the infringement shall be assessed in accordance with national

enforcement procedure.

10. Groups of infringements against Regulation (EC) No 1072/2009 of the European Parliament and of the Council (Access to the international road haulage market)

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Community licence					
1.	Article 3	Carrying goods without holding a valid Community licence (*i.e.: a licence is non-existent, falsified, withdrawn, expired, etc.*)	X		
2.	Article 4	The haulage undertaking or the driver unable to present a valid Community licence or a valid certified true copy of the Community licence to the inspecting officer (*i.e.: Community licence or certified true copy of the Community licence lost, forgotten, damaged, etc.*)		X	
Driver attestation					
3.	Article 3 and 5	Carrying goods without holding a valid driver attestation (*i.e. driver's attestation is non-existent, falsified; withdrawn, expired, etc.*)		X	
4.		The driver or the haulage undertaking unable to present a valid driver attestation or a valid certified true copy of the driver attestation to the inspecting officer (*i.e. driver attestation or certified true copy of the driver attestation lost, forgotten, damaged, etc.*)			X

11. Groups of infringements against Regulation (EC) No 1073/2009 of the European Parliament and of the Council (Access to the market for coach and bus services)

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Community licence					
1.	Article 4	Carrying passengers without holding a valid Community licence (*i.e.: a licence is non-existent, falsified, withdrawn, expired, etc.*)	X		
2.	Article 4.3	The carrier or the driver unable to present a valid Community licence or a valid certified true copy of the Community licence to the inspecting officer (*i.e. licence or certified true copy lost, forgotten, damaged, etc.*)		X	
Authorisation for regular services					
3.	Article 5 and 6	Regular services without a valid authorisation (*i.e.: authorisation is non-existent, falsified, withdrawn, expired, misused, etc.*)		X	

4.	Article 19	The driver unable to present the authorisation to the inspecting officer (*i.e. authorisation is lost, forgotten, damaged, etc.*)			X
5.	Article 5 and 6	Stops of regular services in a Member State do not correspond to the issued authorisation			X
Journey form for occasional services and other services exempt from authorisation					
6.	Article 12	Driving without holding a required journey form (*i.e. journey form is non-existent, falsified, not containing the required information, etc.*)			X

12. Groups of infringements against Council Regulation (EC) No 1/2005 (Animal transport)

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex I, Chapter II,	Partitions are not strong enough to withstand the weight of animals		X	
2.	Annex I, Chapter III	Using loading or unloading ramps that has slippery surfaces, that lack lateral protections or that are too steep			X
3.		Using lifting platforms or upper floors that do not have safety barriers preventing animals from falling or escaping during loading and unloading operations			X
4.	Article 7	Means of transport not approved for long journeys, or not approved for the type of animals being transported.			X
5.	Article 4, 5 and 6	Transporting without valid required documentation, journey log or transporter authorisation or certificate of competence			X

ANNEX II

Frequency of occurrence of serious infringements

1. The serious (SI) and very serious (VSI) infringements listed in Annex I, when committed repeatedly shall be regarded as more serious by the competent authority. When calculating the frequency of occurrence of repeated infringements the competent authority shall take into account the following factors:

(a) seriousness of infringement (SI or VSI);

(b) time (at least one rolling year from the date of a control);

(c) number of drivers used for the transport activities managed by the transport manager (average per year)

2. Taking into account the potential of creating a risk to road safety the maximum frequency of serious infringements beyond which they should be considered as more serious shall be established as follows:

3 SI/per driver/per year = 1 VSI

3 VSI/per driver/per year = launch of a national procedure on good repute

3. The number of infringements per driver per year is an average figure calculated by dividing the total number of all infringements of the same level of seriousness (SI or VSI) by the average number of drivers employed during the year. The frequency formula provides for a maximum threshold for occurrence of serious infringements beyond which they shall be considered more serious. The Transport Commission may establish stricter thresholds if envisaged in its national administrative procedure for assessing good repute.

ANNEX III

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