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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**

TABLE OF CONTENTS

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

1.	Introduction	3
2.	Related EU legislation.....	3
3.	Application of Directive 95/50/EC	4
4.	Reports from EU Member States and Norway	4
5.	Recommendation on reporting of checks concerning the transport of dangerous goods by road	5
6.	Calculation of data	5
7.	Evolution of checks and their outcomes	5
8.	Comparison of data	6
8.1.	Frequency of checks.....	6
8.2.	Breakdown of checks by place of origin.....	7
8.3.	Proportion of non-conforming transport units	7
8.4.	Breakdown of non-conforming transport units by place of origin.....	7
8.5.	Frequency of immobilisation of transport units	7
8.6.	Breakdown by risk categories.....	7
8.7.	Types of penalties	8
9.	Conclusion	8

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 1995¹ and Member States had to bring into force the laws, regulations and administrative provisions necessary to comply with it by 1 January 1997.

Directive 95/50/EC provides that each Member State has to send the Commission for each calendar year not later than twelve months after the end of that year a report on the application of the Directive². The Directive also provides that the Commission has to send to the European Parliament and the Council at least every three years a report on the application of the Directive by the Member States³.

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

The conditions for safe transport of dangerous goods by road are not defined in Directive 95/50/EC but in related EU legislation, as described below.

2. RELATED EU LEGISLATION

Until 30 June 2009 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 road⁹, as amended¹⁰, applied. The annexes to Directive 94/55/EC were identical in terms of their content to the annexes to the *European Agreement concerning the International Carriage of Dangerous Goods by Road - ADR*¹¹.

From 1 July 2009 Directive 94/55/EC was repealed and replaced by Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods¹² as amended¹³. Directive 2008/68/EC continues the approach of Directive 94/55/EC in applying identical technical and administrative provisions to those annexed to the *ADR* for all transport on the EU territory.

¹ OJ L 249, 17.10.1995, p. 35, as amended by Commission Directive 2004/112/EC of 13 December 2004 adapting to technical progress Council Directive 95/50/EC (OJ L 367, 14.12.2004, p. 23)

² Article 9(1) thereof

³ Article 9(2) thereof

⁴ COM(2000) 517 final, 6.9.2000

⁵ COM(2005) 430 final, 15.9.2005

⁶ COM(2007) 795 final, 13.12.2007

⁷ COM(2010) 364 final, 7.7.2010

⁸ COM(2013) 815 final, 25.11.2013

⁹ OJ L 319, 12.12.1994, p. 7

¹⁰ Amended by Commission Directive 2004/111/EC of 9 December 2004 adapting to technical progress Council Directive 94/55/EC (OJ No L 365, 10.12.2004, p. 25)

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

¹² OJ No L 260, 30.09.2008, p. 13

¹³ Last amended by Commission Directive 2014/103/EU of 21 November 2014 adapting for the third time the Annexes to Directive 2008/68/EC of the European Parliament and of the Council on the inland transport of dangerous goods to scientific and technical progress (OJ L 335, 22.11.2014, p. 15)

3. APPLICATION OF DIRECTIVE 95/50/EC

Having adopted Directive 94/55/EC, and to further improve the level of safety in the transport of dangerous goods the Council adopted on 6 October 1995 Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road. 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 amended¹⁴ and the infringement classification system was modified to have three risk categories as from 2005.

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.

4. REPORTS FROM EU MEMBER STATES AND NORWAY

When making their reports, the 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.

Croatia joined the EU on 1 July 2013, but it started to report its checks in 2012. 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 2012 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, as some countries continued sending separate reports according to the different competences at national level. 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.

When analysing the evolution in Chapter 7, it should be noted that for 2013 the indicator for non-conformity in Denmark is low due to a misinterpretation of the number of transport units not conforming to the provisions. This misinterpretation has been rectified in the 2014 report.

Several Member States have sent reports where the sum of infringements differs from the number of transport units not in compliance with the provisions. This should not be the case since only the most severe infringement category for each transport unit should be reported.

¹⁴ 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)

5. RECOMMENDATION ON REPORTING OF CHECKS CONCERNING THE TRANSPORT OF DANGEROUS GOODS BY ROAD

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 recommendation¹⁵ 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 category¹⁶. 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 sum 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 all Member States as several infringements per transport unit are still being reported.

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 juridical 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, there are still Member States that are unable to report such data (i.e. France and Malta).

6. 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 2012-2014, there were 15 Member States that provided an estimate.

To allow an objective comparison between the Member States, the volume of dangerous goods transport is based on the information available in the Eurostat database¹⁷. This information is used to estimate the frequency of checks relative to the volume of transport. There are 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 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.

7. 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.

¹⁵ Commission recommendation of 21.2.2011 on reporting of checks concerning the transport of dangerous goods by road, C(2011) 909 final

¹⁶ 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.

¹⁷ Eurostat table "DS-073082": Annual road freight transport of dangerous goods, by type of dangerous goods and broken down by activity

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

It should be noted that:

- 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 – e.g. Greece in 2014 reported that they checked 521 transport units, and only one transport unit was noted as presenting a risk category I infringement and only one fine was given;
- there are several Member States that did not report any immobilisations during the three year period: Estonia, Spain, Italy, Cyprus, Latvia and Slovakia. In other cases, e.g. Denmark, Malta and Greece this only happened once or twice in the reference period;
- the share of risk category I is missing for 2012 and 2014 for Cyprus and for the whole period in Slovakia's report.

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.

Some Member States have reported fewer total infringements than there were transport units found to be not conforming. This is the case in 2012 for Hungary, in 2013 for Bulgaria, the Czech Republic, Ireland, Hungary, the Netherlands, Finland and the United Kingdom, in 2014 for Romania and the United Kingdom. There are cases where the enforcement authorities reported only that infringements were found, but did not provide any further information on the infringements or penalties. Although this leaves the statistics incomplete there is no systematic impact on the analysis. This issue is discussed in more detail in § 8.6.

8. COMPARISON OF DATA

The total number of checks during the period included in this report was not constant on a yearly basis. The number of controls varied as follows: 2012: 153,362; 2013: 157,455; 2014: 153,348. Although in 2013 an increase of 2.6% can be observed, 2014 was marked by a return to the values observed in 2012.

The national trends vary, as only 8 Member States increased their checks over the period. Hungary, Austria, Poland and Romania had the highest percentage increase of checks during the reporting period while Bulgaria, Italy, the Netherlands and Sweden had the highest reductions.

In terms of absolute number of checks in the EU, Germany had the highest share in 2014 (32.5%) followed by Poland (15.19%) and Austria (9.21%), while Estonia (0.02%), Cyprus (0.03%) and Malta (0.05%) had the lowest shares. This indicator is largely related to the size of the Member State, but there have not been notable changes over the reporting period. In 2012 the share of Germany was the highest (35.99%), Poland second (13%) and Austria was again the third (7.80%). The three Member States doing the fewest checks were Estonia and Malta (0.05%) as well as Cyprus (0.06%).

8.1 Frequency of checks

Annex II presents an overview of the frequency of roadside checks in the Member States for 2012 and 2014. 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 2012, the average in the EU was 0.52 checks per million tonne-kilometre; in 2013 it declined to 0.48 implying an annual decrease of 9.6%, while in 2014 it came back to 0.49.

The highest frequency of checks in 2012 was recorded in Austria (12.89%), Hungary (7%) and Bulgaria (5.84%). In 2013, the highest values were observed in Austria (12.34%), Slovakia (10.10%) and Sweden (6.72%) and, in 2014, in Austria (14.85%), Slovakia (10.73%) and Hungary (9.47%). In 2012, the frequency of checks in Austria was almost 24.78 times the EU average, in Hungary = 13.46 times the EU average and in Bulgaria = 11.23 the EU average.

8.2 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. Between 2012 and 2014, 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 65% during the reporting period. The share of units checked coming from other EU countries increased from 28% to 30% from 2012 to 2014. The share of checks concerning units registered outside the EU decreased in 2013 when compared to 2012 from 5% to 4%, and rose in 2014 to 6%

8.3 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 decreased from 22.12% in 2012 to 19.73% in 2014, with major decreases notably in Cyprus, Slovenia, Poland and Lithuania. However, there are some Member States where there was an increase in this proportion – Slovakia, Greece, Hungary and the Netherlands.

8.4 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 was noted in § 8.2 above, the geography of the Member State considerably affects this indicator too.

8.5 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.

The oscillatory trend mentioned above was maintained in relation to the frequency of immobilisation of transport units: the proportion of vehicles immobilised in 2012 was 26.16%, it increased to 28.06% in 2013 and slightly decreased to 27.72% in 2014.

The highest frequencies of immobilisation in 2012 were recorded in Bulgaria (84.38%), Slovenia (57.89%) and Ireland (54.84%). In Norway 71.07% of infringements led to immobilisation in 2014. Estonia, Spain, Italy, Cyprus, Latvia, Malta and Slovakia did not report any immobilisations between 2012 and 2014.

8.6 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.

All Member States have reported at least one category of infringement per transport unit checked. Some Member States did not report data for some categories. In 2012 Cyprus and

Slovakia did not report any infringements for risk categories I and II. Furthermore, Greece reported no infringements in risk category III throughout the period and no infringements in risk category II in 2014 and 2013.

Among the checks carried out in the EU in 2012, in 42.69% of cases where infringements were detected the most serious one was classified in risk category I. Risk category I infringement implies a failure to comply with relevant safety provisions creating a high-level risk of death, serious personal injury or significant damage to the environment. These infringements call for immediate and appropriate corrective measures, such as immobilisation of the vehicle.

Reported most serious infringements in risk category II represented 33.48% of checks where an infringement was detected. Risk category III covered the remaining 23.83%.

8.7 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 § 5 of this report, fundamental difficulties existed in the collection of this information. After the recommendation the situation has improved dramatically and in 2012-2014 only France and Malta did not report any statistics on penalties. Although in 2012 Slovakia did not report any penalties, it started reporting such data for the following years.

During the inspections carried out in the EU in 2014 there were 5,066 cautions issued; fines were imposed in 29,206 cases; and 2,963 cases led to other penalties, including criminal and administrative juridical processes. Although in general terms three quarters of penalties in the EU are fines, there is a large variation between Member States.

In 2014 there were in total some 10.50% penalties fewer than in 2012. While the number of cautions decreased by 18.1% over the period and the number of fines by 10%, other penalties increased by 9.8%.

9. CONCLUSIONS

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

All Member States carry out checks on vehicles carrying dangerous goods 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. It can be concluded that Directive 95/50/EC is generally applied correctly.

However, the latest reports show clearly that the availability of resources for these checks is becoming more limited. When compared with the reference period in the previous report (2008-2011), the number of checks reported decreased each year. 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 the exchange of best practices and further investment in this field.

The number of infringements remained relatively stable during the reference period: in 2014 one check out of five affirmed or suspected an infringement in the carriage of dangerous goods, while in 2012 it was one out of 4.5 checks.

Where infringements were detected, in 42.69% of the cases these were of the most serious type. Consequently, some 8,875 vehicles were immobilised in 2012.

In conclusion, in the EU a common set of provisions is applied for the transport of dangerous goods. These provisions are used in an identical fashion also in many countries outside the EU. Nevertheless almost 32,000 of the some 150,000 annual roadside checks result in the conclusion that the transport does not comply with the compulsory safety requirements.

However, 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 are not wholly representative of the EU market for the transport of dangerous goods, which in practice is much safer than it may appear from the data reported.

In this light the Commission, together with the relevant authorities, has started to analyse possibilities to amend the Annexes to the Directive in order to improve the way data on checks and sanctions are recorded and reported by the Member States.

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