

COMMISSION CLARIFICATION 5

- Recording of a mixed activity of 'in' and 'out' of scope driving -

Article: 3(h), 13(i)

Issue raised: recording of a mixed activity of: in and out of scope driving

Clarification:

According to Article 3(a), the Regulation does not apply to carriage by road by "vehicles used for the carriage of passengers on regular services where the route covered by the services in question does not exceed 50 kilometers". This stipulates that the Regulation applies to drivers who perform this time of excluded service only insofar as they also perform activities which fall within its scope, and only in relation to those "included" activities.

Further to this, Article 6(5) of the Regulation requires a driver to record as "other work" any time spent driving a vehicle used for commercial operations not falling within the scope of the Regulation. In other words, driving activities which do not fall within the definition of "driving time" for the purposes of the Regulation cannot count as "rest" as defined in Article 4(f), with the result that they must be taken into account in its overall application.

Hence, should a bus driver be engaged in a mix of regular services, he/she must use tachograph records regardless which driving activity, i.e. out of scope or within the scope of the Regulation, is predominant. For those journeys exceeding 50 km a driver should record "driving time" and for shorter trips he/she should register 'out of scope driving' under "other work" sign on tachograph.

Comment: clarification provided by the European Commission services to the Italian organisation ANAV (letter of 23 July 2007)

DISCLAIMER: The present note sets out the Commission services views on implementation and application of certain rules of Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport. It should be noted that, in any event, interpretation of Union law is ultimately the role of the European Court of Justice.