



EU-MIDT

Plenary

EU-MIDT/PLE/005-2006

Digital Tachograph System

Guidelines on Company checks

PREPARED BY: IDT Project

DATE: 24/04/2006

EU-MIDT Plenary – 005-2006



REF : EU-MIDT/PLE/005-2006

EU-MIDT SECRETARIAT DOCUMENT PREPARATION

OPERATION	NAME	ORGANISATION	DATE
PREPARED BY	IDT Project		09/07/2004
CHECKED BY	Marie-Christine BONNAMOUR	Cybele – MIDT Secretariat	24/04/2006
APPROVED BY	Thierry GRANTURCO	Granturco & Partners – MIDT	24/04/2006
ISSUED BY	Secretariat	MIDT	17/05/2006

CHANGE CONTROL LIST

VERSION	DATE	NAME	DESCRIPTION

COMPANY CHECKS

I - Introduction:

- 1 This document aims at defining:
 - what company checks are supposed to cover ;
 - when they are supposed to be organised ;
 - how they are supposed to be done.

To better understand the necessity to organise company checks, it is necessary to go back to the first proposal issued by the Commission, dated 22 July 1994¹ and to the following amended texts, which finally lead to the adoption of the Council Regulation (EC) n° 2135/98 and of the Commission Regulation (EC) n° 1360/2002.

I - 1: The proposal of the Commission COM (94) 323 final

2. This proposal aimed at introducing a digital tachograph still functioning with paper discs, often referred to as the 1A tachograph.

In its explanatory memorandum to this proposal, the Commission already explained that:

*“The purpose of the proposed amendment to Council Regulation 3821/85 is to provide for the mandatory fitment of an additional element to the current tachograph system as used by professional drivers with **the aim of improving the enforcement** of, and compliance with, social legislation relating to road transport, as laid down in Council Regulation (EEC) 3820/85.*

The Union’ social legislation set limits on periods of driving, and requirements for rest periods. These periods are currently difficult to enforce.

(...)

*The risk of arrest and prosecution of offenders is currently too low to deter these illegal practises, which create a **distortion of competition** between those who flout the law and those operators and drivers who work within it.*

*Many years of practical experience have highlighted two main deficiencies with the current system. Firstly, there exists the potential for **fraudulent manipulation** of the system and, thereby, fabrication of the required output data. Secondly, the existing system’s output, in the form of a paper disc, is time consuming to read and collate and thus, does not lend itself to a comprehensive audit by enforcement authorities of*

¹ COM (94) 323 final

operator's records, at their premises. The **difficulties of carrying out a comprehensive audit of compliance with the regulations**, encourages fraudulent operators to flout the system²."

In other words and to summarise, the Commission stated that:

- the introduction of a digital tachograph must improve enforcement,
- the analogue tachograph has two main deficiencies : it is easy to manipulate and not easy to use as the paper discs would be difficult to read and interpret.

3. Answering questions about the "Justification for action at Community level", the Commission to the question (a), asking "What are the objectives of the proposed action in relation to the Community's obligation", said that:

*"(...) it is proposed that additional equipment, over and above the existing tachograph, must be fitted to commercial vehicles. This will **facilitate enforcement** both during road side checks by Member States' authorities on vehicles on their territory and, if required, on their own operators and drivers at the operator's premises. The control of driver's maximum driving hours will ensure the maintenance of **satisfactory social standards** will contribute to the **equity of competition** and **benefit road safety – all Community aims**".³*

4. To the question (d) "What is the most effective solution taking into account the means available to the Community and those of the Member States", the Commission stated:

*"That all relevant vehicles in Member States are fitted with the additional equipment and that drivers are issued with the driver's cards. This will enable the enforcement of the social legislation Community-wide by the **control of compatible systems**.*

*Member States could not individually take such measures without creating **distortions of competition** and practical difficulties for Community drivers, operators and industry."*

5. And to the question (e), "What real added value will the activity proposed by the Community provide and what would be the cost of inaction", the Commission answered that:

*"The added value of the proposal for the Community will be the **enhancement of the enforcement** of the driver's social hours which will provide a **significant contribution to road safety, equity of competition** and will ensure the maintenance of **satisfactory social standards**. Inaction would perpetuate the status quo whereby a high number of journeys contravene the social hours regulation."⁴*

Therefore, the Commission thought necessary:

- to facilitate and enhance enforcement during roadside and company checks;
- to contribute to the equity of competition;
- to contribute to road safety;

² COM (94) 323 final, page 1

³ COM (94) 323 final, page 2

⁴ COM (94) 323 final, page 3

- and to do that with one unique tachograph, to be defined at EU level, to ensure the implementation of these principles (interoperability of the devices put on the market and used by drivers, operators and enforcement officers).

I - 2: The proposal of the Commission COM (95) 550 final

6. On 21 November 1995, after the opinion of the Economic and Social Committee and the first reading of the European Parliament, the Commission decided to modify its initial proposal and to open the door to an Annex 1B, as suggested at that time by the European Parliament⁵.
7. To a proposed amendment, the Commission also recalled the necessity to organise both roadside and **company checks**⁶.

I - 3: The proposal of the Commission COM (98) 355 final

8. After the second reading of the European Parliament, on 31 March 1998, amending the common position of the Council adopted on 11 December 1997, the Commission modified a last time its proposal.
9. This proposal definitively opted for a digital tachograph functioning with a mass memory (the vehicle unit, V.U.) and smart cards (tachograph cards). No reference anymore to the paper disc was made, and it was therefore the end of the 1A and 1A+ concepts, developed earlier by the Tachosmart group⁷.

I - 4: The Council Regulation (EC) n° 2135/98

10. This Regulation, adopted on 24 September 1998⁸ put an end to a relatively long legislative process, started more than 4 years before, on 22 July 1994 with the proposal COM (94) 323 final.
11. In the recitals of the Council Regulation (EC) n° 2135/98, some other principles on which the introduction of the digital tachograph was based have also been clearly identified:
12. *“(3) Whereas blatant infringements and fraud present a road safety hazard and are unacceptable for reasons of competition for the individual driver who does respect the rules.”*

The principle saying that **fraud is unacceptable for road safety and fair competition reasons** has already been expressed by the Commission and is recalled by the Council.

⁵ In reality, the *rapporteur* of the European Parliament had been briefed by the Commission officers to propose an Annex 1B.

⁶ COM (95) 555 final, page 3

⁷ See page 9 of this Memorandum for further explanations on the preparatory work of the digital tachograph.

⁸ OJEC n° L 274, page 1

13. *“(4) Whereas road safety would be improved by the automatic recording and regular monitoring, both by the undertaking and by the competent authorities, of details of the driver's performance and behaviour and of the vehicle's journey, such as speed and distance covered.”*

The **importance to have access to speed and distances covered** is also mentioned. It is quite important and we will come back on these two elements further in this report.

14. *“(5) Whereas Community social regulations contain certain requirements for limits on the daily driving and rest time and also for the total driving and rest time, for up to two weeks; whereas it is difficult to monitor compliance with these requirements given that data are recorded on several daily record sheets, out of which the record sheets for the current week and the last day of the previous week are to be stored in the cab.”*

The Council states that **enforcement is difficult due amongst other to the fact that the data would be spread over many discs and possibly many places.**

15. *“(6) Whereas, to put an end to the most common abuses of the present system, it is therefore necessary to introduce new advanced equipment such as recording equipment fitted with an electronic device for storing relevant information and a personal driver card, so ensuring that the data recorded are retrievable, intelligible when printed out, and reliable, and that they provide an indisputable record of the work done by both the driver over the last few days and by the vehicle over a period of several months.”*

This recital is one of the most important recitals to be mentioned. **The data to be checked shall be retrievable, intelligible when printed out and reliable.**

16. *“(7) Whereas the total security of the system and its components is essential if recording equipment is to function efficiently.”*

This principle, saying basically that **the tachograph has to be tamper-proof**, considered by the Council as essential, is also mentioned later in the Council Regulation (EC) n° 2135/98, under the Article 1.4, third paragraph (see below).

17. *“(9) Whereas the data on drivers' activities must be verifiable by the drivers themselves, by the companies that employ them and by the competent authorities of the Member States; whereas, however, only data relevant to their respective activities should be accessible to a driver and his company.”*

The **limitation of the access rights** is defined as one of the objectives to be fulfilled by the digital tachograph.

18. *“(11) Whereas it is desirable that recording equipment complying with Annex IB should also offer the possibility of low-cost expansion of its functions for fleet management.”*

The tachograph should be designed so that it can also be **used for freight and fleet management.**

19. Article 1.4. third paragraph states that:

“(...) The system's security must comply with the technical requirements laid down in Annex IB. The Commission, acting in accordance with the procedure laid down in Article 18, shall ensure that the said Annex stipulates that recording equipment may not be granted EC component type-approval until the whole system (the recording equipment itself, driver card and electrical gearbox connections) has demonstrated its capacity to resist attempts to tamper with or alter the data on driving times. The tests necessary to establish this shall be carried out by experts familiar with up to date tampering techniques.”

The **security of the system** is an essential element for a new device to be introduced on the field.

I - 5: The last White paper of the European Commission

20. Already in its former White Paper on the “Future Development of the Common Transport Policy”⁹, the Commission recognised that:

“there is evidence that observance with (Community) rules is far from adequate even in those States where controls are relatively strict”.

21. Again quoted from the former White Paper:

“in order to know whether someone can drive lawfully, it may be necessary to consult records going back seven days or even longer. Interpretation of the tachograph discs needs therefore considerable expertise and experience. This lack of immediate transparency contributes to temptations to manipulate the system”.

22. This situation is still the same today and the European Commission confirmed in its last White Paper¹⁰ that:

“EU regulations on road transport, particularly on working conditions, are not only insufficient; they are also, and above all, extremely poorly enforced. This laxity in enforcing the regulations creates problems”.

(...)

“New technologies will have an important role to play in this context. The introduction, by the end of 2003, of the digital tachograph, a device to record data such as speed and driving time over a longer period than is possible with the mechanical tachograph of today, will bring significant improvements in monitoring, with better protection of the recorded data than is offered by the current equipment, and greater reliability”.

⁹ COM (92) 494, 2 December 1992

¹⁰ “European transport policy for 2010: time to decide”, COM (2001) 0370, 12 March 2001, OPOCE 2001, 119 pages. See pages 26 and 27

23. Therefore, the European institutions have constantly recalled that the main objective of the introduction of the digital tachograph is to improve enforcement.

24. Effective enforcement is required to ensure that in general the transport companies and drivers will comply with drivers' hours and speed limiter rules.

To ensure fair competition it is essential that enforcement be carried out in a harmonised manner. Directive n° 88/599/EEC prescribes harmonised procedures.

25. With the introduction of digital tachographs it is important to attain at least the same level of enforcement as with the analogue tachograph. However digital tachographs should also allow more efficient enforcement.

26. A continual objective of enforcement is to minimise the opportunity for fraud and maximise the possibility that fraud will be detected.

27. The objectives defined by the EU institutions can not be reached if company checks are not organised at Member states level to achieve enforcement.

II - Achieving enforcement

28. To carry out any enforcement, it is essential that control officers have access to adequate data relating to the activities of drivers and vehicles.

29. Checks of drivers' activities should be carried out regularly:

a) *at the roadside ('roadside checks');*

b) *at the premises of individual transport undertakings or at the premises of the enforcement officers on the basis of relevant documents and/or data handed over by transport undertakings at the request of the enforcement officers ('company checks').*

30. According to Articles 2 and 4 of Directive n° 88/599/EEC, Member States should carry out company checks to ensure compliance with Regulation (EEC) n° 3820/85.

II-1: Why company checks are necessary?

31. Companies have to be checked :

- for the enforcement officers to have a global picture of the activities performed by a company and by its drivers ;
- for the enforcement officers to have access to some additional data than the ones accessible on the roadside (see further point II-2-1) ;
- because some provisions of the Regulation (EEC) n° 3820/85 can only be checked in the companies (e.g. two weekly driving time, compensations, etc...).

II-2: Needs for enforcement

32. For enforcement of Directive n° 92/6/EEC there is the need for details of vehicles driven, detailed speed, overspeeding events. These data can be found on charts and in VUs.
33. For enforcement of Regulation (EEC) n° 3820/85 there is the need for data related to the driver – driving and rest times and for Regulation (EEC) n° 3821/85 the need for vehicle data (calibration, etc...) and driver data.
34. The provisions of the Directive n° 95/46/EC on data protection also apply to enforcement activities. Therefore only data necessary for enforcement activities may be used.

II-2-1: Data Available and required for enforcement

35. Due to the specificities of the digital tachograph and of the driver card, as defined in Commission Regulation (EC) n° 1360/2002, data are spread over many means.
36. As the digital tachograph will have to ct with the analogue one for years, the data may be partly digital, partly available on charts.

II-2-1-1: Available on Charts

37. Storage of one day on each chart and with charts stored in the company for 1 year:
 - Driving, and rest times for one particular driver; some information relating to availability and working times
 - Detailed speed for each day
 - Vehicles driven each day entered by driver
 - Detailed start and end location for each journey entered by driver
 - Odometer (km) entered by driver at the beginning and end of journey
 - Detailed distance trace
 - Manual entries on rear of chart (e.g. driver activities when away from a vehicle) entered by driver.
 - Marks representing events such as opening/closing of the tachograph (insertion/removal of charts/loss of power supply).

II-2-1-2 : Available in VUs

38. Storage of approximately 365 days of data:
 - Driving times of different drivers of that vehicle, along with periods of rest, availability and other work if recorded using the switch provided on the vehicle.
 - Driving without card;
 - Speed (for the last 24h of driving);
 - Overspeeding events;
 - Other events, e.g. loss of power supply;
 - Time adjustments;

- Odometer (km) for beginning and end of journey entered automatically;
- Manual input data which only consist of a symbol which indicates that out of scope work has been undertaken or that rest has been interrupted by movement on or off a ferry boat or train;
- A flag indicating whether, at card insertion, the driver has manually entered or not activities on his driver card;
- Country/region for start and end of journeys.

II-2-1-3: Available in DCs

39. Storage capacity of approximately 28 days (see requirement 200 of Annex 1 B):

- Only driving periods will be recorded automatically on the DC;
- information relating to rest, availability and working times will require an active intervention from the driver;
- when away from a vehicle, drivers are not obliged to enter manually their activities on their DC despite the technical facilities exist;
- Vehicles driven which may belong to different companies;
- Country/region for start and end of journeys;
- Odometer/km for times of insertion and withdrawal of DC;
- Some events, faults and control data.

II-2-2: Data available during company checks

40. During company check, enforcement officers can find information coming from:

ANALOGUE TACHOGRAPH	DIGITAL TACHOGRAPH
1) Charts (driver related, including the charts themselves) 2) Tachograph 3) Further documents provided by the undertaking	1) DC (data available only if downloaded – but in this case driver related) 2) VU (data available on the base of voluntarily downloading or presentation of the vehicle(s) with VU but in this case vehicle related) 3) Further documents provided by the undertaking
According to Regulation (EEC) n° 3821/85 modified (Article 15) the company has to keep the records for +/- 365 days for enforcement purposes. The charts can be read directly, with the support of a Chart reader or through a semi-automatic evaluation (scanner/computer).	According to Regulation (EEC) n° 3821/85 modified (Article 15) the company has to keep the records for +/- 365 days for enforcement purposes. The records can be read directly from the equipment (hard/software) provided by the company or the enforcers.

<p>1) The charts are providing the following recorded information:</p> <ul style="list-style-type: none"> - Name of the driver - Locations where the daily driving period started and end - Date (start and end of the working day) - VRN (Vehicle Registration Number) - KM of the vehicle (start and end of the working day) - Driving time, driver related of the last +/- 365 days driven on vehicles with analog tachograph - Breaks (+/-365 days...) - Resting time (+/- 365 days... if chart inserted) - Other work and/or availability (written on the back of the chart) - Speed - Opening/closing the tachograph - Interruption of the electric impulses 	<p>1) If the data from the DC are downloaded the following recorded information are provided:</p> <ul style="list-style-type: none"> - Name (including first name) of the driver - As location only the country and in the case of Spain also the name of the region (situation will change if manual input in to force). - Date (start and end of the working day) - VRN (all VRN`s driven by the driver within the last +/- 28 days) - KM of the vehicle (start and end of the working day) - The DC contents additional information as: <ul style="list-style-type: none"> - Member state of the driver - Birthday and birthplace - Day of DC-issue - Validity - Issuing authority - Number of driving license - Number of DC - Photo - Signature - Optional: (Living place and space for additional national use - Driving time, driver related of the last 365 days driven on vehicles with digital tachograph. - Breaks (+/- 365 days...) - Resting time (+/- 365 days... if DC inserted) - Other work and/or availability only if DC was inserted into VU and correct button used. No recorded data if away from vehicle. (Situation will change if manual input in to force). - Indication of insertion/withdrawing - Interruption of the electric impulses
<p>Possible manipulation of the chart:</p> <ul style="list-style-type: none"> - Missing charts - Charts without any information - Charts with wrong information (name, locations, km, etc...) 	<p>Possible manipulation of the data from DC`s/VU`s:</p> <ul style="list-style-type: none"> - Missing data (e.g. no recording of other work/availability, “lost” data through abnormal circumstances, “lost” DC / ”stolen” VU, no or not complete downloading, - Wrong locations (only the country and in

<ul style="list-style-type: none"> - Charts indicating manual manipulation (with circle....) - Charts indicating manipulation of the tachograph - Data coming from charts used by one driver with different names - etc... 	<p>the case of Spain also the name of the region - situation will change if manual input into force)</p> <ul style="list-style-type: none"> - Wrong data if manual input into force - Manipulated data (by broken keys...) - Data coming from different/several DC`s used by one driver - etc...
<p>2) The Tachograph is not available during company checks:</p>	<p>2) If the data from the VU are downloaded the following recorded information are provided:</p> <ul style="list-style-type: none"> - Odometer (KM) - Correct calibration - Last periodical control of the VU - Speed (per second for the last 24 hours vehicle operating plus over speeding for the time before) - Driving time (vehicle related) - Breaks (vehicle related) - Rest time (if recorded vehicle related) - Any movement of the vehicle without or damaged DC - Interruption of the electric impulses - Indications of Number of all driver cards used in this vehicle (dates and hours of insertion and withdrawing) - Numbers of all other cards (COC, CC, WC) inserted into the VU within the last +/- 365 days - Any disturbance of the tachograph system (sensor, VU, DC) with indication of date and time - Change of time with date, time and relevant DC-Number - Driving status (single or multiple) - Cross-checking all VUs with DC('s)
<p>Possible manipulation of the tachograph:</p>	<p>Possible manipulation of the VU</p> <ul style="list-style-type: none"> - If there is no downloading the vehicle(s) has(ve) to be presented for company check
<p>3) The further documents provided by the undertaking (List of employees, vacation list of drivers, payroll, disposition of journeys etc...) get the following information:</p> <ul style="list-style-type: none"> - Locations of loading and unloading 	<p>3) The further documents provided by the undertaking (List of employees, vacation list of drivers, payroll, disposition of journeys etc...) get the following information:</p> <ul style="list-style-type: none"> - Locations of loading and unloading

<ul style="list-style-type: none"> - Identification of the vehicle - Legal/contract relation between driver and company - Transport licence - Cross-checking the provided documents with charts or other information 	<ul style="list-style-type: none"> - Identification of the vehicle - Legal/contract relation between driver and company - Transport licence - Cross-checking the provided documents with available data or other information
<p>Possibilities of manipulations:</p> <ul style="list-style-type: none"> - False documents - etc... 	<p>Possibilities of manipulations:</p> <ul style="list-style-type: none"> - False documents - etc...

41. There is further important information, which is needed for enforcement purposes but not recorded on the charts/DC or proven by further documents - such as daily and weekly rest. These periods of non-recording are usually interpreted as rests.

II-2-3: Ways of recognising incidents of missing data from the point of view of enforcers

42. Looking at the list in the paragraph above, each of the incidents will lead to the loss of data. The enforcers' need is to identify these gaps and to fill them using data from other sources:

- breakdown of VU or DC can be recognised at the time of an inspection;
- loss of power to VU will be recorded as fault in VU and in the DC;
- disposal of VU will be identifiable by the date of the installation of the new VU recorded in the VU, and perhaps by lack of data older than a certain date;
- compare current data with data previously downloaded relating to this vehicle to ensure continuity;
- if there is no downloading/print-outs and the ownership of the vehicle is older than the installation data of the VU, then there are gaps;
- companies may try to 'lose' data by various means, one of which could involve replacement of the VU and falsifying the certificate of undownloadability¹¹;
- theft of a DC – Article 16 (3) requires a formal report in the Member State where theft has occurred; it should be possible to confirm that a theft has been reported by checking national data base/TACHOnet;
- loss of a DC – Article 16 (3) requires a formal report to the Member State which issued the card; it should be possible to confirm that a theft has been reported by checking national data base/TACHOnet;
- damage or malfunction of a DC – Article 16 (3) requires the card in question to be returned to the issuing authority of the Member State where he has his place of normal residence; again, details should be on national data base/TACHOnet;
- failure to successfully download a VU - previously downloaded data may be available up to a certain date; in addition the data which have not yet been downloaded may still be in the VU (which will normally keep data for at least one year). If the VU

¹¹ See requirements 260 and 261 of Annex 1B

itself has failed then downloading may not be possible, in which case the operator should have a certificate of undownloadability¹²;

- failure to successfully download a DC - previously downloaded data may be available up to a certain date; in addition, the data which have not yet been downloaded may still be in the DC, but old data may be lost (a card will normally retain data for at least 28 days, and a card with a large memory capacity may keep data for several months).

II-2-3-1: Data not available from VU

43. VU's data are vehicle related.
44. Manual entry data, made voluntarily, are only stored on the DC and can therefore only be obtained by downloading it.
45. When driving without a driver card, the identity of the driver is missing.

II-2-3-2: Data not available from DC

46. DC's data are card holder related.
47. DCs will not contain any record of driving without a card. It will be necessary to download VUs in order to establish whether driving without a card has taken place.
48. Driver cards will not contain detailed speed data, neither records of speeding.

II-2-4: Data required during company checks

49. Company checks will only be efficiently performed if the data recorded into the vehicle units used by the companies and on the driver cards used by the drivers employed or hired by them are downloaded.
50. We refer to the preliminary report on data management for further explanations on this particular subject.
51. But once the data are downloaded, the checks to be done in the companies do not have to be limited to electronic data.
52. In the table presented below, are defined:
 - which data enforcement officers have to check ;
 - where the data can be found ;
 - why they should be checked.

Nota bene: The access of some of these data can be restricted for some enforcement officers due to the limitation of their legal powers.

¹² See requirements 260 and 261 of Annex 1B

DATA	AVAILABLE IN	JUSTIFICATIONS FOR HAVING ACCESS TO THESE DATA DURING COMPANY CHECKS
<p>Name and first name(s) of the driver</p> <ul style="list-style-type: none"> • Identity of the driver (name, first name(s), social security / national number) • Validity of the DC 	<p>VU¹³- DC¹⁴-PC¹⁵, any other documents</p>	<p>Necessity to know who has committed the infringement for the prosecution</p>
<p>Drivers' activities such as:</p> <ul style="list-style-type: none"> • driving, rest, and availability and working times • overspeedings • frauds/faults • distances travelled • the journey (from-to) 	<ul style="list-style-type: none"> • VU – DC – PC, Paper disks, print-outs, any other documents • VU-PC, Paper disks, print-outs • VU-DC-PC, print-outs, any other documents • VU-DC-PC, print-outs, paper disks, any other documents • VU-DC-PC, print- 	<ul style="list-style-type: none"> • Necessity to know which infringement have been committed notably against the EU Regulations (EEC) n° 3820 and 3821/85 as last modified • Check in some circumstances if the driver has made an overspeeding • Necessity to know which infringement has been committed notably against the EU Regulations (EEC) n° 3820 and 3821/85 as last modified • Necessity to cross-check the activities of the drivers • Necessity to know

¹³ VU = Vehicle Unit (tachograph)

¹⁴ DC = Driver Card

¹⁵ PC = in a PC after the data would have been downloaded from the VU and/or the DC to any PC

¹⁶ As defined in the Regulation (EEC) n° 3821/85 as last modified

<ul style="list-style-type: none"> • dates • time and duration of the activities • status of the activities (single or crew driver) • VIN-VRN • events generated by the drivers • Technical data 	<p>outs, Paper disks, any other documents as well as GPS data if available</p> <ul style="list-style-type: none"> • VU-DC-PC, print-outs, paper disks, any other documents • VU-DC-PC, print-outs • VU, print-outs 	<p>under which <i>legis corpus</i> the driver has performed his activities (AETR or 3820-21/85). Problem also with the extraterritoriality rules and the necessity to know where the infringement has been committed within the EU</p> <ul style="list-style-type: none"> • Necessity to know when the infringement has been committed to prosecute the responsible person(s) • Necessity to check if the duration is in compliance with the duration laid down in the Regulation (EEC) n° 3820/85 and in the AETR • Necessity to check if the duration is in compliance with the duration laid down in the Regulation (EEC) n° 3820/85 and in the AETR as the duration of these activities can change depending on the status of the driver • Necessity to identify the vehicle in which the infringement has been committed • Part of the drivers activities and as such necessity to check them (see above) • Necessity to check if the parameters entered
--	---	---

<ul style="list-style-type: none"> • Paper disks • Any relevant document¹⁶ 	<ul style="list-style-type: none"> • If available • If available 	<p>into the VU are still valid</p> <ul style="list-style-type: none"> • Drivers' activities to be checked • Drivers' activities to be checked
<p>Other information concerning the drivers such as:</p> <ul style="list-style-type: none"> • the salary • time sheets • planning • letter of attestation • agenda • bunkering • controls (done or on-going) • fines 	<ul style="list-style-type: none"> • If available • VU-DC-PC, print-outs • If available 	<ul style="list-style-type: none"> • Cross-check of the driver activities (Article 15 of Regulation (EEC) n° 3820/85) • Cross-check of the drivers' activities • Cross-check of the drivers' activities • Cross-check of the drivers' activities • Idem but access limited or even impossible depending on the countries • Cross-check of the drivers' activities • <i>Non bis in indem</i> rule • <i>Non bis in indem</i> rule
<p>Identity of the drivers such as:</p> <ul style="list-style-type: none"> • Date of birth of the driver 	<ul style="list-style-type: none"> • PC, DC, any other document 	<ul style="list-style-type: none"> • Necessity to check the age of the driver against the provision of the Regulation (EEC) n° 3820/85

<ul style="list-style-type: none"> • social security/insurance number • family status • address • Relationship between the driver and the operator and address of the operator 	<ul style="list-style-type: none"> • PC, any other document + national network • Salary sheets, other company documents • PC, any other document • PC, any other document 	<p>fixing a minimum age to drive some vehicles</p> <ul style="list-style-type: none"> • See identity of the driver • Not requested • Necessity to know the address of the driver to prosecute him • Necessity to check the potential liability of the employer. The level of the fine can be different depending on the relationship between the driver and the operator
--	---	--

53. It is obvious that depending on the situation of the company and on the possibility of the enforcement officers to have access to the necessary information, they could satisfy themselves with only some of these data.

II-3: Storage and retrieval of downloaded data

54. Data must be stored reliably such that what is later recovered is exactly what was stored. Records must be complete so that a complete history is available.

55. The stored data must be made available to control officers in a form in which they can use them and at a convenient location.

56. Stored data files must be sufficiently identified such that it is possible to satisfy requests for data relating to specific drivers/vehicles and specific dates.

57. The data must be made available at the time when they are needed.

II-3-1: Where to store downloaded data

58. The current Regulations require the transport undertaking to store and make available data (charts). Although the place for storage is not mentioned in the Regulations, it is common practice in all Member States that charts must be stored in the company premises.

59. Considering this common practice, unless alternative arrangements have been explicitly defined, Member States should also require storage of the data from the digital tachograph at the company premises or at any other convenient place by prior agreement with the enforcement authorities.
60. In addition, the transport undertaking may be required, at the request of a competent inspecting officer, to hand over stored charts. In the case of stored digital data the company should, on request, be required to hand over a copy of the stored digital data.
61. To achieve the enforcement objectives relating to accessibility of data, data from DCs and VUs should be downloaded by (or on behalf of) the transport undertaking on a regular basis and stored such that the data are provided immediately from the company premises or at any place convenient for the enforcement officers. This does not necessarily require physical data storage in the transport company.

II-3-2: Proposal for common ways of presenting data to an Enforcement Officer

62. Data must be provided upon demand on storage media specified by the enforcement authorities and must include the data in the format specified in Annex 1 B complete with the digital signature.
63. Enforcement officers should also have the ability to require the data to be presented:
 - sorted by VRN or by driver ;
 - in chronological order.
64. One way to achieve this might be to use clearly identifiable file names such as:

DownloadedData<VehicleIdentification or card number><DateOfDownloading>
<DownloadedDataStartDate><DownloadedDataEndDate>

Then without reading the file you could identify that the file contained:

- Downloaded Data
 - from a particular vehicle or from a particular driver card
 - which was downloaded on a particular date, and
 - the period of activity covered by that file
65. There are numerous benefits to such a procedure:
 - the means and details of data storage become unimportant. Any convenient storage medium may be used including any to be identified in the future.
 - The location of the storage place for downloaded data becomes unimportant. Data may be stored remotely if appropriate, so long as access to the data is available at the company premises or alternatively at a point specified by the enforcement officer.
 - The means of access to the data is exactly as already needed by control officers.
 - The downloaded data will be archived and accessible to the enforcement officers almost in the same way charts are accessible today.

66. Nevertheless, control officers have to be aware, when requesting data, that the necessary data to be checked are most likely spread over one or many VUs, and one or many driver cards.

II-3-3: The authenticity of the data : security mechanisms and digital signature

67. For enforcement purposes it is of vital importance that data made available can be recognized as genuine data. For this purpose a digital signature is added to the downloaded data; i.e. one digital signature for all the data on the DC and one digital signature for each day downloaded from the VU.

68. From the perspective of security of the downloaded data, the medium through which the data will be downloaded does not make any difference. The data may be downloaded using GSM or wire or by some other means. Of course, the medium in itself might not be secure. But from the viewpoint of those enforcing the drivers' hours rules, what matters is whether the data are genuine.

69. The security objectives relating to downloaded data are:

- to ensure that it is possible to tell whether downloaded data have been changed after they have been downloaded ;
- to be able to prove that the data came from the VU/card as claimed.

70. To achieve these objectives, the data are protected by the addition of digital signatures. A signature is generated by compressing the data to a manageable size, and then encrypting the result. The signature is then added to the end of the data and stored with the data. If the data are altered, the digital signature will no longer match the data.

71. It is important to note that privacy of the data is not considered a security issue, and therefore the data themselves are not hidden by encryption.

72. Directive n° 1999/93/EC imposes on Member States the obligation to ensure that an electronic (digital) signature is not denied legal effectiveness and admissibility as evidence in legal proceedings.

III – When could company checks be organised?

73. Company checks can be performed:

- regularly in which case the checks can be based on statistics (size of companies, location in the Member State, branches, etc...);
- after a complaint : does not need necessarily to be formally expressed;
- after a road side check (follow-up or automatically. Can be used as a starting point for a company check);
- on request of a prosecutor / traffic commissioner / after a prosecution;
- on request of another Member State;
- after an accident;
- any after receipt of any drivers hours or recording equipment related intelligence.