

## ***Questions & Answers on tachograph cards***

***Version 27 January 2025***

***DISCLAIMER: This paper does not commit the Commission nor the Commission services, and is only intended as a draft working paper for discussion within the Committee on Road Transport. Only the European Court of Justice is competent to authoritatively interpret Union law.***

Between August 2023 and August 2028, and as a result of the changes brought by Regulation (EU) 2020/1054 to Regulation (EU) No 165/2014, Member States and enforcers should be aware that different combinations of tachograph versions and tachograph card versions are possible. Until August 2028 – when all vehicles operating in Member States other than their Member State of registration will be fitted with a smart tachograph version 2 **and** all drivers will have a smart tachograph version 2 driver card – each combination of versions of tachographs and tachograph cards yields its set of limits, constraints and questions, along with new obligations which start to apply both to operators, vehicles and drivers over this entire 5-year period. Possible technological constraints which are beyond the roles and responsibilities of the driver should therefore also be taken into account during roadside checks.

***Question 1: How can drivers comply with the obligations to show records of the last 56 days from 31 December 2024<sup>1</sup>?***

***Answer:***

Recital 11 of Regulation (EU) 2020/1054, Article 26(7a) and the fifth indent of Article 4(2) of Regulation (EU) No 165/2014, as well the corresponding changes in the obligation for analogue tachographs in Article 36(1) of Regulation (EU) No 165/2014, appear clear that the intention of the co-legislators in 2020 was, through the amendments to Article 36(2) of Regulation (EU) No 165/2014, for control authorities to be able to check all drivers' activities over the last 56 days at the roadside from 31 December 2024.

The technical specifications of smart tachograph version 2 cards<sup>2</sup> allow drivers who hold such a driver card (issued by Member States from August 2023) to be able to show driving times and rest periods of the last 56 days by showing only their driver card.

Where a driver is in possession of a valid driver card issued before August 2023, a vast majority of those driver cards also allow to store drivers' activities for more than 28 days, including in a

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<sup>1</sup> Point (15) of Article 1 and Point (12) of Article 2 of Regulation (EU) 2020/1054, combined with Recital 11 and Article 3 of Regulation (EU) 2020/1054. The consolidated version of Regulation (EU) No 165/2014 will be updated online shortly after 1 January 2025.

<sup>2</sup> Commission Implementing Regulation (EU) 2016/799, as amended by Implementing Regulation (EU) 2021/1228.

majority of the cases also mostly more than 56 days. Member States' Card Issuing Authorities are encouraged to relay this finding to operators and drivers when this is confirmed.

In a minority, possibly residual number of cases, it is possible that drivers may not have, on their driver card issued before August 2023, records of the previous 56 days. Such cases may arise when a Member State has issued driver cards between August 2020 with less than the maximum authorised storage capacity, and where drivers with such cards have extremely frequent activity changes over a period of 56 days.

In such limited cases and in the period from 31 December 2024 until the date at which the driver is issued a smart tachograph version 2 card, several options are therefore possible to comply with the obligation:

- Drivers may keep records or printouts of their activities for the rolling period of the last 56 days; and/or
- Operators may organise themselves so that such drivers are able to show to the control officer upon request during a roadside check, the activities of the days which could be missing from the drivers' records. This can, for example, take the form of the operator providing a copy of the data downloaded from driver cards, in accordance with Article 33(2) of Regulation (EU) No 165/2014;
- Member States may require the replacement of certain driver cards, in accordance with Article 26(7a) of Regulation (EU) No 165/2014.

Where data of less than 56 days ago may have been overwritten by more recent data due to the memory capacity of specific items on a smart tachograph version 2 card, enforcers should be aware of this possibility and, if necessary, allow drivers and operators to show records of all 56 previous days by similarly using one of the two first options outlined above.

***Question 2: How do drivers show evidence of border crossings until they are both driving a vehicle with a smart tachograph version 2 and in possession of a smart tachograph version 2 driver card?***

***Answer:***

From 1 January 2025, vehicles operating in Member States other than their Member State of registration are all to be equipped with a smart tachograph. Most vehicles will be equipped with a smart tachograph version 2, while smart tachographs version 1 still have until 18 August 2025 to be replaced with a smart tachograph 2. In all vehicles equipped with a smart tachograph version 2, border crossings are recorded automatically by the tachograph. Regulation (EU) No 165/2014 requires that until the vehicle is equipped with a smart tachograph 2, the driver must manually record all border crossings<sup>3</sup>.

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<sup>3</sup> Point 11 of Article 2 of Regulation (EU) 2020/1054, amendments to Article 34 of Regulation (EU) No 165/2014.

Where a driver is driving a vehicle equipped with smart tachograph version 2, it results that there is no requirement to manually record border crossings, regardless of the card version. Enforcement authorities can, where need be, check the data of the tachograph for border crossings. Where drivers have been driving different vehicles over the last 56 days, enforcers can check that other vehicles driven were equipped with smart tachograph version 2, which could explain why border crossings have not been manually recorded on the driver card.

***Question 3: What about non-EU AETR-issued driver cards, many of which remain “first generation” digital driver cards?***

***Answer:***

The driver card is to be issued by the country in which drivers have their normal residence. Normal residence is defined in the same way in both the AETR and in Regulation (EU) No 165/2014<sup>4</sup>. A driver engaged in operations falling under the scope of the AETR is therefore subject to the AETR rules, and not to provisions stemming from Regulation (EU) No 165/2014, such as the manual recording of border crossings or the obligation to present the activities of the last 56 days.

Member States and operators should, however, carefully assess the cases where drivers originating from a non-EU AETR Contracting Party start working for EU-established operators. In such cases, it is probable that such drivers will be engaged in intra-EU trips falling under the scope of EU law. In such cases, those drivers specifically fall under the scope of Regulation (EU) No 165/2014. The normal residence of the driver may, at the same time, therefore, also change to the EU Member State in which the driver is newly employed. In this case, it is the responsibility of the operator to ensure that the driver complies with EU tachograph law.

***Question 4: in which non-EU AETR countries can vehicles be equipped with a smart tachograph and can smart tachograph cards be issued?***

***Answer:***

The countries which have identical smart tachograph rules as EU ones are: the United Kingdom, Norway, Liechtenstein, Iceland and Switzerland.

Among the Contracting Parties to the Treaty establishing the Transport Community, the following countries have obtained smart tachograph cryptographic certificates from the Commission, enabling them to issue smart tachograph cards: Bosnia Herzegovina and Serbia.

Vehicles registered in Ukraine may be fitted with a smart tachograph, and Ukraine has the possibility to develop its smart tachograph infrastructure (including issuing of cards) at its own pace.

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<sup>4</sup> Article 26 of Regulation (EU) No 165/2014 and Article 11 of the Annex to the AETR.