



Brussels, **XXX**
[...](2021) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

on a common formula for calculating the risk rating of transport undertakings

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

COMMISSION IMPLEMENTING REGULATION (EU) .../...

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on a common formula for calculating the risk rating of transport undertakings

THE EUROPEAN COMMISSION,

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

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 Regulations No 561/2006 and (EU) No 165/2014 and Directive 2002/15/EC as regards social legislation relating to road transport activities and repealing Council Directive 88/599/EEC¹, and in particular Article 9(1), second subparagraph thereof,

Whereas:

- (1) Effective and cost-efficient enforcement of the Union road transport legislation is of paramount importance for improving road safety, drivers' working conditions and social protection and ensuring fair competition between road transport undertakings.
- (2) National risk rating systems introduced by Member States to better target controls at undertakings with high-risk rating are based on different national calculation methods. This hampers comparability and exchange of information on risk scores in the context of cross-border enforcement.
- (3) Article 9(1), second subparagraph of Directive 2006/22/EC requires the Commission to establish, by means of implementing acts, a common formula for calculating the risk taking of an undertaking.
- (4) The common formula should take into account the number, gravity and frequency of occurrence of infringements, the results of controls where no infringement has been detected and whether a road transport undertaking has been using the smart tachograph, pursuant to Chapter II of Regulation (EU) No 165/2014, on all its vehicles.
- (5) The common formula for calculating the risk rating of an undertaking should contribute significantly to the harmonisation of enforcement practices throughout the Union, by ensuring that all drivers and transport undertakings are treated equally as regards checks and sanctions under the applicable Union rules.
- (6) Where the measures provided for in this Regulation entail the processing of personal data, they should be carried out in accordance with Union law on the protection of personal data and privacy, in particular Regulation (EU) 2016/679 of the European

¹ OJ L 91, 29.3.2019, p. 45.

Parliament and of the Council², and, where applicable, Directive 2002/58/EC of the European Parliament and of the Council³.

- (7) The measures provided for in this Regulation are in accordance with the opinion of the committee established by Article 42(1) of Regulation (EU) No 165/2014,

HAS ADOPTED THIS REGULATION:

Article 1

The common formula for calculating the risk rating of a transport undertaking and the requirements for its application are laid down in the Annex.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

...

² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

³ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002, p. 37).