Organisation of working time: persons performing mobile road transport activities

2008/0195(COD) - 15/10/2008 - Legislative proposal

PURPOSE: to amend Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities to enhance clarity, readability and enforceability of the current rules by providing a more precise definition of mobile workers including so called 'false' self-employed drivers.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: Directive 2002/15/EC became applicable on 23 March 2005. Its common rules ensure minimum social protection standards for mobile workers in the road transport sector and are perceived as an important step towards improving the health and safety protection of mobile workers in the sector.

When adopting the Directive after a conciliation procedure, Council and Parliament agreed that it should in principle apply to self-employed drivers from 23 March 2009. In addition, the Commission is requested to present a report at the latest two years before that date to the European Parliament and the Council, followed by a legislative proposal based on the report, which would either define the modalities for the inclusion or exclude the self-employed drivers from the scope of the Directive.

The Commission report concluded that there was not a decisive case for including self-employed drivers under the directive, but that it was important to address the issue of definitions and make them clear through an appropriate amendment that the notion of mobile worker covered by the directive also included the so-called 'false' self-employed drivers.

CONTENT: the proposal introduces the following modifications without changing the overall purpose of the directive, namely social protection of workers and those who are assimilated to workers under the social rules in road transport. In particular, it:

- **clarifies the scope**: the Directive applies to all mobile workers as defined in Article 3(d) including the so called 'false' self-employed drivers, i.e. those drivers who are officially self-employed, but in fact are not free to organise their working activities. It does not cover genuine self-employed drivers who are not in the scope of the Directive;
- **maintains the definition of 'working time' applicable to all drivers covered by the directive**, but deletes the definition of "working time" for self-employed drivers as they fall out of the scope. In order to tackle the phenomenon of so called false self-employed, a more precise definition of 'mobile workers' is added and it makes the definition of "night work" applicable in practice;
- **introduces common principles** designed to ensure greater transparency and effectiveness of national enforcement regimes, common understanding of the rules and their equitable application;
- **calls for greater cooperation between Member States' relevant authorities** responsible for enforcement as well as for support from the Commission to facilitate the dialogue between enforcers and industry and between Member States to ensure common approach to the implementation of working time rules. All this aims at improving compliance with the Community rules and consequently at contributing to EU transport policy objectives.