Road transport, organisation of working time: mobile workers and self-employed drivers

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The Commission presented its report on application of Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities (27th report from the Commission on the implementation of the social legislation relating to road transport).

This report covers the **2011-2012** timeframe. It is based mainly on the national reports, for which the submission deadline expired on 30 September 2013. Its aim is to provide an overview of how Member States have implemented the above-mentioned set of legislative acts and to highlight the key challenges in enforcement and application of the rules in force. The report contains both quantitative and qualitative data on checks carried out at roadside and premises, offences detected as well as information on the implementation of Road Transport Working Time Directive. The Commission report is complemented by a Commission Staff Working Document that contains supplementary information on penalties, cooperation between Member States, comments from enforcement authorities and detailed statistical data.

State of transposition of Directive 2002/15/EC: the Directive lays down specific provisions on working time of persons performing mobile road transport activities. During this reporting period, many Member States informed on amendments of their legislative framework in order to include self-employed drivers in its scope; namely Bulgaria, Denmark, Germany, Ireland, Luxembourg, Malta (on-going), Poland, Portugal, Sweden, the United Kingdom.

As regards collective agreements, divergent systems are observed in the European Union. They range from no collective agreements concluded (for example Malta) to established collective agreements that can provide for derogation to the working time limit (for example Italy).

Directive 2002/15/EC was perceived as a good set of arrangements that helped to deal with definition of working time and its limits. However, Greece pointed out that certain provisions of this Directive overlap with those of Regulation (EC) No 561/2006, which is a source of problems for businesses and workers. Spain identified issues when implementing rules on calculating periods of availability of drivers. The same matter was referred to by the Czech Republic. There is a confusion regarding the application of the working time provision, in particular when drivers spend time waiting between two runs and these times are known in advance.

In general, to facilitate practical implementation of Directive 2002/15/EC, Ireland and Sweden developed and distributed guidance material for operators on how to comply with the provisions of this Directive.

Stakeholders' views on implementation of Directive 2002/15/EC: sixteen Member States confirmed that stakeholders had been consulted, as required by Directive 2002/15/EC, which marks an improvement as compared to the reporting period of 2007-2008. In general, there was a consensus among employers and employees that Directive 2002/15/EC contributed to health and safety protection of drivers. In Ireland, the employers expressed an opinion that limitations on working time improved the attractiveness of the driving profession. Some national social partners voiced their concerns as to the **lack of consistency of enforcement and application of the rules in force** and expressed the need for clarification of some specific aspects, such as compensation for night work.

Other conclusions drawn from the implementation: the report shows that certain improvements in the enforcement and implementation of the legislation on social rules have been observed. On average, the

total number of working days checked in the EU increased by 8.7% from almost 146 million to around 158.6 million working days checked while the minimum threshold of controls of 3% remained unchanged. **This rise confirms the general commitment among Member States to enhance the controls of compliance with the social rules in road transport**.

However, most Member States failed to reach the threshold of having at least 50% of the total working days checked at premises and the vast majority of checks took place at the roadside. The Commission will monitor developments in this field. Should there be no improvements observed in the next reporting period 2013-2014 in respective Member States the Commission will launch an official enquiry with those Member States failing to comply with the requirement for checks at premises.

Offences: after a significant and constant growth of offences reported over the previous 6 years at European level, which is tied with increases of minimum working days to be checked, there is a reversed tendency for the current reporting period which marked a decrease versus the last period in the number of offences detected. This change seen together with the increase of the number of working days checked could be interpreted as an **improved compliance with the provisions of social legislation** thanks to well-established enforcement practices and greater awareness of social rules among drivers.

Health and safety of workers: the national reports on implementation of Directive 2002/15/EC, due to their incompleteness do not allow for in-depth analysis of impacts of this legislative act on health and safety of drivers or on road safety. Many Member States included self-employed drivers in the scope of their legislative frameworks even though this is sometimes perceived as causing enforcement issues.

To assess other important aspects of the implementation of the road transport social rules, including application of the European Court of Justice jurisprudence, implementation of exceptions and penalties in the light of the Charter of Fundamental Rights of the European Union, the Commission will launch a comprehensive evaluation of the functioning of the social legislation in road transport.