Organisation of working time. Codification

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Directive 2003/88/EC lays down minimum safety and health requirements for the organisation of working time of workers, covering periods of daily rest, breaks, weekly rest, maximum weekly working time, annual leave and aspects of night work, shift work and patterns of work. The Directive applies to all sectors of activity except where other Community instruments contain more specific requirements on the organisation of working time for particular occupations or occupational activities. There are currently four such instruments, of which one, Directive 2002/15/EC, is relevant to this report. The latter applies to carriage by road, but excludes vehicles used for the carriage of passengers on regular services where the route covered by the service in question does not exceed 50 kilometres. Whenever the route exceeds 50 kilometres, Directive 2002/15/EC is applicable. Given the regulatory differences, it is important that workers are covered by the right or, in any case, by the most protective provisions.

This report by the Commission follows the requirement in Article 26 of the Directive to review the operation of the provisions with regard to workers concerned with the carriage of passengers on regular urban transport service, with a view to presenting, if need be, the appropriate modifications to ensure a coherent and suitable approach in the sector. In order to comply with this obligation, the Commission prepared a questionnaire for completion by Member States and social partners. This report summarises the replies received and presents some conclusions concerning the suitability of the Directive's provisions for the urban transport sector.

The Commission gives an overview of the national reports of Member States and social partners. The regular urban transport sector is regulated at the national and/or regional level, by rules and structures that differ across Member States. In many countries, different legislation and/or collective agreements apply, depending on whether transport is by road or by rail. In general, the level of protection granted to urban transport workers is higher than the minimum requirements under the Directive.

In most of the Member States regular urban transport workers are covered by collective agreements, whose scope differs from country to country. These agreements generally cover all aspects of worker-employer relations. Collective agreements apply at national, regional and/or company level, depending on the Member State.

In several Member States, the Directive is implemented by several national legislative measures. Where this is the case, often there is separate national legislation for bus drivers. In addition, some Member States extend the provisions of Regulation 3820/85/EEC to bus drivers in regular urban passenger transport. Nevertheless, at this stage it is not clear whether all provisions of Directive 2002/15/EC are applied.

In cases where urban and regional transport are provided by the same company, it is not always clear whether Regulation 3820/85/EEC and Directive 2002/15/EC apply to workers whose route is longer than 50 kilometres. The non application of these legal texts to workers covered by their scope is a violation of Community law, since these specific legal instruments are more protective than the Directive.

In some cases, the provisions of Regulation 3820/85/EEC and Directive 2002/15/EC seem to be combined with the broader possibilities of derogation permitted by the Directive. In addition, some Member States' legislation permits a 12-month reference period for calculating average maximum weekly working time, in contradiction with the Directive.

Five Member States reported having implemented the individual opt-out (Estonia, Germany, Hungary, Malta and United Kingdom). However, all of them applied it broadly, rather than to the urban transport sector specifically.

Neither trade unions nor employers' representatives have requested a review of the provisions currently applicable to this sector. Trade unions underline difficulties in enforcing the provisions, because they consider the applicable sanctions to be ineffective. In their view, progress should be made on this issue, in order to avoid risks to the development of this sector.

In conclusion, the provisions of the Directive appear to be suitable for the urban transport sector and no major problems have been identified. Only one Member State (Latvia) has pointed out difficulties in complying with the rules of the Directive, specifically as concerns maximum weekly working time.

The Commission does not consider that any change is needed to the rules regarding organisation of working time for workers concerned with the carriage of passengers on regular urban transport services. The Commission will investigate the above mentioned situations where there are indications of difficulties in compliance with Community law, and in particular with the Directive and will take its responsibilities in accordance with the Treaty.