Basic information

1998/0319(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Road transport, organisation of working time: mobile workers and self-employed drivers **Subject** 3.20.05 Road transport: passengers and freight 3.20.10 Transport undertakings, transport industry employees 4.15.03 Arrangement of working time, work schedules	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
DELE EP Delegation to Conciliation Committee	HUGHES Stephen (PSE)	19/06/2001

Former committee responsible	Former rapporteur	Appointed
EMPL Employment and Social Affairs	HUGHES Stephen (PSE)	27/07/1999

Former committee for opinion	Former rapporteur for opinion	Appointed
TRAN Transport and Tourism	SIMPSON Brian (PSE)	20/01/1999

Council of the European Union

Council configuration	Meetings	Date
Transport, Telecommunications and Energy	2204	1999-10-06
Transport, Telecommunications and Energy	2169	1999-03-29
Transport, Telecommunications and Energy	2324	2000-12-20
Agriculture and Fisheries	2410	2002-02-18
Social Affairs	2164	1999-03-09

European Commission

Commission DG	Commissioner
Employment, Social Affairs and Inclusion	

Key events

Date	Event	Reference	Summary
24/11/1998	Legislative proposal published	COM(1998)0662	Summary
15/01/1999	Committee referral announced in Parliament, 1st reading		
09/03/1999	Debate in Council		
29/03/1999	Debate in Council		
31/03/1999	Vote in committee, 1st reading		
31/03/1999	Committee report tabled for plenary, 1st reading	A4-0187/1999	
13/04/1999	Debate in Parliament		
05/05/1999	Vote in committee, 1st reading		
06/10/1999	Debate in Council		
10/11/2000	Modified legislative proposal published	COM(2000)0754	Summary
23/03/2001	Council position published	05919/1/2001	Summary
05/04/2001	Committee referral announced in Parliament, 2nd reading		
29/05/2001	Vote in committee, 2nd reading		Summary
29/05/2001	Committee recommendation tabled for plenary, 2nd reading	A5-0196/2001	
13/06/2001	Debate in Parliament		
14/06/2001	Decision by Parliament, 2nd reading	T5-0332/2001	Summary
27/09/2001	Parliament's amendments rejected by Council		
22/11/2001	Formal meeting of Conciliation Committee		
17/12/2001	Final decision by Conciliation Committee		Summary
16/01/2002	Joint text approved by Conciliation Committee co-chairs	3676/2001	
23/01/2002	Report tabled for plenary, 3rd reading	A5-0013/2002	
05/02/2002	Decision by Parliament, 3rd reading	T5-0027/2002	Summary
18/02/2002	Decision by Council, 3rd reading		
11/03/2002	Final act signed		
11/03/2002	End of procedure in Parliament		
23/03/2002	Final act published in Official Journal		
04/04/2002	Debate in Parliament		

Technical information	
Procedure reference	1998/0319(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 137-p2

	EC Treaty (after Amsterdam) EC 071 Rules of Procedure EP 050 Rules of Procedure EP 52-p1
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/14847

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0187/1999 OJ C 219 30.07.1999, p. 0008	31/03/1999	
Text adopted by Parliament, 1st reading/single reading		T4-0304/1999 OJ C 219 30.07.1999, p. 0174-0240	14/04/1999	Summary
Text adopted by Parliament confirming position adopted at 1st reading		T4-0416/1999 OJ C 279 01.10.1999, p. 0252-0270	06/05/1999	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0196/2001	29/05/2001	
Text adopted by Parliament, 2nd reading		T5-0332/2001 OJ C 053 28.02.2002, p. 0238-0297 E	14/06/2001	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A5-0013/2002	23/01/2002	
Text adopted by Parliament, 3rd reading		T5-0027/2002 OJ C 284 21.11.2002, p. 0023-0092 E	05/02/2002	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	05919/1/2001 OJ C 142 15.05.2001, p. 0024	23/03/2001	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1998)0662	24/11/1998	Summary
Reconsultation	SEC(1999)0581	28/04/1999	
Modified legislative proposal	COM(2000)0754 OJ C 120 24.04.2001, p. 0284 E	10/11/2000	Summary
Commission communication on Council's position	SEC(2001)0584	05/04/2001	Summary
	COM(2001)0415		

Commission opinion on Parliament's position at 2nd reading		25/07/2001	Summary
Follow-up document	COM(2007)0266	23/05/2007	Summary
Follow-up document	COM(2009)0415	03/08/2009	Summary
Follow-up document	SEC(2009)1099	03/08/2009	Summary
Follow-up document	SEC(2011)0052	07/01/2011	Summary
Follow-up document	SWD(2012)0270	12/09/2012	Summary
Follow-up document	COM(2014)0709	21/11/2014	Summary
Follow-up document	SWD(2014)0342	21/11/2014	
Follow-up document	COM(2017)0117	07/03/2017	Summary
Follow-up document	SWD(2017)0100	07/03/2017	
Commission document (COM)	COM(2018)0698	18/10/2018	Summary
Follow-up document	COM(2024)0405	13/09/2024	
Follow-up document	SWD(2024)0215	13/09/2024	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0332/1999 OJ C 318 18.05.1999, p. 0033	25/03/1999	
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3676/2001	16/01/2002	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2002/0015
OJ L 080 23.03.2002, p. 0035-0039 Summary

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

1998/0319(COD) - 21/11/2014

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.

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

1998/0319(COD) - 12/09/2012

The Commission presents a report on the implementation of four interrelated and complementary legislative acts establishing social rules in road transport. These four legislative acts are: (i) Regulation (EC) No 561/20061, which establishes rules on driving times, breaks and rest periods for professional drivers; (ii) Directive 2006/22/EC2, which determines minimum requirements for enforcement of these rules; (iii) Regulation (EEC) No 3821 /853 on recording equipment; and (iv) Directive 2002/15/EC4, which sets out complementary provisions on the organisation of the working time of persons performing mobile road transport activities.

The report covers the two-year period 2009-2010. The report is of a technical nature and its primary aim is to provide a general overview of how Member States have enforced the applicable social rules. Even though the information provided to the Commission services does not allow for in-depth analysis of impacts of the legislation on health and safety of drivers or on road safety, a general conclusion could be drawn that better enforcement of and compliance with the social rules can indirectly contribute to well-being of drivers and to improving road safety.

The detailed observations show two main types of improvements in implementation of the legislation:

- improvements in enforcement by Member States, in particular as regards reaching the thresholds set in the legislation, data collection and reporting discipline;
- improvements in application of the rules by professional drivers and transport undertakings.

During the reporting period 2009-2010, Member States increased the number of checks performed. All except for five Member States reached or even exceeded the required minimum number of checks. However, the vast majority of checks took place at the roadside and most Member States failed to reach the threshold of having at least 50 % of the total working days checked at premises.

The frequency of offences detected has decreased but the types of offences detected are more or less the same as compared to 2007-2008. Offences against breaks (29%) and rest periods (24%) are still the ones most frequently detected, followed by driving time (19%). There are still considerable differences in the detection rate among the Member States. It is important to ensure that this is not due to incorrect implementation or interpretation of the rules.

National authorities should ensure that checks are being performed without discrimination on the basis of the nationality of the drivers/country of registration of vehicles. Member States should thoroughly examine their data and instruct their control authorities accordingly in order to avoid unequal treatment of non-nationals.

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

1998/0319(COD) - 18/10/2018

The Commission presents a report on the implementation of Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport and of Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities. The report gives an overview of the implementation of the EU social rules in road transport in the Member States for the period of 1 January 2015 until 31 December 2016. Directive 2002/15/EC (the Road Transport Working Time Directive) establishes the requirements on maximum weekly working times, minimum breaks in work and on nighttime working. It applies to drivers falling within the scope of Regulation (EC) No 561/2006 (the Driving Time Regulation).

Quality of national reports

The Commission cautions that only a few Member States provided statistical data on controls and their outcomes as regards the Road Transport Working Time Directive. No reports were received from Belgium Croatia, Greece, Hungary, Latvia, the Netherlands and Spain. The Commission states that it may decide to take legal actions against Member States for failure to comply by Member States with the requirement to submit the information specified in the Commission Decision establishing a reporting format.

Implementation aspects in Member States

None of the Member States having submitted a report indicated any change in the legislation implementing Directive 2002/15/EC during the years 2015-2016. Overall, in most Member States, the last amendments of the national legislation were related to the inclusion of self-employed drivers within the scope of their national law on working time in the road transport sector and were already reported in the 2013-2014 report.

Several Member States emphasised the importance of providing advice and guidance to the sector on how to comply with the complexity of the social rules in road transport. For instance, Lithuania indicated that guidance on requirements and instructions is issued to employers. In Sweden, during inspections, authorities try to establish a dialogue with the employer or self-employed driver to ensure that they understand the rules and take the necessary measures to follow them. Irish authorities use a stepped approach involving a combination of advice and guidance and the use of formal directions prior to taking the prosecution route.

As regards judicial interpretation by national courts, none of the Member States reported any significant national court decisions interpreting Directive 2002/15/EC during 2015-2016.

Offences against working time rules

Only 8 Member States (Austria, Cyprus, Czech Republic, Finland, France, Ireland, Luxembourg and Poland) provided quantitative data on offenses detected, which is even, less than for the last reporting period where ten Member States had provided this information. The insufficient number of contributions does not allow for any relevant EU-wide conclusions to be drawn. All Member States are therefore invited to include this data in the next reports.

Some Member States indicated that they ordered rectification when an offence is first detected. In cases were the deficiency fails to be addressed, the enforcement authorities will proceed with their respective sanctions. This consists in initiating administrative proceedings in Austria and Slovakia and/or issuing a fine in Estonia and Finland.

Lastly, the Commission notes that only a few Member States provided views of social partners as part of this report. It reminds Member States that Directive 2002/15/EC requires them to include the views of both sides of industry as part of the reporting exercise.

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

1998/0319(COD) - 07/03/2017

This report from the Commission to the European Parliament and the Council concerns on the implementation in 2013-2014 of Regulation (EC) No 561 /2006 on the harmonisation of certain social legislation relating to road transport and of Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities.

This is the 28th report of the Commission on the implementation of social legislation in the field of road transport. It reviews the implementation by Member States of the four interrelated legislative acts establishing social rules in road transport and their enforcement regime. These legislative acts are:

1. Regulation (EC) No 561/2006, which establishes rules on driving times, breaks and rest periods for professional drivers;
2. Directive 2006/22/EC, which determines minimum requirements for enforcement of these rules;
3. Council Regulation (EEC) No 3821/85 on recording equipment, i.e. main tool to control the drivers' compliance with social rules;
4. **this Directive 2002/15/EC**, which sets out complementary provisions on the organisation of the working time of persons performing mobile road transport activities.

The Commission is currently evaluating the Regulation (EC) No 561/2006 and intends to **table a proposal for a targeted revision in 2017** as part of the Road Initiative. Article 17 of Regulation (EC) No 561/2006 requires Member States to communicate every two years the necessary information to enable the Commission to draw up a report on the application of that Regulation and the developments in the fields in question. Article 13 of Directive 2002/15/EC provides that Member States should report to the Commission on the implementation of the Directive, indicating the views of the two sides of the industry.

The reports on Directive 2002/15/EC and Regulation (EC) No 561/2006 can be presented in one single document as both legislative acts cover the same two-year reporting period and establish complementary rules for professional drivers engaged in the carriage of goods or passengers.

Period covered by the report: this report covers the period of 1 January 2013 to 31 December 2014. 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**.

Main findings:

- the majority of Member States have met the **minimum threshold of working days checked** required by Directive 2006/22/EC and have often exceeded it significantly. However, a few of them have not met this minimum threshold. Furthermore, only half of the Member States have complied with the minimum number of concerted checks, which shows a deterioration in the number of international initiatives compared to the previous period. Cooperation takes place mainly between neighbouring Member States and is complemented by actions undertaken within the framework of Euro Contrôle Route (ECR) which has established cooperation on a larger scale. In order to create a level playing field in the transport sector, it is necessary to improve and align the enforcement of transport-related social legislation across the EU. Therefore, the Commission **envisages taking measures aiming at strengthening the enforcement of the social rules in road transport**;
- **some Member States have not met the target of having at least 50% of the total working days checked at premises** and the vast majority of inspections took place on the road. The Commission will monitor developments in this respect. In the absence of improvements in the various Member States during the next reporting period, the Commission will launch a formal enquiry with those Member States failing to comply with the requirements for checks at premises;

- according to Directive 2006/22/EC, the threshold of minimum checks of number of days worked by drivers of vehicles should be raised to 4% once 90% of all vehicles checked are equipped with a digital tachograph. In this reporting period **64% vehicles checked at roadside were equipped with the digital tachograph**. Hence, there is no base for raising the minimum threshold of checks to 4% of days worked by drivers.

The report also stressed that:

- the national authorities should ensure that checks are carried out **without discrimination** on the basis of nationality of drivers/Member State of registration of vehicles;
- the **downward trend in the number of offences** that began to develop during 2011-2012 has been maintained;
- the analysis of detection rates at roadside and at premises indicates that checks at premises remain more efficient than *ad-hoc* roadside controls. Discrepancies in detection rates between Member States reveal that the European Union is far from establishing a harmonised enforcement area because of diverging enforcement resources and practices in controlling compliance with road transport legislation;
- there has been a notable increase in the number of infringements involving the manipulation of recording equipment. Therefore, the **appropriate enforcement techniques, equipment, training of control officers**, etc. enabling targeted controls and detecting manipulation devices and fraud became **more needed than ever**. In order to address this issue, the Commission is preparing an implementing act specifying the content of initial and continuing training for control officers.

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

1998/0319(COD) - 11/03/2002 - Final act

PURPOSE: To establish minimum requirements relating to the organisation of working time of persons performing mobile road transport activities. COMMUNITY MEASURE: Directive 2002/15/EC of the European Parliament and of the Council on the organisation of the working time of persons performing mobile road transport activities. CONTENT: In order to ensure the safety of transport and the health and safety of workers in the road transport sector this Directive has been approved. The scope of this Directive covers mobile workers employed by transport undertaking established in an EU Member State. It also covers workers of crews of vehicles engaged in international road transport (AETR). Self-employed drivers will be excluded temporarily from the scope of this Directive. They will, nevertheless, continue to fall under the scope of Regulation 3820/85. This Directive will apply to self-employed drivers from 23 March 2009. Two years before this date the Commission shall prepare a report analysing the consequences of the exclusion of self-employed drivers. The report will examine aspects of road safety, conditions of competition, the structure of the profession as well as social aspects. Based on the conclusions of this report the Commission will recommend either the inclusion or not of self-employed drivers within the scope of the Directive. The Directive lays out specific definitions. Thus, "working time" will include the time from the beginning to the end of work during which the mobile worker is at his workstation, at the disposal of the employer and exercising his functions or actives. Activities include: driving; loading and unloading; assisting passengers boarding and disembarking from vehicles; cleaning and technical maintenance; all other work intended to ensure the safety of the vehicle etc. "Period of availability" will include mobile workers driving in a team, the time spent sitting next to the driver or on the couchette while the vehicle is in motion. Other definitions relate to "workstation"; "mobile worker" and "self-employed driver". In terms of the maximum weekly working time, the Directive specifies that the average working time may not exceed 48 hours. This may be extended to 60 hours only if, over a four month period, an average of 48 hours a week is not exceeded. Concerning the breaks mobile workers must take the Directive states that they are allowed to work no more than six consecutive hours without a break. The break should last at least 30 minutes if working hours total between six and nine hours and of at least 45 minutes, if working hours total more than nine hours. Night work shall not exceed ten hours in each 24 hour period and compensation must be given in accordance with national legislation. Lastly, Member States shall lay down a system of penalties for breaches of the national provisions adopted. The Member States and Commission are required to submit regular reports regarding the implementation of the Directive. ENTRY INTO FORCE: 23/03/2002. IMPLEMENTATION : 23/03/2005.

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

1998/0319(COD) - 05/04/2001 - Commission communication on Council's position

The common position was the subject of a political agreement by qualified majority. Consequently, the Commission considers that given the very significant divergence in the original views of the Member States considering the fact that the common position incorporates a certain automaticity to include eventually the self-employed drivers as well as sufficient protection for night workers, the common position constitutes a reasonable and balanced compromise.

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

1998/0319(COD) - 05/02/2002 - Text adopted by Parliament, 3rd reading

The European Parliament adopted the report by Mr Stephen HUGHES (PES, UK) which approves the conciliation agreement on the working time directive for the road transport sector. (Please refer to the outcome of the conciliation committee 17/12/01).

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

1998/0319(COD) - 10/11/2000 - Modified legislative proposal

The Commission has introduced amendments which were put forward by the Parliament, which the Commission indicated it would accept, namely those relating to: - exluding self-employed drivers from the provisons of this Directive for a three year period starting from the end date for transposition of the directive in line with the Commission's communication on this issue; - providing a fuller elaboration of what constitutes working time; - to clarify what is meant by advance notification; - to specify what is meant by a self-employed driver; - to place the onus on employer and employee alike; - to delete the provisions on shorter hours and correspondingly longer reference periods; - to clarify the system of keeping records. Lastly, a new recitals has been added which points out that both employed and self-employed drivers will continue to be subject to the provisons of Regulation 3820/85/EEC of 31 December 1985 concerning driving times and rest periods, which regulate a major element in driver's working time. On the basis of a forthcoming proposal of the Commission, this Regulation will be modified to establish enhanced regime.

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

1998/0319(COD) - 14/04/1999 - Text adopted by Parliament, 1st reading/single reading

At first reading under cooperation procedure, the European Parliament adopted the report by Hugh R. McMahon (PSE,UK), which approves the Commission proposal for a Council directive concerning the organisation of working time for mobile workers performing road transport activities and for self-employed drivers, subject to amendments, notably in the following areas: - excepting from the proposed directive mobile workers performing passenger transport activities on scheduled routes not exceeding a distance of 50 km; - excepting mobile workers in the emergency services from the provision that the provisions of the proposed directive should take precedence over the relevant provisions of Council directive 93/104/EC and providing that the derogations provided for with regard to activities involving the need for continuity of service or production in Council directive 93/104 /EC should continue to apply in this area; - adding to the definition of "working time" within the meaning of the proposed directive, standby duty, checking (as well as supervising) passengers, monitoring of loading and unloading, and administrative formalities and cooperation for checks required by law with police, customs, immigration officers etc; - specifying that standby periods must be known by the mobile worker at least one day in advance and prior to the completion of the previous shift; - defining "night workers" as workers who perform 48 days (rather than a certain proportion to be defined by the Member States' legislation in consultation with the social partners) of their annual working time during night time; - adding a definition of "self-employed drivers" within the meaning of the proposed directive; - providing that a reference period will be determined after consultation with the social partners over which an average maximum daily working time of 8 hours must not be exceeded by night workers (as opposed to a specified reference period of 2 months, proposed by the Commission); - providing that derogations from the provisions with regard to maximum weekly working time and rest periods may only be adopted by means of collective agreements; - deleting other conditions for derogations from maximum weekly working time; - deleting the provision that, for regular passenger transport services over distances of less than 50 kilometres, breaks or layover time may be split into periods of less than 15 minutes duration; - extending the provision that employers record workers' working time to all mobile workers; - providing that, if so requested, the employer shall provide workers with a copy of the records of hours worked; - extending the provision that Member States take measures to ensure that self-employed drivers maintain a record of their working time to cover all self-employed drivers in general; - requiring Member States to carry out controls on working and driving times equivalent to at least 2% of all the working days in this sector, the most important instrument for such controls being the tachograph; - providing that implementation of the proposed directive shall not constitute valid grounds for reducing the general level ofprotection afforded to workers; - providing that their should be a common range of penalties for infringement of the directive; - requiring Member States to take the necessary steps to ensure that the relationships between shippers, freight forwarders, prime contractors and sub-contractors are regulated through the adoption of obligatory contracts allowing the verification of compliance with the proposed directive.

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

1998/0319(COD) - 23/05/2007 - Follow-up document

Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities came into force in March 2002. Member States have had three years to implement the provisions in relation to mobile workers. The Directive will apply to self-employed drivers as from March 2009. The Directive, however, requires the Commission to prepare a report on the Directive by March 2007 – i.e. two years before the Directive’s provisions apply to self-employed drivers. The report should analyses the consequences of excluding self-employed drivers from the Directives’ scope and what impact (if any) this has had on road safety, competition and the structure of the profession. In addition, the Commission is expected to assess the consequences of the Directive’s night work provisions. In short, this report fulfils several objectives: it serves to provide an overview of the current state of implementation; it addresses the potential consequences of excluding self-employed drivers from the scope of the Directive and it assesses the consequences of the Directive’s night time provisions.

Implementation in the Member States: the report finds that a majority of Member States did not manage to transpose the Directive into national law within the three year transitional period provided. In May 2005 the Commission was forced to open infringements proceedings against eleven Member States. Since then the number of Member States not communicating all their transposing measures has been reduced to four. The Commission is, therefore, not yet in a position to issue its first biennial report, due out in March 2007.

Consequences of excluding self-employed drivers: extensive research on working long hours and road safety, produced for the Commission, shows that excessive working hours is a major contributory factor to fatigue and hence to falling asleep at the wheel. Fatigue and its consequences for road safety can affect a driver, whether he be self-employed or a mobile worker. The consultants report confirmed that self-employed drivers work longer than mobile road transport workers. Other factors contributing to fatigue – stress, health problems and a lack of support were more prevalent amongst self employed drivers than mobile drivers. The inclusion of the self-employed in the Directive may have a positive effect on road safety albeit that the Commission accepts that is hard to quantify. Other factors such as age and fatigue may play an equally important role in promoting fatigue. The Commission also accepts that the new driving and rest time rules combined with stricter enforcement will play an equally valid role in minimising fatigue and stress.

In terms of the **social impact**, the Commission acknowledges that the balance of overall disadvantages and advantages of exclusion or inclusion is mixed. An increase of working hours for self-employed drivers (made possible by exclusion form the Directive) might be considered undesirable on health and safety grounds. On the other hand, inclusion may impose greater emotional stress and financial difficulty for the self-employed, be difficult to enforce, and ultimately be ineffective. To address this question a further impact assessment may be needed prior to any legislative proposal (see below). In any case, in a largely fragmented industry, it appears that exclusion of the self-employed from the scope of the Directive will tend to reinforce current trends – i.e. allow self-employed drivers to maintain their competitive edge within the industry. Addressing the issue of “false” self-employed drivers, therefore, must counteract any artificial fragmentation.

Night work: while there appears to be no demand to adjust the current provisions, the issue of enforcement is pertinent. The Commission will examine this matter further – together with the Member States and interest parties in a bid to assess how respect for night time rules can be applied.

Impact assessment: The Commission will now carry out a formal impact assessment in view of a legislative proposal modifying the Directive. The Commission will consult with the Member States and the social partners at a European level to examine further arrangements. The impact assessment will consider: i) the new Regulation on driving times and rest periods, the new enforcement Directive and the introduction of the digital tachographs; ii) encouraging active enforcement of enhanced operator conditions through a new proposal on admission to the occupation that is to be adopted in 2007 (this should help address the issue of “false” self-employed; and iii) focusing on a correct and enforceable application by the Member States of the Directive’s definition of mobile workers, which encompasses false self-employed drivers.

The Commission will also consider the continued exclusion of the genuine self-employed from the sectoral working time rules while at the same time ensuring a rigorous interpretation and implementation of the definition “self-employed” driver contained in the Directive so that the working time rules apply to the “false self-employed”.

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

1998/0319(COD) - 06/05/1999 - Text adopted by Parliament confirming position adopted at 1st reading

Following the entry into force of the Treaty of Amsterdam on 01/05/99, the European Parliament confirmed as its first reading under codecision procedure its vote of 14/04/99 on the proposal for a European Parliament and Council directive relating to the organisation of working time for mobile workers performing road transport activities and for self-employed drivers.

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

1998/0319(COD) - 14/06/2001 - Text adopted by Parliament, 2nd reading

The European Parliament adopted the report by Mr Stephen HUGHES (PES, UK). (Please refer to the previous document).

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

1998/0319(COD) - 23/03/2001 - Council position

The Council's common position incorporates 11 out of the 21 European Parliament amendments. These relate in particular to: - the scope of the Directive: according to the common postion, the Directive is solely applicable to mobile workers employed by transport undertakings established in a Member State participating in mobile road-transport activities covered by Regulation 3820/85/EEC or, failing that, by the AETR Agreement. It also stipulates that the basic protection provided for by general Directive 93/104/EEC extends to the other mobile workers excluded from its scope; - definitions of "working time" and "periods of availability": the common position includes in the definition of "working time", the times during which the mobile worker is required to remain at his place of work, and cannot, on the instructions of his employer, dispose freely of his time. It adds by way of example, that periods spent awaiting loading or unloading are to be regarded as working time where the duration is not known in advance, and clarifies this criterion. The common position defines as "periods of availability", the periods other than those relating to break times and rest times during which the mobile worker is not required to remain at his place of work, but must be available to answer any calls to start or resume driving or to carry out other work. These periods and their foreseeable duration shall be known in advance by the mobile worker (prior to departure of the shift or just before the actual start period in question); - night work: the common position considers "night work" to be any work performed during the night time, namely

between 00 and 7.00 and stipulates that the daily working time of night workers in each 24 hour period must not exceed 10 hours. It alos provides for the possibility of derogations. On the other hand, the common position did not accept the amendments concerning the temporary exclusion of self-employed workers; the necessary protection as regards health and safety, stand-by periods; derogations on the provisions of rest periods; a common range of penalties; the regulation of sub-contracting.

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

1998/0319(COD) - 24/11/1998 - Legislative proposal

OBJECTIVE: to propose a directive on working time in the road transport sector. CONTENT: this Commission proposal follows from the breakdown in negotiations between the two sides of industry in the road transport sector within the framework of the social protocol procedure. Consequently, the Commission has presented a draft directive setting out provisions governing the minimum working times of mobile workers performing road transport activities, including self-employed workers and drivers. This proposal seeks both to protect the health and safety of workers and to prevent distortions in competition and improve road safety. The proposal also complements the provisions of Regulation 3820/85/EEC laying down common rules on driving and rest times for drivers. The proposal also sets out the following general provisions: 1) the definition of "standby duty" has been incorporated into the working time (e.g. monitoring the vehicle etc.), unlike "standby periods" which are not included in drivers' working time; 1) weekly working time: this has been set at 48 hours a week over a four month reference period, with an absolute maximum of 60 hours per week; 2) work breaks: 6 consecutive hours with at least 30 minute breaks where the working day totals between 6 and 9 hours; 3) rest periods: the provisions of Regulation 3820/85/EEC have been maintained, with an additional clause for mobile workers allowed 11 hour rest periods (this period may be reduced by one hour for workers granted compensatory rest periods); 4) night work: a maximum of 8 hours (possibly 10 hours, if no more than an average of 8 hours a day has been worked over a two month period). The proposal also makes provision: - by way of derogation: for a maximum driving time of 65 hours per week in international passenger transport other than on scheduled routes (this period must be recorded); - for derogations relating to average weekly working times, rest periods and night work, provided that equivalent compensatory rest periods have been granted. The reference period for weekly working times may only be extended to 6 months, rather than the 12 months proposed in the general working time directive. A further derogation has been included to allow a longer, two-part reference period of up to 12 months, provided that the average weekly working time is reduced to 35 hours. 1

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

1998/0319(COD) - 03/08/2009 - Follow-up document

This Commission Staff Working Document accompanies the report from the Commission on the implementation in 2005-2006 of Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities.

Among the Member States that submitted their reports, substantiated data on the actual effects of the Directive were almost not available. This might be owed to the fact that it only came into force in March 2005 and most Member States only transposed after this date.

In many cases, the conclusions drawn by Member States on the effects of the Directive were reduced to expressions of expectation. Whereas some Member States, like Greece, expect it to make a valuable contribution, others, such as Germany, indicated that its importance could be minor in comparison to Regulation (EC) No 561/2006 on driving times and rest periods.

Some Member States made reference to the question of **whether or not to include self-employed or at least false-self employed drivers into the scope of the Directive**. Only one Member State wanted the current Directive to remain unchanged, with the effect that all self-employed drivers are included into its scope as from 23 March 2009.

Social partners, even though they were not negative in most cases, have drawn the attention to elements of concern. In some Member States, employers expressed their concern that the Directive might lead to a reduction of the working hours permitted, which could cause a loss of income. Moreover, some employees' organisations indicated that they were unhappy with the national transposition legislation, as they claimed that Member States did not make use of the possibilities offered by the Directive. In Spain, the serious disagreement between the two sides of the industry led to a considerable delay in Spain's efforts to transpose the Directive into national law.

Lastly, social partners in the Member States did not very often refer to the question of the scope of the Directive. Nevertheless, from the comments received the conclusion can be drawn that an inclusion of false-self employed drivers would be favoured with a view to fair competition in the road transport sector.

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

1998/0319(COD) - 07/01/2011

The Commission presents a Staff Working Document which reports on the implementation in 2007-2008 of four complementary legislative acts establishing social rules in road transport. They are: i) Regulation (EC) No 561/2006 which establishes rules on driving times, breaks and rest periods for professional drivers; ii) Directive 2006/22/EC, which determines minimum requirements for enforcement of these rules; iii) Regulation (EEC) No 3821/85 on recording equipment and iv) Directive 2002/15/EC (the Working Time Directive).

The report covers the two-year period 2007-2008 and is based on the information submitted by Member States.

Much of the report covers certain aspects of the application of Regulation (EC) No 561/2006 with regard to the rules on driving time and enforcement of compliance with these rules. It provides a general overview of the way in which Member States have implemented the driving time rules. The report also deals with the practical implementation of the Working Time Directive 2002/15/EC on the basis of the information provided by Member States.

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

1998/0319(COD) - 25/07/2001 - Commission opinion on Parliament's position at 2nd reading

The European Commission could accept in part or in full some of the twenty amendments proposed by the European Parliament relating to working time for mobile workers performing road transport activities. Those amendments which would have undermined the Common Position of the Council - specifically the inclusion of self-employed drivers into the scope of the Directive - have been rejected by the Commission. Similarly, Parliamentary amendments dealing with concepts of working time and night work are considered incompatible with the common position and therefore are not included. The Commission does however accept the following amendments: - an amendment clarifying the location of the undertaking; - an amendment further clarifying the definition of a 'self-employed driver'; - an amendment extending the records of the working time for mobile workers to two years at the end of the period covered; - amendments increasing the social protection of mobile workers; - a proposal to allow two years for the transposition of the Directive; and lastly, - an amendment defining contractual obligations to ensure the adequate implementation of the Directive.

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

1998/0319(COD) - 20/12/2000

After lengthy discussion, the Council reached a political agreement by a qualified majority · with the Irish and Portuguese delegations voting against and the United Kingdom delegation abstaining · on the common position with a view to adopting the Directive on the working time of mobile workers. Portugal states that the scheme adopted by this Directive, by excluding self-employed drivers, brings into question important objectives of the common transport policy. As a result of this scheme, conditions involving distortion of competition are established, serious harm is done to road safety and nothing is done to promote the quality of services. Portugal accordingly votes against the Directive.

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

1998/0319(COD) - 03/08/2009 - Follow-up document

This is the first report presented by the Commission concerning the implementation of Directive 2002/15/EC on the organisation of working time of mobile workers in road transport in the Member States. The Directive specifies the provisions for working time, breaks and night work. Its objectives are to **improve road safety, prevent the distortion of competition and guarantee the safety and health of the mobile workers**. This Directive thus complements the provisions of Regulation (EC) 561/2006 on driving times and rest periods that are of direct influence on road safety, and competition, as they specify the maximum driving time allowed.

Despite the provision of Article 13 of the Directive, which obliges Member States to submit their reports for the years 2005 and 2006 by 30 September 2007, the Commission had received only two national reports in due time. The Commission therefore launched **infringement procedures for non-compliance with their respective obligations against a majority of the Member States**. One of the reasons for this unsatisfactory situation was that many Member States had a significant delay concerning the notification of the transposition of the Directive itself into national legislation.

The reports were in most cases complete and uniform, but they lacked information on exact numbers of checks dedicated to Directive 2002/15/EC on the organisation of working time for mobile workers in road transport and on offences detected. This important information should be made available in order to be able to asses the effectiveness of national implementation measures.

Main conclusions: having received the reports from the Member States, it is difficult to assess whether the Directive had an effect on the respect of social rules in road transport. This is partly caused by the **low compliance by Member States with their obligation to transpose the Directive into national law within the prescribed timeframe**, and to communicate this legislation to the Commission. Efforts by the Member States are needed to improve the assessment of the effectiveness of the measures taken by the Member States to implement the Directive.

Moreover, it seems to be of potential benefit for Member States to **increase their cooperation in exchange of information on best enforcement practices**.

All of the reports should have included information concerning opinions of the two sides of the industry on the implementation of Directive 2002/15/EC as requested by the Directive.

Most Member States did not comment on the level of compliance with the provisions of the Directive and transposing national legislation by drivers and employers. However, from the information received, the Commission assumes that **the provisions of the Directive are not thoroughly respected**.

Lastly, a few Member States commented on the question of the **scope of the Directive** and the inclusion of self-employed drivers.