

# Road transport: Driving, breaks, rest times and tachographs

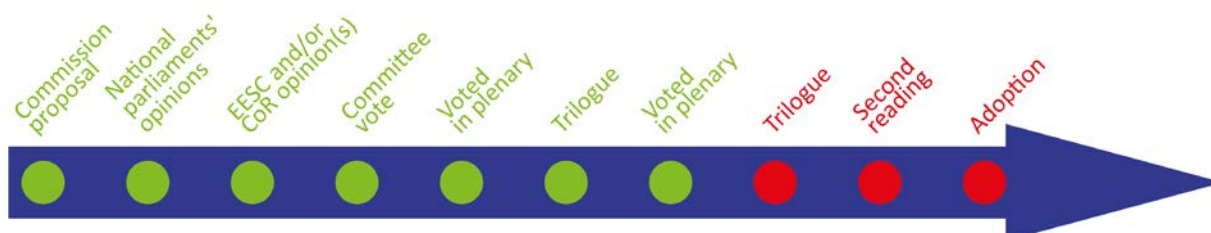
## OVERVIEW

The Driving Time and Tachograph Regulations were adopted to improve drivers' working conditions and road safety, as well as to enhance compliance with the rules, and competition between road operators. In the context of the European Commission's 2017 'Europe on the move' package, the current proposal aims to remedy the shortcomings of these regulations, on which a broad consensus has emerged: lack of clarity, non-uniform implementation, insufficient enforcement and a need for strengthened cooperation between Member States and authorities.

In June 2018, Parliament's Committee on Transport and Tourism (TRAN) adopted a report and the mandate to start interinstitutional negotiations. However, during the June 2018 plenary session, Parliament did not endorse the mandate and in July it rejected the report, referring it back to the committee. The Council reached a general approach on this proposal in December 2018, under the Austrian Presidency. On 10 January 2019, the TRAN committee failed to reach a new agreement on the proposal for plenary. In March, the Conference of Presidents decided to include this file on the agenda of the March II plenary session. After procedural complications, Parliament adopted its first-reading position during the subsequent plenary session, on 4 April 2019.

**Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 561/2006 as regards on minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs**

<i>Committee responsible:</i>	Transport and Tourism (TRAN)	COM(2017) 277 31.5.2017
<i>Rapporteur:</i>	Wim van de Camp (EPP, Netherlands)	2017/0122(COD)
<i>Shadow rapporteurs:</i>	Isabella De Monte (S&D, Italy); Roberts Zīle (ECR, Latvia); Gesine Meissner (ALDE, Germany); Merja Kyllönen (GUE/NGL, Finland); Keith Taylor (Greens/EFA, UK); Daniela Aiuto (EFDD, Italy)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Trilogue negotiations	



## Introduction

The European Commission has long believed that, in order to create a fair, efficient, safe and socially sustainable road transport sector, it is necessary to provide it not only with market rules but also with social ones. Indeed, neither of these can, on their own, address the challenges facing the sector. This commitment, on the one hand, to deepening the internal market for road transport services and, on the other, to protecting the social rights of workers, has been renewed on many occasions. To name a few, in its 2011 [White Paper on Transport](#), the Commission highlighted that the social dimension of EU transport policy was one of the main challenges to ensure the proper functioning of the EU single transport area. In its [2017 work programme](#), the Commission underlined the need to enhance social legislation in road transport, levelling the playing field and improving working conditions. It also considered that a new proposal in this area would contribute to the regulatory fitness and performance programme, aimed at clarifying and adapting some provisions and improving their cost-effectiveness. More recently, the [European pillar of social rights](#) initiative, launched in April 2017 by the Commission, reiterated the importance of building a fairer Europe, in particular by providing for fair working conditions and strengthening the social dimension.

Regulations [\(EC\) No 561/2006](#) (the Driving Time Regulation) and [\(EU\) No 165/2014](#) (Tachograph Regulation) were adopted with a view to improving competition between operators in the road transport sector (RTS), working conditions of drivers as well as safety on EU roads. Nevertheless, an ex-post evaluation of social legislation in the RTS carried out for the Commission between 2015 and 2017 concluded that shortcomings in the Driving Time Regulation's rules and their insufficient enforcement had not allowed the prescribed objectives to be fully achieved. The evaluation also highlighted inefficient use of control tools and data exchange systems, including tachographs. The Commission's new proposal, adopted on 31 May 2017, is part of the '[Europe on the move](#)' package for clean, competitive and connected mobility, and aims to remedy these weaknesses.

## Context

Road transport plays a leading role in the transport economy. Being relatively stable over the previous 15 years, road freight transport accounted in 2016 for [almost 50 %](#) of the market, while water transport and rail had respectively around 36 % and 11 % in market share. Around [two thirds](#) of road freight is national, and one third transnational. Another segment of road transport concerns passenger transport, in which bus and coaches carried [8.1 %](#) of all passenger transport in 2015, with air having 10.5 % and rail 6.6 % of the market.

According to Eurostat, in 2015 there were roughly [571 000](#) registered road freight companies, and 371 000 road passenger transport enterprises. The freight companies are [predominantly small](#); 90 % of them have fewer than 10 employees and account for around 30 % of the sector's turnover. These enterprises tend to compete mainly on price of services, with labour costs being a key factor in their competitiveness. A second group includes a limited number of larger companies providing complex logistics services. One per cent of road freight companies have over 50 employees, and account for approximately 40 % of the market. A [2014 study](#) drawn up for the Commission on the EU road haulage market noted the increasing importance in recent years of large pan-European logistics providers, which offer reliable, door-to-door truck services. Cost pressures mean that these companies tend to subcontract less profitable operations to smaller firms and owner-operators, increasing the [number of links](#) in the logistics chain. The road passenger transport sector is highly fragmented in terms of companies' size and range of services. The latter include, for instance, long-distance services, school transport and shuttle services. As a whole, it is estimated that the RTS directly employs [5 million people](#) in the EU.

The main costs affecting road hauliers' competitiveness are drivers' wages, followed by fuel and vehicle purchases. [Sectoral studies](#) and the [Commission](#) itself have highlighted the considerable differences between Member States in drivers' remuneration and social insurance contributions.

Although these labour costs gaps are steadily [narrowing](#), they can contribute to social dumping and to the phenomenon of 'letterbox' companies.<sup>1</sup>

In its 2014 State of the Union report on RTS, the Commission underlined the low attractiveness of road haulage, due to difficult working conditions. The most recurrent factors mentioned in this regard are the difficult balance between professional and personal life, work pressure to meet deadlines, isolation, poor accessibility of medical and hygiene facilities as well as atypical working hours. Labour shortages will also be a major problem in the years to come.

## Existing situation

Regulations (EC) No 561/2006 and (EU) No 165/2014 are part of the EU social framework in the RTS. They are complemented by Directive [2002/15/EC](#) on working time and Directive [2006/22/EC](#) on enforcement. The former establishes requirements in relation to drivers' working time, to improve their safety and health, and includes the time dedicated to specified activities other than driving (for instance loading, unloading, and maintenance). The latter directive sets minimum common conditions to check compliance with Regulation (EC) No 561/2006. In addition to improving working conditions and competition, the social framework aims at ensuring the uniform implementation and enforcement of social measures, and at preventing infringements by drivers or road operators.

Regulation (EC) No 561/2006 lays down rules on driving times, breaks and rest periods for road freight and passenger drivers. It applies to freight vehicles with a mass exceeding 3.5 tonnes and to passenger vehicles equipped to carry more than nine persons (including the driver). The legal act sets a 9-hour maximum daily driving time, which can be extended to 10 hours but not more than twice a week. Weekly driving time cannot exceed 56 hours, and in two consecutive weeks a driver cannot drive more than 90 hours. After driving four and a half hours, a driver has to take a break of at least 45 minutes. The regular daily rest period is set at a minimum of 11 hours, while a reduced daily rest period has a duration of between 9 and 11 hours. The regular weekly rest period is set at a minimum of 45 hours, while a reduced one can be shortened to a minimum of 24 consecutive hours. Daily and reduced weekly rest periods can currently be spent in a vehicle, as long as it has sleeping facilities.

The Driving Time Regulation stipulates the liability of road haulage companies for infringements committed by their drivers. Member States are tasked with laying down effective and non-discriminatory penalties applicable to infringements. Furthermore, Member States are supposed to assist each other in applying the regulation and to exchange information. The Commission has to support this process and, pursuant to this provision, laid down [guidance notes](#) to improve consistency and effectiveness in the enforcement of the rules across the EU.

In order to check compliance with the Driving Time Regulation, Regulation (EU) No 165/2014 sets out requirements relating to the construction, installation, use and control of tachographs in the RTS, and aims at making fraud more difficult. Indeed, [tachographs](#) can measure vehicles' speed, distance travelled and certain periods of a driver's activity. The regulation provides that, from 15 June 2019, vehicles registered for the first time must be fitted with an automated system for recording their location, instead of the current manual recording. To ensure this, 'smart tachographs' connected to a satellite navigation and positioning system will have to be installed in vehicles. [Smart tachographs](#) can automatically check and register a vehicle's position at specific moments of the daily working period. Remote communication between the tachograph and authorities undertaking roadside checks can help to reduce the administrative burden on road companies that can stem from random checks.

## EU Court of Justice case-law

Recent rulings of the Court of Justice of the European Union (CJEU) shed light on the interpretation of Regulation (EC) No 561/2006.

In case [C-102/16](#) (*Vaditrans BVBA v Belgian State*), the Belgian Council of State asked the CJEU to clarify if the regulation contains an implied prohibition on taking regular weekly rest in the driver's cabin. In its ruling of 20 December 2017, the Court highlighted that the aim of the regulation is to improve working conditions and road safety, and considered that it has to be interpreted as meaning that a driver may not take regular weekly rest periods inside their vehicle. This ruling is particularly important for the political negotiations under way on the [proposed changes](#) to Article 8(6) and 8(8).

In the earlier [Case C-325/15](#) (*Z.Š. and Others v X w G*), the CJEU was asked if, referring to Article 8(8) of the regulation, the latter precludes national legislation allowing a driver to claim the reimbursement of accommodation costs incurred during their employment. In its ruling of 18 February 2016, the CJEU stated that the regulation does not contain any provision concerning such allowances but does not preclude national legislation laying down such provisions.

## Parliament's starting position

On 18 May 2017, the European Parliament adopted a [resolution](#) on the RTS in the EU, which underlined the importance of improving social conditions and safety rules. The resolution urged the Member States to implement and enforce EU rules more strictly. It called on them to step up checks, in particular in relation to compliance with driving and rest times and to tackle the issue of fraud concerning tachographs. Lastly, Parliament called on the Commission and Member States to address the quality of work in a broad sense, with respect in particular to working conditions (driver fatigue, rest facilities), training, certification and career development.

Earlier, on 14 September 2016, Parliament adopted a [resolution](#) on social dumping in the EU across all sectors, including mobile transport workers. The resolution noted that increasing practices of social dumping could have a detrimental impact on three dimensions: the economic aspect, where they could lead to market distortions, the social aspect, with the risk of undermining workers' protection and of unfair treatment between them, and lastly the financial aspect. This final point referred to the non-payment of social security contributions due. The resolution called on Member States to improve cross-border cooperation and information exchange between inspection services. Parliament asked for increased monitoring and checks on working- and rest-time rules and for improvement in control devices such as smart tachographs.

On 9 September 2015, the Parliament adopted a [resolution](#) on the implementation of the 2011 Commission [White Paper on Transport](#). It called on the Commission and the Member States to address the quality of work in transport modes in particular with respect to training, working conditions and career development.

## Individual Member States' starting positions

On 31 January 2017, in Paris, ministers of transport from eight Member States (Austria, Belgium, Denmark, Germany, France, Italy, Luxembourg and Sweden) and Norway signed up to a '[Road Alliance](#)' to harmonise upwards national social rules in the RTS and improve their control and enforcement. The signatories of this alliance recommended common positions in particular to avoid weakening the high level of protection provided in relation to driving and rest periods. They also suggested linking the possible further liberalisation of the RTS to a better harmonisation and implementation in practice of social legislation. Switzerland joined the Road Alliance later in 2017 and Greece in 2018.

## Preparation of the proposal

In 2013, the European Parliament commissioned a [study](#) on the social and working conditions of road transport hauliers. It noted that the sector's liberalisation, launched in the 1990s, had resulted in a divergence between increased competition on one hand, and social harmonisation on the other. The study underlined a general deterioration of working conditions, accompanied by

dropping wages. It pointed to disparities in labour costs and social provisions across the EU encouraging unfair competition and social dumping. The study made several recommendations such as strengthening the enforcement mechanisms, enhancing cooperation between Member States and creating an EU register of transport companies.

In its 2014 [state of the Union road transport market report](#), the Commission highlighted the continual efforts to enforce road social legislation. It noted the completion of the [TRACE](#) project, which set up common training for roadside enforcement officers. The main social issues in the RTS identified by the report concerned unfair employment schemes creating social dumping, lack of enforcement and controls, incomplete social harmonisation across the EU, quality of rest and dedicated facilities, and lastly, driving and rest periods.

An [ex-post evaluation of social legislation in the RTS](#) was outsourced by the Commission to a consulting company and published in 2016. It covered the three above-mentioned inter-related acts: Regulation (EC) No 561/2006 and Directives 2002/15 and 2006/22. Concerning the implementation of the regulation, the evaluation highlighted different interpretations and enforcement practices, for instance concerning the minimum and maximum thresholds for driving times, breaks and rest periods. The same comment applies to the sanctions linked to taking the regular weekly rest period in a vehicle, which is a frequent practice. It was also noted that fines imposed on undertakings for infringements varied considerably across the EU. The assessment concluded that market competition was increasing in the RTS as well as the correlated risk of non-compliance with social provisions. It noted that the industry was asking for more flexibility, in both freight and passenger transport. Cost increases for road operators of implementing social legislation was estimated at between 1 % and 3 % of their annual transport-related turnover. The evaluation made several recommendations: to harmonise enforcement practices, to ensure compliance with the minimum requirements and to reinforce administrative cooperation. It also recommended clarifying some rules, adding some definitions where needed. The assessment also proposed implementing new tools such as in-vehicle fatigue detection and warning systems, and better addressing the issue of long periods away from home for drivers.

Building upon the ex-post evaluation, in its 2016 [inception impact assessment](#) on enhancement of social legislation in road transport, the Commission underlined the main issues hampering the good functioning of the RTS: distortion of competition, inadequate working conditions for drivers, and a high regulatory burden for Member States and stakeholders. The Commission reiterated that insufficient clarity in some provisions led to diverging national implementation and to legal uncertainty. In addition to break and rest times, the main issues concerned co-liability in cases of infringement, remuneration based on performance and ineffective cross-border enforcement. The impact assessment recommended a set of measures to clarify existing rules and to facilitate enforcement. In March 2017, the Commission issued its [28th report](#) on the implementation of Regulation (EC) No 561/2006 and Directive 2002/15. Covering the 2013-2014 period, on the basis of Member States' reports, it provided an overview of the checks carried out and the offences detected. It concluded that it was necessary to improve the enforcement of social legislation in the RTS across the EU.

The new Commission proposal is supported by an [impact assessment](#) covering the EU social framework in RTS and putting forward four policy options. The preferred policy option consists of strengthening enforcement and introducing changes to obligations. This option would improve the working and rest conditions of drivers, decreasing for instance drivers' fatigue index by 28 % and shortening periods away from home. It would also increase drivers' remuneration. Moreover, coupled with specific rules on posting in the RTS, this option would improve operators' efficiency in organising work and allow for yearly administrative cost savings of around €785 million. It would however result in a slight increase in enforcement costs for national authorities (1.3 % to 8 %) as well as in compliance costs for certain operators (accommodation costs for regular weekly rest periods taken outside the vehicle).

In November 2017, EPRS published an [initial appraisal](#) of the Commission impact assessment. Overall, it considered that the impact assessment provided a good presentation of the problem definition, causes and problem drivers. It regretted however, that it did not include a differentiated analysis in relation to the size of RTS companies.

Following the publication of the legislative proposal by the European Commission, a number of studies and reports were released.

Parliament's Committee on Transport and Tourism commissioned a [study](#), published in February 2018, to bring new evidence on the costs and benefits of retrofitting smart tachographs in heavy-duty vehicles by 2020. It concluded that this operation would entail significant costs for all actors of the RTS, the largest being estimated at between €6.5 and 16 billion for the purchase of the devices and the service of retrofitting. The study found that Member States with the largest fleets of heavy-duty vehicles in international transport, such as Poland, Germany, France, Italy, the Netherlands and the UK, would be most affected, and in particular their micro- and small enterprises. The study concluded that retrofitting of smart tachographs should be pursued but with a longer horizon than 2020.

In April 2018, an [in-depth analysis](#) was published on the economic feasibility and costs of creating a road enforcement database collecting data from new smart tachographs. The study highlighted the cost divergence between a compulsory retrofit scenario for all vehicles in operation (€87 million with a new database system versus €16 million with an existing one) and a scenario involving the equipment of only new vehicles (€59 million with a new database system versus €10 million with an existing one). The main benefits identified of introducing new smart tachographs are improved market competition and enforcement, and a lighter administrative burden on national administrations.

In October 2018, the European Commission published a [report](#) on the implementation in 2015 and 2016 of four legislative acts: Regulations (EC) No 561/2006 and (EU) No 165/2014 and Directives 2002/15/EC and 2006/22/EC. The report contains quantitative and qualitative data on checks carried out at the roadside and at the premises of road companies, and on the offences registered. It also makes comments on the key challenges to application and enforcement of the legal acts. The report noted a decrease of around 12.8 % in the total number of working days checked, compared with the previous reporting period (2013 to 2014). All but three Member States (Greece, Malta and the Netherlands) met, or even exceeded, the minimum threshold of working days to be checked. Roadside checks of vehicles increased by 24 % compared to the previous period (8 163 000 vehicles checked), while checks at premises (nearly 147 000 undertakings checked) remained stable. The report highlighted an increase of 6 % in the total number of offences. This trend could be the consequence of more effective checks and a higher detection rate of offences at companies' premises. The detection rate varied considerably across the EU, while the types of infringement was much the same as in the previous reporting period. Of all offences registered across the EU, both at the roadside and on premises, offences for rest periods represented 24 % of the total, followed by offences related to recording equipment (11 %). The report noted new developments, in particular an increase in offences linked to manipulation of tachograph and driving time records, being either incomplete or incorrect.

## The changes the proposal would bring

The [main changes to Regulation \(EC\) No 561/2006](#) concern, first, the obligation to record drivers' activities other than driving and periods of availability. Driving is automatically recorded by the tachograph, but a full record of all driver activities is important to monitor working patterns and avoid risks to road safety. Changes are proposed to adapt the weekly rest requirements to the needs of the sector and to improve drivers' rest conditions. As a consequence, weekly rest periods could be arranged with greater flexibility over a period of four consecutive weeks, while reduced weekly rest would be combined with regular weekly rest within a maximum of three weeks. To facilitate the

control of rest taken in compensation, any compensation for reduced weekly rest would be attached to regular weekly rest of at least 45 hours.

According to the new proposal, drivers would not be allowed to take weekly rest periods of 45 hours or more in their vehicles, and their employers would be obliged to provide them with adequate accommodation and hygiene facilities, if drivers were not able to rest in a private place of their choice. Moreover, an obligation would be added on road undertakings to organise their drivers' work to enable them to return home for a weekly rest at least once within three consecutive weeks. Lastly, to increase the effectiveness of the regulation's implementation and its cross-border enforcement, it is proposed to reinforce the administrative cooperation and exchange of data between Member States, including on risk ratings of road undertakings.

The [main modifications to Regulation \(EU\) No 165/2014](#) relate to a further improvement of smart tachograph features to record more precisely the positions of vehicles used for cross-border operations, enabling more effective enforcement of social rules. Moreover, a new obligation would be added on drivers to record the position of their vehicles each time they crossed a border, at the earliest suitable stopping place. This new provision would not apply to drivers using smart tachographs, which automatically record border crossings.

## Advisory committees

Consultation of the European Economic and Social Committee (EESC) and of the European Committee of the Regions (CoR) is mandatory, as the proposal is based on [Article 91\(1\)](#) of the Treaty on the Functioning of the European Union (TFEU).

In the opinion on the 'Roadmap to a single European transport area – Progress and challenges' ([TEN/566](#)) adopted in April 2015, the EESC considered that, for the EU transport sector to operate smoothly and on a level playing field, it was necessary to improve and harmonise social standards. In its subsequent opinion on 'Internal market of international road freight: social dumping and cabotage' ([TEN/575](#)) adopted in September 2015, the EESC expressed the need for EU action to avoid the risk of fragmentation of the internal market in the RTS, which may include national measures to combat wages and social dumping. The EESC adopted an opinion in October 2017 ([TEN/643](#); Rapporteur: Ulrich Samm, Employers-Group I/Germany) on 'Clean, competitive and connected mobility for all' and insisted on supporting implementation and enforcement of legislation through IT (tachographs) and secure parking spaces. It recommended a substantial reduction in the 15-year timeline to retrofit existing vehicles with smart tachographs.

In January 2018, the EESC adopted another opinion on 'driving and rest time periods, working time and posting of workers' ([TEN/637](#); Rapporteur: Tanja Buzek, Workers-Group II/Germany). The Committee welcomed the Commission initiative to clarify the rules in the RTS, and to ensure better enforcement and cooperation between Member States, while fighting social dumping. Nevertheless, it considered that the proposed changes to legislation on driving and rest periods and on the posting of drivers failed to effectively address the problems identified in the RTS, including not making the rules simpler, clearer and more enforceable. The EESC suggested speeding up the introduction of smart tachographs. It called on the EU to ensure that weekly rest was spent in adequate accommodation conditions, with access to sanitary facilities and food, and in parallel underlined the need to address the issue of secure parking areas.

The CoR adopted its opinion ([COTER- VI/033](#); Rapporteur: Spyros Spyridon, Greece/EPP) on 'Labour aspects of road transport' in February 2018. It congratulated the Commission on its efforts to deepen the single market in the international RTS under conditions of social fairness. It welcomed the greater flexibility introduced by the proposal concerning drivers' rest times, but warned that it should not be used by employers as a means of pressure. It considered also that regular weekly rest time could be taken by a driver in their cabin, provided the latter was adequate, in a safe place and with sanitary facilities. At the same time, it pointed to the shortage of safe vehicle parking areas.

Lastly, the CoR called urgently for an accelerated introduction of smart tachographs and called for up-skilling of the workforce.

## National parliaments

The subsidiarity [deadline](#) was 4 September 2017. No reasoned opinions on subsidiarity were received. Several chambers of national parliaments sent contributions; in particular, the Czech, French, Hungarian, Italian, Polish, Portuguese, Romanian and Dutch assemblies launched political dialogue.

## Stakeholders' views<sup>2</sup>

In preparing its proposal, the Commission carried out extensive consultations of stakeholders. [High-level conferences](#), seminars and interviews were organised during the 2015-2017 consultation process. A [public consultation](#) was carried out at the end of 2016. The main issues on which stakeholders had common views related to unsatisfactory working conditions for drivers, distortion of competition and the regulatory burden for road-transport operators and national authorities. They supported clarifying the rules, harmonising interpretation, and strengthening enforcement and cooperation between Member States. The problem of adequate rest facilities was also underlined by stakeholders. Many of these issues were also set out in the Confederation of European Business (BusinessEurope) [2016 position paper](#). The latter also highlighted the need for legal certainty and the fight against illegal practices.

In its 2017 [position paper](#), the European Association of Craft, Small and medium-sized Enterprises (UEAPME) observed, on one hand, that social legislation in the RTS protected workers' rights and enhanced road safety, but on the other, did not eliminate unfair competition. This was due to the lack of clarity of certain provisions and diverging national interpretation and enforcement practices. UEAPME asked for harmonisation and clarification, in particular with regard to the regular weekly rest period and the co-liability principle. The European Association for Forwarding, Transport, Logistics and Customs Services (CLECAT) expressed similar views on social legislation in road freight transport in its 2016 [position paper](#). In its subsequent [2017 position paper](#) on the European Commission's road package initiatives, CLECAT once again insisted on the need to clarify some provisions, enhance implementation and enforcement, add some flexibility, for instance, with regard to weekly rest periods, and reinforce mutual cooperation between Member States. CLECAT published a [consolidated opinion](#) in September 2017. In spring 2017, the International Road Transport Union (IRU) published its '[Policy observations on the revision of the EU road transport legislative framework](#)'. On social rules, the IRU expressed the view that clarification and simplification, together with more efficient enforcement would be a better option than introducing new legislative acts. It suggested for instance that rules on digital tachographs, weekly rest in the cabin, and extended daily driving times needed further clarification.

The European Transport Workers Federation (ETF) suggested in its [2015 proposals to policy-makers](#) that they should improve the social record in the RTS. To do so, the ETF did not ask for amendments to the existing EU legal framework, but suggested a set of measures based on close cooperation between three levels of enforcement: roadside, back-office service and company checks. Ahead of the publication of the Commission's proposals, the ETF and 27 of its member organisations from 20 European countries (including North Macedonia and Norway) adopted the [Warsaw Declaration](#) on 5 April 2017. The signatories called on the Commission 'to include ETF proposals in the road initiatives' in order 'to guarantee better enforcement, better safety of drivers, passengers and road users as well as a level playing field for the business'. In April 2018, ETF published a [report](#) putting forward concrete solutions on the mobility package as a whole, including on driving and rest times. On 31 October 2018, the ETF and its affiliated European trade unions signed the [Vienna Declaration](#) for a fair mobility package. The signatories called on the European Parliament and the Member States to adopt clear, enforceable and effective measures meant to eliminate abuse, promote road safety and restore fair competition.



Prior to the TRAN committee vote on the legislative proposal on 10 January 2019, representatives of international road hauliers from Bulgaria, Croatia, Hungary, Lithuania, Poland, Romania and Slovenia issued a [joint declaration](#). They protested against the posting of workers proposal as well as the other two linked proposals on driving times and cabotage, describing them as being discriminatory, raising barriers in RTS, and causing administrative, organisational and financial burdens and fragmentation of the EU transport service market.

## Legislative process

In the European Parliament, the legislative file was allocated to the Committee on Transport and Tourism (TRAN), and Wim van de Camp (EPP, The Netherlands) was appointed rapporteur. On 16 October 2017, the TRAN committee and the Committee on Employment and Social Affairs (EMPL) organised a [joint public hearing](#) on working conditions of mobile transport workers. Representatives from transport workers' and road operators' associations expressed their [views](#) on the Commission proposal. A consensus emerged on the need to enforce the rules better through quicker implementation of smart tachographs and to clarify the notion of transit.<sup>3</sup> Some participants underlined the risk of creating additional administrative burden for SMEs. On 22 November 2017, the TRAN committee organised a second [public hearing](#) on the mobility package, which was devoted to market and social aspects.

The rapporteur's [draft report](#) was presented to the TRAN committee on 23 January 2018. Overall, the rapporteur supported the Commission proposal aiming to foster a level playing field, improve enforcement and to reduce the administrative burden. He insisted on the need to allow drivers to return home once a month, clarifying the definition of 'home'. He supported the ban on regular weekly rest in the cabin, but proposed a derogation to this rule, provided the rest was taken in dedicated certified parking areas and with adequate conditions. To enhance enforcement, he underlined the importance of better use of digital tools and proposed to make smart tachographs mandatory in international transport earlier than proposed in the regulation. Members generally welcomed the draft report and raised issues concerning the definition of returning home, the need for proper parking areas, the enforcement of rules and the extension of provisions to light commercial vehicles (less than 3.5 t). In total 494 [amendments](#) were [tabled](#).

The associated Committee on Employment and Social Affairs (EMPL) adopted its [opinion](#) on 25 April 2018. The EMPL rapporteur (Georges Bach, EPP, Luxembourg) insisted on the need to improve working conditions. He highlighted the need to reinforce cooperation between national authorities and control bodies, to enhance application and enforcement of the rules. The rapporteur supported a ban on regular weekly rest taken in the cabin and reiterated the need to secure financing for parking areas with sanitary facilities and adequate accommodation.

On 4 June 2018, the TRAN committee organised an exceptional meeting to put to the vote the draft report and its amendments. In total, 11 compromise amendments were adopted, including compromise 5A dealing with rest in the driver's cabin. It extended the ban on rest in a truck cabin to reduced weekly rest of less than 45 hours and, in parallel, included a derogation from this rule, provided rest in the cabin is taken in secure parking areas equipped with a list of facilities such as toilets, showers and security features. TRAN Members voted for the mandatory return home of a driver by the end of each period of three consecutive weeks, and brought forward significantly the introduction of tachographs. The TRAN committee adopted the report by 33 votes in favour, and 14 against, with 1 abstention, as well as the decision to enter into negotiations with the Council and Commission. However, during the plenary session of June 2018, in accordance with [Rule 69c\(3\)](#) of Parliament's rules of procedure, the mandate was announced in plenary and subsequently challenged. On 14 June 2018, a vote took place in which Members rejected the TRAN committee's mandate to launch negotiations. This was the first time since the new procedure under Rule 69c came into force (January 2017) that the plenary had rejected a committee mandate.

With the report thus automatically placed on the agenda for the subsequent plenary session, Members had the possibility to table new amendments. On the driving and rest time proposal, on which it is associated committee, the EMPL committee decided to re-submit its amendments, previously rejected by the TRAN committee. On 4 July 2018, plenary rejected the report as amended and referred it back to the TRAN committee for further consideration. The TRAN committee undertook further work on the file and drew up a series of draft compromise amendments.<sup>4</sup> These related mainly to rest periods, sleeping in the cabin, return home, the setting up of certified designated parking areas and the compulsory introduction of tachographs. On 10 January 2019, the TRAN committee voted on the rapporteur's new compromise amendments as well as on alternative compromise amendments presented by groups of individual Members. No majority was reached on any of the compromises, preventing the TRAN committee from defining its position on the proposal. On 21 January 2019, the political groups' coordinators discussed how to proceed with this file, and with the other two linked mobility package files (on posting and cabotage), but no approach found a majority. However, by the subsequent TRAN meeting, on 29 January 2019, a majority of political groups had emerged in favour of recommending that the Conference of Presidents put the file on the plenary agenda for a new vote.

In March 2019, the Conference of Presidents of the Parliament's political groups decided to include this file, as well as the two other associated proposals on posting and cabotage, on the agenda of the March II plenary session. The TRAN committee submitted amendments to the original Commission proposal on driving and rest time. Two motions were subsequently tabled by political groups and Members to amend the plenary agenda and discard the proposal ([Rule 149a](#)) and then to declare it inadmissible ([Rule 187](#)), but both were unsuccessful. On 26 March, due to the significant number of amendments (more than 1 500) to the three proposals, the President decided to refer these texts back to the TRAN committee to 'filter' the amendments, as he considered that voting could not be carried out in optimum conditions. On 2 April, the TRAN committee organised an extraordinary meeting to carry out this operation, according to [Rule 175](#). However, the meeting did not significantly reduce the number of amendments for plenary as the vast majority were supported by the required minimum threshold (one third) of committee Members. After two further unsuccessful motions to postpone the vote on the proposal in plenary, and voting on amendments in blocks, Parliament's position on the driving and rest time proposal was adopted by a clear majority, with 394 votes in favour, 236 against and 5 abstentions, on 4 April 2019.

At the [Council meeting](#) on transport, telecommunications and energy held on 8-9 June 2017, Member States generally welcomed the Commission proposals, and its efforts to clarify existing rules and step up enforcement measures. The Working Party on Land Transport started its work on the proposal in June, and a [progress report](#) of the Estonian Presidency was published on 23 November 2017. The presidency indicated a desire to introduce some flexibility in the distribution of weekly rest periods and insisted on the necessity for the driver to return home regularly.

At the [Council meeting](#) on transport, telecommunications and energy held on 4-5 December 2017, Ministers welcomed the progress report. On rest time proposals, many delegations agreed with the direction taken and advocated a quicker roll-out of smart tachographs in EU fleets. Divergent views persisted on the flexibility needed for operators, on the one hand, and drivers, on the other.

The Bulgarian Presidency examined draft compromises between January and May 2018, sorting out as many technical issues as possible to prepare common ground. It published its [progress report](#) on 30 May 2018. Concerning the Driving Time Regulation, it proposed to increase the flexibility for driving and rest times in exceptional situations, for instance when a driver has to reach the employer's base or his residence. It also modified the list of optional national exemptions, to include remote areas not attached to the mainland and suggested the Commission assess the situation of third-country operators, to avoid competitive advantages. Regarding the Tachograph Regulation, the presidency compromise proposed to specify the obligation to enter border-crossing information into tachographs that do not provide this information automatically, giving some

flexibility to the driver to comply with this obligation. It also suggested making it compulsory for newly registered vehicles to install the second version of tachographs, the first version being introduced in 2019. Delegations had diverging views on the retrofitting of vehicles already in circulation, such as which tachograph categories should be in the first wave of retrofitting and the time schedule for the second wave. At the [Council meeting](#) on transport, telecommunications and energy on 7 June 2018, building on its progress report, the Bulgarian Presidency took stock of the progress achieved on the legislative file. It could not reach a general approach.

The subsequent Austrian Presidency started by marking out the work to be done with a view to reaching a political agreement at the Council meeting in early December 2018. It drew up several compromise agreements, which were discussed from October 2018. On 12 November 2018, the Ministers of Transport of the [Road Alliance](#)<sup>5</sup> met in Brussels to pay tribute to the work carried out by the Austrian Presidency, and reiterated their unchanged political priorities on the legislative proposals concerning social and market rules in the RTS. In their [statement](#), the ministers of the Road Alliance insisted on the importance of the fight against unfair competition and the rapid introduction of smart tachographs. They stated their commitment to propose legislation that would improve the living and working conditions of drivers and their safety. The Road Alliance noted that driving and rest rules, and regular return to the driver's state of establishment were still open issues.

At the Council meeting on transport, telecommunications and energy on 3 December 2018, the Council agreed its [general approach](#) on this proposal as well as on the two other linked proposals concerning the social reform of road haulage. To improve enforcement of the rules and registration of vehicles' border crossings and localisation of loading/unloading operations, all vehicles carrying out international transport would be fitted with a smart tachograph by the end of 2024. The general approach strives to improve drivers' working conditions, by giving them the possibility to return to their place of residence at least every four weeks or at the end of the third week on the road, in cases where they have taken two consecutive reduced weekly rests. Moreover, drivers should take their regular weekly rest outside their cabin. Reduced weekly rest (less than 45 hours) could be taken in the cabin, provided the vehicle was stationary and that it had suitable facilities. Council's approach gives more flexibility in organising drivers' work over four-week periods. Each four consecutive weeks, drivers would have to take a minimum of four weekly rest periods, of which at least two would be regular ones.

With both co-legislators' positions on the three proposals within the mobility package now established, trilogue negotiations are expected to start in the new parliamentary term.

## EP SUPPORTING ANALYSIS

- [Enhancement of social legislation in road transport I](#) – Implementation Appraisal, EPRS, European Parliament, May 2017.
- [Road transport: Driving times, breaks, rest periods, tachographs and posting of drivers](#) - Initial Appraisal of a European Commission Impact Assessment, EPRS, European Parliament, November 2017.
- '[Social and working conditions of road transport hauliers](#)', Policy Department for Structural and Cohesion Policies, European Parliament, April 2013.

## OTHER SOURCES

[Minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods; positioning by means of tachographs](#), European Parliament, Legislative Observatory (OEIL).

## ENDNOTES

- <sup>1</sup> Letterbox companies are businesses established in a Member State with lower taxes and remuneration levels, but in which they generally do not carry out any actual activity.
- <sup>2</sup> This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.
- <sup>3</sup> Road vehicle transit is [defined](#) as any loaded or empty road motor vehicle that enters and leaves the country at different points, provided the journey within the country does not imply any loading or unloading operation.
- <sup>4</sup> Compromise amendments either group a set of amendments or offer an alternative to conflicting amendments.
- <sup>5</sup> See 'Individual Member States' starting positions'.

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