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

Road haulage is important for the EU transport economy: in 2015, it accounted for almost 50% of freight transport. The EU has developed a range of social and market rules to contribute to the setting up of a fair, well-functioning, safe and socially sustainable road transport sector. 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 shortcomings of the Driving Time and Tachograph regulations, on which a broad consensus among stakeholders, EU institutions and experts has emerged: lack of clarity, non-uniform implementation, insufficient enforcement and need for strengthened cooperation between Member States and authorities.


Committee responsible: Transport and Tourism (TRAN)

Rapporteur: Wim van de Camp (EPP, The Netherlands)

Shadow rapporteurs: Isabella De Monte (S&D, Italy)  
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Next steps expected: Initial discussions in committee
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 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, improving the level playing field and 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 providing fair working conditions and strengthening the social dimension.

Context

Road transport plays a leading role in the transport economy. Being relatively stable over the last 15 years, road freight transport accounted in 2015 for almost 50% of the market, while water transport and rail had respectively around 36% and 12% 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 8.2% of all passenger transport in 2015, with air having 9.8% and rail 6.7% of the market.

According to Eurostat, in 2014, there were roughly 554 000 registered road freight and removal companies, and 361 000 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. Due to the cost pressures they are facing, these companies tend to subcontract less profitable operations to smaller firms and owner-operators, increasing the number of links in the logistics chain.
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 purchase. Sectoral studies and the Commission 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.¹

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

¹ 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.
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 requirements relating to the construction, installation, use and control of tachographs in the RTS, and aims at making fraud more difficult. 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 contribute to reducing the administrative burden on road companies, which can stem from random checks.

**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, the 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, the 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 position**

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 controls 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 RTS to a better harmonisation and implementation in practice of social legislation.
Proposal

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 continuous on-going 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 to implement 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 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 of enforcement costs for
national authorities (1.3 % – 8 %) as well as of compliance costs for certain operators (accommodation costs
for regular weekly rest periods taken outside the vehicle).

EPRS is currently preparing an initial appraisal of the Commission’s impact assessment.

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 drivers’ 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 are 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 vehicle each time they cross a border, at the earliest suitable stopping place.
This new provision would not apply to drivers using smart tachographs, which automatically record border
crossings.
Views

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). The EESC is planning to adopt its opinion on the Commission proposal during its plenary session in December 2017. The CoR is currently preparing an opinion on labour aspects of road transport.

In a 2011 opinion ‘Social aspects of EU transport policy’ (TEN 445), the EESC recommended paying attention to factors promoting a better work-life balance for mobile workers in the transport sector, and to improve in particular the working time provisions. In December 2011, in an opinion on ‘Recording equipment in road transport’ (TEN/463), the EESC underlined the need to enhance the tachograph system, in order to improve road safety and drivers’ working conditions.

In the opinion on '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 social standards and to harmonise social and working conditions. 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. It also encouraged the Commission and the Member States to foster the exchange of information and best practices on effective enforcement of measures.

National parliaments

The subsidiarity deadline was 4 September 2017. No reasoned opinions on subsidiarity were received. Several Chambers of national parliaments sent contributions; no reasoned opinion was received.

Stakeholders’ views

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

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’.
adequate rest facilities was also underlined by stakeholders. Many of these issues were also set out in the Confederation of European businesses (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. 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, 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. Lastly, the European Transport Workers Federation (ETF) suggested in its 2015 proposals to policy-makers to improve the social record in the RTS. To do so, 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.
Legislative process

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. Some Member States stressed the social aspects of the proposals, others the issues relating to the market. In the European Parliament, the legislative file has been allocated to the Committee on Transport and Tourism. Wim van de Camp (EPP, The Netherlands) has been appointed rapporteur. A first exchange of views on the mobility package is due to take place in October.
References

EP supporting analysis


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).

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