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FINAL  
**A5-0013/2002**

## **\*\*\*III REPORT**

on the joint text approved by the Conciliation Committee for a European Parliament and Council directive on the organisation of the working time of persons whose occupation is the performance of mobile road-transport activities  
(PE-CONS 3676/2001 – C5-0688/2001 – 1998/0319(COD))

European Parliament delegation to the Conciliation Committee

Rapporteur: Stephen Hughes

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

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## PROCEDURAL PAGE

At the sitting of 14 April 1999 Parliament adopted its position at first reading on the proposal for a European Parliament and Council directive on the organisation of the working time of persons whose occupation is the performance of mobile road-transport activities (COM(1998) 662 – 1998/0319 (COD)).

At the sitting of 5 April 2001 the President of Parliament announced that the common position had been received and referred to the Committee on Employment and Social Affairs (5919/1/2001 – C5-0134/2001).

At the sitting of 14 June 2001 Parliament adopted amendments to the common position.

By letter of 27 September 2001 the Council stated that it was unable to approve all Parliament's amendments.

By letter of 6 November 2001 the President of Parliament informed the Council that it was necessary to extend the deadline for convening the Conciliation Committee, as laid down in Article 251(7) of the EC Treaty.

The President of the Council, in agreement with the President of Parliament, convened a meeting of the Conciliation Committee on 22 November 2001.

At the meeting the Conciliation Committee considered the common position on the basis of the amendments proposed by Parliament.

In the light of subsequent trialogues and delegation meetings agreement was reached by exchange of letters of 12 December 2001.

By letter of 19 December 2001 the President of Parliament informed the Council that it was necessary to extend the deadline for adopting the act, as laid down in Article 251(7) of the EC Treaty

At its meeting of 12 December 2001 Parliament's delegation to the Conciliation Committee approved the results of the conciliation by 14 votes to 1.

The following were present for the vote: Ingo Friedrich (Vice-President and chairman of the delegation), Michel Rocard (chairman of the Committee on Employment and Social Affairs), Stephen Hughes (rapporteur), Regina Bastos, Theodorus J.J. Bouwman, Philip Bushill-Matthews (for James L.C. Provan), Alejandro Cercas (for Renzo Imbeni), Elizabeth Lynne, Manuel Pérez Álvarez, Bartho Pronk, Herman Schmid, Brian Simpson (for Proinsias De Rossa), Miet Smet, Rijk van Dam and Barbara Weiler.

On 16 January 2002 the co-chairmen of the Conciliation Committee established that the joint text had been approved, pursuant to paragraph III.8 of the Joint declaration on practical arrangements for the new co-decision procedure,<sup>1</sup> and forwarded it to Parliament and the Council in all the official languages.

The report was tabled on 23 January 2002.

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<sup>1</sup> OJ C 148, 28.5.1999, p. 1.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the joint text approved by the Conciliation Committee for a European Parliament and Council directive on the organisation of the working time of persons whose occupation is the performance of mobile road-transport activities (PE-CONS 3676/2001 - C5-0688/2001 – 1998/0319(COD))**

**(Codecision procedure: third reading)**

*The European Parliament,*

- having regard to the joint text approved by the Conciliation Committee (PE-CONS 3676/2001 – C5-0688/2001),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(1998) 662<sup>2</sup>),
  - having regard to the amended proposal (COM(2000) 754<sup>3</sup>),)
  - having regard to its position at second reading<sup>4</sup> on the Council common position<sup>5</sup>,
  - having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2001) 415 - C5-0351/2001)<sup>6</sup>,
  - having regard to Article 251(5) of the EC Treaty,
  - having regard to Rule 83 of its Rules of Procedure,
  - having regard to the report of its delegation to the Conciliation Committee (A5-0013/2002),
1. Approves the joint text;
  2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
  3. Instructs its Secretary-General duly to sign the act and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Communities;
  4. Instructs its President to forward this legislative resolution to the Council and Commission.

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<sup>1</sup> OJ C 219, 30.7.1999, p. 240.

<sup>2</sup> OJ C 43, 17.2.1999, p. 4.

<sup>3</sup> OJ C 120, 24.4.2001, p. 284.

<sup>4</sup> Texts adopted of 14.6.2001, item 2.

<sup>5</sup> OJ C 142, 15.5.2001, p. 24.

<sup>6</sup> OJ C not yet published.

## EXPLANATORY STATEMENT

### Background

- 1) On 24 November 1998 the Commission presented a proposal for a directive concerning the organisation of working time for mobile workers performing road transport activities and for self-employed drivers, with a view to closing one of the remaining gaps in agreements covering working time. This proposal has two legal bases: Article 137 on occupational health and safety and Article 71 on operational safety. The objective of the Directive is to improve general traffic safety and to protect the occupational health and safety of drivers. It also aims at ensuring fair competition between the various modes of transport. Previous directive agreed in 2000 and based upon the original 1993 directive cover other workers in the various transport sectors.
- 2) On 14 April 1999 the Parliament adopted 19 amendments at first reading. The Commission amended its proposal on 18 May 1999 taking into account the entry into force of the Amsterdam Treaty and the procedure laid down in Article 251. The Council subsequently adopted its common position on 23 March 2001 leaving self-employed drivers outside the scope of the directive and recommending a review by the Commission of the impact of this measure after five years. On 14 June 2001, at its second reading, Parliament adopted 20 amendments reasserting its insistence on the automatic inclusion of self-employed drivers three years after the directive had been transposed into national law, without a preliminary report by the Commission.

### Conciliation

- 3) The constituent meeting of the Parliament delegation was held in Strasbourg on 5 September and the delegation mandated its chair Mr FRIEDRICH, the Committee chair, Mr ROCARD and the rapporteur Mr HUGHES to start negotiations with the Council. Before the formal opening of conciliation, trialogues took place on 17 October and 8 November.
- 4) The Conciliation Committee met on 22 November and after subsequent political trialogues on 6 and 11 December the negotiators reached an agreement on a compromise package which was approved by the Parliament Delegation on 12 December and by COREPER on 13 December. Conciliation on this directive was concluded as an 'A' item at the Conciliation Committee of 17 December 2001.
- 5) The main points of the agreement reached in conciliation can be summarised as follows:
  - *Self-employed drivers will be included within the scope of the Directive* four years (i.e. in 2009) after the end of a three-year transposition period (2005). However, circumstances in Member States relating to the structure of the transport industry and the working environment of drivers will be taken into account in a Commission study on the consequences of excluding the self-employed which will be conducted two years before the end of the seven-year period. On the basis of the study, the Commission will submit a proposal, which may either lay down arrangements for excluding self-employed drivers who do not exercise their profession in other Member

States and are subject to local constraints or to exclude the self-employed from the scope of the directive altogether if the study indicates there is no need for them to be included. The adoption of the proposal will be subject to the co-decision procedure between Parliament and Council;

- *There is a tighter definition of what a self-employed driver* - this is important for preventing the creation of new forms of false self-employment during the period of temporary exclusion of self-employed drivers;
- *Working time for employees and self-employed is almost identical:* only 'general administrative work that is not directly linked to the specific transport operation under way' will not be considered as working time for the self-employed;
- *Derogations on weekly working hours and night work* will be allowed 'for objective or technical reasons or reasons concerning the organisation of work' and can be introduced on the basis of collective agreements, agreements between the social partners or, in the absence of such agreements, by laws or administrative provisions. In any event, representatives of employers and workers must be consulted and all relevant forms of social dialogue must be encouraged;
- *The location of the undertaking is more clearly defined.* The drivers' working time must be recorded and those records must be kept for two years;
- Member States shall ensure that contracts drawn up by operators in the transport sector comply with the provisions of the Directive.

## **Conclusion**

The Delegation regards the end result of conciliation as very satisfactory for Parliament. This Directive is important for two reasons: it is the last missing piece in the jigsaw puzzle regulating working time in the transport industry and it is the first piece of European legislation that regulates working time of the self-employed, and this for general traffic safety and competition reasons.

The Delegation wishes to thank the Belgian Presidency and the European Commission for their close and fruitful co-operation. The Delegation recommends that the House adopt the text at third reading.