



European Trade Union Confederation (ETUC)
Confédération européenne des syndicats (CES)

For the attention of the Members of the European Parliament

Brussels, 27 April 2009

VOTE TO REJECT

The European Commission proposal for the revision of Directive 2002/15/EC (Working time for mobile personnel in road transport)

Dear Member of the European Parliament,

In its plenary session of 4 – 6 May 2009, you will be voting on the European Commission proposal for a revised working time directive for road transport (Directive 2002/15/EC).

The ETF and the ETUC ask you to vote to reject the aforementioned European Commission proposal, precisely because this proposal excludes the self-employed drivers from the scope of the working time rules for road transport.

In doing so, the ETF and the ETUC welcome the previous clear political signal given by the European Parliament, to reject the European Commission proposed revision of Directive 2002/15/EC.

Indeed it is important to have taken on board the trade unions concerns – since the unions hold the real *day-to-day experience* of working in this sector.

In fact, the Commission proposal would push a great number of employed drivers into (false) self-employment, thereby **increasing deregulation** in a sector where economic conditions are already difficult. The proposal is also **in complete contradiction with the aim of reducing CO2 emissions**, given the incentive of creating a pool of independent vehicles which, in turn, would weaken the sustainability of the sector – economic, social and environmental. After the sad experience in the maritime sector, the European trade unions refuse a social scandal for professional drivers in the road transport sector.

In the light of the upcoming debate and vote, by the European Parliament, on the revision of Directive 2002/15/EC, the ETF and the ETUC draw your attention of the following:

By voting to reject the European Commission proposal, you will re-enforce the very purpose of the aforementioned directive

Article 1 of Directive 2002/15/EC defines its purpose as follows: “to establish minimum requirements in relation to the organisation of working time in order to improve the health and safety protection of persons performing mobile road transport activities and to improve road safety and align conditions of competition”.

Excluding the self-employed drivers from the scope of this directive would allow a working week of 86 hours or even more (the latter being the case of drivers driving vehicles under 3.5t), with no provision for an average working time within a reference period of 4 months. A driver's working week of 86 hours - for no less than 52 weeks per year – is a threat to road safety, to occupational health and safety, undermining what is left of the fair competition in the sector.

By voting to reject the European Commission proposal, you will contribute to safer European roads

An 86 hour working week (52 weeks per year) will increase the risk for fatigue amongst drivers, will diminish their capacity to concentrate and act promptly in situations potentially leading to road accidents. The driving and rest time regulation (Regulation (EC) No 561/2006) will not alleviate this risk, as it covers only vehicles of more than 3.5t and it only regulates the driving activity (or, for instance, in case of short-distance transport, loading and unloading tend to account for nearly as much time as driving).

By voting to reject the European Commission proposal, you will improve occupational health and safety in the sector

An 86 hour working week comes against any occupational health and safety standard! Before allowing drivers to work such long hours, you must consider some key elements of this profession, namely: the mix of work-intensive activities (loading-unloading, driving, etc.), the generally slow pace of investment in the improvement of workplace and working conditions, the precarious life-work balance drivers are permanently subject to.

By voting to reject the European Commission proposal, you will contribute to a fairer competition in the road transport sector

Imposing working time limits to only some categories of drivers will be a further blow to fair competition in the sector. Employed drivers are already under pressure to convert into false self-employed – certainly, the industry will take advantage of any opportunity to pay less for longer working hours. We cannot thus stress enough on the fact that a level playing field in the sector is achieved when all entities (companies and individuals) organising all aspects of the distribution and transport respect the sectoral social legislation. If the European Union does want to encourage competitiveness and a better participation of small and medium enterprises in the sector, this must by no means be achieved on the expense of social legislation!

By voting to reject the European Commission proposal, you will make the sector and the driver's profession more sustainable

European social partners, European Institutions, the industry as a whole, already signal the critical shortage of drivers. The sector is simply not capable to attract young workforce. In the context of the current economic crisis, an 86 hour working week may bring a unique opportunity for the industry in terms of flexibility, but has nothing in it for the drivers. The ETF and the ETUC consider that an 86 hours working week is indeed a false gift for self-employed drivers, but a real gift for the operators. The latter will actually have more leverage to push the self-employed drivers to work longer to keep the same profit margin and / or to cover the start-up costs of their business.

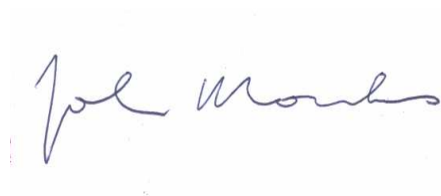
The industry already makes full use of differences between Member States, in labour cost, fiscal policy and legal provisions. Differences in the application of the driving and rest time regulation (Regulation (EC) No 561/2006), by size of vehicle, have led to the impossibility to control driving time and rest periods for vehicles of less than 3.5t and has encouraged practices such as remuneration (of drivers) by delivery or by kilometre. With the working time directive excluding the self-employed drivers, the European Union will contribute to further aggravate the situation.

By voting to reject the European Commission proposal, you will contribute to a clear, non-discriminatory and immediate enforcement of the working time directive

The current European Commission proposal makes a distinction between real and false self-employed drivers. We are told that controlling working time of self-employed drivers would be impossible. However, in the view of the European Commission, identifying and sanctioning false self-employed drivers would seem to be much easier. To this, we must draw your attention onto the fact that in order to identify the false self-employed from the real ones, all drivers will need to be checked upon in the first place. On the other hand, the efficiency of controls and sanctions would too much depend on: a) strict definitions of both bogus and real self-employed; b) an accurate transposition and enforcement of these definitions by all Member States. It is an acknowledged fact that it is precisely the definition of the self-employed drivers in Directive 2002/15/EC that causes the most serious implementation problems.

Mindful of all above arguments, the ETF and the ETUC believe that your support for the sector is essential and reiterate their request for you to reject the European Commission proposal on a revised working time directive for road transport in the plenary of 4 – 6 May, as did the Employment and Social Affairs Committee of the European Parliament on 2 March.

Yours sincerely,



John MONKS
ETUC General Secretary



Eduardo CHAGAS
ETF General Secretary

