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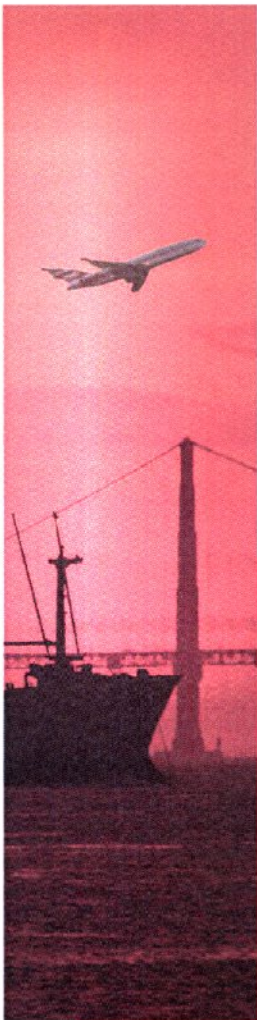
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**SOCIAL AND WORKING  
CONDITIONS OF  
ROAD TRANSPORT HAULIERS**

**STUDY**

EN

2013





**DIRECTORATE GENERAL FOR INTERNAL POLICIES**  
**POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES**

**TRANSPORT AND TOURISM**

# **SOCIAL AND WORKING CONDITIONS OF ROAD TRANSPORT HAULIERS**

**STUDY**

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## **AUTHORS**

*ITF Transport & Tourism 5.7 – Access to Urban Public Transport*

## **RESPONSIBLE ADMINISTRATOR**

Pablo Soria  
Policy Department B: Structural and Cohesion Policy  
European Parliament  
B-1047 Brussels  
E-mail: [poldep-cohesion@europarl.europa.eu](mailto:poldep-cohesion@europarl.europa.eu)

## **EDITORIAL ASSISTANT**

Maria Revérz

## **LINGUISTIC VERSIONS**

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## **ABOUT THE PUBLISHER**

To contact the Policy Department or to e-mail enquiries, please write to [poldep-cohesion@europarl.europa.eu](mailto:poldep-cohesion@europarl.europa.eu)

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**DIRECTORATE GENERAL FOR INTERNAL POLICIES**  
**POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES**

**TRANSPORT AND TOURISM**

# **SOCIAL AND WORKING CONDITIONS OF ROAD TRANSPORT HAULIERS**

**STUDY**

## **Abstract**

The study provides an analysis of the social and working conditions of professional drivers engaged in the road freight transport sector. It concentrates on the fundamental social issues that arise in this transport segment, including driving times and rest periods as well as practical aspects that impact directly on the quality of life of drivers, e.g. employment schemes and income levels. After an overall analysis of the legal framework, which includes the EU legislation relevant for the social dimension of road freight transport, the findings of a stakeholder and driver consultation are reported.

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## LIST OF ABBREVIATIONS

- ADR** Agreement concerning the International Carriage of Dangerous Goods by Road
- AETR** European Agreement concerning the work of Crews of Vehicles engaged in International Road Transport (*Accord européen relatif au travail des équipages des véhicules effectuant des transports internationaux par route*)
- CMR** Convention on the Contract for the International Carriage of Goods by Road (*Convention relative au contrat de transport international de Marchandise par Route*)
- CPC** Certificate of Professional Competence
- CSC-TRANSCOM** Belgian road transportation workers trade union (*Confédération des Syndicats Chrétiens, Transport et Communications*)
- DG EMPL** European Commission, Directorate-General for Employment, Social Affairs and Inclusion
- DSA** Daily subsistence allowance
- EC** European Commission
- ECJ** European Court of Justice
- ECMT** European Conference of Ministers of Transport
- EMPL** Committee on Employment and Social Affairs of the European Parliament
- EP** European Parliament
- ETF** European Transport Workers Federation
- ETUI** European Trade Union Institute
- EU** European Union

- EUROFUND** European Foundation for the Improvement of Living and Working Conditions
- FILT-CGIL** Italian Transport Workers Federation (*Federazione Italiana Lavoratori Trasporti-Confederazione Generale Italiana dei Lavoratori*)
- FNV** Dutch Transport Workers Federation (*Federatie Nederlandse Vakbeweging*)
- HGVs** Heavy Goods Vehicles
- IRU** International Road Transport Union
- ITF** International Transport Forum
- LABEL** Creating a Label for (Secured) Truck Parking Areas along the Trans-European Road Network and Defining a Certification Process
- MEP** Member of the European Parliament
- SETPOS** Secured European Truck Parking Operational Services
- tkm** tonne-kilometre: a unit of measure: one tonne transported a distance of one kilometre
- TRAN** Committee on Transport and Tourism of the European Parliament
- UBOT-FGTB** Belgian Road Transport Workers Trade Union (*Union Belge des Ouvriers du Transport / Fédération Générale du Travail de Belgique*)
- UICR** International Union of Professional Drivers (*Union Internationale des Chauffeurs Routiers*)
- VER.DI** German Services Workers Trade Union (*Vereinte Dienstleistungsgewerkschaft*)
- VIDA** Austrian Transport Workers Trade Union (*Gewerkschaft vida*)

## **COUNTRY CODES**

**AT** Austria

**BE** Belgium

**BG** Bulgaria

**CY** Cyprus

**CZ** Czech Republic

**DE** Germany

**DK** Denmark

**EE** Estonia

**EL** Greece

**ES** Spain

**EU12** The Member States which joined the EU in 2004 and 2007

**EU15** EU Member States before the 2004 enlargement

**EU27** The current EU Member States

**FI** Finland

**FR** France

**HU** Hungary

**IE** Ireland

**IT** Italy

**LT** Lithuania

**LU** Luxembourg

**LV** Latvia

**MT** Malta



**NL** The Netherlands

**PL** Poland

**PT** Portugal

**RO** Romania

**SE** Sweden

**SI** Slovenia

**SK** Slovakia

**UK** United Kingdom

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## EXECUTIVE SUMMARY

The purpose of this study is to inform the parliamentary debate on the social and working conditions of professional drivers in the road freight transport sector, by providing an overview of the relevant EU legislation in this field and a summary of the findings that have been obtained through the consultation exercise that has involved stakeholders (trade unions) and drivers of some Member States.

The study offers an in-depth analysis of the most pressing issues and trends affecting the social and working conditions of professional drivers. It seeks to identify factors to which better attention should be paid in order to deploy an effective enforcement strategy that secures greater respect of drivers' social rights, which in turn guarantees them better living and working conditions. In this respect, this study provides an up-to-date factual basis for the debate and puts forward the conclusions and recommendations formulated by the authors in their previous study for the European Parliament on the enforcement of EU social legislation for the professional road transport sector<sup>1</sup>.

### EU legislation impacting on drivers' social and working conditions

The study outlines the current EU legislative framework that governs the social aspects (working time, driving times and rest periods) and the access to the market for the road freight transport sector (the Road Transport Package), by considering the *rationale* behind the developments in the legislation which have occurred at European level in these two areas.

Given the mobile and international character of road freight transport operations, the study has investigated additional EU laws that, although not originally and specifically designed for the road freight transport sector, do impact heavily on social and working conditions.

### Drivers' social and working conditions: an assessment

The core part of the study is dedicated to the assessment of drivers' social and working conditions. The analysis has largely relied upon the findings of the consultation process that targeted relevant stakeholders (national trade unions and two European-wide associations) and drivers. This has resulted both in qualitative and quantitative information concerning the issues that most directly affect the working environment and living standards of professional drivers.

Since the liberalisation process started in the 1990s, the road freight transport sector has seen some radical changes. The increasingly greater opening of the European market has represented the leading factor that has reshaped not only the way the road freight transport sector was organised and structured until then, but also the nature and costs of the services provided. These changes became even more pronounced after the EU was enlarged by 12 new Member States in two steps, in 2004 and 2007.

As the study has revealed, the process of liberalisation has not, however, been accompanied by a parallel process of social harmonisation in the employment and working conditions; on the contrary, these are experiencing a general and sharp downward trend for both resident and non-resident professional drivers<sup>2</sup>.

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<sup>1</sup> Cited below, see note 8.

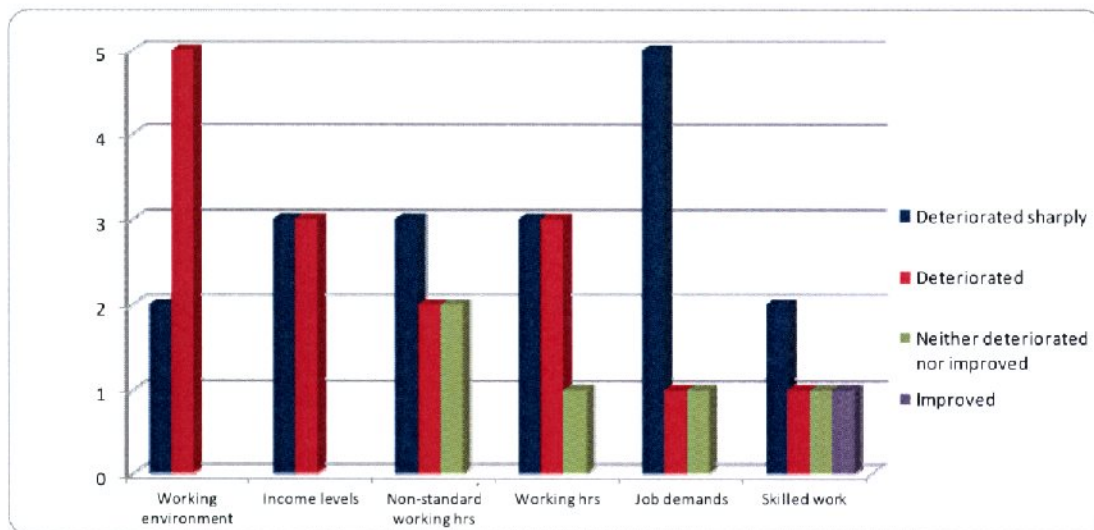
<sup>2</sup> Non-resident drivers are drivers that work from a country other than their own.

Wide differences in labour and social market structures as well as in the effectiveness of enforcement mechanisms continue to exist across the EU Member States. These disparities create gaps that can lead to transport companies being encouraged to adopt disloyal competition and social dumping practices (such as for instance “letter-box companies”, recourse to the use of drivers who falsely claim to be self-employed, performance-based employment schemes), instead of providing opportunities for social and economic growth.

These unfair practices are symptomatic of a more general decline in standards within the driving profession, i.e. a deteriorating working environment and regressive steps as far as income levels, work-life balance, job demands and living standards are concerned. However, it must be stressed that the disloyal practices and abuses mentioned above also heavily contribute to the increased precariousness of drivers’ living and working conditions as witnessed by the consultation’s findings and the examples reported in this study for some Member States.

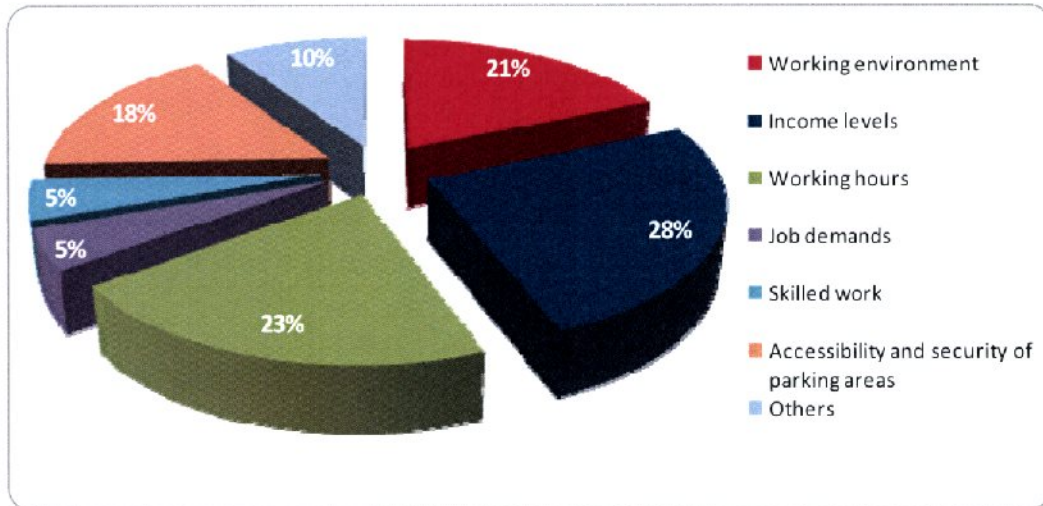
These findings are supported by the feedback provided by both stakeholders and drivers. As borne out by the data collected, stakeholders view in particular the **working environment** (including a higher level of discrimination between EU15 and EU12 drivers), **job demands** (i.e. a higher degree of task flexibility as well as a larger amount of non-driving activities) and **income levels** (i.e. a continuous drop in drivers’ salary levels) as the social components in the road freight transport sector that have deteriorated the most over the last five years.

**Figure 1: Elements that have deteriorated the most over the last five years**



Source: Compilation by the authors.

Drivers echo the stakeholders’ understanding and perspective, by placing a particular emphasis on a decrease in wage levels, followed by an increase in the number of hours worked, a worsening in the working environment, and lack of accessibility and security of parking areas. EU15 drivers are in particular affected by this downward trend mainly because of, they claim, the recourse by transport companies to cheaper personnel from Eastern Europe.

**Figure 2: Drivers' evaluation of the aspects that have deteriorated the most over the past five years**

Source: Compilation by the authors.

According to the stakeholders, enforcement is a particularly problematic area where it would be desirable to encourage EU intervention with the purpose of putting in place more effective control mechanisms in the Member States against those transport undertakings that are responsible for illegal or disloyal employment practices. A greater degree of harmonisation of enforcement practices, sanctions and penalties across the EU Member States is needed in this area in order to overcome the current framework that sees enforcement standards differing significantly, or enforcement not being given the same priority in all EU countries.

**Table 1: Further critical issues identified by stakeholders with respect to social and working conditions in the road freight transport sector<sup>3</sup>**

Issue	Degree of importance
Illegal/unfair employment schemes creating social dumping (including 'letter-box companies')	*****
Lack of enforcement and controls	*****
Social harmonisation across the EU27 Member States is far from being achieved	****
Illegal cabotage operations	****
Quality of rest and dedicated facilities	***
Driving time and rest periods	**

Source: Compilation by the authors based on the findings of the stakeholders' consultation.

<sup>3</sup> Values for the "degree of importance" have been qualitatively determined by the authors of the study based on the degree of importance for legislative intervention. These values do not reflect a judgment on the importance of each single item, but rather the degree of priority for future action. As existing legislation relating to driving times and rest periods is, fundamentally, being respected and enforced to a degree, the need for further intervention in these fields is less urgent compared to the other issues identified by drivers and stakeholders.



## Main conclusions

The implication of such reasoning, as well as a major conclusion of this study, is that the direction in which the road freight transport market has evolved since the liberalisation process started in the 1990s has not entailed a convergence between increased competition and a parallel process of social harmonisation across the EU Member States in the employment and working conditions for road freight transport workers.

Differences in terms of labour and social market structures amongst the EU countries remain significantly wide, and, especially in the presence of poor or ineffective enforcement mechanisms, this may lead to unfair transport companies adopting disloyal competition and social dumping practices. This negatively contributes to the current downward trend that is being suffered today by the road freight transport sector.

Again, enforcement remains a key measure through which the objective of harmonised working conditions might be reached, together with a common understanding and application of the relevant regulations, supported by a more uniform definition of infringements and their associated penalties.

## Summary of the recommendations

The findings of this study support a number of recommendations, which may provide some guidance for specific areas where further improvements to the social and working conditions of professional drivers may be needed. As a result, the authors recommend a focus on the following issues:

- **Strengthening enforcement mechanisms in the Member States.** This would require increasing existing controls and enforcement mechanisms and making them more effective, and might include drafting an *ad hoc* enforcement directive to support the application of Regulations (EC) No 1071/2009 and 1072/2009. Furthermore, enforcement measures might target labour and social laws in the road freight transport sector, such as Regulation (EC) No 593/2008 (Rome I Regulation), for example via joint controls by road enforcement and labour authorities.
- **Introducing enforcement impact assessments.** These could be introduced with the purpose of significantly strengthening the enforcement side of EU legislation, while encouraging Member States to assume their responsibilities in this area. These should accompany each legislative proposal in order to evaluate and estimate the impact that the measures applied would have on the enforceability of the proposal after the EC legislation enters into force.
- **Introducing reporting mechanisms on the application of Directive 96/71/EC on the posting of workers.** Enforcement can be made more effective if it is supported by constantly updated data and information about the status of the implementation of the various norms. This might be the case for Directive 96/71/EC on the posting of workers by including a provision for a reporting mechanism in Regulation (EC) 1072/2009 that requires each Member State to inform the Commission about the application of Directive 96/71/EC and for the prospective posting of workers enforcement directive - for which a proposal<sup>4</sup> is currently being debated in 1<sup>st</sup> reading at the EP.

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<sup>4</sup> EP, EMPL Committee, Report (2012/0061(COD)) (Rapporteur MEP Danuta Jazlowiecka).

- **Enhancing co-operation between Member States and between different authorities of the same Member State.** This might be achieved by facilitating exchanges of information and best practices, promoting training of enforcement officers and supporting concerted training programmes. Furthermore, it might also include extending the competences of the intracommunity liaison body established by Directive 2006/22/EC.
- **Extending the application of the cabotage rules to Directive 96/71/106.** This might require amending Regulation (EC) 1072/2009 with the purpose of eliminating exceptions and making cabotage rules easier to be enforced.
- **Creation of a European register of transport companies.** This register would include a black list of those companies that have been found responsible for illegal or disloyal practices. It might be embedded into the risk rating system that Member States are required to introduce with respect to undertakings infringing EU rules on driving times and rest periods.

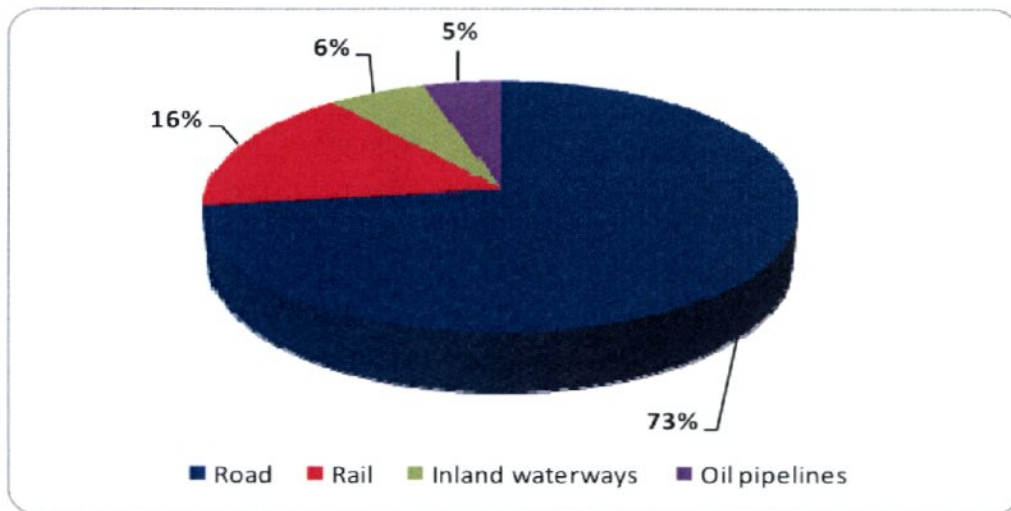
In addition to the suggestions above, further recommendations are proposed, which are aimed at continuing the monitoring and benchmarking work regarding the quality of parking areas (including biannual surveys measuring professional drivers' opinions and perceptions about their profession and their working and living conditions) and implementing awareness and information campaigns aimed at informing drivers about parking areas that are easily accessible, of good quality, safe and secure. These campaigns should also target the persisting gender imbalance in the road freight transport sector.

# 1. INTRODUCTION

## 1.1 Remit of the study

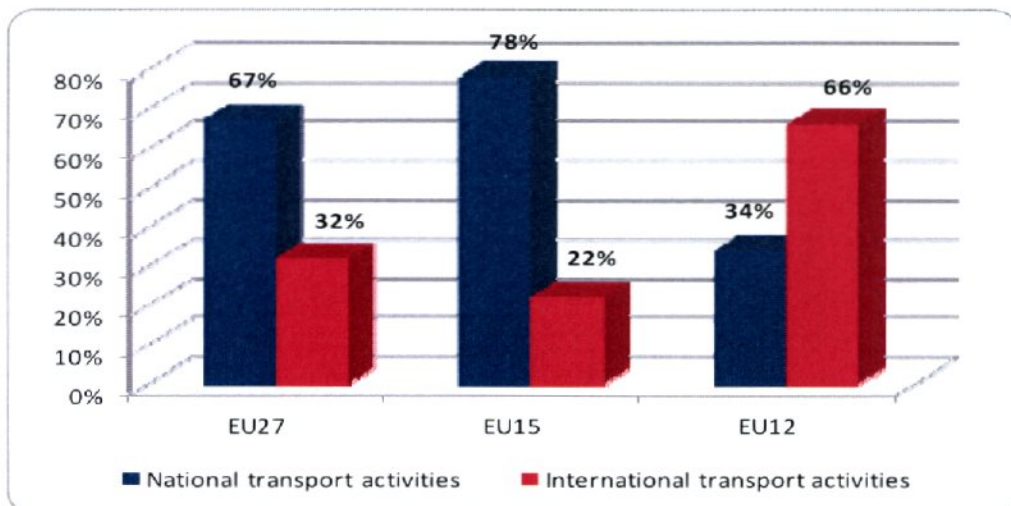
Measured in tonne-km (tkm) (Figure 3), the road freight sector accounts for about 76.4% of the total modal split for all inland transport modes (EC, 2012b; EC, 2011a). As illustrated in Figure 4 below, two-thirds (67%) of these tonne-kms across the EU27 are national traffic, although the proportion significantly differs when the EU15 and the EU12 are compared. In fact, while national traffic is higher than international traffic (including cabotage) in the EU15, national road freight transport only accounts for one-third (34%) in the EU12 (EC, 2012b; EC, 2011a).

**Figure 3: Modal split of inland freight transport in the EU27 in 2010 (in tkm)**



Source: Compilation by the authors based on EC, 2011a.

**Figure 4: Share of national and international transport activities (in %)**



Source: Compilation by the authors based on EC, 2011a.

Looking at the labour market, **road freight transport is also a major employer in the European Union (EU)**, with around 2.9 million persons employed in 2009 (EC, 2012a). However, employment in this sector is still characterized by a **substantial proportion of self-employment** (19.6% on average in the EU27). It also exhibits a significant **gender imbalance** with a limited presence of women who, on average, account for less than 14% of total staff in the land transport sector (IRS and TRT, 2009<sup>5</sup>).

Compared to the other modes of freight transport, **the road still holds a clear and dominant position in the European economy**. Nevertheless, it is also widely acknowledged that this sector has **profoundly evolved since the liberalisation process started in the 1990s**. Liberalisation has considerably intensified following the completion of the internal market, and international competition has also strongly increased as a consequence of the two EU enlargement processes that occurred in 2004 and 2007 although restrictions to cabotage still remain (EC, 2011b), also due to the fact that Member States were interpreting EU rules in such a way as to allow them to introduce restrictions on road freight transport operations (IRU, 2013).

The organisation and structure of the European economy has also changed. The accession of the new Member States and the larger flows of goods generated by the increase in specialisation of the production process have led to a higher demand for freight, which has been chiefly satisfied by road transport (IRS and TRT, 2009<sup>6</sup>).

In these **newly established market conditions** competitive pressures have increased significantly. Decreasing profit margins, a downward pressure on wages and considerable differences among EU Member States both in terms of operating costs and investment rates have emerged as the new market determinants which, gradually, have given rise to **new strategies in the way work activities are organised**, including a profound transformation of the driving sector.

The latter has become a highly demanding profession having developed from the simple activity of driving to a more specific set of working tasks (i.e. loading and unloading goods, organising deliveries, relating with clients), as a result of key changes to the way in which logistics services now operate and the evolving needs of the industry.

The specific characteristics of the road freight transport market and the number of changes that have been affecting the sector also partly explain why a **labour mismatch** between increasingly demanding skills and competences requiring a higher task specialisation, and the scarcity of qualified labour supply has progressively emerged.

In combination with other factors like the soaring demand of road transport and, in relation to drivers, declining work attractiveness, an ageing driver population and a poor work environment, this has made the shortage of the number of professional and qualified drivers a structural issue across the EU Member States. That being said, this negative impact has not been felt simultaneously and with the same severity and magnitude in all Member States (IRS and TRT, 2009)<sup>7</sup>.

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<sup>5</sup> IRS and TRT (2009). *The shortage of qualified personnel in road freight transport*. Study for the European Parliament, Directorate General for Internal Policies.

<sup>6</sup> Cited above, see note 5.

<sup>7</sup> The Netherlands, Portugal, Spain, Italy, Belgium and Germany were found to be the countries for which the estimated driver shortage ratio was the most significant. Generally, for the EU27, the estimated shortage was quantified as 74,480 drivers, equivalent to a shortage ratio of 3.8.



Against this background, it should be highlighted that the developments brought about by the liberalisation of the road freight transport market have not entailed a parallel harmonisation of the social dimension in this sector. In this respect, it is worth underlining that the market economy is characterised by imperfect economic freedom which offers only a limited possibility to achieve an optimal balance between drivers' personal and work life on the one hand, and between drivers' needs and competition amongst transport operators on the other. For this reason it is crucial that the supply of a qualified workforce is guaranteed through a regulatory framework that, in a sustainable manner, balances the need to protect employees and their social rights with the aim of enhancing transport companies' competitiveness as well as securing road safety (TRT, 2012<sup>8</sup>).

That said, **the social aspects of road freight transport** are a broad and complex subject.

Firstly, this is because road transport is not a "**homogenous product**"; i.e. it encompasses a large variety of services and activities that are provided by both structured transport undertakings and self-employed drivers, and each of them displays its own specific features in terms of work organisation, health, safety, security for the workers and, therefore, in terms of social impact.

Secondly, social aspects are directly and indirectly influenced by a **spectrum of factors which go far beyond the mere number of hours driven**. Instead, they include the overall quality of the working conditions (which, in turn, implies considering the quality of the overall working environment) and the level of income, but also refer to other elements like the quality of the vehicles driven, the quality of the road infrastructure, the level of traffic congestion and its fallout in terms of poor road safety conditions, as well as the increased risks of violence and theft.

Thirdly and finally, the **international** and **mobile** character of the driving profession in the road freight transport market has strong implications in terms of enforcement mechanisms and cooperation between Member States, in order to guarantee that social legislation is applied and that drivers' social rights are complied with across the whole of Europe.

The above remarks show the complexity and breadth of the social field and the challenges it posed for this investigation.

## 1.2 Objectives of the study

Against this backdrop, the purpose of this study is to provide in-depth information for the Members of the Committee on Transport and Tourism (TRAN) of the European Parliament (EP) about the issues surrounding the social and working conditions of professional drivers in the road freight transport sector (please note that the scope of the study does not extend to the international market for coach and bus services).

The study has **four overarching objectives**:

- to provide an overview of the current legislative framework relevant to the social and working conditions of professional drivers in the road freight transport sector;

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<sup>8</sup> TRT (2012). *Overview and Evaluation of Enforcement in the EU Social Legislation for the Professional Road Transport Sector*. Study prepared for the European Parliament, Directorate General for Internal Policies. Date of publication: August 2012.

- to assess the most critical issues and trends affecting the social and working conditions of professional drivers. Relying also on the conclusions and recommendations formulated by the previous study on the enforcement of the EU legislation in this field (TRT, 2012)<sup>9</sup>, this study seeks to identify the factors to which better attention should be paid in order to deploy an effective enforcement strategy that secures greater respect of drivers' social rights, including better living and working conditions;
- to provide an overview of the findings of the consultation exercise with stakeholders (trade unions) and drivers of some Member States;
- to present conclusions and recommendations concerning any possible improvements to the social and working conditions of professional drivers in the road freight transport sector.

### 1.3 Structure of the study

Following this introduction, the study is divided into three chapters.

**Chapter Two** introduces the EU legislation relevant to social aspects and access to the market and profession regarding the road freight transport sector.

**Chapter Three** describes the current social and working conditions of professional drivers with particular emphasis on the feedback provided by stakeholders and drivers on issues such as: employment schemes, problems raised in the enforcement of the European legislation and quality of life.

**Chapter Four** draws final conclusions and makes recommendations.

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<sup>9</sup> Cited above, see note 8. On this point see Section 5 on page 108.

## 2. EU LEGISLATION IMPACTING ON DRIVERS' SOCIAL AND WORKING CONDITIONS

### KEY FINDINGS

- **Important legislative** measures have been introduced at EU level with the goal of *modernising, streamlining and harmonising the previously existing body of rules* regulating social and working conditions in the road freight transport sector.
- The pillars of the legislative architecture in this field are the rules governing the social aspects of the road freight transport sector (**working time, driving times and rest periods**) and the access to the market and the profession (**Road Transport Package**).
- Given the **mobile** and **international** character of road freight transport operations, EU laws other than the Road Transport Package are relevant for these activities, although not originally and specifically designed for this sector.

Chapter 2 outlines the current EU legislative framework that governs social aspects and access to the market for the road freight transport sector. After introducing the *rationale* for the legislative developments that have occurred at European level in these two areas in Section 2.1, Section 2.2 of this chapter summarises the EU framework regarding social aspects of the road freight transport sector, while Section 2.3 illustrates the main set of norms that regulate the access to the market and the occupation. Finally, Section 2.4 concludes with an overview of additional EU laws that have a significant impact on social and working conditions in the road freight transport sector.

### 2.1 Introduction

As noted in the introductory chapter, the road freight transport sector has significantly evolved since the 1990s. This has required a critical legislative intervention by the EU in order to **modernise, streamline and further harmonise** a fragmented body of rules that was no longer adequate to cope with the complexity of, and the new challenges posed by, the newly formed market conditions in this economic domain.

The efforts undertaken by the EU in terms of legislation and policy have principally developed in **two, interlinked, directions**, on the one hand pursuing the objective of *improving social standards for workers in this field (including safety of operations)*, while, on the other hand, fostering greater and more loyal competition amongst road freight transport undertakings.

As Sections 2.2 and 2.3 below will describe, two primary categories of EU laws reflect these priorities:

- **social provisions**, as established by Regulation (EC) 561/2006<sup>10</sup> and Directives 2006/22/EC<sup>11</sup> and 2002/15/EC<sup>12</sup>;

<sup>10</sup> Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport, as last amended by Regulation (EC) No

- the “**Road Transport Package**”, whose provisions are laid down in Regulations (EC) 1071/2009<sup>13</sup>, 1072/2009<sup>14</sup>, and 1073/2009<sup>15</sup>.

In addition (see Section 2.4), a number of **other rules** currently in force are similarly relevant in relation to social and working conditions in the road transport sector. Although they were not directly designed for this sector their application and enforcement produce significant effects on overall working and social conditions for this mode given the mobile and international character of road transport operations.

These are, specifically:

- Regulation (EC) No 593/2008<sup>16</sup> on the law applicable to contractual obligations (Rome I);
- Regulation (EC) 883/2004<sup>17</sup> on the coordination of social security systems as last amended by Regulation (EU) 465/2012<sup>18</sup> and implemented by the provisions laid down by Regulation (EC) 987/2009<sup>19</sup>;
- Directive 96/71/EC<sup>20</sup> on the posting of workers in the framework of the provision of services; as stated in Article 2.1 of this Directive, a “**posted worker**” means “a worker who, for a limited period, carries out his work in the territory of a Member State other than the State in which he normally works”. For the purposes of the Directive, the definition of a worker is that which applies in the law of the Member State to whose territory the worker is posted (Article 2.2).

Lastly, it is also worth mentioning that there is a large number of national rules that impact on social aspects and the well-being of drivers.

As described by Eurofound (Eurofound, 2004<sup>21</sup>) Member States have enacted, for instance, legislation on road safety which places night and weekend driving bans on trucks which

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1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services.

<sup>11</sup> Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC.

<sup>12</sup> Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities.

<sup>13</sup> Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC.

<sup>14</sup> Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market.

<sup>15</sup> Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006, as last amended by Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services.

<sup>16</sup> Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I).

<sup>17</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

<sup>18</sup> Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004.

<sup>19</sup> Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems.

<sup>20</sup> Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.

<sup>21</sup> Eurofound (2004). EU road freight transport sector: Work and employment conditions.

exceed a certain tonnage (n.b. that these rules are still not harmonized across all Member States).

EU countries generally impose specific restrictions on the transport of dangerous substances. In some countries, for example the Netherlands, drivers whose loads contain dangerous substances must be certified and attend refresher training at prescribed intervals. Although most provisions concerning the transport of dangerous substances do not focus on the drivers specifically, they undoubtedly have an indirect impact on their working conditions.

Finally, all EU countries have put legislation and rules in place to protect employees from risks to their occupational health and safety. There are, however, wide differences both in terms of content of these rules and the dates of their entry into force.

## 2.2 The EU framework of social rules for the road freight transport sector<sup>22</sup>

The legislative “architecture” governing the area of **social rules for road freight transport** has been progressively set up by the EU since 1969 before being consolidated in Directive 2002/15/EC and Regulation (EC) No 561/2006, the latter being enforced through the mechanisms established by Directive 2006/22/EC (TRT, 2012<sup>23</sup>).

These three EU laws, complemented by Regulation (EEC) No 3821/1985<sup>24</sup> (referred to as the “**Tachograph Regulation**” with reference to the recording device<sup>25</sup>) and Directive 2003/59/EC<sup>26</sup> (referred to as the “**Training Directive**” introducing the Certificate of Professional Competence, CPC), are the pillars of the legislation that is currently in force in relation to social aspects in the road freight transport sector.

Taken together, this group of provisions represents a substantial and broad agreement that covers the widespread objectives that the European legislation aims at accomplishing in this field. In particular, limiting working hours in the transport sector is crucial. The goal here is twofold:

- firstly, **to secure a reasonable and healthy working environment for professional drivers** by avoiding their exploitation;

<sup>22</sup> Cited above, see note 8.

<sup>23</sup> Cited above, see note 8. On this point see Sections 2.2.2 (*Drivers’ hours rules: a combined reading of Regulation (EC) No 561/2006 and Directive 2006/22/EC*) and 2.2.3 (*The Road Transport Working Time Directive*).

<sup>24</sup> Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport, as last amended by Council Regulation (EC) No 2135/98 of 24 September 1998 and Commission Regulation (EC) No 1360/2002 of 13 June 2002 adapting for the seventh time to technical progress. A revision of this Regulation is currently under way (see *European Commission, Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council, COM/2011/0451 final - 2011/0196 (COD)*).

<sup>25</sup> Cited above, see note 8. On this point see Section 2.2.1 (*Introducing the tachograph as device for recording drivers’ activities*).

<sup>26</sup> Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC.

- secondly, **to contribute to the efforts of continuously improving road safety conditions** by requiring professional drivers to take adequate rests and breaks. This helps prevent situations where excessive driving and fatigue may cause severe road accidents.

The importance of limiting working hours in a harmonised manner becomes clear when considering:

- the **international dimension** of the competition that characterises the road transport sector and that has increased following the liberalisation process ongoing since the 1990s. The EU norms apply to all professional drivers, irrespective of their nationality, as their purpose is to encourage greater but also fairer competition between road freight transport operators;
- the **potential contribution** that a set of common, minimum requirements across all Member States may make to the effective realisation of the social dimension of the EU.

### 2.2.1 Regulation (EC) No 561/2006: driving times and rest periods

Regulation (EC) No 561/2006<sup>27</sup> establishes a legislative framework that governs driving times and rest periods of professional drivers and undoubtedly plays a pivotal role both in improving road safety and working conditions and in promoting fair competition amongst drivers across all EU Member States.

The Regulation entered into force on 11 April 2007, replacing Regulation (EEC) 3820/85<sup>28</sup> that had ruled drivers' hours for almost 20 years. Its **core element** is the setting of **maximum driving hours and minimum rest periods** for drivers of vehicles with a permissible mass higher than 3.5 tonnes<sup>29</sup> (see Box 1 below for the key requirements laid down by the Regulation).

Another key provision in the Regulation makes the onboard fitting of a digital tachograph compulsory for all new vehicles registered in the EU from 1 May 2006 (Article 27 of the Regulation)<sup>30</sup>.

Finally of interest is the provision of Article 17 of the Regulation which requires the EC to publish, on the basis of the information communicated by each Member State, a biannual report giving an account of the level of checks at the roadside and at the premises of transport undertakings (calculated based on the number of working days) and the number of offences detected. The most recent report has been published on 12 September 2012 and covers the two-year period 2009-2010 (EC, 2012c).

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<sup>27</sup> Cited above, see note 10.

<sup>28</sup> Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport.

<sup>29</sup> In comparison with the previous norms, the new rule has been extended to also include passenger vehicles with more than nine seats (previously 17 seats).

<sup>30</sup> The recording device (tachograph) is governed by Regulation (EEC) 3821/85 as last amended by Council Regulation (EC) No 2135/98 and Commission Regulation (EC) No 1360/2002 of 13 June 2002. Since 16 June 2010, the use of digital tachographs is mandatory for all AETR Contracting Parties.

**Box 1: Key requirements of Regulation (EC) No 561/2006**

- the total daily driving period shall not exceed nine hours, although twice a week it can be extended to a maximum of ten hours (Article 6(1));
- the total weekly driving time may not exceed 56 hours and the total fortnightly driving time may not exceed 90 hours (Article 6(2));
- breaks must be at least 45 minutes (which may be separated into a break of 15 minutes followed by 30 minutes) and should be taken after 4.5 hours at the latest (Article 7);
- the daily rest period shall be at least 11 hours, even though three times a week it can be reduced to nine hours (Articles 8(2) and (4));
- the weekly rest period is 45 continuous hours, though it can be reduced to 24 hours (Article 8(6)).

**2.2.2 Directive 2006/22/EC: the “Enforcement Directive”**

Separately, in March 2006, the EU adopted Directive 2006/22/EC<sup>31</sup> on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities. This Directive is usually referred to as the “**Enforcement Directive**” since it contains a set of provisions whose purpose it is to **enforce compliance and ensure application of the drivers’ hours rules** established by Regulation (EC) No 561/2006.

**The key aim** of the Directive is the effort to promote a common approach to the interpretation of the rules, the enforcement of practices and the categorisation of infringements. This is reflected in its provisions which lay down common procedures and minimum levels required for the checks that are carried out in the Member States (see Box 2 below).

**Box 2: Key requirements of Directive 2006/22/EC**

- For the last reporting period 2009-2010<sup>32</sup>:
- **checks** should have respectively covered at least 2% (in 2009) and 3% (in 2010) of the total number of days worked by drivers falling under the scope of Regulation (EC) No 561/2006 and Regulation (EEC) No 3821/85;
  - **roadside checks** and **checks at the premises of transport undertakings** should have been carried out at a ratio of at least 30% and 50% respectively;
  - Member States should have undertaken at least six **concerted roadside checks**<sup>33</sup> per year.
- Source:** EC, 2012c.

<sup>31</sup> Cited above, see note 11.

<sup>32</sup> Commission Staff Working Document, Report on the implementation in 2009-2010 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 (26<sup>th</sup> report from the Commission on the implementation of the social legislation relating to road transport).

<sup>33</sup> As described in Article 5 of Directive 2006/22/EC, concerted checks are checks that are performed in parallel by enforcement authorities belonging to two or more Member States, each operating in its respective territory.

In 2009, Annexes I (*Checks*) and II (*Standard equipment to be available to enforcement units*), and Annex III (*Infringements*) of Directive 2006/22/EC were further modified when Directives 2009/4/EC<sup>34</sup> and 2009/5/EC<sup>35</sup> came into effect.

These legislative developments are the response to the commercial expansion of the digital tachograph (compulsorily fitted onboard all commercial vehicles registered after 1 January 2006), which has raised issues concerning **potential fraud and manipulation** of the recording device.

The changes introduced by Directive 2006/22/EC are therefore aimed at preventing the possible installation of devices that could defraud the digital tachograph system, while introducing a new categorisation of infringements into the EU regulations, according to which most of the infringements concerning Regulation (EEC) No 3821/85 (the "Tachograph Regulation") are consistently classified as serious or very serious.

### 2.2.3 Directive 2002/15/EC: the "Road Transport Working Time Directive"

Adopted in March 2002, Directive 2002/15/EC<sup>36</sup> is usually known as the "**Road Transport Working Time Directive**" (or simply the "Working Time Directive").

This Directive applies to mobile workers (basically drivers, crew and other travelling staff) who operate on vehicles which are covered by Regulation (EC) No 561/2006, or failing that, by the European Agreement concerning the work of Crews of Vehicles engaged in International Road Transport (referred to as the "**AETR Agreement**").

As from 23 March 2009, following the approval of the proposed revision<sup>37</sup> of this Directive tabled by the EC, the working time regime have also become applicable to self-employed drivers, who had initially and temporarily been excluded from the scope of the Directive. It is important to note that the application of Directive 2002/15/EC remains a challenge to Member States, not least because there is no definition of "self-employed drivers" in the EU legislation due, inter alia, to the Member States having failed to agree such definition in 2009 (IRU, 2013).

It is worth noting that Directive 2002/15/EC supplements Regulation (EC) No 561/2006 because it:

- places limitations on the overall daily and weekly working time of workers in the road transport sector; and
- sets minimum daily/weekly periods of rest and adequate breaks.

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<sup>34</sup> Commission Directive 2009/4/EC of 23 January 2009 on counter measures to prevent and detect manipulation of records of tachographs, amending Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC.

<sup>35</sup> Commission Directive 2009/5/EC of 30 January 2009 amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and 3821/85 concerning social legislation relating to road transport activities.

<sup>36</sup> Cited above, see note 12.

<sup>37</sup> European Parliament, TRAN Committee, Report A6-0120/2009 (Rapporteur MEP Marie Panayotopoulos-Cassiotou).



In fact, Regulation (EC) No 561/2006 does not define a maximum working time (which would include both the time spent on driving and other activities such as loading/unloading of goods, vehicle cleaning and maintenance, administrative work related to the transport operation), but defines only the maximum driving time permissible.

The importance of Directive 2002/15/EC lies in the fact that it provides a comprehensive definition of working time in the road transport sector. According to this definition, "working time" includes not only the driving but also other activities, such as loading/unloading, cleaning and technical maintenance of the vehicle etc.

Therefore, the Working Time Directive **fills the legislative gap with respect to the organisation of working time** in the road transport sector by bringing in a set of **specific provisions that introduce a distinction** between, on the one hand, the amount of time dedicated to working activities and, on the other hand, the amount of time excluded from working activities (i.e. breaks, rest periods or periods of availability).

Box 3 below summarises the key requirements introduced by Directive 2002/15/EC.

**Box 3: Key requirements of Directive 2002/15/EC**

The Directive introduces specific limits on:

- **daily working time**, which may not exceed ten hours within each 24-hour period for night workers;
- **weekly working time** (excluding breaks and periods of availability), where the average weekly working time may not exceed 48 hours; although it is possible to extend the weekly working time to 60 hours as long as 48 hours per week on average is not exceeded within any one period of four months.

The provisions on breaks provided by Regulation (EC) No 561/2006 are complemented by Directive 2002/15/EC, which stipulates that workers are obliged to take a **break after six consecutive hours of work**. In the event that working hours total between six and nine hours, a break of at least 30 minutes must be taken and, if working hours exceed nine hours, a break of at least 45 minutes must be taken.

## 2.3 The "Road Transport Package"

The second major development in EU legislation concerning the commercial road transport sector is the adoption of the "**Road Transport Package**" in October 2009.

This new body of rules consists of Regulations (EC) No 1071/2009<sup>38</sup>, 1072/2009<sup>39</sup> and 1073/2009<sup>40</sup> and seeks to introduce European-wide rules for access to the profession of transport operator. It regulates the market for the international carriage of goods (cabotage included) and passengers.

From the point of view of the EC the effort is, therefore, directed towards the **establishment of a legislative framework** that can respond more adequately to new market needs and changed working conditions in the commercial road transport sector and

<sup>38</sup> Cited above, see note 13.

<sup>39</sup> Cited above, see note 14.

<sup>40</sup> Cited above, see note 15.

create a more level-playing field for international operations in order to reduce distortion of market competition. At the same time the framework aims at:

- raising the professional standards of transport operators;
- reducing the administrative burden for both operators, enforcers and regulators; and
- increasing and securing better compliance with safety, technical, and social rules.

### 2.3.1 Regulation (EC) No 1071/2009

Applying from 4 December 2011 and repealing Directive 96/26/EC<sup>41</sup>, Regulation (EC) No 1071/2009<sup>42</sup> lays down a set of norms that introduces more restrictive legislation regarding the admission to the occupation for both road haulage and road passenger transport operators. Its goal is to **clarify the existing legal provisions** referring to the conditions to be complied with in order to pursue the occupation of road transport operator, while strengthening their consistent and effective implementation across all EU Member States.

Amongst all requirements introduced by the Regulation, two of them appear to be of particular significance. The first requirement is laid down in Article 3 and stipulates that each undertaking engaged in the occupation of road freight transport should not only:

- be of good repute;
- have appropriate financial standing; and
- have the requisite professional competence;

but, and more importantly, be **independently operated** and **effectively and stably established** in a Member State (i.e. , they should have an office and an operating centre in a Member State). As far as the EC is concerned, it is this last obligation that should enable a more effective tackling of the phenomenon of so-called "letter-box" companies.

Recital 3 is linked to the provisions laid down in Articles 11 and 16, which state that each transport undertaking has to be recorded in an electronic national register that has to be kept by each Member State.

The second requirement regards **transport managers**. Article 4 of the Regulation imposes the obligation on each road transport undertaking to employ a transport manager who holds a CPC (certificate of professional competence) and takes responsibility to permanently and effectively manage the transport activities of the undertaking. In the event that the transport manager is contractually hired as self-employed, the Regulation sets a limit on the number of companies (four) and the number of vehicles (50) a single transport manager may be responsible for.

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<sup>41</sup> Council Directive 96/26/EC of 29 April 1996 on admission to the occupation of road haulage operator and road passenger operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations.

<sup>42</sup> Cited above, see note 13.

### 2.3.2 Regulation (EC) No 1072/2009

The provisions on access to the road haulage market (cabotage) contained in Regulation (EC) No 1072/2009<sup>43</sup> came into effect in May 2011. The new legislative framework consolidates and merges the previous norms laid down in Regulations (EEC) No 881/92<sup>44</sup> and 3118/93<sup>45</sup>) and in Directive 2006/94/EC<sup>46</sup> with the purpose of simplifying, modernising and further harmonising current rules on cabotage operations.

In Article 1 the new Regulation confirms and seeks to better clarify the temporary nature of cabotage operations, so as to avoid any potential market distortions or disturbances. As stated in Article 8 cabotage should be limited to a maximum of three operations within a period of seven days and within the 7-day period hauliers can either perform cabotage in one Member State only or in one or more Member States as long as it is allowed for a maximum of one operation within three days in each Member State.

Standardisation of certified copies of Community Licences and Driver Attestations/Community Authorisations is an additional area where Regulation (EC) No 1072/2009 has intervened in favour of a higher degree of harmonisation across Member States. The Regulation requires that such documents correspond to the model provided in its Annex II, with the inclusion of at least two of the security features listed under its Annex I. *Current Community Authorisations will remain valid until their natural date of expiry.*

Notably, following the provision of Article 17(3), the EC is currently working on a report on the state of the EU road haulage market with the aim of assessing whether road transport market conditions in terms of, amongst others, effectiveness of controls and employment conditions in the profession, road user charges and social and safety legislation have converged to the point where further opening of national road transport markets may be envisaged. The report will be released in the course of 2013<sup>47</sup>.

## 2.4 Other EU laws relevant to the commercial road transport sector

As mentioned in the introductory section, alongside the EU rules governing the **sector-specific** social aspects as well as access to the market and occupation, a set of additional pieces of legislation that are part of the labour and social EU *acquis* are worth noting as, although not directly designed for the road transport sector, their application and enforcement produce significant effects on the overall working and social conditions for this mode given the mobile and international character of road transport operations.

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<sup>43</sup> Cited above, see note 14.

<sup>44</sup> Council Regulation (EEC) No 881/92 of 26 March 1992 on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing across the territory of one or more Member States.

<sup>45</sup> Council Regulation (EEC) No 3118/93 of 25 October 1993 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State.

<sup>46</sup> Directive 2006/94/EC of the European Parliament and of the Council of 12 December 2006 on the establishment of common rules for certain types of carriage of goods by road (codified version). Directive 2006/94 was repealed by Regulation 1072/2009

<sup>47</sup> Additional insights on the issues related to the road cabotage market will be provided by the EP study on the development and implementation of road cabotage across the EU. The study is expected to be published at the same time as the current study.

This is clearly the case for the provisions of **Regulation (EC) No 593/2008**<sup>48</sup> that apply to contractual obligations (Rome I) and govern the law to be used to interpret contracts with an international element (that is, contracts agreed by parties that are resident in different EU Member States).

Crucially, the Regulation also applies to employment contracts for which Article 8(2) quotes that the applicable law is that of the country “*from which the employee habitually carries out*” his/her work, while for a temporary worker posted in another country from his/her home country, the same Article 8(2) declares the law of the host country applicable.

Directly linked to Regulation (EC) No 593/2008 is **Directive 96/71/EC**<sup>49</sup> on the posting of workers in the framework of the provision of services (also referred to as the “**Posted Workers Directive**”<sup>50</sup>).

This Directive concerns the free movement of workers within the EU Member States and clarifies competing claims of competence between the rules governing labour relations in the country of origin of the employing service provider and the country where the work is actually carried out in the case of staff being sent abroad by their employer for a project (posting).

In this respect, the Directive has introduced (in Article 3(1)) a set of minimum standards (for instance, working time hours, discrimination, health and safety requirements) that the country of destination is obliged to guarantee.

The provisions contained in Directive 96/71/EC can also be read in combination with those laid down by **Regulation (EC) 883/2004**<sup>51</sup> which modernises and simplifies the social security coordination rules as previously established by Regulation (EEC) No 1408/71 of 14 June 1971.

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<sup>48</sup> Cited above, see note 16.

<sup>49</sup> Cited above, see note 20.

<sup>50</sup> In the area of posting of workers, since November 2012 a practical guide entitled “*The legislation that applies to workers in the European Union (EU), the European Economic Area (EEA) and in Switzerland*” is available with the purpose of assisting public administrations, citizens and enterprises in determining which Member State’s legislation should apply in circumstances that involve the posting of workers. The Guide can be downloaded from the publication section of the EC, DG EMPL’s website.

Also important, a proposal for a directive on the enforcement of Directive 96/71/EC has been tabled by the EC in 2012 (COM(2012) 131). The EP is currently debating this proposal in 1<sup>st</sup> reading.

<sup>51</sup> Cited above, see note 17 (as amended in 2012).

### 3. DRIVERS' SOCIAL AND WORKING CONDITIONS: AN ASSESSMENT

#### KEY FINDINGS

- The road freight transport sector has profoundly evolved as a consequence of the **liberalisation process which occurred in the 1990s**.
- This has not, however, been accompanied by a **parallel process of social harmonisation in employment and working conditions**; on the contrary, these are experiencing a general and sharp deteriorating trend for both resident and non-resident professional drivers.
- Stakeholders frequently report **social dumping practices, irregularities and abuses** committed by EU15 hauliers to minimise costs.
- Stakeholders also affirm that **enforcement mechanisms concerning dumping practices do not exist or are very poor**. Standards differ widely between countries, while sanctions and penalties are not harmonised across all EU Member States.
- A **substantial consensus** emerges between the feedback received from stakeholders and the answers provided by drivers.

Chapter 3 looks in more detail at the current social and working conditions of professional drivers. The chapter is divided into four sections: Section 3.1 introduces the methodology upon which the stakeholders' and drivers' consultation process has been based. Section 3.2 provides some preliminary considerations on the social and working conditions in the road freight transport sector, while Section 3.3 looks closely at the feedback provided by the relevant stakeholders on issues such as: employment schemes, problems in the application and enforcement of the European legislation, quality of drivers' lives. Section 3.4. integrates this reasoning by presenting the findings of the interviews with the drivers.

#### 3.1 Aim and methodology

Within the scope of the requirements laid down in the Terms of Reference, the core aim of this study is to investigate and assess the current social and working conditions of professional drivers across the various Member States, as described in the following sections of this chapter.

In terms of the methodology, this investigation has largely relied upon data and information (both quantitative and qualitative) that study have been collected in the course of the study through two different, but interlinked, consultation exercises which targeted national trade unions (also referred to as "stakeholders") and professional drivers. Together with all the evidence collected, the responses gleaned from this consultation process have guided the assessment of the social and working conditions of professional drivers.

For trade unions, the consultation was carried out by means of questionnaires that were circulated to the list of recipients presented in Annex A of this study. In order to facilitate the stakeholder consultation exercise, questionnaires were prepared in English and also translated into Italian, French and German. Additional phone interviews were also arranged

with some of the respondents, in order to clarify or discuss more deeply some specific issues that were raised during the consultation.

The consultation process with stakeholders took place on a continuous basis between December 2012 and February 2013. In total, 16 questionnaires were circulated, and responses were received from eight Member States (in one case two responses from the same Member State). This represented a response rate of almost 56%<sup>52</sup>.

Further information was obtained through direct interviews with the European Transport Workers' Federation (ETF), and written responses provided by the *Union Internationale des Chauffeurs Routiers* (UICR).

For drivers, the consultation exercise drew information from direct interviews that were conducted on two dates (February and March 2013). A questionnaire was prepared with the purpose of providing clear and concise documentation that was easy to handle during the interviews, so as to elicit clear and factual feedback.

Questionnaires were prepared in English and translated into four other official EU languages (Italian, French, German, and Spanish). A Russian version was also drafted so as to facilitate the interview process with drivers from Eastern European countries.

A total of 24 drivers were interviewed, with equal numbers originating from each of the EU15 and EU12 Member States.

### **3.2 Social and working condition in the road transport sector: preliminary considerations**

As set out in Chapter 2, it is commonly agreed that the European road freight transport sector has thoroughly evolved and changed over the last 15–20 years.

**Increased competition** – resulting from the liberalisation process that occurred during the 1990s, the creation of the Single Market and the introduction of cabotage rights that have made it possible to supply transport services within the EU from any establishment created in a host country – has been **instrumental in reshaping** not only the way the road freight transport sector was organised and structured until then, but also the nature and costs of the services provided. These changes have been exacerbated after 12 new Member States joined the EU in two steps, in 2004 and 2007.

However, after years of continuous growth, the road freight transport sector is currently going through a **critical time** where transport supply, both by structured transport companies and self-employed drivers, is higher than the real market demand in terms of production and distribution of goods.

The current economic climate forces the road transport industry to adapt to new realities and explore all business models. Further, there are also a number of additional issues, such as the negative consequences of the increasingly dominant position of the multinational multimodal players that is currently resulting in a downward pressure on road transport

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<sup>52</sup> National trade unions were consulted in the following EU Member States: Austria, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, France, Germany, Italy, Lithuania, Romania, Spain, Sweden, the Netherlands and the United Kingdom. Replies were received by stakeholders from: Austria, Belgium, Denmark, France, Germany, Italy (two replies), the Netherlands and the United Kingdom.

prices, which are even more negatively affected by the current freight forwarders' control of two-thirds of the cargo carried by road (IRU, 2013).

All this means that the entire road freight transport system has been plunged into a climate of **harsh and often uncontrolled competition** that relies more on continuously decreasing prices instead of a greater degree of organisational efficiency and quality of the services offered.

Many transport companies respond to the need of coping with persistently fiercer competition and the inability to match the prices offered on the market by attempting to achieve gains in efficiency primarily by **minimising costs**, and operational costs in particular.

Frequently, this is obtained through:

- either a **reduction in labour costs**, which, on average, account for 35%–40% of the total delivery costs of a transport service and, thus, remain the only component that may still produce variations in production costs among different transport operators located and operating in different Member States (Hamelin, 2001). (Regrettably, on numerous occasions this reduction of labour costs has been accompanied by a parallel **erosion of social rights**);
- or an **increase in the productivity** of drivers, who are often required to drive for longer periods of time at a lower cost.

Ideally, liberalisation – and the subsequent increase in competition – should have been accompanied by a **parallel process of social harmonisation** in employment and working conditions of road freight transport workers and professional drivers in particular, so as to secure equal operating conditions for transport companies across all EU Member States.

This has, however, not happened since **wide differences in terms of labour and social market structures, regulations and enforcement mechanisms** continue to exist across the EU.

Instead of progressing towards a convergence between liberalisation on the one hand and social harmonisation on the other, *the road freight transport sector is actually facing a growing divergence between these two components as witnessed by a **general deterioration of social working conditions** made worse by a global downward trend in wage levels.*

**Box 4: Petitions to the EP referring to issues on social and working conditions of professional drivers**

The scale of the problems that affect social and working conditions in the road freight transport sector is also evidenced by the **various petitions submitted to the EP**, where single citizens inform and raise concerns about irregularities and abuses occurring in the sector. In most cases petitions refer to:

- the application and enforcement of driving and rest times rules (Regulation (EC) No 561/2006);
- alleged irregularities committed with regards to training obligations for employers;
- alleged irregularities committed with regards to illegal cabotage (Regulation (EC) No 1072/2009);

- fear of reprisals from employers who force drivers to drive and work without fulfilling the necessary conditions under European legislation, especially regarding entitlements to rest times and salary;
- technical problems with the digital tachograph when the vehicle engine is switched off, and the tachograph automatically registers a “break/rest”, although the driver is still carrying out his/her activities (i.e. filling up the vehicle, waiting in traffic, etc.).

**Source:** Compilation by the authors based on EP.

Certainly, it is fundamental to distinguish between illegal practices that have to be clearly avoided, while on the other hand recognizing business models that might be new or unique but stay within the boundaries of the current EU and/or national legislation (IRU, 2013). Pursuing a fair competitive environment should be achieved without inhibiting competitive and innovative forces that drive the road transport industry as any other business activity in the free market economy and influencing business decisions of the road transport operators.

However, this cannot disregard the fact that the pressure on cutting labour costs has led many transport companies to adopt practices that result in market distortions and unfair employment conditions. Examples of this include:

- **fictitious “letter-box” subsidiaries**, which are created in Member States where tax levels, and social and labour standards are much lower and allow recruitment of professional drivers on much lower pay and worse conditions (ETF, 2012b; Hermann, 2003; Hilal, 2008). Through such shell companies operators can make use of contractual schemes for hiring and irregularly posting drivers from **EU12 or even third-country nationals** (i.e. neighbouring countries such as Turkey, Ukraine and Moldova) to EU15 Member States.
- **(purported) self-employed drivers**, to which transport companies sub-contract part of their transport activities in order to take advantage of the fact that:
  - self-employed drivers are not required to comply with rules on maximum working time.
  - purported self-employed drivers will cost the company no taxes, no social contributions and no paid leave. This is because all labour and social obligations are transferred from the company to the bogus self-employed worker;
- **manipulation of the digital tachograph**, particularly where drivers are paid under mileage contracts, which pose an incentive to drive longer hours than permitted and, therefore, to tamper with the recording device.

Furthermore, many transport employers have introduced **performance-based salaries** (either per km driven or per number of loads), which allow them to pay lower amounts of social contributions. This risks drivers being put under constant pressure to work long hours, resulting in drivers being overstressed/overtired and presenting a serious risk to road safety.

Finally, according to press reports from Belgium and Germany a new phenomenon seems to be emerging in the European haulage sector, i.e. the employment of **low-cost non-European drivers**. Serious questions have been raised concerning the legality of this practice, including:



- how the workers are granted residence and work permits in the Member States;
- how they are paid (regular employment contract with a fixed salary, performance-based contracts, subsistence allowances, etc);
- what their working time is;
- how and where they take their weekly rest.

#### **Box 5: Employment of low-cost non-EU drivers: the case of Filipino drivers**

According to the Belgian newspaper Het Belang van Limburg, the Belgian trade union UBOT-FGTB and the Dutch Association for Transport and Logistics (TLN) are carefully surveying the practice of hiring Filipino drivers on European roads. A Latvian transport company hiring Filipino drivers is used as an example. In this case, drivers are paid just above € 600 per month (including daily subsistence allowances), i.e. about half the salary level of a EU12 professional driver.

**Source:** Het Belang Van Limburg (2012).

Only isolated cases have been identified so far, but these may potentially set a serious and dangerous precedent. If an increasing number of transport undertakings takes recourse to cheaper Filipino workers other transport companies may be tempted to follow suit. This will result in a further distortion of competition and will worsen the already precarious social and working conditions of all (EU15 and EU12) European professional truck drivers.

Taken as a whole, the practices briefly portrayed above are clearly responsible for fuelling **social dumping**, which, according to the European Trade Union Institute (ETUI), may be defined as a “conscious strategy involving the lowering of wage and employment standards, driven by companies seeking to gain a competitive advantage over other market participants, and indirectly involving their workers as well as home and host country governments” (ETUI, 2012)<sup>53</sup>.

According to these definitions social dumping practices focus on the interplay between two key elements, that is, the goal they intend to achieve (enhanced competition) and the mechanism through which this goal is obtained (lowering of wages and labour standards).

The results of this analysis have been the subject of the stakeholder and driver consultation, whose findings and considerations are described in Sections 3.3 and 3.4 below.

<sup>53</sup> M. Bernaciak (2012). *Social dumping: political catchphrase or threat to labour standards?* ETUI working paper, p. 32. Collection 2012.06. Brussels: ETUI. On the same issue, see the definitions respectively provided by the European Conference of Ministers of Transport (ECMT) and the European Foundation for the Improvement of Living and Working Conditions (Eurofound). The ECMT defines social dumping practices as “the deliberate infringement, circumvention or erosion of applicable social legislation in force – at either the national, Community or international level – in order to procure an advantage, notably a competitive advantage” (ECMT, 2002). Eurofound describes social dumping as “a practice involving the export of goods from a country with weak or poorly enforced labour standards, where the exporter costs are artificially lower than its competitors in countries with higher standards, hence representing an unfair advantage in international trade” (Eurofound 2012).

### 3.3 Social and working conditions in the road transport sector: stakeholders' views

As introduced in Section 3.1, the authors consulted a total of 16 national trade unions in 15 Member States<sup>54</sup> together with two European-wide professional drivers' and road transport workers' associations (ETF and UICR).

Trade unions were initially asked to comment on the **most important elements that characterise the social dimension** in the road freight transport sector.

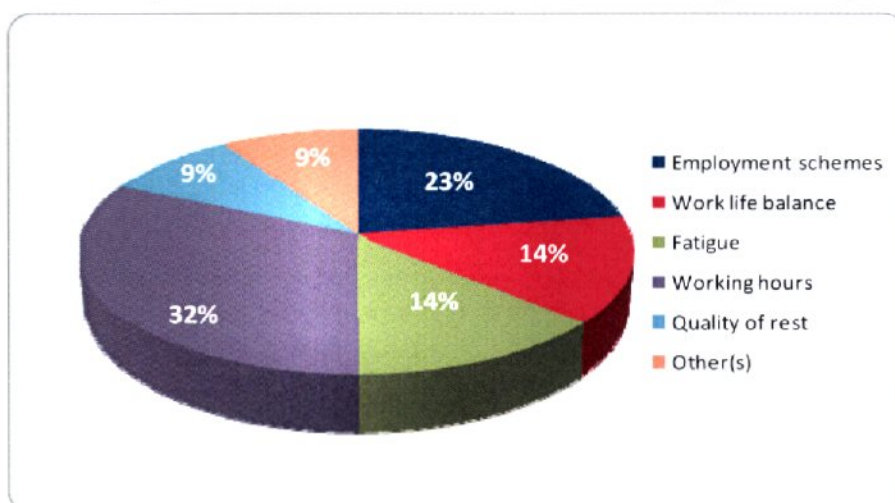
As noted in Figure 5 below, **working hours** emerge as the most important social component in the road freight transport sector, not least because it affects all the other elements listed. Comments mainly stress **two aspects**, those being:

- on the one hand, drivers that are paid based on the number of km driven or the number of loads delivered will always be tempted to work as many hours as they can so as to maximise their earnings;
- on the other hand, trade unions argue that the number of working hours other than those spent driving are increasing and difficult to control.

Working hours are followed by **employment schemes** as the second most important component. Section 3.3.1 describes the concerns that are raised with respect to the use of disloyal employment practices in more detail.

Lower values are reported for **fatigue** and **work-life balance** (14% each) and **quality of rest** (9%). As for "others" (9%), comments from the stakeholders chiefly concerned the downward trend in the buying power of drivers' salary.

**Figure 5: Most important social elements in the road freight transport sector**



Source: Compilation by the authors.

That being said, all the stakeholders consulted share the overall view that both resident and non-resident professional drivers have to increasingly cope with **decreasing standards in their social and working environment**, i.e. under particular employment schemes their income levels, work-life balance and quality of life are generally felt to be

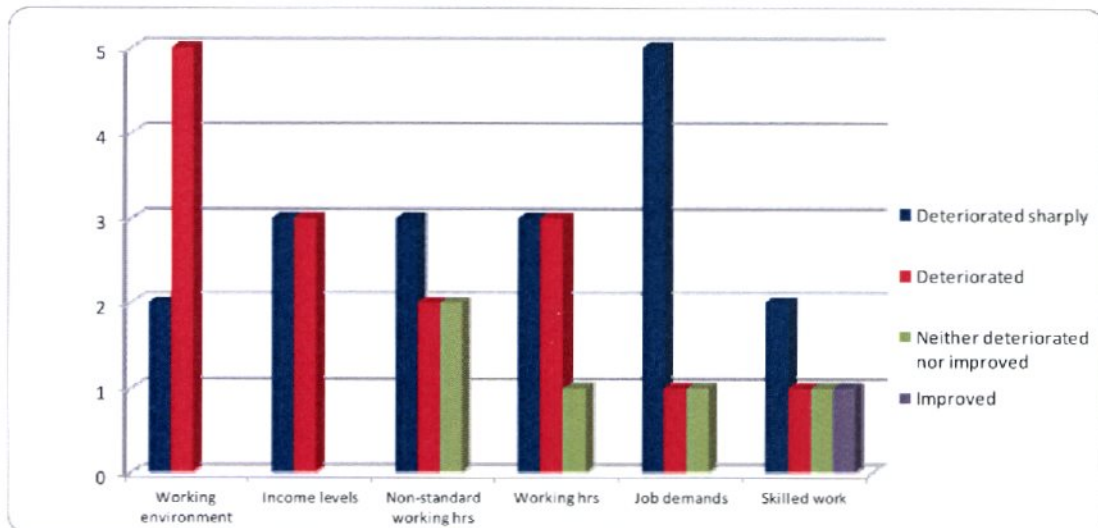
<sup>54</sup> Cited above, see note 52.

worsening. This also reflects, to a certain extent, the wider socio-economic downward trend that currently characterises the European economy.

As summarised in Figure 6 below, over the last five years standards have worsened with respect to:

- **working environment**, including a higher level of discrimination between EU15 and EU12 drivers, which is exacerbated by the recourse to social dumping practices through which EU15 companies recruit EU12 drivers to replace EU15 ones at significantly lower wage levels;
- **job demands**, in the sense that drivers are increasingly requested to accept a higher degree of flexibility in terms of their duties with a larger amount of non-driving activities, which inevitably increases their overall daily and weekly work load and, moreover, puts them under pressure regarding delivery times;
- **income levels**, as witnessed by the continuous drop in drivers' salary levels as reported by both the trade unions and drivers themselves. Moreover, drivers are reported to be obliged to accept performance-based salaries or to work as (purportedly) self-employed for the same companies by which they were previously employed.

**Figure 6: Elements that have deteriorated the most over the last five years**



Source: Compilation by the authors.

In addition to the elements illustrated above, stakeholders identified other significant issues concerning social and working conditions in the road freight transport sector in their responses.

These issues, summarised in Table 2 below, are further key elements to consider when evaluating the current state of the social and working conditions of professional drivers. In particular, it is important to note that stakeholders stress a **lack of enforcement and controls**, i.e. they feel that European legislation is not being sufficiently enforced and harmonised, especially as far as sanctions are concerned.



**Table 2: Further critical issues identified by stakeholders with respect to social and working conditions in the road freight transport sector**

Issue	Degree of importance
Illegal/unfair employment schemes creating social dumping (including "letter-box companies")	*****
Lack of enforcement and controls	*****
Social harmonisation across the EU27 Member States far from being achieved	****
Illegal cabotage operations	****
Quality of rest and dedicated facilities	***
Driving time and rest period	**

**Source:** Compilation by the authors based on the findings of the stakeholders' consultation.

A closer look at the principal causes explaining the deteriorating trend described above reveals the following:

- **fewer permanent jobs in the road freight transport industry** have pushed many drivers to accept employment and working conditions that are detrimental to their social rights;
- **fierce competition among transport undertakings** has led to an **increase in outsourcing and contracting** compared to ten years ago, taking advantage of the **persisting wide salary, social and fiscal disparities** amongst the EU Member States, but at the same times fuelling illegal or unfair **social dumping practices**;
- **poor enforcement mechanisms and a lack of effective controls** in the Member States against those transport undertakings that are responsible for illegal or disloyal employment practices;
- **a low level of application and harmonisation** with regards to enforcement practices, sanctions and penalties across the EU Member States. Stakeholders argue that enforcement standards differ widely or that enforcement is not given the same priority in all EU countries;
- the need to get a **better understanding** of the real character of the employment status of so-called "self-employed" drivers.

One stakeholder commented specifically on the existing **link between social dumping and the recurring practice of subcontracting**. In principle, no limits apply to the number of intermediate contracts a primary transport contract can be subdivided into. Each intermediate step produces a reduction in price and, consequently, in the overall price of the order. The last component of the transport chain, i.e. the operator that actually performs the transport activity, may end up earning a final price which is lower than the minimum set either by law (if self-employed) or by the employment contract (if employed). The introduction of joint liability provisions in the subcontracting chain, as proposed by the IRU (IRU, 2013) could be a good instrument to tackle such problems.

In particular, stakeholders argue that, although the legislative developments that have occurred within the EU over the last 15 years have introduced important mechanisms and made a considerable effort to improve social and working conditions of this professional group, the **long-term objective of social, fiscal and income harmonisation across EU Member States is still far from being fully achieved**.

Stakeholders observe that the **convergence process between the EU12 and EU15 Member States is producing rather negative results** because it has not encouraged any upward trend in income and salary levels of the EU12 countries towards the EU15 standards. Quite the opposite, stakeholders comment that the above-mentioned disparities between these two groups of Member States are the primary incentive to use lower cost drivers from Eastern European countries and that the causes underlying unfair competition and social dumping are not always adequately monitored and controlled.

As a consequence, stakeholders are **not in favour of any further opening of the road haulage market**, as, in the light of its current conditions, this would be highly detrimental to fair competition and sustainability in the sector (ETF and IRU, 2012<sup>55</sup>).

That said, a closer analysis of the stakeholders' responses to the questionnaire highlights a number of elements that stand out and can be grouped under the three following headings:

- employment schemes and income levels;
- problems in the application and enforcement of European legislation;
- *quality of life of professional drivers.*

### 3.3.1 Employment schemes and income levels

According to the stakeholders consulted, **employment schemes and labour contracts** are the first critical issue to tackle in order to get a proper understanding of the real social and working conditions of professional drivers.

It is in this context that stakeholders observe the **occurrence of illegal or unfair practices** that are not only detrimental to drivers' rights by placing them in employment under complex and suspicious schemes involving subsidiaries established in different Member States, but that also put responsible transport operators at a competitive disadvantage. By making use of such practices, stakeholders say that unfair transport companies are able to save up to 90%–95% on labour costs and social contributions.

Stakeholders affirm that the situation affects both **resident and non-resident drivers**.

Being **"too expensive"** (in terms of both monthly salary and night allowances), **resident drivers** lose their jobs as a result of the restructuring plans put in place by transport companies and are replaced by their non-resident colleagues. Those that keep their job are forced to accept a cut in their salary, which stakeholders estimate as being up to 30% less than their previous salary. The only market segment where resident drivers still command an acceptable salary level is the local transport of goods or the transport of delicate, perishable or high-value goods.

For **non-resident drivers**, the situation portrayed by the stakeholders is **even more precarious**. Findings of a recent ETF study<sup>56</sup> (2012b) reveal that:

- 60% of non-resident drivers are regularly paid based on the number of km driven, with the going rate amounting to €10 per 100 km (performance-based salaries are, in principle, prohibited by Article 10(1) of Regulation (EC) No 561/2006; however,

<sup>55</sup> ETF and IRU (2012). *Agreement between the IRU and the ETF on the joint statement concerning the opening of the EU road haulage market*. On this point see also CSC-Transcom (2013).

<sup>56</sup> ETF (2012b) *Modern slavery in modern Europe? An ETF account on the working and living conditions of professional drivers in Europe*. Brussels: ETF.

on this issue one stakeholder pointed out that, in some cases, drivers themselves require to be paid in this way in order to raise their income);

- 95% of non-resident drivers consider themselves subject to pay discrimination because of their nationality.

In addition to this, non-resident drivers usually do not speak the language of the country where they operate, which often puts them at a serious disadvantage when needing to ask for help, advice or representation.

Non-resident drivers are normally and "officially" hired through so-called "**letter-box companies**" that are established by Western European operators in the Eastern European Member States, where costs are significantly lower in terms of salaries, social contributions and taxation compared to the EU15 countries.

As Box 6 below illustrates, **Eastern European drivers' average net salary roughly ranges between €250 and €450 per month**, which is seven to eight times lower than the salary levels paid to Western European drivers (which averagely ranges between €2500 and €3000 net).

**Box 6: Average salary of Eastern European drivers**

The average fixed net monthly salary (which is the actual reference amount for social and pension contributions) for an Eastern driver operating in and from a EU15 country ranges between €250 and €450, to which a daily subsistence allowance (DSA) varying between €40 and €45 per day of driving is added. This means that, if the driver spends three days a week waiting for his/her employer's order to pick up cargo and three days driving, his/her weekly income will include three DSAs. This also explains why, as argued by the trade unions, Eastern European drivers are only paid for their actual driving time.

In total, the monthly net salary, which consists of a fixed component (fixed salary, based on which all social contributions are calculated) and a variable component (DSA) amounts to between €1200 and an absolute maximum of €1500 on average. Importantly, as pointed out by the ETF, the DSA is not taxed and does not count for social contributions, pensions, health insurance. The data are confirmed by trade unions and drivers.

According to the ETF (ETF, 2012b<sup>57</sup>), although approximately 95% of drivers have employment contracts that entitle them to paid holidays, in fact they are not paid for the weeks spent at home. This occurs specifically where drivers are recruited under work organisation schemes involving 3 to 12 weeks of work alternating with one to three weeks of time off.

Finally, employment contracts often oblige drivers to pay for the sanctions in cases of infringements of driving time and rest rules out of their own pockets.

<sup>57</sup> Cited above, see note 56.

Operating in this way, the transport company established in a EU15 Member State, fictitiously contracts the transport activity to the corresponding company located in a EU12 country which, in turn, recruits drivers under employment schemes that enable large cost savings compared to those that would be incurred by hiring the same personnel in a Western European country.

As far as vehicles are concerned, they **always start and end their transport operations at the EU15 base of operation** while drivers, in most cases, live and rest (including weekends) on the premises of the undertaking they work for, or on board of the vehicles or accommodated in warehouses, simple shacks or other places arranged or improvised for this purpose.

According to the ETF (2012b), **approximately 95% of the non-resident drivers** take their breaks and rest periods – including weekends – in their lorries. Being paid around €300 per month, drivers are not in the position to cover accommodation costs. In addition, non-resident drivers are usually **brought to the EU15 host country in minivans and they usually stay from between six weeks up to three months** before they travel back to their home countries.

Finally, being non-resident in their country of operation, **Eastern European drivers** may have trouble knowing which social security scheme, from which Member State, they are entitled to and how to access it. Stakeholders also stress that their employment contracts make it impossible to claim and have access to social benefits or compensation in case of any wage disputes. Due to their complexity, these employment schemes are hard to control and, therefore, are ultimately meant to absolve companies of any social and labour obligations and contributions towards their personnel. This is particularly the case for healthcare, where it is particularly difficult to precisely determine who is actually responsible for bearing the costs of the medical care. Often, employing companies do not pay any healthcare contributions or medical insurance so drivers are obliged to cover these on their own (the ETF affirms that approximately 40% of drivers cover more than 75% of their healthcare costs).

Against this backdrop, through the stakeholders' consultation the authors have compiled various examples of disloyal practices that are being implemented by EU15 transport companies. Examples of such practices, which are described in Box 6, Box 7 and Box 8 below, include "letter-box companies", illegal cabotage and social dumping. Of interest is also the example illustrated in Box 9 which reports on cases in the Netherlands of irregularities committed by hauliers in a sensitive segment of the road freight transport market, i.e. the transportation of dangerous goods.

**Box 7: Illegal employment schemes for non-residents: a case of a "letter-box company" from Belgium**

Since 2010, the UBOT-FGTB trade union in **Belgium** has been investigating the phenomenon of "letter-box companies" created by Belgian operators in Slovakia and in its neighbouring countries. Site visits showed that the Slovak offices of the Belgian operators are usually housed in buildings hosting more than one (letter-box) company, as witnessed by the absence of permanent parking areas and permanent warehouses next to or in the vicinity of the buildings.

According to the Belgian trade union, they received confirmation that warehouses are only located in **Belgium** where loading and unloading operations actually take place,



while the Slovak offices are simply in charge of registering the vehicles (which only run in the EU15 market and never in Slovakia or in the neighbouring countries), storing the tachographs and recruiting the drivers.

Trucks are normally registered in Slovakia, but are driven in Belgium only and never in their country of registration. According to the Belgian unionists, trucks undergo technical inspections in Belgium and registration plates are sent from Slovakia to Belgium.

Source: UBOT-FGTB.

**Box 8: Social dumping practices: cases of “asphalt slaves” from the Netherlands**

A wide number of social dumping practices have also been reported in the Netherlands by the FNV trade union.

**A first case of social dumping practice** relates to a Dutch haulier that usually transports goods inside the Netherlands and to Germany and the United Kingdom by using a Polish subsidiary to outsource the registration of trucks and the recruitment of drivers. Trucks are registered in Poland with Polish number plates and transport permits for the Netherlands, while Polish drivers never work in Poland but instead are brought by minivans to the Netherlands where they work four weeks consecutively with one week of rest.

Salary amounts to €350 per month irrespective of the number of hours worked, plus a daily subsistence allowance of €40s. During their four working weeks, drivers live in their trucks, while at weekends they bivouac in the parking areas inside their companies' sites.

A **second case** concerns a transport company operating in the Benelux region that has replaced its Dutch drivers with Bulgarian ones by relying on a shell company established in Bulgaria. Similarly to the Polish drivers cited above, Bulgarian drivers are recruited under Bulgarian employment schemes and work in and from the Netherlands on a continuous basis. Their average salary amounts at €200 per month (plus subsistence allowances) and they spend their rest periods living in shacks erected on the company site.

A **third case** refers to another Dutch transport company that uses Romanian drivers. The practice is analogous to the ones described above, and, once again, living conditions are precarious as drivers, who are paid under a Romanian contract but actually work in and from the Netherlands, spend their weekly rest periods inside improvised containers located on the car park of the Dutch operator.

A **fourth and final case** concerns a transport undertaking employing Polish drivers who are paid an hourly rate of €3 under a Polish employment contract. The Dutch company owns several trucks registered in Poland but always driven from the Netherlands across other EU countries. The drivers work consecutively for three weeks with one week of rest, which is spent on board their trucks.



**Box 9: Illegal employment schemes for non-residents: a case of illegal cabotage from Italy**

In **Italy**, trade unions are shedding light on an illegal practice that has increased in size and frequency over the last few years. This practice concerns Romanian drivers that are first dismissed by their respective Italian transport undertaking and subsequently recruited again in Italy through a Romanian temporary work agency.

However, contracts are governed by Romanian law and salaries are commensurate with Romanian standards, which are far lower compared to the Italian level. Daily subsistence allowances are also paid but, again, they are lower than the minimum set by contract law in Italy.

Another practice occurs in Italy at the port of Trieste (ETF, 2012b<sup>58</sup>). Trieste is a free zone port where more and more trailers are brought into the port by sea and attached on site to motor vehicles that are waiting in the port area. The vehicles are all registered in non-EU countries.

They are chiefly driven by Turkish drivers who are brought in by low costs flights or by sea and left to wait in the port until they are assigned a lorry. This may take days. In the meanwhile, the drivers are forced to hang around, sleep wherever they can, and live in appalling conditions, including lack of access to sanitary facilities.

The drivers are recruited in their home country and their paperwork (visa and contracts) is dealt with on the way to Trieste. They do not know what the duration of their contract is, but they normally work on the basis of a 3-month visa. According to drivers' testimonies, 60% of trips appear to be (illegal) cabotage, mainly within Italy, while the rest is international transport within the EU. They are normally paid per day of driving.

A similar practice has been discovered in **France**, at the port of Toulon.

**Box 10: Irregularities in the transport of dangerous goods: a case of unsafe driving practices from the Netherlands**

Irregularities have been reported in the Netherlands with respect to the **transport of dangerous goods**, which is increasingly carried out by Polish or Hungarian drivers, who are employed by Dutch hauliers, but recruited through their foreign branches in Poland and Hungary. These subsidiaries have, however, been found to be mostly fictitious companies rather than real and independent undertakings as is required by European legislation.

On average, drivers from the Eastern European countries are paid **approximately three euros per hour and live in improvised accommodation or in truck parks** like those that have been installed in an area in Rotterdam called "Botlek". Often paid under (illegal) mileage contracts, drivers are encouraged to drive more hours than permitted (and considered safe) and, as has happened in some circumstances detected by the police, to tamper with the digital tachograph.

<sup>58</sup> Cited above, see note 56.



Another problem with this practice is the fact that in the Netherlands **transport of dangerous goods is governed by strict legislation** which, *inter alia*, requires drivers to get a specific certificate that is awarded upon completion of ad hoc ADR training<sup>59</sup> (compulsory in the Netherlands) and to carry out a limited number of loads on a limited number of domestic routes which should be covered by resident drivers.

Nevertheless, this does not occur as in many cases these routes are run by Eastern European drivers (by trucks with Polish or Hungarian plates) that are not permanently employed and resident in the Netherlands.

Moreover, there is no legal possibility to oversee the quality of the safety training carried out in foreign driving schools, with respect to the transport of dangerous goods. Therefore, there is also no possibility to check the authenticity of foreign ADR certificates.

When dealing with dangerous goods (oil and chemical products), truck drivers are also required, for reasons of safety and emergency procedures related to loading and unloading of tankers, to always undergo and pass a test at the entrance gates of chemical or oil plants. Safety and emergency rules are laid down in English, Dutch and German, which are also the languages drivers are supposed to know and speak (at least one of them).

However, it has been reported that in various cases Eastern European drivers were refused entry because they did not speak and understand any of these three languages. Even worse, it has been reported that Dutch drivers replace Eastern European drivers to gain access with their tankers to the chemical or oil plants, but once they have left the plant the semi-trailer is uncoupled in a parking area where an Eastern European driver takes it over until its final destination. The advantage is twofold: the language test is passed so the tanker is filled up, and the rest of the journey costs the hauliers less because it is carried out by cheaper personnel.

Source: FNV.

### 3.3.2 Problems raised regarding the application and enforcement of the European legislation

The implications of the case studies and analysis set out in the preceding section are strictly linked with the enforcement and application of the relevant EU legislation.

As mentioned in Section 3.2, stakeholders stress the fact that any **substantial controlling activity by the competent authority does not exist or is very poor**. Stakeholders say that enforcement is the responsibility of each Member State but **standards differ widely between countries**. Finally, **sanctions and penalties are not harmonised** across all EU Member States.

<sup>59</sup> The ADR agreement sets out in Annex B the requirements for classifying, packaging, labelling and certifying dangerous goods. Drivers of all vehicles carrying dangerous goods must have an ADR training certificate. The certificate is issued by the competent authority and states that drivers have been trained and have passed an examination on the particular requirements that need to be met during carriage of dangerous goods.

**Box 11: A permanent observatory to increase effectiveness of enforcement and controls: a case from Italy**

An observatory was established in Italy very recently (30 January 2013) by all relevant public authorities (police, prefectures, labour inspectorates) that have responsibility to enforce European legislation in the domain of social and working conditions for the road freight transport sector.

The observatory aims at identifying those illegal situations or abuses that require effective controls and sanctioning interventions, along with a more general goal of study and investigation with respect to the main components and trends of freight road transport.

Stakeholders comment that abuses and disloyal practices take advantage of **some ambiguity and loopholes** that exist in the European legislation.

For instance, as for **flagging-out practices**<sup>60</sup> such as "letter-box" companies, Regulation (EC) No 1071/2009 has made these illegal by introducing stricter conditions for establishing foreign companies which, according to Article 3 of the new Regulation, shall have "*an effective and stable establishment in a Member State*". Nevertheless, as reported by several trade unions (such as the Belgian UBOT-FGTB, the Dutch FNV and the Italian FILT-CGIL), such practices still exist.

In a similar way, **performance based payment** (either calculated on distance travelled or number of loads) is in principle prohibited by Article 10(1) of Regulation (EC) No 561/2006. However, a derogation is included in the same article when it ambiguously excludes payments "*of such a kind as to endanger road safety and/or encourages infringement of this Regulation*". Accordingly, it comes as no surprise that this legislative passage can be left open to a wide array of interpretations about what "*endanger road safety and/or encourages infringement*" precisely means.

The **enforcement of Directive 96/71/EC** (also known as the "Posting Directive"), which has a specific scope of applicability in the road transport sector and markedly within the framework of the cabotage rules, seems to be particularly problematic.

*Directive 96/71/EC applies to companies that, as part of the cross-border provision of services, post workers to the territory of a Member State other than the one where the company is established, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting.* Directive 96/71/EC should be interpreted in combination with Regulation (EC) No 593/2008 (**Rome I Regulation**)<sup>61</sup> (also referred to as Rome I) on the law applicable to contractual obligations.

Article 2(1) of the Directive specifies that a **posted worker** means "*a worker who, for a limited period, carries out his work in the territory of a Member State other than the State in which he normally works*". Further, the recital of Article 2(2) also states that "*for the purposes of this Directive, the definition of a worker is that which applies in the law of the Member State to whose territory the worker is posted*".

In this respect, by means of Article 3(1) the Directive has introduced a set of minimum standards (for instance, working hours, discrimination protection, health and safety requirements) that the country of destination is obliged to guarantee.

<sup>60</sup> A "flagging out" practice means registering a commercial vehicle in a country other than the one in which it operates with the purpose of taking advantage of favourable rates of taxation.

<sup>61</sup> Cited above, see note 16.



Stakeholders claim, however, that this Directive, which dates back to 1996, **is no more capable of adequately responding to the needs and interests** of a European Union where Member States have not only increased to 27, but are much less homogeneous in terms of social and economic structures than the old EU15 were. This creates gaps that, as illustrated in the previous parts of this study, can lead to encouraging social dumping practices instead of providing opportunities for social and economic growth.

That said, stakeholders remark that a **correct application of Directive 96/71/EC**<sup>62</sup> would still represent a key step forward in forcing transport companies to comply with social obligations in favour of their employed, non-resident drivers. Nevertheless, they argue that the "Posting Directive" is neither enforced nor controlled in spite of Recital 17 of Regulation (EC) No 1072/2009 which states that "*the provisions of Directive 96/71/EC [...] concerning the posting of workers [...] apply to transport undertakings performing a cabotage operation*", as well as despite *ad hoc* rulings of the European Court of Justice (ECJ) such as the "**Koelzsch case**"<sup>63</sup> (see Box 12 below).

**Box 12: The "Koelzsch case"**

As described in the main text, in the "Koelzsch case" the ECJ has ruled that the applicable law is determined by the State in which the employee performs his/her economic and social duties, as the business and political environment affects employment activities.

The "Koelzsch case" was brought by the *Cour d'appel du Luxembourg* to the ECJ in January 2010, after the former decided to stay the proceedings and refer the case to the ECJ asking for a preliminary ruling pursuant to the First Protocol on the interpretation of the Rome Convention.

The controversy started in 2002 after Mr Koelzsch, who is domiciled in Germany and was engaged since 1998 as an international transport driver by a transport company established under Luxembourg law, saw his contract of employment terminated as of 15 May 2001. With the purpose of requesting that his company pay damages for unfair dismissal and compensation in lieu of notice and arrears of salary, Mr Koelzsch first instituted proceedings before the German courts (which declared that they lacked territorial jurisdiction), and secondly, brought the matter before the *Tribunal du travail de Luxembourg* (Labour Court, Luxembourg).

In March 2007, Mr Koelzsch brought an action before the District Court of Luxembourg for damages against the Luxembourg State on grounds of misapplication, by the national courts, of the provisions of the Rome Convention.

On appeal by Mr Koelzsch, the *Cour d'appel de Luxembourg* (Court of Appeal, Luxembourg) decided to refer a question to the ECJ as to whether, in the situation where an employee carries out his work in more than one country but returns systematically to one of them, the law of that latter country is to be regarded as being applicable as the law of the country in which the employee habitually carries out his work within the terms of the Rome Convention.

<sup>62</sup> Cited above, see note 20.

<sup>63</sup> Heiko Koelzsch v État du Grand-Duché de Luxembourg case (C-29/10, judgment of 15 March 2011).

Indeed, the "Koelzsch case" is of particular significance because here the ECJ intervened with the purpose of **interpreting some aspects of Regulation (EC) No 593/2008 (Rome I Regulation)** cited above (CSC-Transcom, 2013), and in particular the provision laid down in Article 6 of the Convention in relation to the law applicable to individual contracts of employment. Whereas the "Koelzsch case" does not represent the first judicial case in which the ECJ has been asked to interpret the Rome Convention<sup>64</sup> it is important as it is the first case in which Article 6 has been scrutinised and interpreted with regard to the law applicable to employment contracts.

The ECJ ruling confirmed that in the case of an employee who performs his/her activities in more than one Contracting Member States, the Rome Convention does apply and that *"the country in which the employee habitually carries out his work in performance of the contract, within the meaning of that provision, is that in which or from which, in the light of all the factors which characterise that activity, the employee performs the greater part of his obligations towards his employer"*.

In other words, the ECJ has acknowledged that the place (and therefore the State) from which the employee habitually carries out his/her transport tasks, receives instructions concerning his/her tasks and arranges his/her work, and the place where his/her work tools are situated, determines the State whose legislation applies to the contractual obligations.

**Box 13: The "Koelzsch case" as a legal precedent: the case of a Romanian driver brought before the Belgian labour court**

Based on the ECJ ruling following the "Koelzsch case", the Belgian trade union CSC-Transcom brought a similar case before the Belgian labour court. The case involved a Romanian driver who was hired in Slovakia under a Slovak employment contract through a local branch established by a Belgian transport company.

For two and a half years this driver, whose salary amounts to € 500 per month, has been transporting goods nationally and internationally (chiefly to Germany, France and Luxembourg) from his habitual base of operation and departure located in Antwerp (Belgium).

The driver, therefore, claimed to be entitled to a salary equivalent to Belgian standards. He filed a case in the Belgian labour court as Belgium, in line with the provision laid down in the Regulation (EC) No 44/2001<sup>65</sup> and the ECJ ruling in the "Koelzsch case", is the country from which the driver habitually carries out his professional activity.

**Source:** CSC-Transcom (2013).

The implications of this ruling with respect to the work carried out in the international transport sector are evident. In particular, it confirms that all non-resident drivers from the Eastern European Member States employed by Western European transport companies under employment schemes registered in their countries of origin but *de facto* performing their driving activity in a EU15 host Member State, should have the same social and salary standards as employees in the country of performance and not that of origin.

<sup>64</sup> The first judgment in which the Court interpreted the Rome Convention was in Case C-133/08 *ICF* [2009] ECR I-9687, which concerned the interpretation of Article 4 of the Convention and sets out the rules for determining the applicable law if the parties to the contract fail to make a choice.

<sup>65</sup> Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Therefore, a correct application of the “Posting Directive” to professional drivers would certainly create more situations in which transport undertakings would benefit from fair and equal conditions to operate, while at the same time reducing the recourse to social dumping practices.

Finally, the applicability of the “Posting Directive” is also linked to the cabotage rules as currently governed by Regulation (EC) No 1072/2009, and is specifically referred to in Recital 17 of this Regulation. As a result, Directive 96/71/EC also applies to cabotage operations.

This introduces another issue that all stakeholders point out and consider as critical, i.e. the abuse of European legislation that gives rise to illegal cabotage operations.

According to current EU norms, cabotage—that is transport operations carried out in a host Member State by a non-resident haulier—should be limited to three operations within an interval of seven days following the full unloading of an international carriage as stated in Article 8 of Regulation 1072/2009.

Stakeholders (ETF, 2012c) affirm, however, that the interpretation provided by the European Commission<sup>66</sup> *de facto* abolishes the seven-day limit and promotes three cabotage operations after each international carriage, with as many operations as possible fitting into a period of seven days. The Commission also states that the operator engaged in cabotage operations can do as many loadings and un-loadings within a Member State as allowed by the relevant registration document (CMR form<sup>67</sup>).

**Box 14: Illegal cabotage operations: cases from Italy**

The Italian trade union FILT-CGIL reports various cases of illegal cabotage operations that have been identified in the Marche region, where international transport companies have set up their logistics headquarters but employ Eastern European drivers (mainly from Bulgaria, but also from Poland and Ukraine) under “letter-box company” schemes. Such drivers operate either within Italy or from Italy to other European countries (but never to their countries of origin) and drive trucks that are registered in Bulgaria or Poland.

According to the trade union, such practices enable unfair transport companies to offer transport prices that are between 20% and 25% lower than the minimum tariff set by the national legislation, with disruptive effects to the market, mainly to the detriment of other transport undertakings that act responsibly.

**Source:** FILT-CGIL.

A last issue that stakeholders raise concerns Directive 92/106/EC<sup>68</sup> on the establishment of common rules for certain types of combined (intermodal) transport of goods between Member States.

<sup>66</sup> Cited in ETF, 2012a.

<sup>67</sup> Convention on the Contract for the International Carriage of Goods by Road (CMR). The Convention was signed in Geneva on 19 May 1956 and entered into force on 2 July 1961. At present, 55 signatory parties have joined the Convention.

<sup>68</sup> Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States and later modified by Directive 2006/103/EC further to the accession of Bulgaria and Romania to the EU.



As defined by Article 1 of this Directive, a combined transport operation occurs when the vehicle uses the road on the initial or final leg of the journey and, on the other leg, rail or inland waterway or maritime services where this section exceeds 100 km as the crow flies and makes the initial or final road transport leg of the journey:

- *between the point where the goods are loaded and the nearest suitable rail loading station for the initial leg, and between the nearest suitable rail unloading station and the point where the goods are unloaded for the final leg, or;*
- *within a radius not exceeding 150 km as the crow flies from the inland waterway port or seaport of loading or unloading.*

A transport document has to be provided in the case of combined transport operation, which must specify the rail loading and unloading stations relating to the rail leg, the inland waterway loading and unloading ports relating to the inland waterway leg or the maritime loading and unloading ports relating to the maritime section of the journey.

Problematic appears, in particular, the fact that at present the carriage of goods in connection with a combined transport operation as defined in Directive 92/106/EEC is not covered by the cabotage regime of Regulation (EC) No 1072/2009. For road transport companies that are established in a Member State and are compliant with the conditions of access to the occupation and market for transport of goods (cabotage operations) between Member States, this opens up the possibility to perform the initial and/or the final road haulage legs as part of a combined transport operation between Member States.

On this point, the ETF raises concerns about unfair competition and dumping practices that, in its view, are currently expanding in port and sea areas. Criticisms refer to the exemption from the cabotage regime set by Regulation (EC) No 1072/2009 that, at present, Directive 92/106/EC affords to combined transport operations. More specifically, the ETF argues that cabotage rules do not apply to incoming or outgoing carriage by road and, therefore, in the absence of effective controls that make sure that exemptions are confined within the limit of 150 km from the inland waterway port or seaport of loading or unloading as set by the Directives, unfair transport companies have the opportunity to carry out and expand illegal cabotage. For this reason, the ETF stresses the need that cabotage rules should be extended to combined transport.

### 3.3.3 Quality of life

Research (Ladou, 1988; Braver *et al.*, 1992; Beilock, 1995; Maycock, 1995; Arnold *et al.*, 1997; Mitler *et al.*, 1997; Hakkanen and Summala, 2001 and 2000; Adams-Guppy and Guppy, 2003; Sabbagh-Ehrlich *et al.*, 2004) has repeatedly confirmed that **professional drivers suffer from a number of potential health risks**, mainly associated to cardiovascular, cervical, dorsal and spinal pathologies that often result from poor living standards, diet and rest.

Notably, professional driving may be considered as a **potentially obesogenic activity** due to the fact that professional drivers spend the majority of their working time in a seated position, but performing an activity – driving – which is at the same time highly stressful. Not surprisingly, among professional drivers obesity and arterial hypertension are much more frequent diseases than in the rest of the active population (LUTB, 2011). Lastly, most of the drivers (particularly non-resident ones) have very limited access to hot meals, primarily because they cannot afford them (ETF, 2012b).

### Box 15: Stress-related factors

As a German survey (ZF, 2012<sup>69</sup>) has underlined by interviewing more than 450 professional drivers, stress mainly derives from permanent time pressure, long hours spent driving (often under time pressure), unsocial working times, waiting times for loading/unloading their lorries.

This is confirmed by a further German study (Baier, 2012<sup>70</sup>) involving about 1000 drivers, where 45% of interviewees stated that the driving profession is "burdening" or "very burdening" due to the high number of working hours, as well as the psychological and physical stress.

Driving is not, however, the only activity a driver performs during a normal working day. Drivers are increasingly required to perform tasks in addition to the simple activity of driving. In this respect, the consulted stakeholders stress the need to **consider the whole duration of the productive activity carried out by drivers** which includes, for instance, along with the actual driving, the time spent loading and unloading their own vehicles.

These activities are a **potential source of fatigue and stress**, chiefly because long loading/unloading or waiting times can take up a considerable part of the overall daily working time, hence reducing the time available for driving. As various stakeholders confirm, this can result in drivers being tempted to drive faster or to breach the rules on driving times and rest periods.

Against this background it is unsurprising that **80% of non-resident drivers** quote fatigue as a major problem; however, they do not speak out because they are frightened of losing their job (ETF, 2012b<sup>71</sup>). Therefore, safeguarding drivers' rights to adequate rest periods is regarded as a vital measure to ensure that they can perform their professional duties safely and efficiently.

### Box 16: Women and the driving profession

As past studies by the authors have revealed, only a limited percentage of professional drivers are women (IRS and TRT, 2009<sup>72</sup>). Therefore, stakeholders were also asked about the main issues that still prevent more women accessing the driving profession. Stakeholders confirm that the fact that road freight transport sector does not provide a workable, family-friendly work and life balance prevents a lot of women from becoming drivers.

Another aspect that is worth citing in connection with the quality of life of professional drivers refers to the **general quality of their diet**. As demonstrated by the study conducted by the ETF in 2012 (ETF, 2012b) (although findings are specifically targeted to non-resident drivers):

- 95% of non-resident drivers spend their rest time on board their lorries;
- 80% of non-resident drivers cook and eat their own food on board their lorries on a daily basis;

<sup>69</sup> ZF Friedrichshafen AG (2012). ZF-Zukunftsstudie Fernfahrer. Der Mensch im Transport- und Logistikmarkt.

<sup>70</sup> Baier, J. (2012). *Trends im Straßengüterverkehr - Aktueller Status und Meinungen der Berufskraftfahrer in Deutschland*. Hochschule Furtwangen University.

<sup>71</sup> Cited above, see note 56.

<sup>72</sup> Cited above, see note 5.

- approximately 25% of non-resident drivers have access to hot food only two-three times per week;
- 10% of non-resident drivers only have hot meals during weekends;
- 10% of non-resident drivers never eat hot food.

**Box 17: The "Asiadock": a "favourite" rest area of non-resident drivers at the Port of Antwerp, Belgium**

An important example of the precarious living conditions of non-resident drivers is the "Asiadock" at the Port of Antwerp, in Belgium. As reported by the Belgian trade union UBOT-FGTB, for about four to five years, East European drivers have been meeting at the "Asiadock" where they usually spend their weekly rest times.

Drivers mainly come from Poland or Lithuania, but also from other countries, and stay in Belgium for two to three months on average before returning home for two weeks. They are usually transported from their countries of origin by coach that, once it takes them back, picks up a new group of drivers to drive trucks from Belgium (the trucks remain in Belgium).

The "Asiadock" is a "favourite" rest area because it provides sufficient and free parking, and is located close to some supermarkets that allow drivers to purchase food at reasonable prices. The "Asiadock" does not actually have any sanitary facilities apart from a basic toilet block that has been built by the Port Authority.

The opinion of the stakeholders regarding the **quality of parking areas** is of interest and the drivers that were interviewed in the course of the consultation substantially agreed.

In the stakeholders' view, the availability of parking areas with a sufficient amount of parking slots and good quality services (food, sanitation facilities, laundry, etc.) is a precondition for drivers to be able to **conveniently take an adequate rest** and, and this is regarded as no less important, to give them the opportunity to **socialise and converse** with their peers instead of spending all their rest times in the truck cab.

Feedback from the stakeholders focuses on four main requirements that good quality parking areas should meet. Parking areas should be:

- **available in sufficient and frequent numbers.** Stakeholders mention the possibility allowed by Article 12 of Regulation (EC) No 561/2006 to extend driving times to make it possible for drivers to reach a suitable place to rest. Often, stakeholders argue, drivers are forced to stop on the road side or in inadequate parking places because they are frightened of exceeding the maximum driving time limit;
- **accessible and of better quality.** Stakeholders think that the quality of many parking places along European roads is poor. Lack of or poor basic services (for instance, lack of laundry facilities), poor cleanliness of the sanitation facilities and lack of separate facilities for female and male drivers, difficulties in accessing hot meals are some of the most critical issues reported by the stakeholders;

- **more affordable.** Stakeholders have raised the issue of unaffordable prices charged for access to the services offered by a parking station<sup>73</sup>. On this point stakeholders say that drivers (especially non-resident ones) are not usually reimbursed for their expenses by the transport companies they work for. Along with their salary, drivers are only paid a daily allowance which has to cover all costs incurred when they stop in a parking area. Stakeholders conclude that this is the reason why drivers seldomly make use of the facilities provided by the parking area, or often only for their most basic needs;
- **more secure.** Security and protection from criminal activities is a further sensitive issue. In this respect, the most recent available data (2007<sup>74</sup>) compiled jointly by the International Transport Forum (ITF) and the International Road Transport Union (IRU) show that:
  - 42% of all attacks against professional drivers takes place in parking areas;
  - 35% of drivers declared that attacks had affected their working life, while 25% of them affirmed that attacks had an impact on their personal life.

#### Box 18: Quality of parking areas: the case of Belgium

Since 2008, the Belgian trade union UBOT-FGTB has been carrying out an investigation about the general quality of parking areas in the Flanders and Wallonie regions. In the last year (2012), a total of 156 parking areas were visited and visits took place during two distinct time spans: between 18h and 6h, and between 6h and 22h. As illustrated in Table 3 below, during the visit a total of 5627 trucks parked in the selected parking areas, with an over-occupation rate of 117.1%. Trucks registered in Poland ranked first in terms of presence.

The situation emerged as particularly critical in the Flanders region, where 59 parking areas were assessed. The occupation rate of the parking slots was 175%, which means that 75% of drivers did not find a suitable place to park their lorries and were forced to park elsewhere, such as for instance along the emergency lines of some parking areas.

Source: UBOT-FGTB, 2012.

Table 3: Findings from visiting parking areas in Belgium in 2012

No. of parking areas visited	No. of available parking slots	No. of trucks that actually parked	Over-occupation rate (in %)	Top 4 truck nationalities (by country of registration)
156	4793	5627	117.1%	Poland (14.8%) Belgium (12.9%) The Netherlands (11.6%) Germany (10.4%)

Source: Compilation by the authors based on UBOT-FGTB, 2012.

<sup>73</sup> The trade union Union Belge des Ouvriers du Transport / Fédération Générale du Travail de Belgique (UBOT-FGBT) estimates that the average cost for a hot meal at a restaurant of a parking area located along Belgian motorways amounts to 18.7 euros. A litre of a common soft drink amounts to 5 euros, while a portion of fresh fruit costs about 2 euros.

<sup>74</sup> ITF and IRU (2007). *Attacks on Drivers of International Heavy Goods Vehicles*.



On the other hand, as pointed by the IRU (IRU, 2013), experience shows that achieving the right balance between securing an appropriate quality level of services (including safety and security) and affordable price for the use of the high-quality parking area remains challenging. Achieving this goal is, in particular, problematic in the light of the current difficult economic situation with public budgets increasingly under pressure. Not only Member States are reluctant to invest in this area, but also some private operators have been forced to close down their facilities as operators/drivers were unwilling to use them as shipping companies are not willing to cover the costs of these increased security concerns.

The conclusions drawn by two surveys conducted by the Austrian trade union VIDA (VIDA, 2012) and the German trade union Ver.di respectively come to the same conclusions. Though not supported by large and robust statistic samples, these surveys are helpful in getting an understanding of the main patterns and trends in the social and working conditions for professional drivers in the countries where they were carried out.

The investigation undertaken by VIDA is noteworthy because it reports on the opinions collected amongst **more than 800 female professional drivers** active in various transport segments, of which 52.6% declared working in the road freight transport market. The survey took place between December 2010 and July 2011.

Relevant to the scope of this study, the survey included a set of questions specifically targeted to the road freight segment and focusing on drivers' evaluation of the quality of parking areas in Austria. Overall, **quality was perceived as adequate** with 52.7% of respondents declaring themselves to be "happy" or "very happy" with the parking areas where they stop or take their rest.

Criticism was, however, expressed with respect to **scarcity of parking places for overnight rests**. As seen in Figure 7 below, concerns were in particular raised by HGV drivers who declared that parking places are either "very difficult" (30%) or "difficult" (33%) to find.

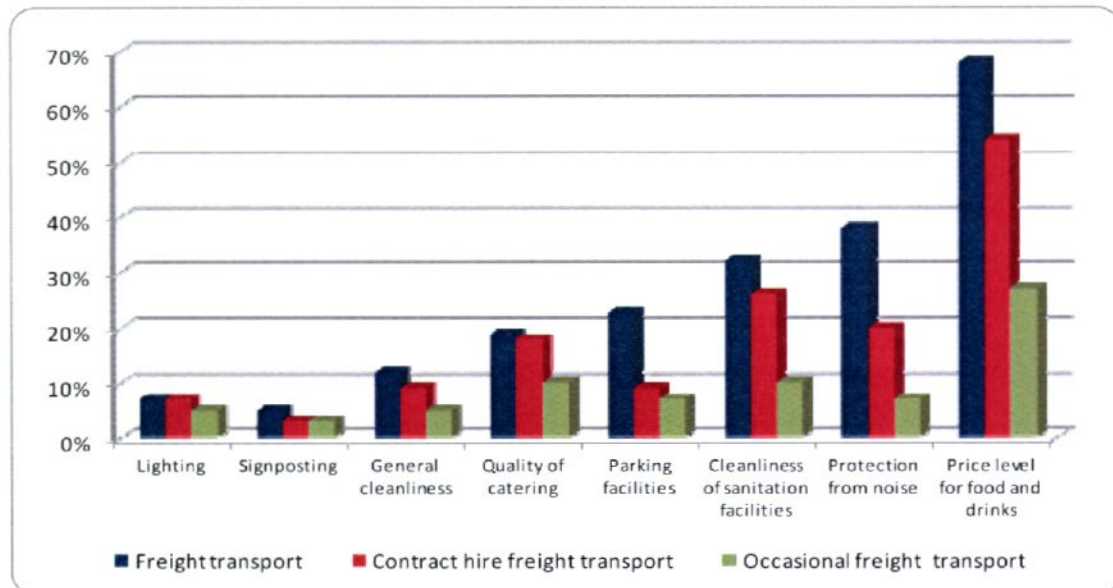
**Figure 7: Accessibility to parking areas in Austria for overnight stays**



Source: Compilation by the authors based on VIDA, 2012.

When asked about the most critical quality aspects of parking areas, negative comments were also made by interviewees regarding the **cleanliness of sanitation facilities** and the price level for food and drinks in relation to which 32% and 68% of respondents respectively declare themselves to be "unhappy" or "very unhappy". As illustrated in Figure 8 below, it is also of interest that, with the only exception of "lighting", the numbers of "unhappy" and "very unhappy" responses were constantly higher for road freight drivers in comparison with drivers of the other industry segments.

**Figure 8: Quality evaluation of parking areas in Austria ("unhappy" and "very unhappy" answers)**



Source: Compilation by the authors based on VIDA, 2012.

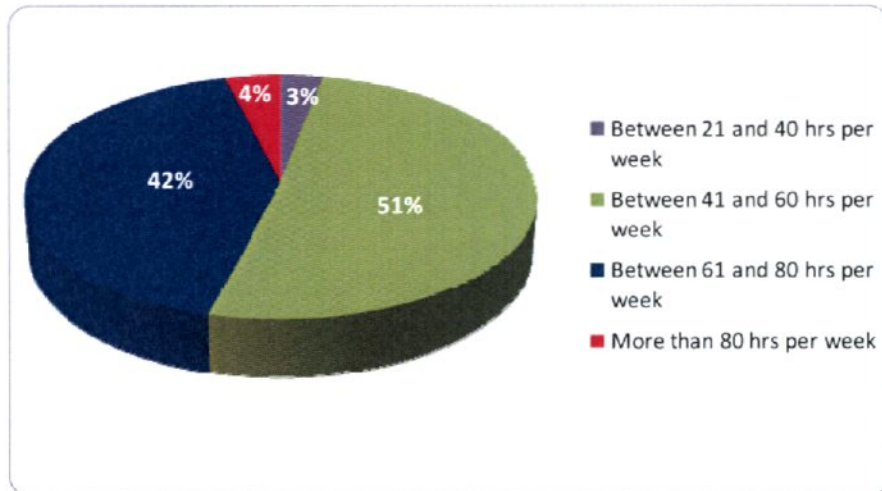
As the survey specifically targeted female drivers, a question regarding perception of **security and protection from attacks** was also asked. 9.4% of the respondents confirmed to have "at least once" been the victim of an attack, while 5.6% declared to have suffered an attack "more than once". Remarkably, given these statistics, only 69.5% of drivers would be in favour of more adequate and effective security controls at parking places.

In 2001, the German trade union Ver.di carried out a similar investigation to the one by the Austrian trade union VIDA. It ran an on-line questionnaire-based survey that involved approximately 200 professional drivers.

Amongst other results, it was found (Figure 9) that the **average weekly working time** of respondents ranged between 41 and 60 hours for 51% of the respondents and between 61 and 80 hours for 42% of them. Interviewees also responded that only rarely (49%) did the **planning of their working time take into consideration their personal needs**, while 22% of them declared that this never happened.



**Figure 9: Hours worked per week**

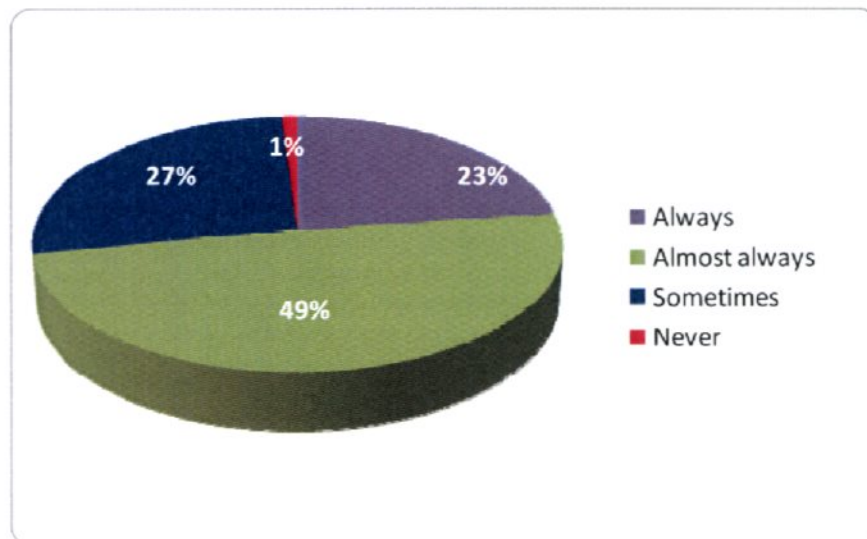


Source: Compilation by the authors based on Ver.di, 2013.

Looking further at driving times and rest periods, 72% of drivers answered that they “**always**” or “**almost always**” respect the limitations laid down by European legislation in this field (Figure 10 below). One should not, however, disregard the fact that a significant percentage of drivers (27%) replied that they only “sometimes” respect driving and rest time limits.

47% of the 27% of drivers who responded they only sometimes respect driving and rest time limits also indicated driving under time pressure, while 38% declared having difficulties in reaching secure and appropriate parking places within the given driving and rest time limits.

**Figure 10: Frequency in respecting driving times and rest periods**

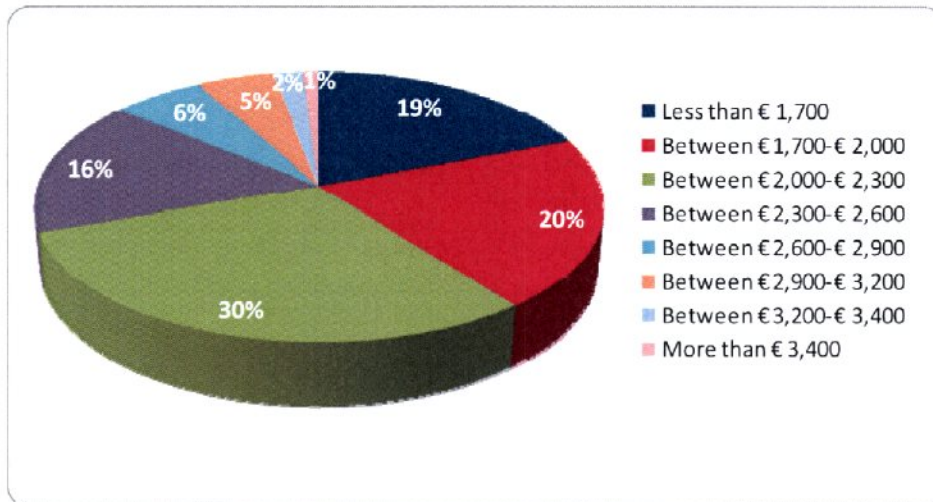


Source: Compilation by the authors based on Ver.di, 2013.

Of particular interest are the answers provided with respect to waiting times during loading and unloading operations. 55% of drivers confirmed that they had **to wait longer than planned** during these operations and 61% stated that such inconvenience “**often**” caused significant delays in their deliveries.

Lastly, by comparing the information presented in Figure 11 regarding salary levels, it can be seen that almost 50% of drivers declared to earn a monthly salary ranging between €1700 and €2300. 16% of drivers indicated earnings between €2300 and €2600, while only 7% reported earning more than €3000 per month.

**Figure 11: Levels of fixed monthly salary**



Source: Compilation by the authors based on Ver.di, 2013.

### 3.4 Social and working conditions in the road transport sector: drivers' views

As introduced in Section 3.1, consultation efforts also targeted individual professional drivers, who were met at the international logistics platform of "Como Docks" located in Montano Lucino (province of Como) close to the border between Italy (Como) and Switzerland (Chiasso). This platform is equipped with a large parking area which is used by drivers to stop and rest during the completion of custom clearance procedures.

A total of 24 drivers were interviewed by means of a questionnaire that provided documentary support for the interviews. Answers and opinions remained anonymous.

The investigation's findings indicate that there is a **substantial convergence** between the feedback received from trade unions and the answers directly collected from drivers. Like the trade unions, **drivers stress the deterioration of their working conditions, continuously decreasing income levels** and an increasing **feeling of job uncertainty**. The latter especially emerged during the interviews with the EU15 drivers, who express a constant fear of losing their job in favour of the less expensive Eastern European drivers. Box 19 below reports a selection of their comments and opinions.

#### Box 19: Comments and opinions expressed by the drivers

"I pay extreme care in respecting driving times because, in case of sanctions, I have to pay for them, not my company" (comment from an Italian driver).

"What I gain in a one-month work, it takes to my wife four months of work in a factory to earn the same amount" (comment from a Bulgarian driver).



"It is hard to stay away for months and not seeing your children growing up" (comment from a Romanian driver).

"My boss does not care about respecting driving times and rest periods. For him the only important thing is to drive as much as possible" (comment from a Polish driver).

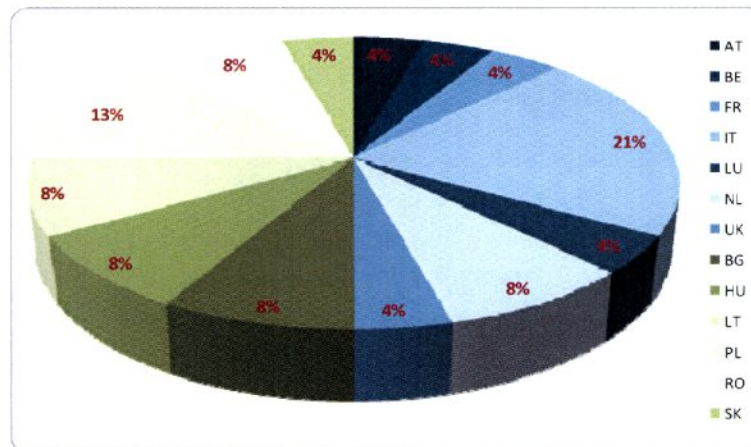
"My boss told me that to remain competitive, the only way for him is to cut down labour costs. So, I had no choice, either accepting a lower salary and keeping my job, or being replaced by Eastern European drivers who are much less expensive than I am" (comment from Dutch driver).

"Driving is no more an attractive profession to youngsters" (comment from an Austrian driver)

"Unloading and loading times are often too long. This puts me in troubles with reaching parking areas while respecting driving times and rest periods limits at the same time. Sometimes it happens that have to stop along the road" (comment from a driver from Luxembourg).

In terms of Member States of origin (Figure 12), the proportion of interviewees from the EU15 and the EU12 is equivalent (approx. 50% each). While for the EU15 Member States there is a prevalence of Italian drivers (42%) – this is essentially due to the fact that the interviews took place at a logistics platform located in Italy - in the case of the EU12 countries Poland is the country of origin for which the largest share of Eastern European drivers were met and interviewed. The average age was measured at 47 years for the EU15 drivers and at 43 years for EU12 drivers.

**Figure 12: Percentage of drivers by Member State of origin**



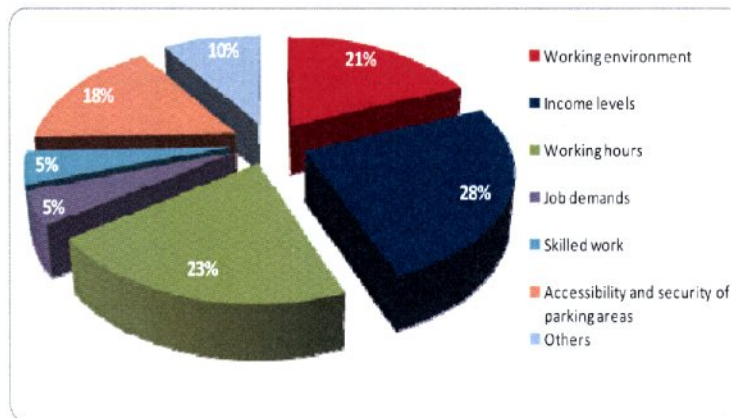
Source: Compilation by the authors.

Overall, as illustrated by Figure 13 below, drivers agree that, amongst all aspects that have deteriorated the most in their profession compared to five years ago, they are suffering most from **decreasing income levels** (28% of responses), which, as some of them commented, are between 30% and 40% lower than in the past five years. EU15 drivers are particularly affected by this downward trend mainly because, they claim, of the recourse by transport companies to cheaper personnel from Eastern Europe.

An **increase in the number of hours worked** and a **worsening in the working environment** respectively ranked second and third with 23% and 21% of drivers' votes. Notably, 18% of responses addressed the **accessibility and security of parking areas**. This issue is particularly relevant to drivers who reported during the interviews a serious difficulty in reaching parking places that not only provided sufficient available parking places, but that were also secure. Drivers claimed that on many occasions they were forced to stop and rest along the road because of over-occupied parking areas, which increases the risk of becoming the victim of crime. In some circumstances, drivers also reported having been fined by police because of overrunning their driving time limits while seeking to reach a parking area.

Finally, low percentages were measured for job demand and skilled work (5% each), while a remaining 10% of responses was treated as "other". Under this heading, drivers negatively commented on not being paid for loading and unloading operations.

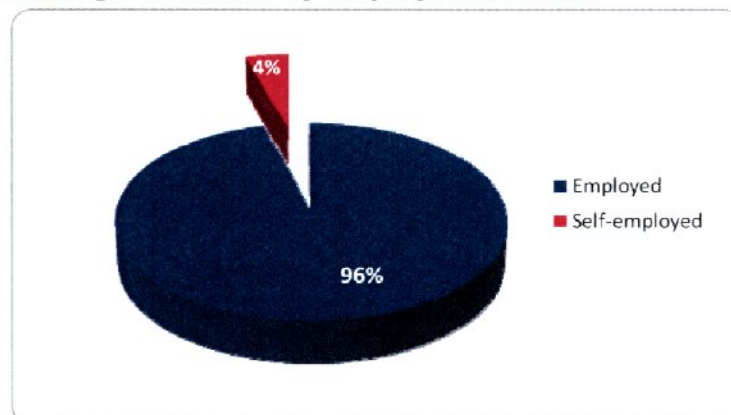
**Figure 13: Drivers' evaluation of the aspects that have deteriorated the most over the past five years**



Source: Compilation by the authors.

The comparative analysis in terms of **employment status** (Figure 14) revealed that the large majority of the 24 drivers interviewed during the consultation process declared being regularly employed (96%) and being national and resident (88%) in the country from which they generally start their transport operations. Only a minor percentage of drivers (4%) reported working on a self-employed basis.

**Figure 14: Percentage of drivers by employment status**



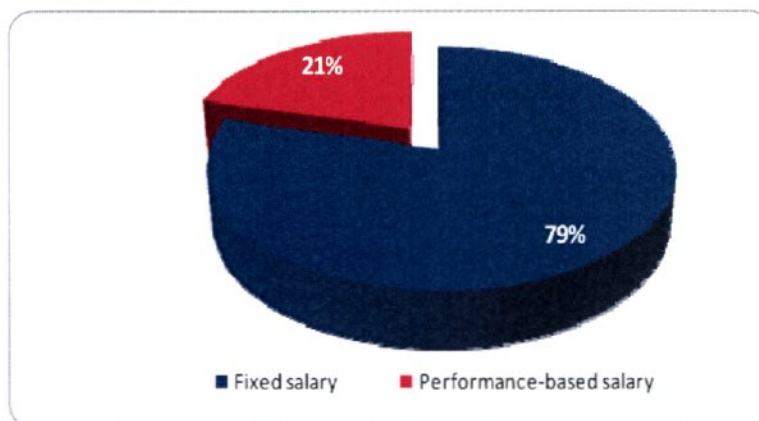
Source: Compilation by the authors.



As for the type of **employment contract** (Figure 15), 79% of drivers reported being paid a fixed monthly salary (including the daily subsistence allowances). By contrast, 21% of them declared being remunerated under performance-based contracts, although even in these cases they were paid daily subsistence allowances by the transport companies they work for. Therefore, all drivers interviewed declared to receive daily subsistence allowances. Interestingly, performance-based contracts were mainly reported by EU12 drivers.

As for salary levels, drivers largely confirmed the values provided by the trade unions and reported in Section 3.3, i.e. an average net salary (including daily subsistence allowances) ranging between €2200 and €2500 for the EU15 drivers and between €1200 and €1500 for the EU12 drivers.

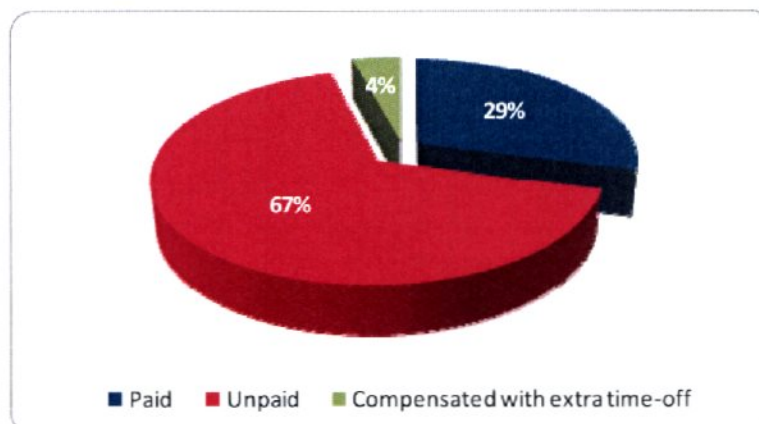
**Figure 15: Percentage of drivers by payment scheme**



Source: Compilation by the authors.

A negative picture emerges in relation to remuneration of **overtime worked** (Figure 16 below). In line with the feedback obtained from stakeholders, the data collected from the drivers showed that transport companies generally do not provide payment for overtime worked, as confirmed by 67% of the drivers interviewed. Only 29% of drivers indicated that they were remunerated for overtime hours as well. Lastly, only one driver said that overtime hours were compensated with extra time off.

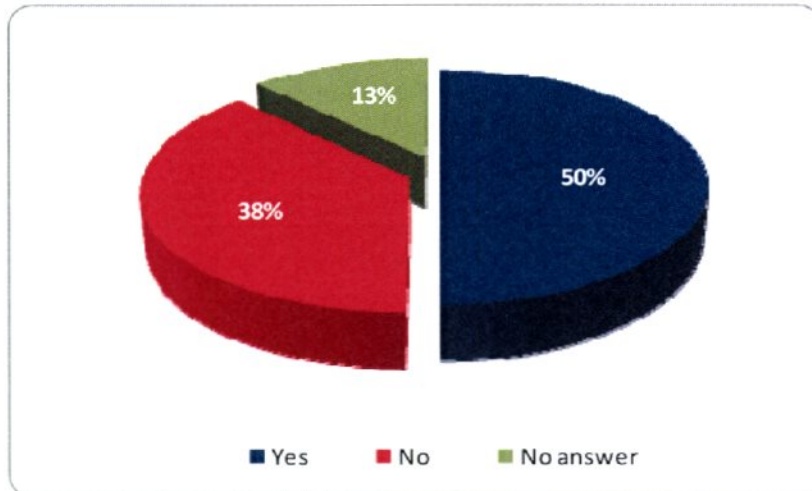
**Figure 16: Rate of payment for overtime worked**



Source: Compilation by the authors.

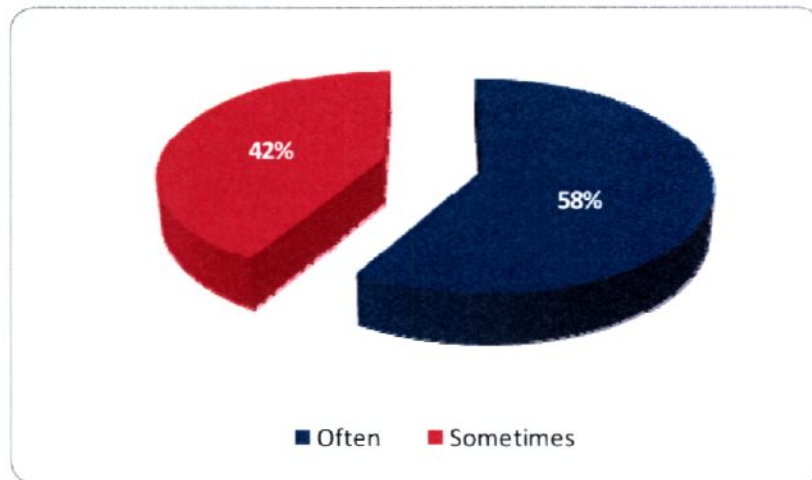
Drivers were also asked whether and how frequently they are required to work **unsocial or non-standard hours** (i.e.: from 20h to 22h; from 22h to 6h; Saturdays and Sundays). As shown by Figure 17 and Figure 18, half of the drivers interviewed responded in the affirmative, with 58% answering “often” when asked about frequency.

**Figure 17: Rate of non-standard hours**



Source: Compilation by the authors.

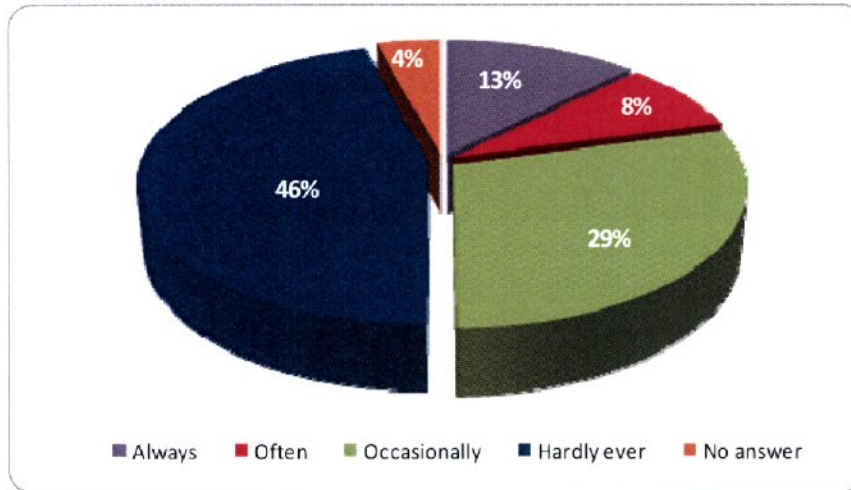
**Figure 18: Frequency of non-standard working hours**



Source: Compilation by the authors.

Drivers were also interviewed with respect to the **frequency of loading and unloading their lorries** (Figure 19 below). Most drivers (46%) responded they were hardly ever required to load or unload their lorries. This applies in particular to those drivers that declared transporting dangerous or perishable goods. 29% of them affirmed to performing loading or unloading operations occasionally, while 13% and 8% of respondents respectively said they carried out loading or unloading duties “always” or “often”. Finally, 4% of drivers did not provide any answer in this respect. Remarkably, with only two exceptions, all drivers confirmed not to be entitled to ask for **any reimbursement or additional pay** for performing loading and unloading tasks.

**Figure 19: Frequency of loading/unloading of lorries by drivers**



Source: Compilation by the authors.

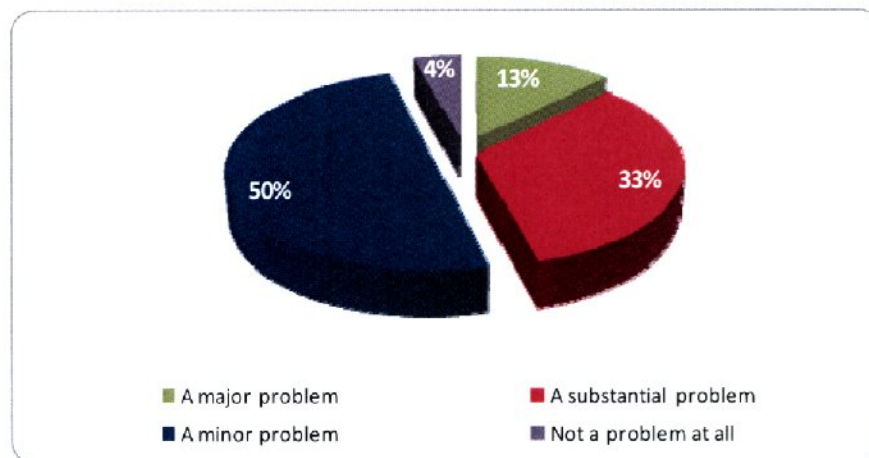
Additional insights on the quality of professional drivers' lives were provided by responses to the questions on **drivers' resting and eating habits**. With very few exceptions (two replies), all drivers that were interviewed said that they habitually sleep and rest on board of their lorry during the working week, while weekends are usually spent at their home.

Differences emerge when comparing EU15 and EU12 drivers. Unlike EU15 drivers, who generally do not stay away from home for more than one consecutive week, EU12 drivers said they stayed away for two to four consecutive weeks before returning to their homes. As for their eating habits, evidence collected confirmed that all drivers usually cook their meals by themselves.

Further information was also obtained with respect to **drivers' perception of fatigue** which is not regarded in a similar manner amongst all consulted drivers.

In fact, while half of respondents said that fatigue was a "minor" problem, the remaining half of drivers recognised that, in their case, fatigue was either a "substantial" (33%) or a "major" (13%) problem. Only 4% of respondents declared that fatigue was "not a problem at all".

**Figure 20: Drivers' perception of fatigue**



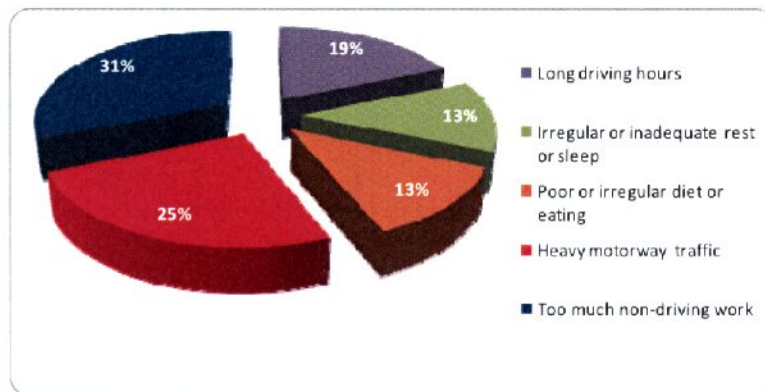
Source: Compilation by the authors.



Concerning the **factors that contribute the most to fatigue** (Figure 21 below), drivers cited “too much non driving work” which accounted for the largest proportion (31%) of replies, followed by “heavy traffic conditions” (25%), “long driving hours” (19%) and finally “irregular or inadequate rest or sleep” and “poor or irregular diet or eating” both measuring 13%.

In this respect, it must be noted that a common comment made by drivers refers to **waiting times spent during loading and unloading** of their lorries, which often takes more time than planned or necessary. The consequence is pressure on drivers to drive faster to ensure timely delivery while staying within the limits of the driving times set by the legislation.

**Figure 21: Main contributing factors to fatigue**

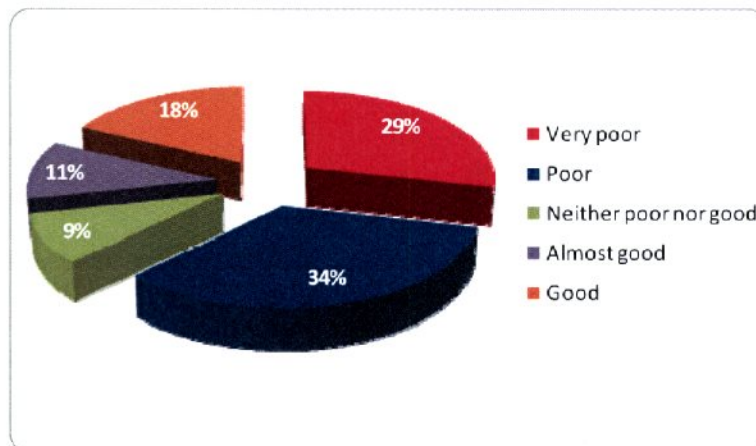


Source: Compilation by the authors.

Finally, it is also interesting to compare the evaluation that drivers gave about the **quality of the parking areas** where they regularly stop. As a general point, and as displayed in Figure 22 below, drivers (29%) stressed the poor quality of parking areas across the EU Member States, although there are some exceptions such as Germany and France where parking areas generally get a positive evaluation (especially in terms of cleanliness).

If combined with the percentage measured for the “poor” evaluation criterion (34%), a total of 63% of drivers are unsatisfied with the quality of parking areas where they stop. Critical aspects are: price, cleanliness of sanitation facilities and security.

**Figure 22: Drivers’ evaluation of quality of parking areas**



Source: Compilation by the authors.

## 4. CONCLUSIONS AND RECOMMENDATIONS

### 4.1 Conclusions

Over the last ten years, the developments and improvements of the body of rules governing the road transport sector have moved towards **modernising, streamlining and harmonising** of the previously existing set of norms in order to bring them into line with new market and labour conditions that characterise this sector today.

As already underlined by the authors of this study in their previous research work for the European Parliament on the enforcement of the EU social legislation<sup>75</sup>, achieving a **well-balanced interplay** between improving social standards for professionals in this field, while at the same time fostering greater and more loyal competition amongst road freight transport undertakings remain the core objective of such improvement measures. It is, then, against this background that the design and adoption of, firstly, the EU social legislation and, secondly, the new norms governing access to the market and the occupation will be considered and evaluated.

In the course of the study the available literature was analysed in combination with the results obtained from the consultation process involving both trade unions and drivers. It was found that the direction in which the road freight transport market has evolved since the liberalisation process started in the 1990s **has not resulted in a convergence** between increased competition, on the one hand, and social harmonisation of employment and working conditions for road freight transport workers across EU Member States, on the other.

On the contrary, the road freight transport sector is actually facing a growing **divergence between these two components** as evidenced by a general deterioration of social working conditions, made worse by a global downward trend in wage levels.

**The differences in terms of labour and social market structures amongst the EU countries** remain particularly wide; these social and economic discrepancies are pronounced not only between the EU15 and the EU12, but also between northern and southern Member States. This, *inter alia*, reflects a European Union where its 27 Member States are much less homogeneous in terms of social and economic structures than the old EU15 were before the two enlargements in 2004 and 2007. This creates gaps that, as illustrated by this study, can end up **encouraging disloyal competition and social dumping practices** instead of providing opportunities for social and economic growth. This holds true especially for those transport companies that, unable to cope with persistently fiercer competition, seek to increase their efficiency and competitiveness primarily by minimising costs, and labour costs in particular.

This study has highlighted **abuses and irregularities** (for example “letter-box companies”, purportedly self-employed drivers, performance-based contracts) in a number of EU15 Member States that result in market distortions and unfair employment conditions, namely, of Eastern European drivers.

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<sup>75</sup> Cited above, see note 8.

The latter are increasingly recruited to replace their (more expensive) EU15 colleagues under employment contracts that, despite the provisions set by the European legislation (Directive 96/71/EC on the posting of workers<sup>76</sup>) and rulings of the European Court of Justice (the "Koelzsch case"<sup>77</sup>), employ them in their countries of origin, although *de facto* they perform their real driving activity in a EU15 host Member State without being afforded the social and salary standards of the latter. This inevitably fuels social dumping, i.e. a "*conscious strategy involving the lowering of wage and employment standards, driven by companies seeking to gain a competitive advantage over other market participants, and indirectly involving their workers as well as home and host country governments*", according to the definition provided by the European Trade Union Institute.

The above leads to a further conclusion that may be drawn from the answers and feedback provided by the stakeholders and the drivers. There is a **widespread and shared agreement** between stakeholders (not only trade unions, but also associations of transport companies, as evidenced by the ETF / IRU joint statement concerning the opening of the EU road haulage market<sup>78</sup>) and drivers about the fact that the **road freight transport sector has, for several years, been experiencing a considerable deterioration of its working environment**. Although the limited number of questionnaires filled out and interviews carried out may not provide a robust scientific evidence base, it should be noted that the findings of the study are in line with other investigations made in some Member States<sup>79</sup>.

Discriminatory employment schemes (exacerbated by the recourse to social dumping practices), decreasing income levels, greater difficulties in balancing professional life with personal needs, declining living standards, increasing job demands and flexibility required are examples of **social aspects of the road freight transport sector where stakeholders and drivers have seen a major regressive trend in recent years**. It, therefore, comes as no surprise that the profession of drivers is increasingly regarded as **less attractive by younger generations**. Analogously, stakeholders have confirmed that the road freight transport sector does not enable drivers to have a workable family-friendly work and life balance and that the profession therefore **does not encourage more women to be drivers**.

Regarding income levels, for instance, drivers not only report continuously dropping wages, but also that they are forced to accept performance-based salaries or purportedly work as self-employed for the same companies in which they were previously employed. Similarly, as far as job demands are concerned, drivers stress that they are increasingly requested to accept a higher degree of flexibility in terms of their duties as well as a larger amount of non-driving activities, which inevitably increases their overall daily and weekly workload and, moreover, puts them under pressure to meet delivery times.

Overall, **this deterioration in the working environment affects both resident and non-resident drivers**. As the drivers' interviews have revealed, all drivers, irrespective of their country of origin, **describe a day-to-day- life that features common discomforts and problems** (such as a lack of availability of clean and secure parking areas). The only difference between EU15 and EU12 drivers in this respect is that EU15 drivers have a greater chance to rest at their home during the weekends, while EU12 drivers are obliged

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<sup>76</sup> Cited above, see note 20.

<sup>77</sup> Cited above, see Box 12 and note 63.

<sup>78</sup> Cited above, see note 55.

<sup>79</sup> On this point see, for instance, the investigations carried out by the Austrian trade union VIDA and the German trade union Ver.di (both described in Section 3.3.3) and the study authored by ETF in 2012 (cited above in note 56).



to stay away for up to four weeks (or even longer). This undoubtedly increases the precariousness of their living conditions as witnessed by the examples reported in this study for Belgium or the Netherlands.

Against this backdrop, a final consideration is worth making at this point. Stakeholders view the EU legislation as it stands today as **substantially adequate to secure an appropriate level of social rights** for professional drivers, although they also argue that **abuses and disloyal practices take advantage of some ambiguity and loop holes** that persist in the European legislation.

They regard as problematic the current degree of enforcement which still **lacks effective control mechanisms in the Member States** against those transport undertakings that are responsible for illegal or disloyal employment practices. This is further associated with a **low level of application and harmonisation** with regards to enforcement practices, sanctions and penalties across the EU Member States. Stakeholders believe that enforcement standards differ substantially and that enforcement is not given the same priority in all EU countries. Therefore, stakeholders see a need for an **increase in enforcement mechanisms and cooperation between Member States** to guarantee that social legislation is applied and that drivers' social rights are met across the whole of Europe.

Markedly, this concluding remark reflects what the authors of the current study described in their above-mentioned study on the enforcement of EU social legislation. Enforcement plays a pivotal role as the key measure through which the objective of harmonised working conditions might be reached, including a common understanding and application of the relevant regulations, supported by a more uniform definition of infringements and their associated penalties<sup>80</sup>.

## 4.2 Recommendations

Following on from the main findings of the study and the conclusions above, the general recommendations below are intended to support the decision-making process of EU institutions for improving the social and working conditions of professional drivers.

As indicated by the study, the problem lies primarily in the lack or poor effectiveness and quality of the enforcement mechanisms applied across the different EU Member States. Though lack of efficient controls do not bear the entire responsibility for the application and persistence of disloyal competition and negative social practices (which are ultimately a choice of the unfair transport companies), undoubtedly they make it easier for these abuses and irregularities to occur. Therefore, the recommendations focus more on ways to strengthen and harmonise enforcement procedures, rather than on further changes to the legislation.

To this end, the recommendations that are proposed for EU interventions can be summarised as follows:

- **Strengthening enforcement mechanisms in the Member States.** This would require increasing controls and enforcement mechanisms and making them more effective. This might be achieved (similarly to what was done with Regulation (EC) No 561/2006 on the enforcement of driving times and rest periods) by drafting an

<sup>80</sup> Cited above, see note 8. On this point, see Chapter 5 (*Conclusions and recommendations*).

*ad hoc* enforcement directive to support the application of Regulations (EC) No 1071/2009 and 1072/2009<sup>81</sup>. This proposed directive should stipulate the frequency and minimum levels of enforcement required to ensure compliance with the rules set out in the regulations. Furthermore, enforcement might target, for example via joint controls by road enforcement and labour authorities, labour and social law in the road freight transport sector, such as for instance Regulation (EC) No 593/2008 (Rome I Regulation).

- **Introducing enforcement impact assessments.** These could be introduced with the purpose of significantly strengthening the enforcement side of EU legislation, while encouraging Member States to assume their responsibilities in this area. These should accompany each legislative proposal in order to evaluate and estimate the impact that the measures applied would have on the enforceability of the proposal after the EC legislation enters into force.
- **Introducing reporting mechanisms on the application of Directive 96/71/EC on the posting of workers.** Enforcement can be more effective if it is supported by constantly updated data and information about the status of the implementation of the various norms. This might be the case for Directive 96/71/EC on the posting of workers. An amendment could be included in Regulation (EC) 1072/2009 and in the prospective posting of workers enforcement directive - for which a proposal<sup>82</sup> is currently under debate in 1<sup>st</sup> reading at the EP - for a reporting mechanism that requires each Member States to inform the Commission about the application of Directive 96/71/EC. Again, the reporting obligations with regards to Regulation (EC) No 561/2006 could be used as an example on which to base any new legislative measures.
- **Enhancing co-operation between Member States and between different authorities of the same Member State.** Efficient and transparent cooperation amongst Member States (and between them and the EC or relevant stakeholders) is a pre-requisite for an effective intra-community enforcement of the EU social legislation in the commercial road transport sector. This might be achieved by facilitating exchange of information and best practices, promoting training of enforcement officers and supporting concerted training programmes. Further, it might also include extending the competences of the intra-community liaison body established by Directive 2006/22/EC.
- **Extending the application of the cabotage rules to Directive 96/71/EC.** This could form the basis for tackling illegal cabotage practices when "combined transport" operations are carried out. Once more, this might require amending Regulation (EC) 1072/2009 with the purpose of eliminating exceptions and making cabotage rules easier to be enforced.
- **Creation of a European register of transport companies.** This register would include a black list of those companies that have been found responsible for illegal or disloyal practices. Unfair companies would consequently be targeted by increased controls. This register might be embedded into the risk rating system that Member States are required to introduce with respect to undertakings infringing the EU rules on driving times and rest periods.

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<sup>81</sup> This enforcement directive should also be extended to Regulation (EC) 1073/2009, which has not been dealt with in this study as it is not relevant to the scope of this research work.

<sup>82</sup> Cited above, see note 50.

The data collected through the consultation process have also shown that drivers (whose points of view are supported by similar comments from the stakeholders) consider quality of the parking areas to be a particularly sensitive issue. Drivers often complain about their low accessibility, limited number of available parking places, poor cleanliness and security.

To this end, the following recommendations are proposed:

- **Continuing the monitoring and benchmarking work on the quality of the parking areas.** EU-funded projects like SETPOS<sup>83</sup> and LABEL<sup>84</sup> have unquestionably represented major steps forward in improving the quality of the European parking areas of the Trans-European Road Network, not least by introducing a certification scheme. It seems, however, that drivers are not fully aware of or properly informed about this progress. It might therefore prove useful to undertake biannual surveys measuring professional drivers' opinions and perceptions about their profession and their working and living conditions.
- **Awareness and information campaigns.** In order to support the process, the EC may intervene to support Member States with a campaign aimed at informing drivers about parking areas that are easily accessible, of good quality, safe and secure. It is advisable that these campaigns also target the persisting gender imbalance in the road freight transport sector. Even if the sector cannot offer a workable family-friendly work/life balance, improving the image of the profession could help to attract more women and reduce the shortage of drivers.

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<sup>83</sup> Secured European Truck Parking Operational Services.

<sup>84</sup> Creating a Label for (Secured) Truck Parking Areas along the Trans-European Road Network and Defining a Certification Process.



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## ANNEXES

### ANNEX A: LIST OF CONSULTED STAKEHOLDERS

NAME	ACRONYM	COUNTRY
Gewerkschaft vida	VIDA	Austria
Confédération des Syndicats Chrétiens, Transport et Communications	CSC-TRANSCOM	Belgium
European Transport Workers' Federation	ETF	Belgium
Union Belge des Ouvriers du Transport Fédération Générale du Travail de Belgique	UBOT-FGTB	Belgium
Federation of Transport Trade Unions in Bulgaria	ABV	Bulgaria
Transport Workers' Union	CMKOS	Czech Republic
Fagligt Faelles Forbund	3F	Denmark
Estonian Transport & Road Workers Trade Union	ETTA	Estonia
Fédération Générale C.F.T.C. des Transports	FGT-CFTC	France
Vereinte Dienstleistungsgewerkschaft	VER.DI	Germany
Confederazione italiana sindacato dei lavoratori	CISL	Italy
Federazione italiana lavoratori dei trasporti Confederazione generale italiana del lavoro	FILT-CGIL	Italy
Lithuanian Transport Workers' Federation	VAP	Lithuania
STAR Federation, the Road TU Federation	CANAD	Romania
Federación de Servicios a la Ciudadanía Comisiones Obreras	FSC-CCOO	Spain
Unionen	-	Sweden
Union Internationale des Chauffeurs Routiers	UICR	Switzerland
Federatie Nederlandse Vakbeweging	FNV	The Netherlands
Unite the Union	-	United Kingdom



## ANNEX B: QUESTIONNAIRE SUBMITTED TO STAKEHOLDERS

### Objective of the consultation

We are inviting you to participate in this consultation on social and working conditions of road transport workers. The survey is part of a study we are carrying out for the Committee on Transport and Tourism of the European Parliament. Through this questionnaire we aim to gauge more fully the issues and challenges on social and working conditions in the road transport sector.

### Consultation questions

#### Question #1

*It is widely acknowledged that the profession of drivers has radically changed over the last ten years.*

In your opinion, which are the most significant changes that incurred in this respect? Have these changes created a more or less favourable social and working environment for professional drivers?

#### Question #2

In your opinion, which are the most important elements of the social dimension in the road transport sector?

Employment schemes		Working hours	
Work life balance		Quality of rest	
Fatigue			

Other(s) *(please specify)*

#### Question #3

In your opinion, how would you rate the current general profile of social and working conditions in the road transport sector compared to 5 years ago? (0 = highly deteriorated; 5 = highly improved)

Working environment conditions (including discrimination)		Working hours	
Income level		Job demands (including increase in requested task flexibility, pressures on drivers)	
Non-standard hours (overtime work, work over the weekend)		Skilled work	

\_\_\_ Other(s) *(please specify)*

Are there any specific case-studies you would like to mention to give evidence in this respect?

**Question #4**

*The EU enlargement process has undoubtedly reshaped the professional road transport sector.*

In your view, is a convergence process ongoing between EU12 and EU15 in the road transport sector? Are differences between EU15 and EU12 still a major cause of unfair competition or social dumping?

**Question #5**

*The EU has substantially intervened over the last decade to regulate the road transport sector with the purpose, on the one hand, to secure a greater liberalisation and fairer competition in the internal market and, on the other hand, to improve working conditions of professional drivers.*

After ten years from the introduction of the Working Time Directive and six years after the introduction of the EU Regulation on driving and rest times, how would you evaluate the role and impacts of the EU legislative developments? Which main barriers and problems still remain at stake?

**Question #6**

*The key element of any EU legislative and policy development is a lead towards a higher level of harmonisation across the EU Member States.*

In your view, is social dimension in the road transport sufficiently harmonised? Do you consider that enforcement practices, sanctions and level of penalties are also sufficiently applied and/or harmonised across the EU?

**Question #7**

*Though a new set of EU legislation (Road package, Regulations (EC) No 1071/2009, 1072/2009, 1073/2009) has been introduced a number of issues (over length of work duties also including weekend work, spreading of performance-based payment, persistence of the 'false' self-employed problem, social dumping, transport undertakings flagging out fleets in non-EU countries, illegal cabotage, etc), seem to be still critical.*

In your view which are the most important issues that the EU legislation should be urged to address and regulate?

**Question #8**

*According to the EU legislation (Regulation (EC) No 561/2006), the daily driving hours should not exceed 9 hours, while the weekly driving hours should not exceed 56 hours. However, drivers often report that they work overtime hours due to a constant pressure by the clients or the transport undertakings.*

If available, could you please provide details about the amount of daily and/or weekly regular overtime hours? Which is the percentage of drivers that:

- work no overtime driving hours
- work 1-5 overtime driving hours per week
- work 6-10 overtime driving hours per week
- work 11-15 overtime driving hours per week
- work more than 15 overtime driving hours per week (*please specify*)

Do you have statistical evidence with respect the main reasons for driving overtime hours?

**Question #9**

*The revision of the EU Regulation on digital tachograph is currently under legislative scrutiny at the European Parliament and the Council.*

In your view, which should be the main changes and innovations the new regulation should introduce? Which would be the impact of the new legislation on the drivers' social and working conditions?

**Question #10**

*In 2009 a previous study (TRT & IRS, study for the EP on shortage, 2009) conducted by the authors of this consultation estimated a shortage ratio of 3.8 across the EU27.*

In your view, the issue of shortage of skilled, professional driver is still critical?

**Question #11**

*In Europe only a limited percentage of professional drivers are women (TRT & IRS, study for the EP on shortage, 2009).*

Which are the main issues that still prevent women to increasingly access the occupation? If any, are there any gaps that the EU legislation failed to address or that should be urged to address in the future?

**Question #12**

Are there any additional comments you would like to make?

## ANNEX C: QUESTIONNAIRE SUBMITTED TO DRIVERS

### Objective of the consultation

We are inviting you to participate in this consultation on social and working conditions of road transport workers. The survey is part of a study we are carrying out for the Committee on Transport and Tourism of the European Parliament. Through this questionnaire we aim to gauge more fully the issues and challenges on social and working conditions in the road transport sector.

### Consultation questions

#### Question #1

Which is your nationality? \_\_\_\_\_ How old are you? \_\_\_\_\_

#### Question #2

Are you?

An employed driver?		A resident driver	
A self-employed driver?		A non resident driver	

#### Question #3

How many countries do you drive through during a typical journey?  
(Please specify) \_\_\_\_\_

#### Question #4

How many hours do you drive on average every day and every week?  
(Please specify) \_\_\_\_\_

#### Question #5

During the last 24 hours, how much time did it take you to  
 \_\_\_ Drive  
 \_\_\_ Load/unload your vehicles  
 \_\_\_ Rest (including eating)

#### Question #6

Compared to 5 years ago are global working hours increasing? If yes, why?

#### Question #7

Do you have unsocial working hours? (8 pm - 10 pm; 10 pm - 6 am; Saturday shift; Sunday shift)

Yes		No	
-----	--	----	--

If yes, with which frequency?

- Often
- Sometimes
- Other (*Please specify*) \_\_\_\_\_

**Question #8**

How much is your monthly/annual income?  
(*Please specify*) \_\_\_\_\_

**Question #9**

How are you normally paid?

- A monthly fixed salary
- A performance-based salary (km travelled / number of loads / number of deliveries)
- Other (*please specify*) \_\_\_\_\_

Do you get any daily subsistence allowances?

- Yes
- No

Are overtime working hours:

- Paid
- Unpaid
- Compensated with extra time-off

**Question #10**

How often do you load/unload your truck?

Always		Occasionally (once a week)	
Often (three to four times a week)		Hardly ever	

Are you paid for loading/unloading operations?

Yes		No	
-----	--	----	--

**Question #11**

In your view, which working conditions have deteriorated compared to 5 years ago?

Working environment (including discrimination)		Job demands (including task flexibility)	
Income levels		Skilled work	
Working hours		Accessibility and security of parking areas	

Other (*please specify*) \_\_\_\_\_

**Question #12**

At the end of your work day, do you usually rest:

At your home		In accommodation provided by your employer	
Onboard of your lorry			

Other (*please specify*) \_\_\_\_\_

And at the end of your working week?

At your home		In accommodation provided by your employer	
Onboard of your lorry			

Other (*please specify*) \_\_\_\_\_

How often do you go back home?

(*Please specify*) \_\_\_\_\_

**Question #13**

How would you evaluate the quality of the parking areas where you regularly stop (0 = very bad; 5 = very good)

Lighting		Parking facilities / places available	
General cleanliness		Security	
Accessibility		Price	
Quality of food		Provision of basic services (laundry, market...)	
Cleanliness of sanitation facilities			

Other (*please specify*) \_\_\_\_\_

**Question #14**

When you stop at a parking area, where do you usually sleep and eat?

I sleep onboard of my vehicles		I eat in a restaurant	
I sleep in a hotel room		I cook by myself	

Other (*please specify*) \_\_\_\_\_



**Question #15**

Have you ever been forced to stop along the road because of driving time limits and impossibility to reach a parking area?

Yes		No	
-----	--	----	--

If yes, with which frequency?

- Always
- Often
- Sometimes

**Question #16**

Which of the following are in your opinion the most negative aspects of your profession?

Long driving hours		Poor or irregular diet or eating	
Driving during early time/at night		Heavy highway traffic	
Irregular or inadequate rest or sleep		Too much non-driving work	

Other (*please specify*) \_\_\_\_\_

**Are there any additional comments you would like to make?**

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

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