




Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2008/0195(COD) Procedure lapsed or withdrawn
Organisation of working time: persons performing mobile road transport activities	
Subject 3.20.10 Transport undertakings, transport industry employees 4.15.03 Arrangement of working time, work schedules	

Key players			
European Parliament			
Council of the European Union			
Council configuration	Meeting	Date	
Transport, Telecommunications and Energy	3024	24/06/2010	
Transport, Telecommunications and Energy	2935	30/03/2009	
European Commission	Commission DG	Commissioner	
	Mobility and Transport	KALLAS Siim	

Key events			
14/10/2008	Legislative proposal published	COM(2008)0650	Summary
21/10/2008	Committee referral announced in Parliament, 1st reading		
30/03/2009	Debate in Council	2935	Summary
04/05/2009	Debate in Parliament		
05/05/2009	Results of vote in Parliament		
05/05/2009	Decision by Parliament, 1st reading		Summary
29/09/2009	Additional information		Summary
19/10/2009	Committee referral announced in Parliament, 1st reading		
28/04/2010	Vote in committee, 1st reading		Summary
04/05/2010	Committee report tabled for plenary, 1st reading	A7-0137/2010	
15/06/2010	Debate in Parliament		
16/06/2010	Decision by Parliament, 1st reading	T7-0221/2010	Summary

24/06/2010	Debate in Council	3024	Summary
30/07/2011	Proposal withdrawn by Commission		Summary

Technical information	
Procedure reference	2008/0195(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Treaty on the Functioning of the EU TFEU 091; Treaty on the Functioning of the EU TFEU 153-p3
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	EMPL/7/00128

Documentation gateway					
Legislative proposal		COM(2008)0650	15/10/2008	EC	Summary
Document attached to the procedure		SEC(2008)2631	15/10/2008	EC	
Document attached to the procedure		SEC(2008)2632	15/10/2008	EC	
Economic and Social Committee: opinion, report		CES0619/2009	24/03/2009	ESC	
Committee draft report		PE427.237	24/07/2009	EP	
Committee draft report		PE431.059	18/12/2009	EP	
Committee opinion	TRAN	PE430.999	16/02/2010	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0137/2010	05/05/2010	EP	
Text adopted by Parliament, 1st reading/single reading		T7-0221/2010	16/06/2010	EP	Summary

Additional information	
National parliaments	IPEX
European Commission	EUR-Lex

Organisation of working time: persons performing mobile road transport activities

PURPOSE: to amend Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities to enhance clarity, readability and enforceability of the current rules by providing a more precise definition of mobile workers including so called 'false' self-employed drivers.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: Directive 2002/15/EC became applicable on 23 March 2005. Its common rules ensure minimum social protection standards for mobile workers in the road transport sector and are perceived as an important step towards improving the health and safety protection of mobile workers in the sector.

When adopting the Directive after a conciliation procedure, Council and Parliament agreed that it should in principle apply to self-employed drivers from 23 March 2009. In addition, the Commission is requested to present a report at the latest two years before that date to the European Parliament and the Council, followed by a legislative proposal based on the report, which would either define the modalities for the inclusion or exclude the self-employed drivers from the scope of the Directive.

The Commission report concluded that there was not a decisive case for including self-employed drivers under the directive, but that it was important to address the issue of definitions and make them clear through an appropriate amendment that the notion of mobile worker covered

by the directive also included the so-called 'false' self-employed drivers.

CONTENT: the proposal introduces the following modifications without changing the overall purpose of the directive, namely social protection of workers and those who are assimilated to workers under the social rules in road transport. In particular, it:

- clarifies the scope: the Directive applies to all mobile workers as defined in Article 3(d) including the so called 'false' self-employed drivers, i.e. those drivers who are officially self-employed, but in fact are not free to organise their working activities. It does not cover genuine self-employed drivers who are not in the scope of the Directive;
- maintains the definition of 'working time' applicable to all drivers covered by the directive, but deletes the definition of "working time" for self-employed drivers as they fall out of the scope. In order to tackle the phenomenon of so called false self-employed, a more precise definition of 'mobile workers' is added and it makes the definition of "night work" applicable in practice;
- introduces common principles designed to ensure greater transparency and effectiveness of national enforcement regimes, common understanding of the rules and their equitable application;
- calls for greater cooperation between Member States' relevant authorities responsible for enforcement as well as for support from the Commission to facilitate the dialogue between enforcers and industry and between Member States to ensure common approach to the implementation of working time rules. All this aims at improving compliance with the Community rules and consequently at contributing to EU transport policy objectives.

Organisation of working time: persons performing mobile road transport activities

The Council reached, in a public deliberation, a general approach on a proposal for a Directive amending Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities.

When adopting Directive 2002/15/EC, the Council and the European Parliament agreed that it would in principle apply to all self-employed drivers from 23 March 2009 and the Commission was requested to present both institutions with a report at the latest two years before that date, followed by a legislative proposal. The Commission accordingly presented its proposal to amend Directive 2002/15/EC in October 2008.

The text approved by the Council, in line with the principles of the Commission proposal, foresees that self-employed workers are to be excluded from the scope of the Directive. However, this should be without prejudice to the right of Member States to include those drivers and apply the provisions of Directive 2002/15/EC to them.

In March 2009, the European Parliament's Employment and Social Affairs Committee rejected the Commission's proposal. It will be submitted for vote in a plenary session in May 2009.

Organisation of working time: persons performing mobile road transport activities

The European Parliament adopted an amendment calling for the rejection, under the first reading of the codecision procedure, of the proposal for a directive of the European Parliament and of the Council amending Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities.

As the Commission did not withdraw its proposal, the issue was referred back to the committee responsible, under Rule 52(3) of Parliament's Rules of Procedure.

MEPs proposed to reject the proposal on the grounds that it contradicted Parliament's demands for the full inclusion of self-employed drivers within the scope of the Directive after the transitional period by 23 March 2009. They also felt that it contradicted the motion for a [resolution](#) adopted by the European Parliament in October 2008 which reaffirmed that it is in the general interest that the rules on working time, driving times and rest periods for both mobile workers and self-employed drivers should be properly applied in order to improve the health and safety protection of persons performing mobile road transport activities, improve road safety and align conditions of competition.

Organisation of working time: persons performing mobile road transport activities

At its plenary sitting of 5 May 2009, the European Parliament did not vote on the legislative resolution contained in the report drawn up by the rapporteur, Marie PANAYOTOPOULOS-CASSIOTOU (EPP-ED, EL), but instead adopted an amendment rejecting the proposal. As the Commission did not withdraw its proposal following this amendment, the matter was referred back to the committee responsible in accordance with the Rules of Procedure.

At the start of the 7th parliamentary term following the European Parliament elections in June 2009, the Committee on Employment and Social Affairs appointed Edit BAUER (PPE, SK) rapporteur on this issue. At its meeting of 29 September 2009 the committee voted narrowly - by 25 votes to 24, with no abstentions - to reject the draft report, which proposed that Parliament should reject the Commission proposal.

As a result of its rejection of the draft report, the committee is required to draw up a new report on the proposal, to be submitted to plenary in due course. It should be noted that the procedure is still in the first reading stage, as Parliament has not yet adopted a legislative resolution on the proposal.

Organisation of working time: persons performing mobile road transport activities

The committee adopted the report drawn up by Edit BAUER (EPP, SK) recommending that Parliament should reject, under the first reading of the ordinary legislative procedure, the proposal for a directive on amending Directive 2002/15/EC on the organization of working time of persons performing mobile road transport activities. The report called on the Commission to withdraw its proposal and submit a new one.

Background

Directive 2002/15/EC was adopted following a conciliation procedure between Parliament and Council (see [1998/0319\(COD\)](#)). One of the main points of contention had been whether or not self-employed drivers should be included in the directive, as Parliament had wanted. Under the compromise reached in conciliation, self-employed drivers would be excluded temporarily from the directive - until 23 March 2009 - but the Commission would present a report at the latest two years before that date, analysing the likely consequences of their exclusion. Based on the conclusions of this report, the Commission would recommend either the inclusion of self-employed drivers within the scope of the Directive or their exclusion from it, and would present a legislative proposal accordingly.

The Commission report, presented in May 2007, highlighted the different ways in which the provisions of the directive were interpreted and implemented in the various Member States, and pointed out that this could result in distortions of competition and differences in the minimum social standards applied across Member States. It said that difficulties were arising in particular from an unclear distinction between mobile workers and self-employed drivers. This had led to enforcement problems and the risk of an increasing number of 'false' self-employed drivers (i.e. drivers who are not tied to an employer by an employment contract, so that they do not fall within the scope of the directive, but who in reality are not free to work for more than one client).

The Commission report concluded that there was not a decisive case for including self-employed drivers under the directive, but that it was important to address the issue of definitions and make it clear through an appropriate amendment that the notion of mobile worker covered by the directive should also include 'false' self-employed drivers. The legislative proposal amending the 2002 directive along these lines was unveiled by the Commission in 2008.

The proposal was examined in committee during the 6th parliamentary term and a report was tabled but referred back to committee by the plenary in May 2009. At the start of the 7th parliamentary term the committee appointed a new rapporteur, who drew up a draft report that was rejected in committee (for more information see the background note dated 29/09/2009). The committee was therefore required to draw up a new report, which it adopted on 28/04/2010. The new report recommended that the proposal be rejected by Parliament (see first paragraph).

In adopting this report, the committee therefore reiterated Parliament's previous opposition to the idea of exempting self-employed drivers from Directive 2002/15/EC.

Organisation of working time: persons performing mobile road transport activities

The European Parliament adopted by 383 votes to 263 with 23 abstentions, a legislative resolution rejecting the proposal for a directive on amending Directive 2002/15/EC on the organization of working time of persons performing mobile road transport activities.

The Parliament calls on the Commission to withdraw its proposal and take appropriate steps together with Parliament to submit a new proposal.

Organisation of working time: persons performing mobile road transport activities

The Commission informed the Council about the rejection by the European Parliament of the proposal for a modified directive on the working time of mobile road transport workers.

The Parliament did not accept the exclusion of self-employed workers from the scope of the directive. Given this situation, the Commission announced that it would withdraw its proposal.

Consequently the current directive remains applicable.

Organisation of working time: persons performing mobile road transport activities

As announced in Official Journal C 225 of 30 July 2011, the Commission decided to withdraw this proposal, which had become obsolete.