

Thursday 14 June 2001

TEXTS ADOPTED**1. Structural Funds ***** (procedure without debate)**A5-0164/2001****European Parliament legislative resolution on the proposal for a Council regulation amending Regulation (EC) No 1260/1999 laying down general provisions on the Structural Funds (COM(2000) 774 – C5-0752/2000 – 2000/0306(AVC))**

(Assent procedure)

The European Parliament,

- having regard to the proposal for a Council Regulation (COM(2000) 774) ⁽¹⁾,
- having regard to the Council's request for Parliament's assent pursuant to Article 161(1) of the EC Treaty (C5-0752/2000),
- having regard to Rule 86(1) of its Rules of Procedure,
- having regard to the recommendation of the Committee on Regional Policy, Transport and Tourism and the opinion of the Committee on Agriculture and Rural Development (A5-0164/2001),

1. Gives its assent to the proposal for a Council Regulation;
2. Instructs its President to forward its position to the Council and Commission.

⁽¹⁾ OJ C 96 E, 27.3.2001, p. 272.**2. Working time in mobile road-transport activities ***II****A5-0196/2001****European Parliament legislative resolution on the Council common position for adopting a European Parliament and Council directive on the organisation of the working time of persons whose occupation is the performance of mobile road-transport activities (5919/1/2001 – C5-0134/2001 – 1998/0319(COD))**

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (5919/1/2001 – C5-0134/2001) ⁽¹⁾,
- having regard to its position at first reading ⁽²⁾ on the Commission proposal to Parliament and the Council (COM(1998) 662) ⁽³⁾,
- having regard to the amended proposal (COM(2000) 754) ⁽⁴⁾,
- having regard to Article 251(2) of the EC Treaty,
- having regard to Rule 80 of its Rules of Procedure,
- having regard to the recommendation for second reading of the Committee on Employment and Social Affairs (A5-0196/2001),

⁽¹⁾ OJ C 142, 15.5.2001, p. 24.⁽²⁾ OJ C 219, 30.7.1999, p. 235.⁽³⁾ OJ C 43, 17.2.1999, p. 4.⁽⁴⁾ OJ C 120 E, 24.4.2001, p. 284.

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1. Amends the common position as follows;
2. Instructs its President to forward its position to the Council and Commission.

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COMMON POSITION

AMENDMENTS
BY PARLIAMENT

Amendment 1

Title

Directive 2001/.../EC of the European Parliament and of the Council **on** the organisation of working time **of persons whose occupation is the performance of** mobile road-transport activities

Directive 2001/.../EC of the European Parliament and of the Council **concerning** the organisation of working time **for mobile workers performing** road-transport activities **and for self-employed drivers**

Amendment 2

Recital 8

(8) As self-employed drivers are included within the scope of Regulation (EEC) No 3820/85 but excluded from that of Directive 93/104/EC, they should be excluded temporarily from the scope of this Directive **on the understanding that the Commission will assess the consequences of that temporary exclusion.**

(8) As self-employed drivers are included within the scope of Regulation (EEC) No 3820/85 but excluded from that of Directive 93/104/EC, they should be excluded temporarily from the scope of this Directive.

Amendment 3

Recital 14

(14) The provisions of Regulation (EEC) No 3820/85 on driving time in international and national passenger transport, other than regular services, should continue to apply. **The working time of drivers carrying out such transport may therefore, subject to certain conditions, exceed the maximum weekly average laid down in this Directive for goods transport and for regular passenger transport services.**

(14) The provisions of Regulation (EEC) No 3820/85 on driving time in international and national passenger transport, other than regular services, should continue to apply **until such time as the Regulation is revised with a view to including a definition of working time compatible with this Directive.**

Amendment 4

Article 2, paragraph 1

1. This Directive shall apply to mobile workers employed by undertakings established in a Member State, participating in road-transport activities covered by Regulation (EEC) No 3820/85 or, failing that, by the AETR Agreement.

1. This Directive shall apply to mobile workers employed by undertakings established in a Member State, participating in road-transport activities covered by Regulation (EEC) No 3820/85 or, failing that, by the AETR Agreement **and to self-employed drivers established in a Member State.**

By ... (*), the Commission shall submit an assessment of the consequences of the temporary exclusion of self-employed drivers to the European Parliament and to the Council. The assessment shall analyse in particular the effects of the exclusion of self-employed drivers on road safety, on conditions of competition, on the structure of the profession and on social aspects. Depending on the outcome of that analysis, the Commission will propose if appropriate conditions under which this Directive will apply to self-employed drivers, the definition of which will have to be made clear, at the latest on ... ().**

This Directive shall not, however, apply to self-employed drivers until three years after the deadline for transposition of the Directive by Member States fixed by Article 14.

(*) Five years after the entry into force of this Directive.

(**) Six years after the entry into force of this Directive.

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Amendment 5

Article 2, paragraph 4a (new)

4a. The Commission shall present no later than one year after this Directive enters into force a proposal for revision of Regulation (EEC) No 3820/85 which will broaden the scope of the Regulation to include a definition of working time compatible with this Directive and ensure that the Regulation applies to all mobile workers performing road-transport activities employed by undertakings established in a Member State and to self-employed drivers.

Amendment 6

Article 3, point (a)

(a) 'working time' shall mean **the time from the beginning to the end of work, during which the mobile worker is at his workstation, at the disposal of the employer and exercising his functions or activities, that is to say:**

- **the time devoted to all road transport activities. These activities are in particular, the following:** driving, loading and unloading, **assisting** passengers boarding and disembarking from the **vehicle**, cleaning and technical maintenance as well as all other work intended to ensure the safety of the vehicle, its cargo and passengers;

(a) 'working time' shall mean:

- **in the case of self-employed drivers: stand-by duty and the time during which the following activities are carried out:**

- (i) driving;
- (ii) loading and unloading;
- (iii) **checking or supervising** passengers boarding and **disembarking**;
- (iv) cleaning and technical maintenance as well as all other work intended to ensure the safety of the vehicle, its cargo and passengers;
- (v) **inspection of the vehicle and monitoring of loading and unloading**;
- (vi) **administrative formalities with police, customs, immigration officers, etc.;**
- (vii) **cooperation with police, customs or immigration officers for checks required by the law;**

- **in the case of mobile workers: the time from the beginning to the end of work, that is all activities or standby duty, excluding breaks.**

Activities include, in particular:

- (i) driving;
- (ii) loading and unloading;
- (iii) **checking or supervising** passengers boarding and **disembarking**;

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- the times during which the mobile worker is required to remain at his workstation, ready to take up work, **and cannot, on the instructions of his employer, dispose freely of his time, in particular during periods awaiting loading or unloading, where their foreseeable duration is not known in advance, that is to say either before departure or just before the actual start of the period in question, or under the general conditions negotiated between the social partners and/or under the terms of the legislation of the Member States.**

The break times referred to in Article 5, the rest times referred to in Article 6 and, without prejudice to the legislation of Member States or agreements between the social partners providing that such periods should be compensated or limited, the periods of availability referred to in (b) of this Article, shall be excluded from working time;

- (iv) **cleaning and technical maintenance as well as all other work intended to ensure the safety of the vehicle, its cargo and passengers;**
- (v) **inspection of the vehicle and monitoring of loading and unloading;**
- (vi) **administrative formalities with police, customs, immigration officers, etc.;**
- (vii) **administrative work;**

'stand-by duty' shall mean the times during which the mobile worker is required to remain at his workstation, ready to take up work **where appropriate on his own initiative, and generally with certain tasks associated with being on duty;**

The break times referred to in Article 5, the rest times referred to in Article 6 and, without prejudice to the legislation of Member States or agreements between the social partners providing that such periods should be compensated or limited, the periods of availability referred to in (b) of this Article, shall be excluded from working time;

Amendment 9

Article 3, point (c), indent 1

- the location of the undertaking for which the mobile worker carries out duties,
- the location of the undertaking for which the mobile worker carries out duties, **together with its various branch departments or offices, regardless of whether they are located in the same place as its head office or main place of business,**

Amendment 10

Article 3, point (e)

- (e) 'self-employed driver' shall mean **anyone whose main occupation is to carry passengers or goods by road at a customer's request;**
- (e) 'self-employed driver' shall mean **the head of a commercial entity, owner of a professional certificate where appropriate, who has the freedom to work on his own account, does not work directly for an undertaking or employer, is at liberty to choose which freight he carries, has commercial relations with several customers, can negotiate prices and his own fees, can schedule his working hours freely and is the owner of one or more vehicles.**

Those who do not meet these criteria are subject to the same rights and obligations under this Directive as employees.

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Amendment 11

Article 3, point (g)

(g) 'night time' shall mean a period of at least **four** hours, as defined by national law, between 00.00 hours and **07.00** hours;

(g) 'night time' shall mean a period of at least **seven** hours, as defined by national law, **and in any case encompassing the period** between 00.00 hours and **05.00** hours;

Amendment 12

Article 3, point (ha) (new)

(ha) 'night worker' shall mean any mobile worker or self-employed driver who performs at least 48 days of his annual working time during night time.

Amendment 13

Article 5, paragraph 1

1. Member States shall take the measures necessary to ensure that, without prejudice to the level of protection provided by Regulation (EEC) No 3820/85 or, failing that, by the AETR Agreement, mobile workers in no circumstances work for more than six consecutive hours without a break. Working time shall be interrupted by a break of at least thirty minutes, if working hours total between six and nine hours, and of at least forty-five minutes, if working hours total more than nine hours.

1. Member States shall take the measures necessary to ensure that, without prejudice to the level of protection provided by Regulation (EEC) No 3820/85 or, failing that, by the AETR Agreement, mobile workers **and self-employed drivers** in no circumstances work for more than six consecutive hours without a break. Working time shall be interrupted by a break of at least thirty minutes, if working hours total between six and nine hours, and of at least forty-five minutes, if working hours total more than nine hours.

Amendment 14

Article 7, paragraph 1, indent 1

— if night work is performed, the daily working time does not exceed **ten** hours in each twenty-four-hour period,

— if night work is performed, the daily working time does not exceed **eight** hours in each twenty-four-hour period. **It may be extended to ten hours only if an average of eight hours a day is not exceeded within a reference period to be determined after consultation of the social partners or in collective agreements or agreements between the social partners. For periods in which night workers are not requested to perform night work, Article 4 shall apply;**

Amendment 15

Article 8, paragraph 1

1. Derogations from **Articles 4 and 7** may be adopted **by means of laws, regulations or administrative provisions** or by means of collective agreements **or agreements between the two sides of industry**, provided that the persons concerned are afforded equivalent periods of compensatory rest.

1. Derogations from **Article 4** may be adopted by means of collective agreements, provided that the persons concerned are afforded equivalent periods of compensatory rest.

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Amendment 16

Article 9, point (b)

(b) the working time of mobile workers is recorded. Records shall be *preserved* for at least **one year** after the end of the period covered. Employers shall be responsible for recording the working time of mobile workers. Employers shall upon request provide mobile workers with copies of the records of hours worked.

(b) the working time of mobile workers is recorded. Records shall be *kept* for at least **two years** after the end of the period covered. Employers shall be responsible for recording the working time of mobile workers. Employers shall upon request provide mobile workers with copies of the records of hours worked.

Amendment 17

Article 9, point (ba) (new)

(ba) self-employed drivers maintain a record of their working time; these records shall be kept for at least two years; Member States shall carry out controls on working and driving times equivalent to at least 2% of all the working days in this sector; the most important instrument for such controls is the digital tachograph.

Amendment 18

Article 10

This Directive shall not affect Member States' right to apply or introduce laws, regulations or administrative provisions more favourable to the protection of the health and safety of mobile workers or their right to facilitate or permit the application of collective agreements or other agreements concluded between the two sides of industry which are more favourable to the protection of the health and safety of mobile workers.

This Directive shall not affect Member States' right to apply or introduce laws, regulations or administrative provisions more favourable to the protection of the health and safety of mobile workers **or self-employed drivers**, or their right to facilitate or permit the application of collective agreements or other agreements concluded between the two sides of industry which are more favourable to the protection of the health and safety of mobile workers. **Implementation of this Directive shall not constitute valid grounds for reducing the general level of protection afforded to workers.**

Amendment 19

Article 11

Member States shall lay down a **system** of penalties for breaches of the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that these penalties are applied. The penalties thus provided for shall be effective, proportional and dissuasive.

Member States shall lay down a **common range** of penalties for breaches of the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that these penalties are applied. The penalties thus provided for shall be effective, proportional and dissuasive. **Member States shall notify these provisions to the Commission by the date mentioned in Article 14 at the latest, and any subsequent amendment thereto in good time.**

Amendment 20

Article 14, paragraph 1, footnote

(*) **Three** years after the entry into force of this Directive.

(*) **Two** years after the entry into force of this Directive.

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Amendment 21

Article 14, paragraph 2

2. Without prejudice to the right of Member States to develop, in the light of changing circumstances, different legislative, regulatory or contractual provisions in the field of working time, as long as the minimum requirements provided for in this Directive are complied with, implementation of this Directive shall not constitute valid grounds for reducing the general level of protection afforded to the persons referred to in Article 2(1).

Deleted

Amendment 22

Article 14, paragraph 3a (new)

3a. Member States shall take the necessary steps to ensure that the relationships between shippers, freight forwarders, prime contractors and sub-contractors are regulated through the adoption of obligatory contracts allowing the verification of compliance with this Directive.

3. Health and safety at work: work equipment *II****A5-0156/2001**

European Parliament legislative resolution on the Council common position for adopting a European Parliament and Council directive amending Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (2nd individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (5766/2/2001 – C5-0135/2001 – 1998/0327(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (5766/2/2001 – C5-0135/2001),
- having regard to its position at first reading⁽¹⁾ on the Commission proposal to Parliament and the Council (COM(1998) 678)⁽²⁾,
- having regard to the Commission's amended proposal (COM(2000) 648)⁽³⁾,
- having regard to Article 251(2) of the EC Treaty,
- having regard to Rule 78 of its Rules of Procedure,
- having regard to the recommendation for second reading of the Committee on Employment and Social Affairs (A5-0156/2001),

1. Approves the common position;
2. Notes that the act is adopted in accordance with the common position;
3. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;

⁽¹⁾ 'Texts Adopted' of 21.9.2000, Item 8.

⁽²⁾ OJ C 247 E, 31.8.1999, p. 23.

⁽³⁾ OJ C 62 E, 27.2.2001, p. 113.