



UNION EUROPÉENNE DES TRANSPORTEURS ROUTIERS

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EU Mobility Package

Enhancement of Social legislation in Road Transport

UETR Position

INTRODUCTION

UETR is the European umbrella organization representing and defending the interests of more than 200.000 road transport undertakings (mostly Micro, Small and Medium Enterprises) from Western and Eastern EU Member States associations, with a total capacity of more than 430.000 commercial vehicles¹.

This document provides UETR position on the European Commission's proposal to review Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector.²

THE EC PROPOSAL - UETR COMMENTS

Art. 1.

Inclusion of mobile workers

¹ Within the Union, 95% of the road haulage companies are micro-enterprises with less than 10 employees (small firms or one-man operations).

² COM/2017/0278 final - 2017/0121 (COD)

The Commission proposes to add directive 2002/15/EC (working time of mobile workers) to the control directive, ensuring that there are also sufficient controls on compliance with working time for mobile workers.

UETR does not support this inclusion. A division between working time and private time of self-employed drivers is impossible; registration, monitoring and enforcement is not feasible. The nature of self employed work requires a high degree of flexibility.

This proposal adds administrative burdens to entrepreneurs who are free to organize their work, without any improvement in road safety and social protection (as Regulation n. 561/2006 on resting times and driving periods already applies exactly the same way for both employed and self-employed drivers.)

Art. 2.2 and 2.3

3-day term

According to the proposal, posting for more than 3 days in one calendar month, leads to the application of the rules for minimum wages and the minimum number of paid holiday days throughout the entire period of posting. The proposal also clarifies how the 3-day period should be calculate and expressly states that, in the case of cabotage, the arrangements for minimum wage and annual leave should be applied immediately. On the other hand, that transit does not fall under the posting rules. However, it was not expressly included in the Commission proposal.

UETR welcomes a clear definition of 'posting', and rules laid down to determine when there is a "day".

UETR would also like to draw your attention to the following points:

- *transit must not be subject to the obligations in order to avoid any discussions in different Member States.*
- *On the "minimum wage", while UETR supports its application to cabotage, its extension to bilateral transport raises a number of open questions. Currently, the minimum wage directive includes remuneration for overtime. Which elements should be taken into consideration for the minimum wage is not clear. Does this also imply fees, or sectoral surcharges ? All these elements have not been clarified yet.*

Art. 2.4

Administrative obligations

The EC proposal states that each Member State may impose administrative requirements and controls on its own territory. In this context, each Member State may require a transport undertaking to make an online statement at the latest at the start of the posting, in an official language of the host Member State or in English. This statement can be valid for up to 6 months. In addition, each Member State may still require certain documents, such as a contract of employment, to be on board of the vehicle.

UETR does not support this approach as it does not ensure full harmonization - on the contrary, it generates a patchy situation.

According to the proposal, a driver must make available a copy of the payslips of the last two months at road checks. To this end, he may contact the head office, the transport manager or any other person who can deliver this copy.

UETR draws your attention to the following:

- *the proposal's wording is not clear. What does "available" mean ? What time limit is "reasonable" ? (taking into account that road checks are often also done outside office hours).*

- *The obligation to keep documents on board should be relaxed provided that an effective European electronic register is set up, allowing checks all over Europe on the respect of rules on posting of workers fastly and effectively by police forces using already available technology. On such a register, transport companies, under a unique harmonized model (in all EU official languages) of registration for posting, may upload all required documents and comply with the posting of workers regulation. This way, checks by police forces could be made in a very short time.*
- *Provided period for exemption of the fulfillment of the rules of posting of workers: giving Member States the possibility to provide the exemption of not accomplishing the rules on posting for a period of 3 days in a month, causes serious difficulties to control. For UETR, it would be more efficient to provide and submit the previous posting declaration no matter how long the worker is posted in another Member State, being thus the declaration provided valid for a 6 month period and not being necessary to comply with any other administrative burden.*