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POLICY DEPARTMENT **B**
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**SOCIAL AND WORKING
CONDITIONS OF
ROAD TRANSPORT HAULIERS**

PROVISIONAL VERSION

STUDY



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

TRANSPORT AND TOURISM

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STUDY

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This document was requested by the European Parliament's Committee on Transport and Tourism.

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Abstract

The study provides an analysis of the social and working conditions of professional drivers engaged in the road freight transport sector. The main issues refer to the principal components of the social dimension for this transport segment, which does not only relate to driving times and rest periods, but also concern those practical aspects that determine the quality standards of drivers' life, including employment schemes and income levels. After an overall analysis, which includes the EU legislation relevant for the social dimension of the 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
- CMR** Convention on the Contract for the International Carriage of Goods by Road
- CPC** Certificate of Professional Competence
- DG EMPL** European Commission, Directorate-General for Employment, Social Affairs and Inclusion
- EC** European Commission
- ECJ** European Court of Justice
- ECMT** European Conference of Ministers of Transport
- 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** Federazione Italiana Lavoratori Trasporti-Confederazione Generale Italiana dei Lavoratori (*Italian trade union*)
- FNV** Federatie Nederlandse Vakbeweging (*Dutch trade union*)
- 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
- Mio** 1 million
- SETPOS** Secured European Truck Parking Operational Services
- tkm** tonne-kilometre: a unit of measure: 1 tonne transported a distance of 1 kilometre
- TRAN** Committee on Transport and Tourism of the European Parliament
- UBOT-FGTB** Union Belge des Ouvriers du Transport / Fédération Générale du Travail de Belgique (*Belgian road transport workers trade union*)
- UICR** Union Internationale des Chauffeurs Routiers
- VER.DI** Vereinte Dienstleistungsgewerkschaft (*German trade union*)
- VIDA** Gewerkschaft vida (*Austrian trade union*)

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 in 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 critical issues and trends affecting the social and working conditions of professional drivers, while seeking to identify those factors upon which better attention should be paid in order to deploy an effective enforcement strategy that secures greater respect of their social rights, while guaranteeing them with better life and working conditions. In this respect, this study brings additional knowledge to 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 the EU legislation.

EU legislation impacting on drivers' social and working conditions

The study has synthetically recalled 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 introducing the *rationale* motivating the developments in the legislation which have occurred at European level in these two areas.

Remarkably, given the "mobile" and "international" character of the 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 produce important impacts on social and working conditions.

Drivers' social and working conditions: an assessment

The core part of the study has been 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, which has provided both qualitative and quantitative information concerning those issues that mostly affect the working environment and qualify standards of life of professional drivers.

The investigation has initially acknowledged the major evaluation that has been experienced by the road freight transport sector since the liberalisation process started in the nineties. 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 have been made further extensive after the EU was enlarged by 12 new Member States in two steps, in 2004 and 2007.

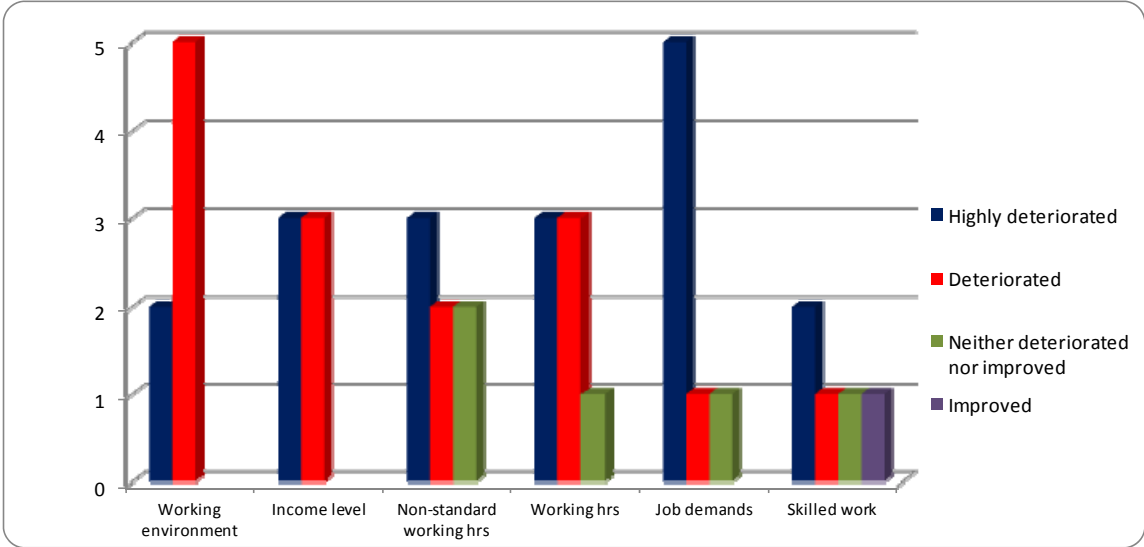
As the study has revealed, the liberalisation has not, however, been accompanied by a parallel process of social harmonisation in the employment and working conditions that, on the contrary, are experiencing a general and sharp deteriorating trend for both resident and non-resident professional drivers.

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

Clearly, such unfair practices are embedded into a more general framework where the driving profession is suffering from a deteriorating working environment and regressive steps as far as the income levels, the work-life balance, job demands and quality standards of life 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.

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

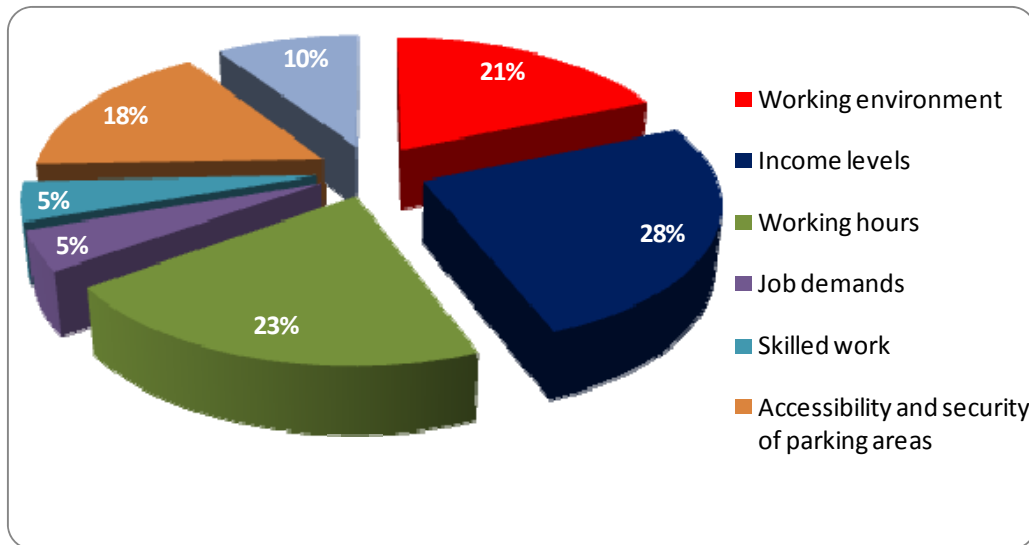
Figure 1: Elements that deteriorated the most over the last five years



Source: Compilation by the authors.

Drivers echo stakeholders’ understanding and perspective, by placing a particular emphasis on the lower wage levels, followed by an increase in the number of hours worked, a worsening in the working environment, and accessibility and security of parking areas. EU15 drivers are in particular touched by this downward trend mainly because, they claim, of 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.

Enforcement, as commented by the stakeholders, is in particular a problematic area where it is sensible 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. On this issue, a greater degree of harmonisation in the enforcement practices, sanctions and penalties across the EU Member States is needed in order to overcome the current framework that sees enforcement standards largely differing, 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

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 period	**

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

Main conclusions

The implication of such reasoning, as well as a major conclusion of this study, is that the direction along which the road freight transport market has evolved since the liberalisation process started in the nineties has not leaned towards 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.

The differences remain significantly wide in terms of labour and social market structures amongst the EU countries which, especially in the presence of poor or ineffective enforcement mechanisms, may lead unfair transport companies to adopt disloyal competition and social dumping practices. This negatively contributes to and further worsens the current deterioration trend that has been 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, including 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 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 and making more effective controls and enforcement mechanisms, and might include drafting an *ad hoc* enforcement directive to support the application of Regulations (EC) No 1071/2009 and 1072/2009.
- **Introducing reporting mechanisms on the application of Directive 96/71/EC on posting of workers.** Enforcement may be more effective whether supported by constantly updated data and information about the state-of-the-art related to the implementation of the various norms. This might be the case for Directive 96/71/EC on posting of workers, for which it might be included into Regulation (EC) 1072/2009 a provision for a reporting mechanism that requires each Member State to inform the Commission about the application of Directive 96/71/EC.
- **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 Intra-community 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 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 the EU rules on driving times and rest periods.

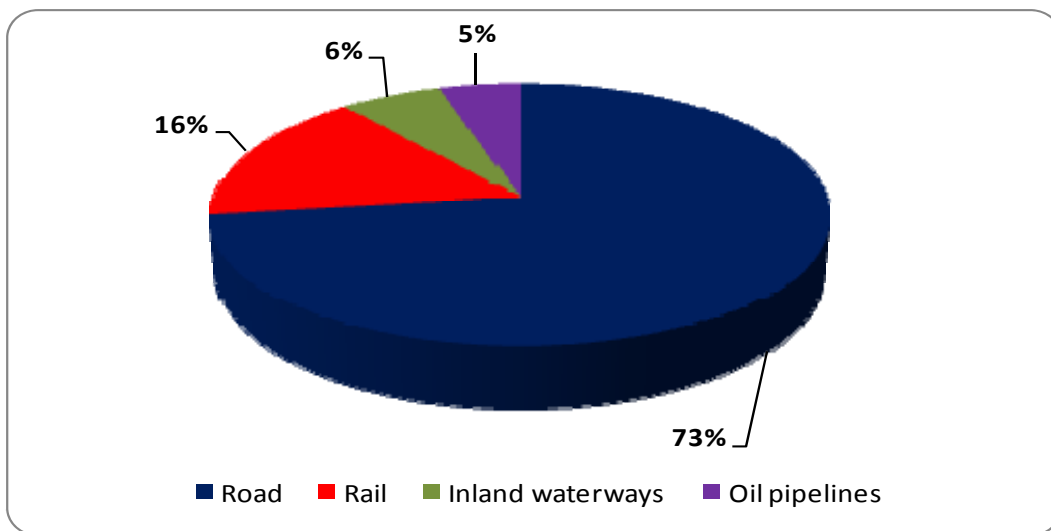
In parallel to all this, further recommendations may be proposed with the purpose of continuing the monitoring and benchmarking work of the quality of the parking areas (including biannual surveys measuring professional drivers' opinions and perceptions about their profession and their working and living conditions) and implementing awareness and information campaigns aimed at informing drivers about parking areas that are easily accessible, of good quality, safe and secure. It is advisable that these campaigns also target the persisting gender imbalance in the road freight transport sector.

1. INTRODUCTION

1.1 Study remit

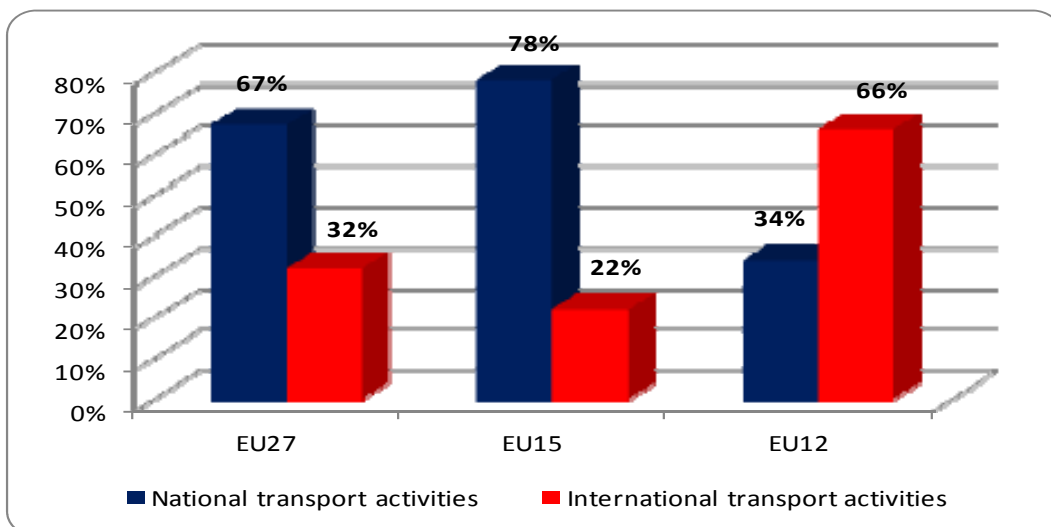
Measured in tonne-km (tkm) (Figure 3), the road freight sector accounts for about 76.4% in the total modal split for all inland transport modes (EC, 2012b; EC, 2011). As described in Figure 4 below, two-thirds (67%) of these tonne-kms across the EU27 are national traffic, although the proportion significantly 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, 2011).

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



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

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



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

Looking at the labour market, **road freight transport is also a major employer in the European Union** (EU) having employed around 2.9 million persons in 2009 (EC, 2012a). However, employment in this sector is still characterized by an **important proportion of self-employment** (19.6% on average in the EU27), and presents a significant **gender imbalance** with a limited presence of women, who account for less than 14% on average in the total land transport sector (IRS and TRT, 2009¹).

Compared to the other freight modes of transport, **road still has 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 nineties**. 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 occurring in 2004 and 2007.

The organization and structure of the European economy has also changed, whereas the entrance of the new Member States and the larger flows of goods generated by the increase in specialization of the production process have led to a higher demand for freight, which has been chiefly satisfied by road transport (IRS and TRT, 2009²).

In the **newly established market conditions** the competitive pressure has become significantly higher. Decreasing profit margins, a downward pressure on wages and considerable differences among EU Member States in both operating costs and investment rates have emerged as the new market determinants which, sequentially, have entailed **new schemes in the way work activities are organised**, including a profound transformation of the driving activity.

The latter has become a highly demanding profession having developed from the simple “driving” activity to a more specific set of working tasks resulting from the salient changes which have been driven, in the first place, by new logistics services and needs.

The specific characteristics of the road freight transport market and the several 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.

This, in combination with other factors like a soaring demand of road transport and in relation to drivers, a declining work attractiveness, an ageing driver population and a poor work environment have made the shortage in the number of professional and qualified drivers a structural issue across the EU Member States, although its impacts have not occurred simultaneously and with the same severity and magnitude in all of them (IRS and TRT, 2009)³.

Given this background, it should be highlighted that the developments induced by the **liberalisation of the road freight transport market** have not progressed with a parallel **harmonisation of the social dimension** in this sector. In this respect, it is worth underlining that the market economy is characterised by an imperfect economic freedom which offers only in a limited manner the possibility to achieve an optimal balance between

¹ IRS and TRT (2009). *The shortage of qualified personnel in road freight transport*. Study for the European Parliament, Directorate General for Internal Policies.

² Cited above, see note 1.

³ The Netherlands, Portugal, Spain, Italy, Belgium and Germany were found as those 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.

drivers' personal and work life, on the one hand, and between drivers' needs and competition amongst transport operators, on the other hand. For this reason, it becomes crucial that a qualified workforce is guaranteed with a regulatory framework that in a sustainable manner is capable of balancing the need to protect employees and their social rights with the aim of enhancing transport companies' competitiveness and securing road safety (TRT, 2012⁴).

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

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

Secondly, because social aspects are directly and indirectly influenced by a **spectrum of factors which go far beyond the number of hours driven**. They, indeed, include the global quality of the working conditions (which accordingly implies considering the quality of the overall working environment) and the level of income, but should 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 spreading of risks of violence or theft.

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

The bearings of the reasoning described above witness the complexity and the wideness of this field of investigation, and confirm the social area as the most complex and challenging domain.

1.2 Objectives of the study

Against this backdrop, the purpose of this study is to thoroughly enlighten 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 (the scope of the analysis and investigation carried out by 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 for the social and working conditions of the professional drivers in the road freight transport sector;
- to provide an overview of the findings of the consultation exercise that has involved stakeholders (trade unions) and drivers of some Member States;

⁴ 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 (TRT, 2009)⁵, this study will seek to identify those factors upon which better attention should be paid in order to deploy an effective enforcement strategy that secures a greater respect of their social rights, while guaranteeing them with better life and working conditions;
- to present conclusions and recommendations concerning any possible improvement to the social and working conditions of the professional drivers in the road freight transport sector.

1.3 Structure of the study

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

Chapter Two introduces the EU legislative discipline that is relevant for the social aspects and the access to the market and profession for the road freight transport sector.

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

Chapter Four draws final conclusions and makes recommendations.

⁵ Cited above, see note 4. On this point see Chapter 5 at page 108.

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

KEY FINDINGS

- **Important legislative developments** have been introduced at EU level with the goal of modernising, streamlining and harmonising the previously existing normative body regulating social and working conditions in the road freight transport sector.
- 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 occupation (profession) (**Road Transport Package**).
- Given the "**mobile**" and "**international**" character of the road freight transport operations, other EU laws are relevant for these activities although not originally and specifically designed for this sector.

Chapter 2 synthetically looks at the current EU legislative framework that governs the social aspects and the access to the market for the road freight transport sector. After introducing in Section 2.1 the *rationale* motivating the developments in the legislation which have occurred at European level in these two areas, Section 2.2 of this chapter summarises the EU discipline on social aspects of the road freight transport sector, while Section 2.3 reports the main set of norms that rule the access to the market and to the occupation. Finally, Section 2.4 concludes with an overview of additional EU laws that produce important impacts on the 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 nineties. This has required a critical legislative intervention by the EU in order to **modernise, streamline and further harmonise** a composite normative body 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 legislative, but also policy, efforts undertaken by the EU have principally developed along **two, interlinked, directions** pursuing the objectives of improving social standards for the professionals in this field (including safety of operations), while fostering a greater and loyal competition amongst road freight transport undertakings.

As the next sections 2.2 and 2.3 will describe, two primary blocks of EU laws reflect these priorities:

- **social provisions**, as established by Regulation (EC) 561/2006⁶ and Directives 2006/22/EC⁷ and 2002/15/EC⁸;

⁶ 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 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.

- the “**Road transport package**”, whose provisions are laid down in Regulations (EC) 1071/2009⁹, 1072/2009¹⁰, and 1073/2009¹¹.

In addition (see Section 2.4), a number of **other rules** currently in force are similarly relevant when reasoning about the social and working conditions. These are specifically:

- Regulation (EC) No 593/2008¹² on the law applicable to contractual obligations (Rome I);
- Regulation (EC) 883/2004¹³ on the coordination of social security systems as last amended by Regulation (EU) 465/2012¹⁴ and implemented by the provisions laid down by Regulation (EC) 987/2009¹⁵;
- Directive 96/71/EC¹⁶ on the posting of workers in the framework of the provision of services whereas, as stated by 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).

2.2 The EU framework of social rules for the goods road transport sector¹⁷

The legislative “architecture” governing the area of **social rules for road freight transport** has been progressively set up by the EU since 1969 before having been 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, 2012¹⁸).

⁷ 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.

⁸ 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.

⁹ 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.

¹⁰ 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.

¹¹ 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.

¹² 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).

¹³ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

¹⁴ 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.

¹⁵ 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.

¹⁶ 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.

¹⁷ Cited above, see note 5.

¹⁸ Cited above, see note 5. 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*).

These three EU laws, complemented by Regulation (EEC) No 3821/1985¹⁹ (referred to as the “**Tachograph regulation**” on the recording device²⁰) and Directive 2003/59/EC²¹ (referred to as the “**Training Directive**” introducing the Certificate of Professional Competence, CPC), are the pillars of the normative discipline that is currently in force in the domain of social aspects for the road freight transport sector.

Globally, this group of provisions embodies a substantial and widespread agreement around 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:

- first, **securing a reasonable and healthy working environment for professional drivers** by avoiding their exploitation;
- second, **contributing to the efforts for 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 be a cause of severe road accidents.

To this end, 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 been tightened by the liberalisation process in course since the 1990s. In this regard, the EU norms apply to all professional drivers irrespective of their nationality, as the purpose is here to encourage a 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 bring 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 561/2006²² establishes the legislative framework that governs driving times and rest periods of professional drivers and undoubtedly plays a pivotal role in both improving road safety and working conditions and promoting a fair competition amongst drivers across all EU Member States.

The **core element** of the Regulation, which has entered into force on 11 April 2007 replacing Regulation (EEC) 3820/85²³ that had ruled drivers’ hours for almost 20 years, is the setting of the **maximum driving hours and minimum rest** for drivers of vehicles

¹⁹ 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 underway (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)*).

²⁰ Cited above, see note 5. On this point see Section 2.2.1 (*Introducing the tachograph as device for recording drivers’ activities*).

²¹ 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.

²² Cited above, see note 6.

²³ Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonization of certain social legislation relating to road transport.

with a permissible mass higher 3.5 tonnes²⁴ (see Box 1 below for the key requirements laid down by the Regulation).

Importantly also, the Regulation makes the onboard fitting of the digital tachograph compulsory on all new vehicles registered in the EU from 1 May 2006 (Article 27 of the Regulation)²⁵.

Finally, of further 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 the transport undertakings (calculated based on the number of working days) and offences detected. The most recent report has been published on 12 September 2012 and covers the two-year period 2009-2010 (EC, 2012c).

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

Key requirements of Regulation (EC) No 561/2006 are that:

- the total daily driving period shall not exceed nine hours, although twice a week it can be extended up to 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 are of at least 45 minutes (separable into 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 (Article 8(2));
- the weekly rest is 45 continuous hours, though it can be reduced to 24 hours (Article 8(2)).

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

Separately, in March 2006, the EU adopted Directive 2006/22/EC²⁶ on the organisation of the working time of persons performing mobile road transport activities, which is usually referred to as the “**Enforcement Directive**” since it contains a set of provisions whose purpose is to **enforce compliance and ensure application of the drivers’ hours rules** established by Regulation (EC) No 561/2006.

Centrepiece and key value of the Directive is the effort to promote a common approach to the interpretation of the rules, the enforcement of practices and infringement categorisation, as mirrored by its provisions which lay down common procedures for, and

²⁴ In comparison with the previous norms, the new discipline has been extended to also include passenger vehicles with more than nine seats (previously 17 seats).

²⁵ 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 tachograph is mandatory for all AETR Contracting Parties.

²⁶ Cited above, see note 7.

minimum level required of, the checks to be carried out in the Member States (see Box 2 below).

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

For the last reporting period 2009-2010²⁷:

- **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 the transport undertakings** should have been carried in a proportion of at least 30% and 50% respectively;
- Member States should undertake at least six **concerted roadside checks**²⁸ per year.

Source: EC, 2012c.

In 2009, Annexes I (*Checks*) and II (*Standard equipment to be available to enforcement units*), and Annex III (*Infringements*) of the Directive 2006/22/EC have been further modified when Directives 2009/4/EC²⁹ and 2009/5/EC³⁰ came into effect.

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

The changes introduced in Directive 2006/22/EC aim, therefore, at preventing the possible installation of devices that could defraud the digital tachograph system, while introducing a new infringement classification into the EU regulations, whereas 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/EC³¹ is usually known as the "**Road Transport Working Time Directive**" (or simply the "Working Time Directive").

²⁷ 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 (26th report from the Commission on the implementation of the social legislation relating to road transport).

²⁸ 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 territory.

²⁹ 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.

³⁰ 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.

³¹ Cited above, see note 8.

This Directive applies to mobile workers (basically drivers, crew and other travelling staff) who operate on vehicles which fall under the discipline provided 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 revision³² of this Directive tabled by the EC, the working time regulations have also become applicable to the category of self-employed drivers, albeit they were initially and temporarily excluded from the scope of the Directive.

Worth noting is 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;
- sets minimum daily/weekly periods of rest and adequate breaks.

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

Therefore, the Working Time Directive **fills this 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 side, the amount of time dedicated to working activities and, on the other side, the amount of time excluded from working activities (which are considered to be breaks or rest periods, or periods of availability).

Box 3 on the next page summarises the key requirements introduced by Directive 2002/15/EC.

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

Looking specifically at its provisions, 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, albeit 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 a period of four months.

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

³² European Parliament, TRAN Committee, Report A6-0120/2009 (Rapporteur MEP Marie Panayotopoulos-Cassiotou).

2.3 The “Road Transport Package”

The second *momentum* that marks a major development in the EU legislation concerning the commercial road transport sector is represented by the adoption on October 2009 of the “**Road Transport Package**”.

This new normative body consisting of Regulations (EC) No 1071/2009³³, 1072/2009³⁴ and 1073/2009³⁵ seeks to introduce European-wide rules for access to the profession of transport operator, whilst regulating in a more efficient fashion the market for the international carriage of goods (cabotage included) and passengers.

In view of the EC, the effort is, therefore, towards the **establishment of a legislative framework** that can more adequately respond to new market needs and changed working conditions in the commercial road transport sector, and create a more level-playing field for international operations so to reduce distortion of market competition, while in parallel:

- raising the professional standards of transport operators;
- reducing the administrative burden for both operators, enforcers and regulators;
- 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/EC³⁶, Regulation (EC) No 1071/2009³⁷ lays down a set of norms that introduce a more restrictive legislation on the admission to the occupation for both road haulage and road passenger transport operators. Its goal is to **better 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 in parallel their consistency and, therefore, the effective implementation across all EU Member States.

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

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

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

³³ Cited above, see note 9.

³⁴ Cited above, see note 10.

³⁵ Cited above, see note 11.

³⁶ 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.

³⁷ Cited above, see note 9.

The recital of Article 3 is linked with the provision 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 the discipline of the **transport managers**. Article 4 of the Regulation imposes to each road transport undertaking to employ a transport manager who holds the CPC (certificate of professional competence) and takes the responsibility to permanently and effectively manage the transport activities of the undertaking. In the case that the transport manager is contractually hired as being self-employed, the Regulation sets a limit to the number of companies (four) and to the number of vehicles (50) a single transport manager may be responsible for.

2.3.2 Regulation (EC) No 1072/2009

The provisions on access to the road haulage market (cabotage) contained in Regulation (EC) No 1072/2009³⁸ have come into effect since May 2011. The new legislative framework consolidates and merges the previous norms laid down in Regulations (EEC) No 881/92³⁹ and 3118/93⁴⁰) and in Directive 2006/94/EC⁴¹ with the purpose of simplifying, modernising and further harmonising current rules on cabotage operations.

Under Article 1 the new Regulation confirms and seeks to better clarify the temporary nature of cabotage operations, so to avoid any potential market distortions or disturbances. As further stated by Article 8 cabotage should be, in fact, limited to a maximum of three operations within a period of seven days, and should also performed in transited 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 the Regulation (EC) No 1072/2009 has intervened in the view 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 to assess 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 2013⁴².

³⁸ Cited above, see note 10.

³⁹ 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.

⁴⁰ 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.

⁴¹ 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

⁴² Additional insights on the issues related to the road cabotage market will be provided by the EP study on the development and implementation of the road cabotage across the EU. The study is expected to be published in parallel to the current study.

2.4 Other EU laws relevant for the commercial road transport sector

As mentioned in the introductory section, alongside the EU rules governing the social aspects as well as the access to the market and occupation, a set of additional pieces of legislation 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 the road transport operations.

This is clearly the case of the provisions of **Regulation (EC) No 593/2008**⁴³ 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).

Importantly, 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) makes applicable the law of the host country.

Directly linked to Regulation (EC) No 593/2008 is **Directive 96/71/EC**⁴⁴ on the posting of workers in the framework of the provision of services (also referred as to **Posted Workers Directive**⁴⁵).

Scope of this Directive concerns the free movement of workers within the EU Member States and points at clarifying 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 (Article 3(1)) a set of minimum standards (for instance, working time hours, discrimination, healthy 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**⁴⁶ which modernises and simplifies the social security coordination rules as previously established by Regulation (EEC) No 1408/71 of 14 June 1971.

⁴³ Cited above, see note 12.

⁴⁴ Cited above, see note 16.

⁴⁵ 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 those circumstances that involve the posting of workers. The Guide can be downloaded from the publication section of EC, DG EMPL's website.

⁴⁶ Cited above, see note 14 (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 the employment and working conditions** that, on the contrary, are experiencing a general and sharp deteriorating trend for both resident and non-resident professional drivers.
- Stakeholders frequently report on **social dumping practices, irregularities and abuses** committed by EU15 hauliers to minimise costs.
- Stakeholders also affirm that **enforcement mechanisms on dumping practices do not exist or are very poor**. Standards widely differ amongst countries, while sanctions and penalties are not harmonised across all EU Member States.
- A **substantial convergence** emerges between the feedback received by the stakeholders and the answers collected by the 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 relied. 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 the data and information (both quantitative and qualitative) that the study has collected 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 the whole 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. Phone interviews were also further 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 took place on a continuous basis between December 2012 and February 2013. In total, 16 questionnaires were circulated, and responses were collected from eight Member States. This represented a response rate of almost 56%⁴⁷.

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

For drivers, the consultation exercise drew information from direct interviews that were conducted twice (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 facilitate clear and factual feedback collection.

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

A total of 24 drivers were interviewed, whose provenance is equally divided between the EU15 and EU12 Member States.

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

As introduced 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 occurred during the 1990s, the creation of the Single Market and the introduction of the cabotage rights that have made it possible to supply transport services within the EU from any establishment created in a host country – has represented the **leading vector 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 have been made further extensive after the EU enlarged by 12 new Member States in two steps, in 2004 and 2007.

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

All this leans the entire road freight transport system towards a **harsh and often uncontrolled competition** that counts more on a continuously decreasing prices instead of a greater degree of organisational efficiency and quality of the services offered.

⁴⁷ 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.

For many transport companies the response to the need of coping with persistently fiercer competition and the inability to match the prices offered on the market relies upon the achievement of gains in efficiency by primarily **minimising costs**, and operational costs in particular.

Frequently, this has been obtained through:

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

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

This has, though, not happened since **wide differences in terms of labour and social market structures and regulations as well as in terms of 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 hand, the road freight transport sector is actually facing a divergence between these two components as witnessed by a **general deterioration of social working conditions** worsened by a global and regressive downward trend in wage levels.

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

The importance of the problematic issues that affect the 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 the employers who would force drivers to drive and work without the necessary conditions under European legislation being respected, especially as far as rest times and salary they are entitled to are concerned;

- technical problems with the digital tachograph when the vehicle engine is switched off, but the tachograph switches to "rest time", even though the driver is, for example, loading or unloading his/her vehicle.

Source: Compilation by the authors based on EP

In particular, the pressure on restraining labour costs has led many transport companies to adopt practices that result in market distortions and unfair employment conditions. Examples in this respect 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 conditions (ETF, 2012b; Hermann, 2003; Hilal, 2008). Through such shell companies operators can make use of contractual schemes for hiring and irregularly posting to EU15 Member States **third-country nationals** (mainly from EU12 countries, but also from neighbouring countries such as Turkey, Ukraine and Moldova);
- **(false) self-employed drivers**, to which transport companies sub-contract part of their transport activities taking advantage from the fact that self-employed drivers are not required to comply with rules on maximum working time;
- **manipulation of the digital tachograph**, which occurs when drivers are paid under mileage contracts, which is an incentive to drive more than permitted and, therefore, to tamper with the recording device.

Further, many transport employers have introduced **performance-based salaries** (per km driven or number of loads) as well, which allow them to pay a lower amount of social contributions. This risks drivers being put under a constant time pressure that often results in working for long hours, being overstressed/overtired and presenting a serious risk to road security and safety.

As a whole, all 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) ⁴⁸.

This manner of conceptualising social dumping practices focuses 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 down wages and labour standards).

⁴⁸ 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 looks at 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).

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

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 States⁴⁹ 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.

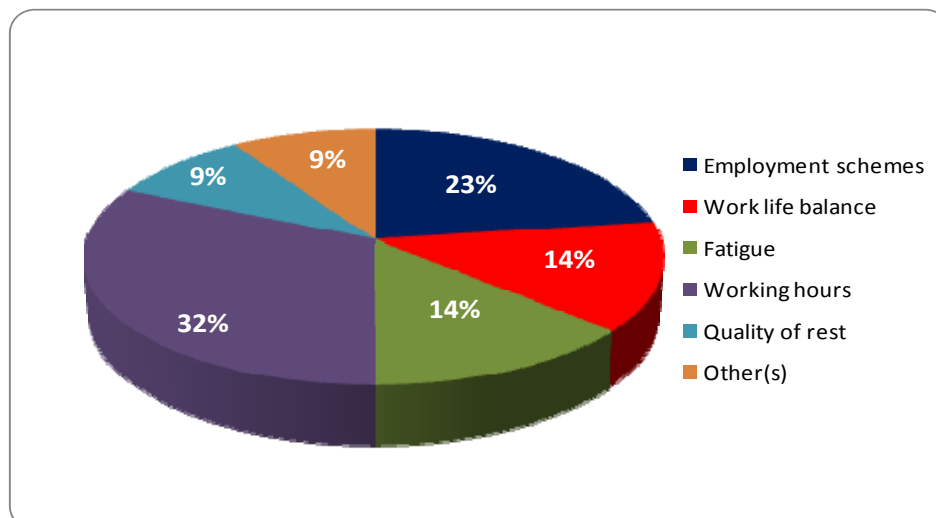
As noted in Figure 5 below, **working hours** emerge as the most important amongst all components of the social dimension in the road freight transport sector, not least because it affects all the other elements listed. Comments mainly stress **two aspects**, those being:

- on the one side, those 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 earn more;
- 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. Here, Section 3.3.1 describes in more detail the concerns that are raised with respect to the use of disloyal employment practices.

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 elements of the social dimension in the road freight transport sector



Source: Compilation by the authors.

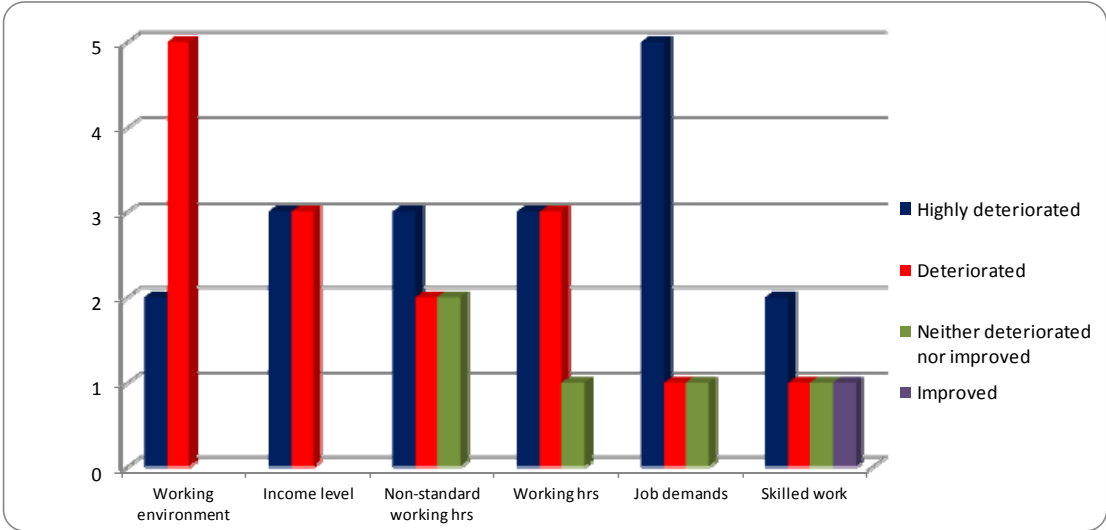
⁴⁹ Cited above, see note 47.

That being said, all consulted stakeholders share the global view that both resident and non-resident professional drivers have to increasingly cope with a **less favourable social and working environment**, whereas in particular employment schemes, income levels, work-life balance and quality standards of their life are touched upon by a general worsening trend.

As summarised in Figure 6 below, over the last five years regressive steps have occurred 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 at significantly lower wage level EU12 drivers to replace EU15 ones;
- **job demand**, in the sense that drivers are increasingly requested to accept a higher degree of task flexibility as well as a larger amount of non-driving activities, which inevitably increases their overall daily and weekly work load and, moreover, puts them under pressure to respect delivery times;
- **income level**, 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 (false) self-employed for the same companies in which they were previously employed.

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



Source: Compilation by the authors.

In addition to the critical elements presented above, other significant issues concerning social and working conditions in the road freight transport sector have been identified through the responses provided by the stakeholders.

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 the **lack of enforcement and controls**, that is, the European legislation is not 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 is 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.

Looking further at the principal causes explaining the deteriorating trend described above can identify the following:

- **fewer permanent jobs in the road freight transport industry**, which has pushed many drivers to accept employment and working conditions that are detrimental to their social rights;
- a **fierce competition among transport undertakings** that has led to an **increase in outsourcing and contracting** in comparison to ten years ago, and that has taken advantage of the **persisting wide salary, social and fiscal disparities** amongst the EU Member States, but which fuelled at the same times 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 harmonization** with regards to enforcement practices, sanctions and penalties across the EU Member States. Stakeholders argue that enforcement standards largely differ, 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 self-employed drivers, who often are "false";

One stakeholder specifically commented 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 broken into, whereas each intermediate step produces a reduction in the prices and, consequently, in the global price of the order. The last component of the transport chain, that is the operator that concretely performs the transport activity, may earn a final price which is lower than the minimum set either by the law (if self-employed) or by the employment contract (if employed).

In particular, stakeholders argue that, although the EU legislative developments occurred 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 a social, fiscal and income harmonisation across the EU Member States is still far from being fully achieved**.

Stakeholders observe that the **convergence process between the EU12 and EU15 Member States is rather negative** because it has not encouraged any upward trend in the income and salary levels of the EU12 countries towards the EU15 standards. Oppositely, stakeholders comment that the above-mentioned disparities between these two groups of Member States are a primary incentive to improper recourse to lower cost drivers from the Eastern European countries but, *de facto*, determining conditions of 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** that would be, on the contrary and in the light of its current conditions, highly detrimental to the fair competition and sustainability in the sector (ETF and IRU, 2012⁵⁰).

That said, a closer analysis of the stakeholders' responses to the questionnaire allows to be distinguished a number of elements that stand out with a particular importance and can be grouped under the three following themes:

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

3.3.1 Employment schemes and income levels

The first issue that, according to the consulted stakeholders, is critical to get a proper understanding of the real social and working conditions of professional drivers concerns the **employment schemes and labour contracts** they are applied to.

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

Stakeholders affirm that the situation critically affects both groups of **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 the 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% in comparison to their previous salary level. The only market segment where still resident drivers hold an acceptable salary level is the transport of goods locally, or the transport of delicate, perishable or high-value goods.

⁵⁰ ETF and IRU (2012). *Agreement between the IRU and the ETF on the joint statement concerning the opening of the EU road Haulage market.*

For **non-resident drivers**, the situation portrayed by the stakeholders is, however, **even more precarious**. In this respect, findings of a recent ETF study⁵¹ (2012b) reveal that:

- 60% of non-resident drivers are regularly paid based on the number of km driven, with a going rate amounting at € 10 per 100 km (performance-based salaries are in principle prohibited by Article 1 of Regulation (EC) No 561/2006);
- 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 implies a serious difficulty in asking for help when needed, advice or representation.

Non-resident drivers are normally and “officially” hired through “**letter-box companies**” that are established by Western operators in the Eastern European Member States, where costs are significantly lower for salaries, social contributions and taxation in comparison to the EU15 countries.

As Box 5 on the next page illustrates, **their average net salary roughly ranges between € 250 and € 450**, that is seven to eight times lower than the salary levels paid to Western drivers (which averagely stretches between € 2,500 and € 3,000).

Box 5: Average salary of Eastern drivers

The average gross 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 fixed daily subsistence allowance varying between € 40 and € 45 is added. In total, the monthly net salary amounts on average to € 1,500. Importantly, as pointed out by ETF, the daily allowance is not taxed and does not count for social contributions, pensions, health insurance. Data are confirmed by trade unions and drivers.

According to ETF (ETF, 2012b⁵²), approximately 95% of drivers have employment contracts that entitle them to paid holidays, but in fact they are not paid for the weeks spent at home. This specially occurs when drivers 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 out of their pocket for the sanctions in case of infringement to driving time and rest rules.

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 the drivers by making use of employment schemes that enable the saving of a large proportion of the costs that would be incurred by hiring the same personnel in the Western country.

As far as vehicles are concerned, they **always start and end the transport operations from the EU15 base of operation** while drivers, in most cases, live and rest (including

⁵¹ ETF (2012b) *Modern slavery in modern Europe? An ETF account on the working and living conditions of professional drivers in Europe*. Brussels: ETF.

⁵² Cited above, see note 51.

the weekends) at the premises of the undertaking they work for, or onboard the vehicles or accommodated in warehouse or other places arranged or improvised for this purpose.

According to ETF (2012b), **approximately 95% of the non-resident drivers** take their breaks and rest periods – weekends as well - 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 by minivans and the length of their transfer extends from 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 are not eligible to any social or health coverage scheme**. Stakeholders also stress that the employment contracts they are subject to make it impossible to claim and have access to social benefits or compensation in case of 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 of healthcare, for which it is hardly ever possible to precisely determine who is actually responsible for bearing the costs of the medical care. Often employing companies do not pay healthcare contributions or medical insurance so drivers are obliged to cover them on their own (ETF affirms that approximately 40% of the drivers cover more than 75% of their health care costs).

Given this general backdrop, through the stakeholders consultation the authors have collected and brought together various examples of disloyal practices that are put in place by EU15 transport companies. Such practices, which are described in Box 6, Box 7 and Box 8 below and on the next pages, include enlightening examples of “letter-box companies”, illegal cabotage, and social dumping. Of interest is also the example illustrated in Box 9 which reports on the Netherlands cases of irregularities committed by hauliers in a sensitive segment of the road freight transport market, such as the transportation of dangerous goods.

Box 6: Illegal employment schemes for non-residents: a case of a ‘letter-box company’ from Belgium

In **Belgium**, the UBOT-FBTB trade union has been investigating since 2010 the phenomenon of “letter-box companies” created by Belgian operators in Slovakia and in its neighbouring countries. Site visits acknowledged that the Slovak offices of the Belgian operators are usually housed into buildings hosting more than one (letter-box) company, as witnessed by the absence of neither permanent parking areas nor permanent warehouses inside or in the vicinity of the buildings.

According to the Belgian trade union, confirmation was given about the fact that warehouses are only located in Belgium where loading and unloading operations actually take place, while the Slovak offices are simply in charge for registering the vehicles (which only run in the EU15 market and never in Slovakia or in the neighbouring countries), storing the tachographs or recruiting the drivers. Trucks are normally registered in Slovakia, but are driven in Belgium only and never driven 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-FBTB.

Box 7: 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 United Kingdom by making use of 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, on the contrary, are brought by minivans to the Netherlands where they work four weeks consecutively with one week of rest.

Salary amounts at € 350 per month irrespective of the number of hours worked, which is supplemented by a daily subsistence allowance of € 40 per day. Importantly, this is the only money drivers have to live on. During their four working weeks, drivers live in their trucks, while during the weekend they live on the road parking to bivouac.

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 and they spend their rest periods by living in barracks built up on the site of the company.

A third case refers to another Dutch transport company that makes use of Romanian drivers. The practice is analogous to that ones previously described, and once more 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 inside improvised containers located inside the parking of the Dutch operator.

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

Box 8: 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 over the last few years has increased in size and frequency. This practice has been identified with respect to Romanian drivers that were, firstly, dismissed by their respective Italian transport undertaking and, secondly, recruited again in Italy through a Romanian temporary work agency.

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

Another example occurring in Italy is the port of Trieste (ETF, 2012b⁵³). 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 let to wait in the port till 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 amongst others with no 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 seem to be (illegal) cabotage, mainly within Italy, while the rest is international transport within the EU. They are paid normally per day of driving.

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

Box 9: Irregularities in the transport of dangerous goods: a case of "endangered drivers" 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, proven to be more fictitious 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 the Rotterdam area called "Botlek". Being often paid under (illegal) mileage contracts, drivers are encouraged to drive more hours than permitted (and than is considered safe) and, as it happened in some circumstances detected by the police, to tamper with the digital tachograph.

The problematic issue further refers to 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 released upon completion of ad hoc ADR training (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.

(Continues on the next page)

⁵³ Cited above, see note 51.

Box 9: Irregularities in the transport of dangerous goods: a case of “endanger red drivers” from the Netherlands

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

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 in getting access with tankers to the chemical or oil plants, but once out the semi-trailer is uncoupled at 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 less to the hauliers because it is carried out by cheaper personnel.

Source: FNV.

3.3.2 Raised problems in application and enforcement of the European legislation

The reasoning and analysis made in the preceding paragraph are strictly interlinked with their implications in terms of enforcement and application of the relevant EU legislation.

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

Box 10: A permanent observatory to increase effectiveness of enforcement and controls: a case from Italy

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

The observatory will aim 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 respects to the main components and trends of the freight road transport.

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

For instance, as for **flagging-out practices**⁵⁴ such as the “letter-box” companies, Regulation (EC) No 1071/2009 has made them illegal by introducing stricter conditions for establishing foreign companies which, according to the recital of 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-FBTB, the Dutch FNV and the Italian FILT-CGIL), such practice still exists.

In a similar way, **performance based payment** (either calculated on distance travelled or number of loads) is in principle prohibited by Article 1 of Regulation (EC) No 561/2006. However, a derogation is included in the same article when it ambiguously says unless “*payment is 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.

Problematic seems to be, notably, the **enforcement of the 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.

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. The reading of Directive 96/71/EC should be interpreted in combination with the **Rome Convention of 19 June 1980**⁵⁵ (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, the Directive has introduced by mean of Article 3(1) a set of minimum standards (for instance, working time hours, discrimination, healthy and safety requirements) that the country of destination is obliged to guarantee.

Stakeholders claim, however, that this Directive, which dates back to 1996, **is no more capable of adequately responding to the needs and interests** of an 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 end up encouraging social dumping practices instead of providing opportunities for social and economic growth.

⁵⁴ 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.

⁵⁵ Convention 80/934/ECC on the law applicable to contractual obligations opened for signature in Rome on 19 June 1980.

That said, stakeholders remark that a **correct application of Directive 96/71/EC**⁵⁶ would still represent a key passage in forcing transport companies to comply with social obligations in favour of their employed non-resident drivers. Nevertheless, they argue, the "Posting Directive" is neither enforced nor controlled in spite of a specific provision set by 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**"⁵⁷ (see Box 11 on the next page).

Indeed, the "Koelzsch case" is of particular significance because the ECJ has intervened with the purpose of **interpreting some aspects of the Rome Convention** cited above, and in particular the provision laid down in Article 6 of the Convention in relation to the law applicable to individual contracts of employment. In this respect, the "Koelzsch case" does not represent the first judicial case in which the ECJ has been asked to interpret the Rome Convention⁵⁸ but, conversely and more importantly, it is the first case in which Article 6 has been put under scrutiny and interpretation with regard to the law applicable to employment contracts.

The ruling of the ECJ has confirmed that in presence of an employee that 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 of which the legislation apply to contractual obligations.**

The implications of this ruling with respect to the work carried out in the international transport sector are evident. In particular, they confirm that all non-resident drivers from the Eastern European Member States employed by Western 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 be owned with the social and salary standards of the country of performance and not of that of origin.

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 reducing at the same time the recourse to social dumping practices.

⁵⁶ Cited above, see note 16.

⁵⁷ Heiko Koelzsch v État du Grand-Duché de Luxembourg case (C-29/10, judgment of 15 March 2011).

⁵⁸ The first judgment in which the Court interpreted the Rome Convention was that in Case C-133/08 *ICF* [2009] ECR I-9687, which concerned the interpretation of Article 4 of the Convention, which sets out the rules for determining the applicable law if the parties to the contract fail to make a choice.

Box 11: 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 referred to the ECJ asking 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 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 second, brought the matter before the Tribunal du travail de 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* 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.

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 recalled by 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, which refers to the abuse of the European legislation that give cause to illegal cabotage operations.

According to the 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.

Stakeholders (ETF, 2012c) affirm, however, that the interpretation provided by the European Commission⁵⁹ *de facto* abolishes the seven-day limit and promotes three cabotage operations after each international carriage, with as many as possible fitting into a period of seven days. The Commission equally interprets 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 form⁶⁰).

⁵⁹ Cited in ETF, 2012a.

⁶⁰ 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 as from 2 July 1961. At present 55 Signatory Parties have adhered to the Convention.

Box 12: Illegal cabotage operations: cases from Italy

The Italian trade union FILT-CGIL reports of various cases of illegal cabotage operations that have been identified occurring in the Marche region where international transport companies have set up their logistics headquarters, but employ under “letter-box companies” schemes Eastern European drivers (mainly from Bulgaria, but also from Poland and Ukraine). Such drivers operate either nationally 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, through such practices unfair transport companies can offer transport prices that are between 20% and 25% lower than the minimum tariff set by the national legislation, with subsequent disruptive effects on the market, mainly to the detriment of the responsible transport undertakings.

Source: FILT-CGIL.

A last issue that stakeholders raise concerns Directive 92/106/EC⁶¹ on the establishment of common rules for certain types of combined transport of goods between Member States. Combined transport is defined by Article 1 of this Directive as *“the transport of goods between Member States where the lorry, trailer, semi-trailer, with or without tractor unit, swap body or container of 20 feet or more 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 make the initial or final road transport leg of the journey”*.

Relevant to the scope of this study, Article 1 also adds that a combined transport is that which is performed *“within a radius not exceeding 150 km as the crow flies from the inland waterway port or seaport of loading or unloading”*. This opens for road transport companies, that are established in a Member State and are compliant with the conditions of access to the occupation and access to the market for transport of goods between Member States, the possibility to perform as part of a combined transport operation between Member States the initial and/or the final road haulage legs.

On this point, ETF raises concerns about unfair competition and dumping practices that in their view are currently expanding in port and sea areas. Criticisms refer to the exemption from the cabotage rules that, at present, Directive 92/106/EC acknowledges to combined transport operations.

More specifically, ETF argues that cabotage rules do not apply to the 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, ETF stresses the need that cabotage rules should be extended to combined transport as well.

⁶¹ 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.

3.3.3 Quality life standards

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** which are mainly associated to cardiovascular, cervical, dorsal and spinal pathologies that often result from a poor quality of life, nourishment and rest.

Notably, professional driving may be considered as a **potentially obesogenic activity** due to the fact that professional drivers spend the largest proportion of their working time in a seated position, but performing an activity – driving – which is at the same time highly stressful. Not surprisingly, in the professional drivers group obesity and arterial hypertension are much more frequent diseases than in the rest of the active population (LUTB, 2011).

Box 13: Stress-related factors

As a German survey (ZF, 2012⁶²) has underlined by interviewing more than 450 professional drivers, factors of stress mainly refer to permanent time pressure, long driving hours (often under time pressure), unsocial working times, waiting times for loading/unloading their lorries.

Analogously, as highlighted in a further German study (Baier, 2012⁶³) involving about 1,000 drivers, 45% of interviewees have declared that the driving profession is "burdening" or "very burdening".

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

These activities are a **potential source of fatigue and stress**, chiefly because long loading/unloading or waiting times may erode considerable part of the global daily working time, hence reducing the time available for driving. As various stakeholders confirm, the consequence is that drivers may be tempted to drive faster or irrespectively of the rules on driving times and rest periods.

Importantly, in this respect **80% of non-resident drivers** quote fatigue as a major problem, but they do not speak out because they are frightened of losing their job (ETF, 2012b⁶⁴). Therefore, securing the drivers the possibility of adequate rest is regarded as a necessary requirement to put them in the best conditions to safely and efficiently perform their professional activity.

⁶² ZF Friedrichshafen AG (2012). ZF-Zukunftsstudie Fernfahrer. Der Mensch im Transport- und Logistikmarkt.

⁶³ Baier, J. (2012). *Trends im Straßengüterverkehr - Aktueller Status und Meinungen der Berufskraftfahrer in Deutschland*. Hochschule Furtwangen University.

⁶⁴ Cited above, see note 51.

Box 14: Women and the profession of drivers

As found by the authors, only a limited percentage of professional drivers are women (IRS and TRT, 2009⁶⁵). Therefore, stakeholders were also asked about the main issues that still prevent women to increasingly access the profession of drivers.

Stakeholders confirm that the road freight transport sector does not guarantee a workable family friendly work and life balance, therefore it does not encourage more women to be drivers.

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

- 95% of non-resident drivers spend their rest time onboard their lorries;
- 80% of non-resident drivers daily cook and eat their own food on-board their lorries;
- 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 15: The "Asiadok": a "favourite" rest area of non-resident drivers at the Port of Antwerp, Belgium

An important example witnessing the precarious conditions in which non-resident drivers usually live is provided by the "Asiadok" 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 met at the "Asiadok" where they are used to spend their weekly rest times.

Drivers mainly come from Poland or Lithuania and other countries, and on average stay in Belgium two to three months 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 that will drive the trucks from Belgium (the trucks remain in Belgium).

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

On this issue, the opinion of the stakeholders on the **quality of parking areas** is of interest and their perspective is substantially agreed by the drivers that were interviewed in the course of the consultation.

In the stakeholders' views, the availability of parking areas with a sufficient amount of parking slots and where good quality services (nourishment, sanitation facilities, laundry, etc.) is guaranteed is a precondition for enabling drivers to **conveniently take an adequate rest** and, which is regarded as not less important, giving the drivers the

⁶⁵ Cited above, see note 1.

opportunity to also **socialise and converse** with their peers instead of spending the whole rest times closed in the truck cab.

Feedback from the stakeholders focuses on four main requirements that good quality parking areas should meet, that is:

- **parking areas should be sufficient and frequent in numbers.** Stakeholders recall 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 limit of driving time;
- **parking areas should be accessible.** Stakeholders think that the quality of many parking places along the European roads is poor. Lack or poor basic services (for instance laundry), poor cleanness of the sanitation facilities and for which no separation for female and male drivers exists, difficulties in accessing hot meals are some of the most critical issues reported by the stakeholders;
- **parking areas should be more affordable.** Stakeholders have raised the issue of unaffordable prices for getting access to the services offered by a parking station⁶⁶. On this point stakeholders say that drivers (especially non-resident ones) are not usually reimbursed by the transport companies they work for. Along with their salary, drivers are only paid a daily allowance with which they have to cover all costs incurred when they stop in a parking area. This is the reason, stakeholders conclude, drivers hardly often, or only for their basic needs, make use of the facilities provided by the parking area.
- **parking areas should be more secure.** Security and protection from crime attacks is a further sensitive issue. In this respect, the most recent available data (2007⁶⁷) jointly elaborated 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 16: Quality of parking areas: the case of Belgium

Since 2008, the Belgian trade union UBOT-FBTB has carried out an investigation about the general quality of the 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 at 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 5,627 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.

⁶⁶ 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 the Belgian highways amounts at 18.7 Euros. A litre of a common soft drink amounts at five Euros, while a portion of fresh fruit costs about two Euros.

⁶⁷ ITF and IRU (2007). *Attacks on Drivers of International Heavy Goods Vehicles*.

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

Number of parking areas visited	Nr of available parking slots	Nr. of trucks that actually parked	Over-occupation rate (in %)	Top 5 truck nationalities (by country of registration)
156	4,793	5,627	117.1%	Poland (14.8%) Belgium (12.9%) The Netherlands (11.6%) Germany (10.4%)

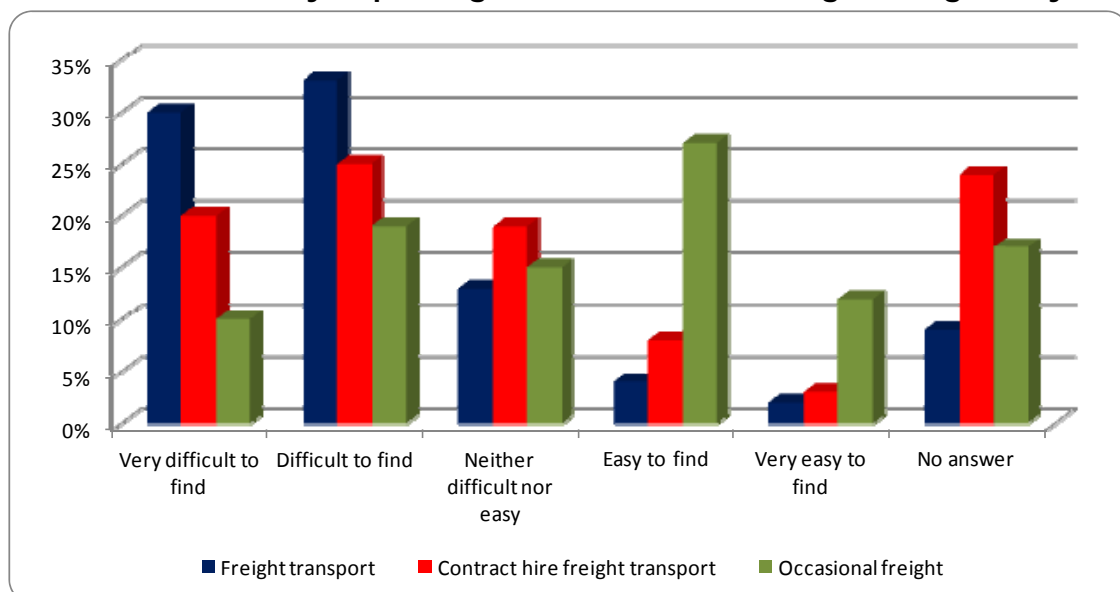
Source: Compilation by the authors based on UBOT-FGTB, 2012.

Complementarily with the analysis above are the conclusions drawn by two surveys respectively conducted by the Austrian trade union VIDA (VIDA, 2012) and the German trade union Ver.di. 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 made by VIDA is noteworthy because its reports on the opinions collected amongst **more than 800 female professional drivers** active in various transport segments, and of which 52.6% declared working in the road freight transport market. The survey took place over the time period 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 the parking areas in Austria. Overall, **quality was perceived as adequate** with 52.7% of respondents affirming to be "happy" or "very happy" with the parking areas where they stop or take their rest.

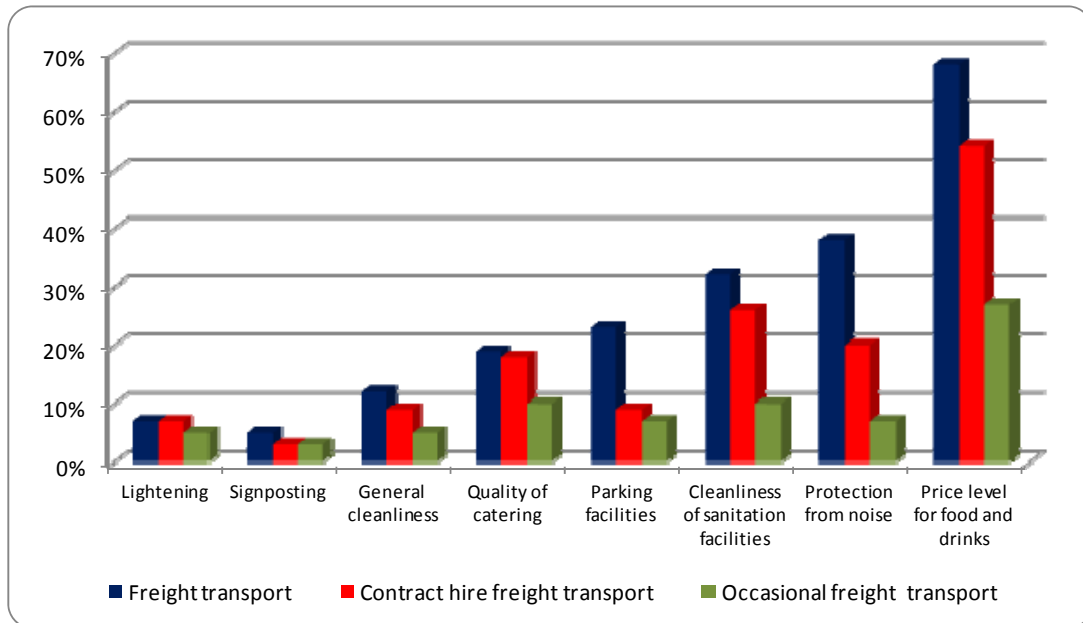
Criticism was, on the contrary, expressed with respect to **scarce availability of parking places during overnight rest**. As seen in Figure 7 on the next page, concerns were in particular raised by HGVs drivers which declared that parking places are respectively "very difficult" (30%) or "difficult" (33%) to find.

Figure 7: Accessibility to parking areas in Austria during overnight stay

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

Negative comments were also reported when interviewees specifically comment on the **cleanliness of sanitation facilities** and the price level for food and drinks, for which respectively 32% and 68% of responses declare to be "unhappy" or "very unhappy". As displayed in Figure 8 below, of interest is also that, with the only exception of "lightening", rates for "unhappy" and "very unhappy" responses were reported for road freight drivers constantly higher in comparison with the drivers of the other road segments.

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



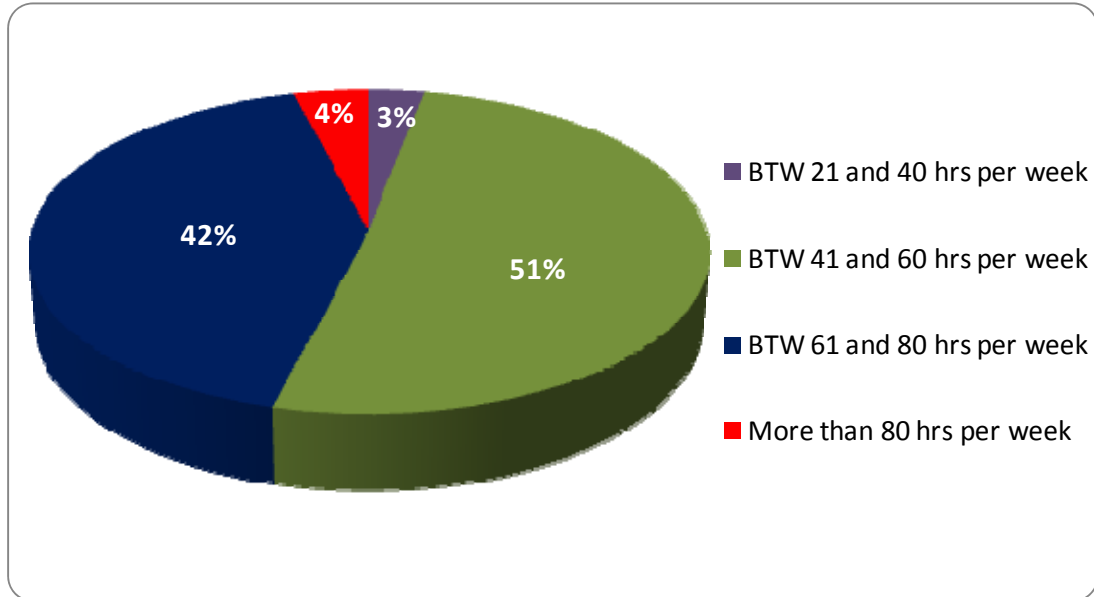
Source: Compilation by the authors based on VIDA, 2012.

As the survey targeted female drivers, feeling of **security and protection from crime attacks** was also asked. 9.4% of the respondents affirmed of having been "at least once" the victim of a crime attack, while 5.6% declared to have suffered 'more times' from a crime attack. Remarkably, 69.5% of drivers would be in favour of more adequate and effective security controls at parking places.

In a similar way to the investigation made by the Austrian trade union VIDA, the German trade union Ver.di carried out in 2011 an on-line questionnaire-based survey that involved the participation of approximately 200 professional drivers.

Amongst all the results obtained by the consultation, it was found (Figure 9) that the **average weekly working time** ranges between 41 and 60 hours for 51% of the respondents, while 42% of them declared working between 61 and 80 hours per week. Interviewees also responded that only rarely (49%) the **planning of their working time takes into consideration their personal needs**, while 22% of them declared that this never happens.

Figure 9: Working hours worked per week

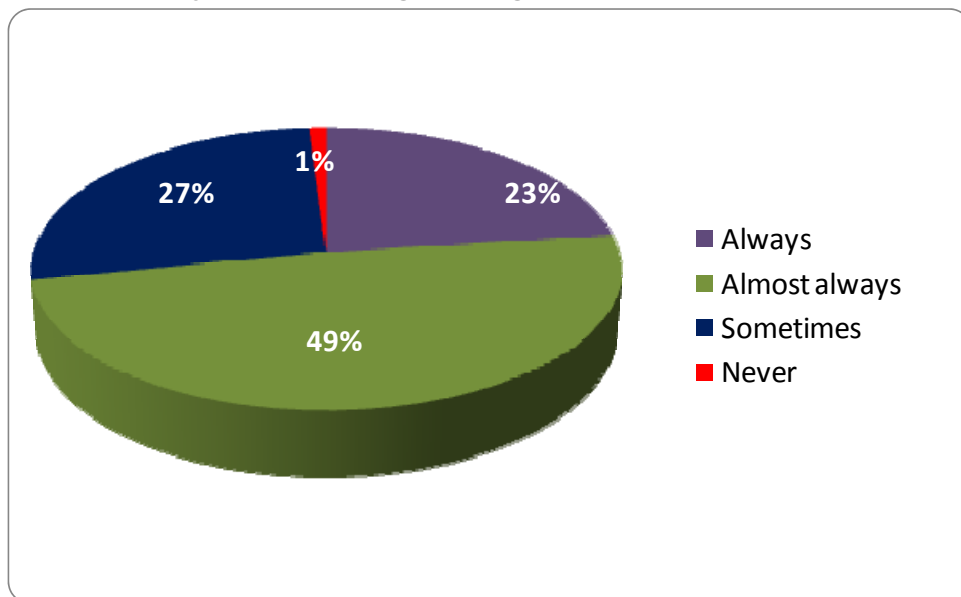


Source: Compilation by the authors based on Ver.di, 2013.

Looking further at driving times and rest periods, 72% of drivers answered that they “**always**” or “**almost always**” respect the limitation laid down by the European legislation (Figure 10 on the next page). This should not, however, disregard the fact that an important percentage of drivers (27%) replied that they respect only “sometimes” driving and rest times limits.

In this respect it is, however, notable to say that 47% of them also indicated driving under time pressure, while 38% declared having difficulties in reaching secure and appropriate parking places within the driving times and rest time limits.

Figure 10: Frequency in respecting driving times and rest periods



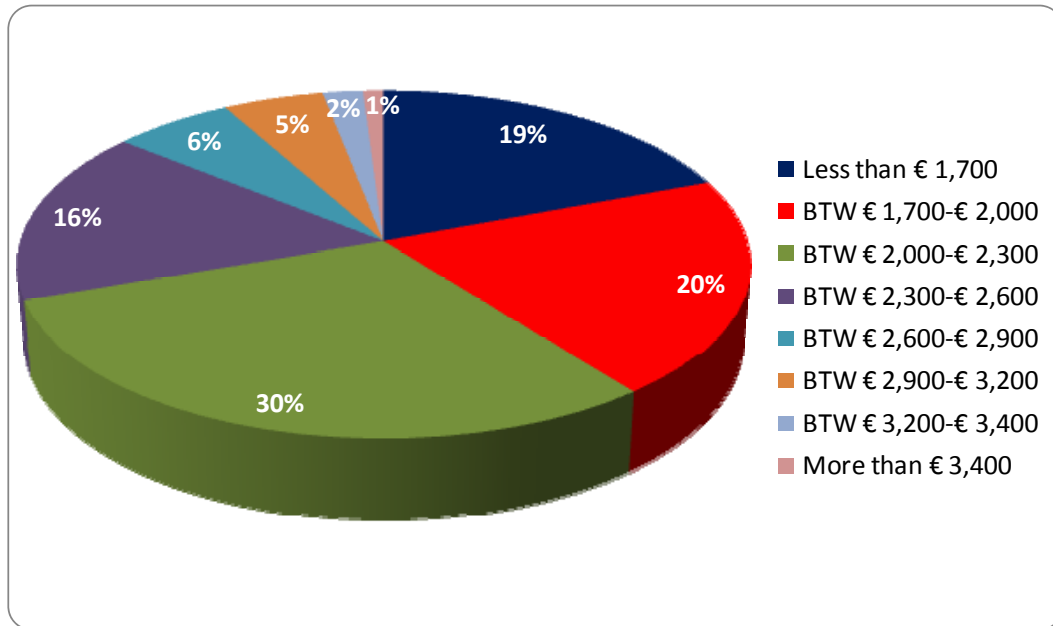
Source: Compilation by the authors based on Ver.di, 2013.

Of particular interest are the answers provided with respect to waiting times during loading and unloading operations, as 55% of drivers affirmed **to wait longer than planned** during

these operations. 61% of them also declared that such inconvenience “often” causes significant delays in their deliveries.

In comparing the information presented in Figure 11 on the salary level, it can be finally seen that the large majority (77%) of drivers declared to earn a fix salary ranging between € 1.700 and € 2.300. 16% of drivers indicated earnings between € 2.300 and € 2.600, while only 7% asserted to earning more than € 3.000 per month.

Figure 11: Levels of fixed monthly salary



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

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

As introduced in Section 3.1, consultation efforts also targeted single 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 investigations' findings indicate that there is a **substantial convergence** between the feedback received by the trade unions and the answers directly collected from the drivers. Like trade unions, **drivers stress the deterioration of their working conditions**, a **continuously decreasing income level** 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 17 below reports a selection of their comments and opinions.

Box 17: 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).

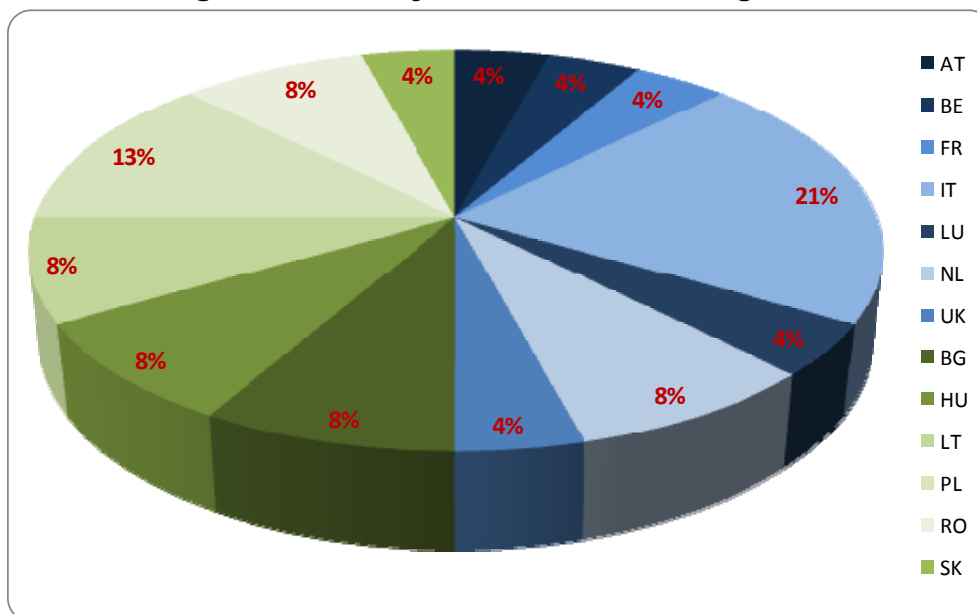
"My boss told me that to remain competitive, the only way for him is to cut down labour costs. So, I had no choice, either accepting a lower salary and keeping my job, or being replaced by Eastern European drivers who are much less expensive than I am" (comment from Dutch driver).

"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 drivers 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%) essentially due to the fact that interviews took place in a logistic platform located inside the Italian territory, specifically for the EU12 countries Poland is the country of origin for which the largest share of Eastern European drivers that 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.

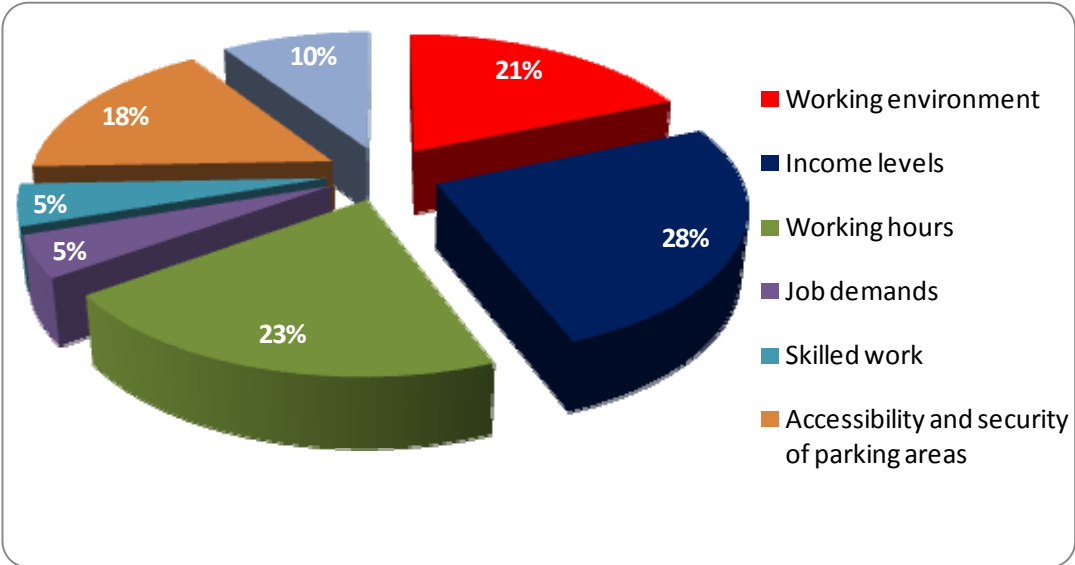
Globally, as displayed by Figure 13 on the next page, drivers affirm that, amongst all aspects that have deteriorated the most in their profession in comparison to five years ago, they are suffering from **decreasing income levels** (28% of responses) which, as some of them commented, are between 30% and 40% lower than in the past five years. EU15 drivers are in particular touched 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' responses.

Notably, 18% of responses targeted the **accessibility and security of parking areas**. This issue is particularly relevant to drivers, since they reported during the interviews a serious difficulty in reaching parking places that do not only provide sufficient available parking places, but that are also secure. Drivers claimed that in many occasions they were forced to stop and rest along the road because of over-occupied parking areas, which increases the risk of being subject to crime attacks. In some circumstances, drivers also reported to be fined by police because of overriding driving time limits while seeking to reach a parking area.

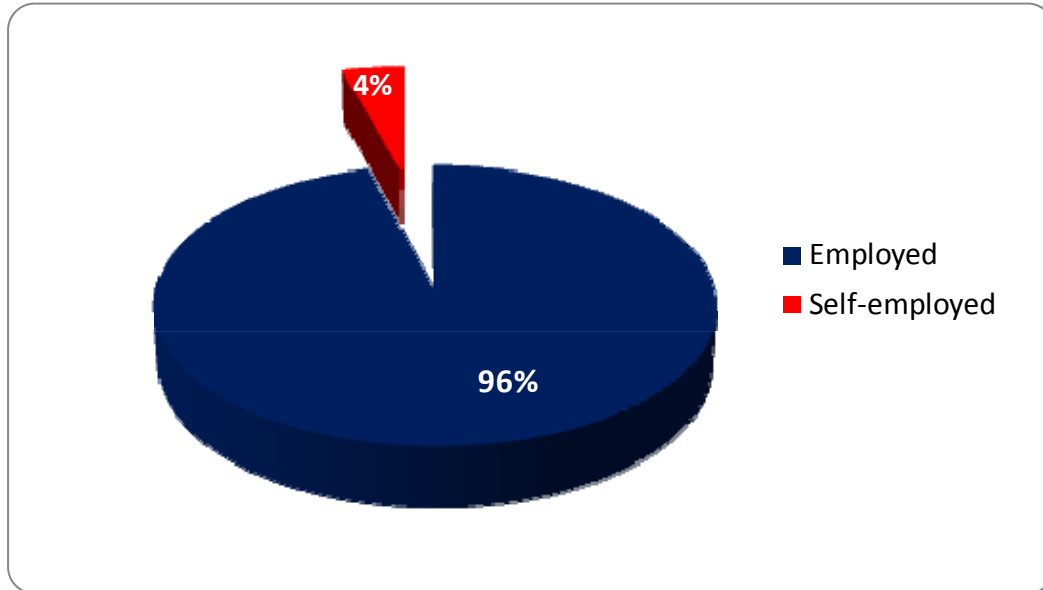
Finally, low percentages were measured for job demand and skilled work (5% each), while a remaining 10% of responses was treated as "other". In this respect, drivers negatively commented on not being paid for loading and unloading operations.

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



Source: Compilation by the authors.

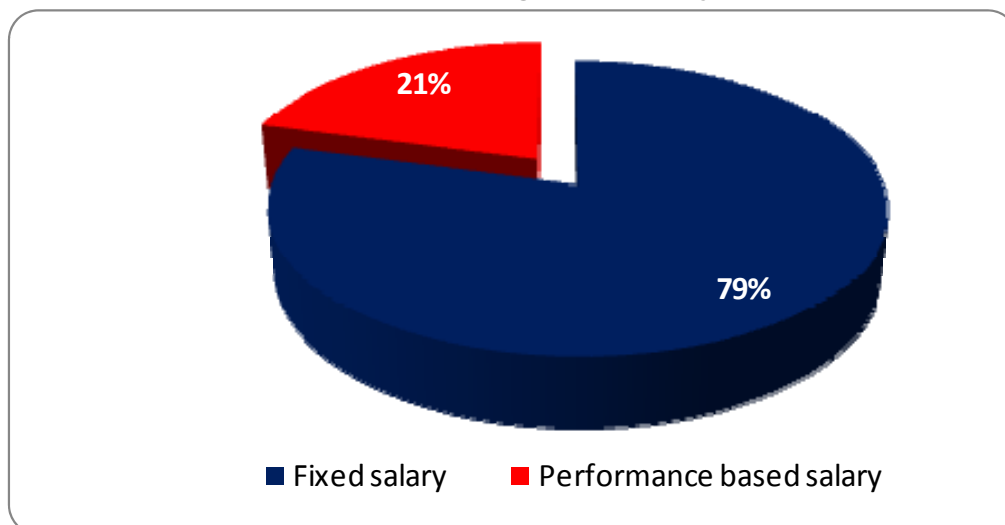
The comparative analysis in terms of **employment status** (Figure 14) revealed that the large majority of the 24 drivers interviewed during the consultation process declared to being regularly employed (96%) and to be national and resident (88%) in the country from which they generally start their transport operations. Only a minor percentage of drivers (4%) affirmed to work 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 affirmed to being paid with a fixed monthly salary which also includes the daily subsistence allowances. 21% of them declared, conversely, to be remunerated under performance-based contracts, although even in their case the daily subsistence allowances are due from the transport companies they work for. Therefore, all drivers interviewed declared to receive the daily subsistence allowances. Of interest is that performance-based contracts were mainly reported by EU12 drivers.

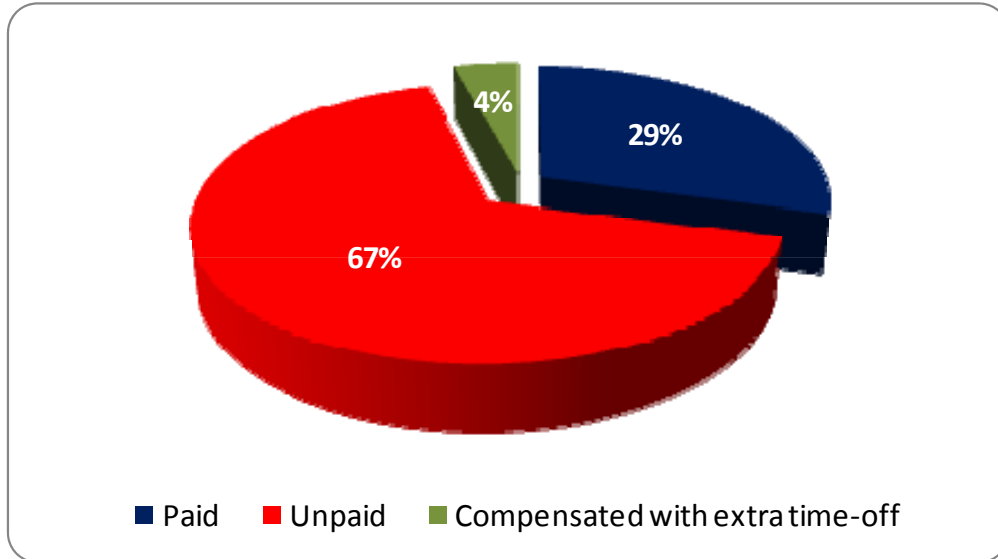
As for their salary levels, to a large extent drivers confirmed the values provided by the trade unions and reported in Section 3.3, that is an average net salary (including daily subsistence allowances) ranging between € 2,200 and € 2,500 for the EU15 drivers and between € 1,200 and € 1,500 for the EU12 drivers.

Figure 15: Drivers interviewed according to their payment scheme

Source: Compilation by the authors.

A different reasoning applies, instead, to **overtime working hours** when drivers are asked about their remuneration (Figure 16 below). In line with the feedback obtained from the stakeholders, the data collected showed in general that transport companies do not give payment for the overtime worked hours, as confirmed by 67% of the drivers interviewed. Only 29% of drivers indicated to being remunerated for overtime hours as well. Lastly, only one driver said that overtime hours are compensated with extra time off.

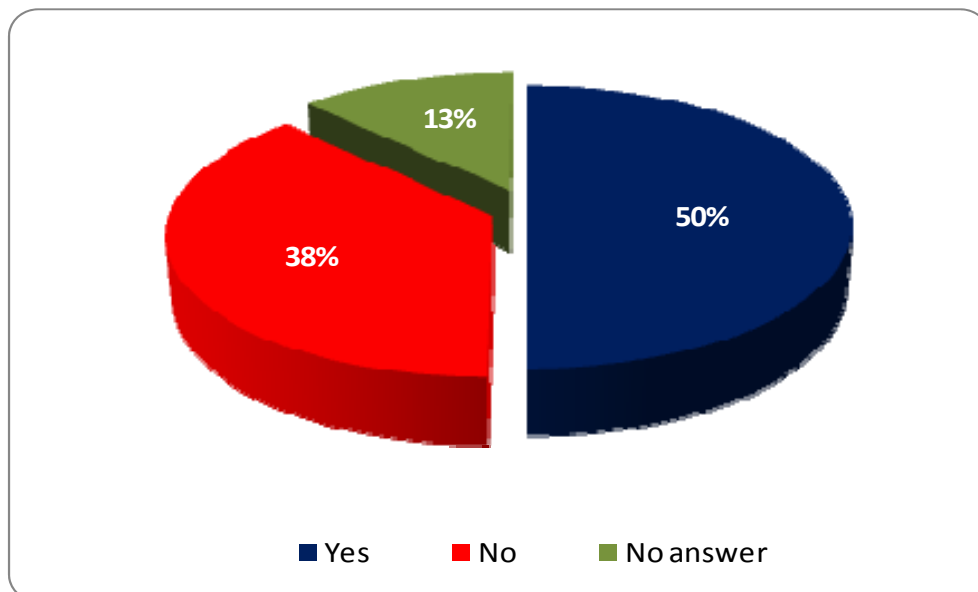
Figure 16: Rate of payment of overtime working hours



Source: Compilation by the authors.

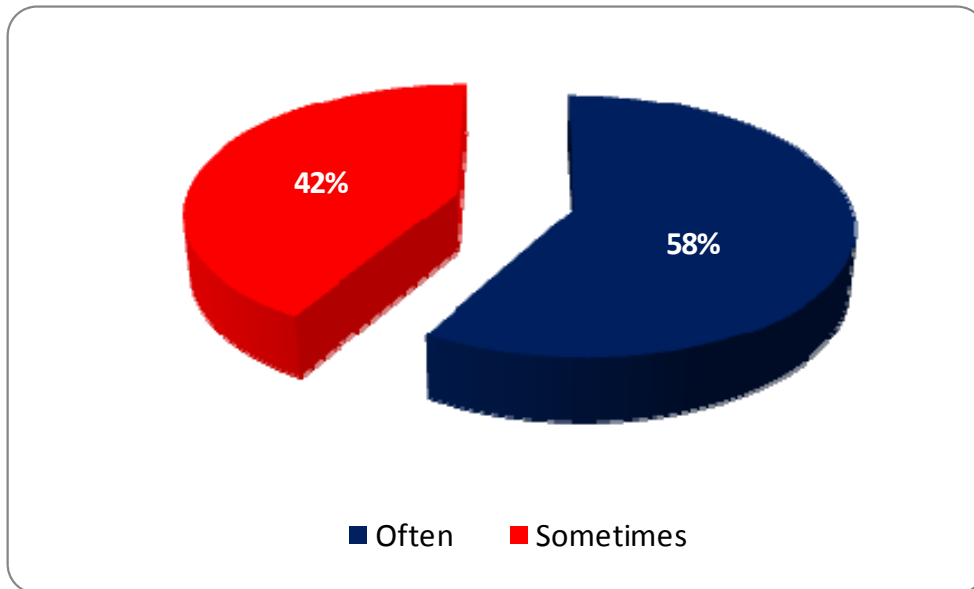
Drivers were also asked about whether and with which frequency they are required to work at **unsocial or non-standard hours** (i.e.: from 20h to 22h; from 22h to 6h; Saturdays and Sundays). In this respect, as shown by Figure 17 and Figure 18, half of the drivers interviewed responded affirmatively, for which frequency was measured as “often” in 58% of their responses.

Figure 17: Rate of non-standard hours



Source: Compilation by the authors.

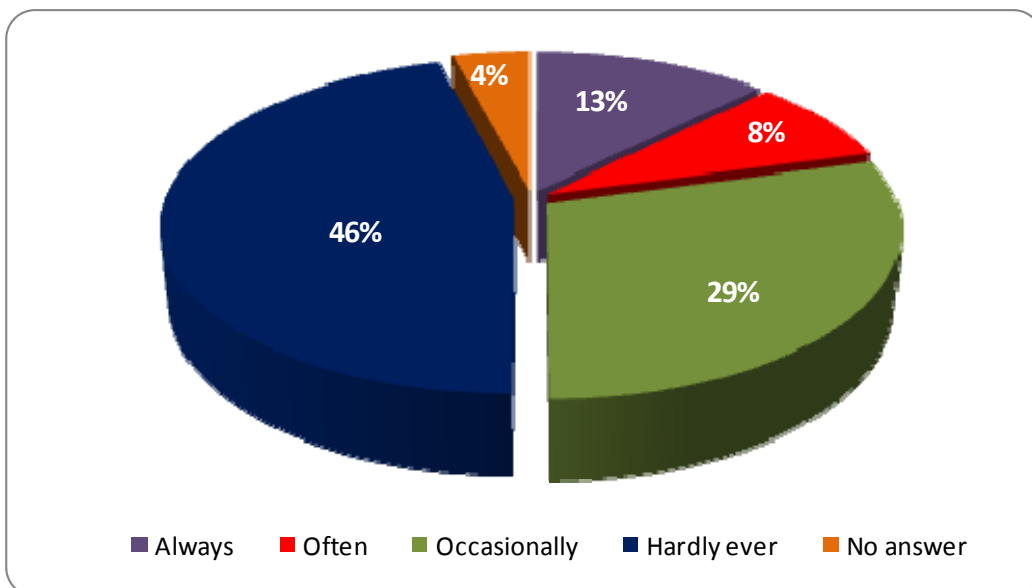
Figure 18: Frequency of non-standard working hours



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 to hardly ever load or unload their lorries. This in particular applies to those drivers that declared to transporting dangerous or perishable goods. 29% of them affirmed to performing loading or unloading operations with occasional frequency, while 13% and 8% of respondents respectively said to be “always” or “often” requested to fulfil loading and unloading duties. Finally, 4% of drivers did not provide any answer in this respect. Remarkably, with the only exception of two replies, all drivers affirmed not be entitled to ask for **any reimbursement or additional pay** for performing loading and unloading tasks.

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



Source: Compilation by the authors.

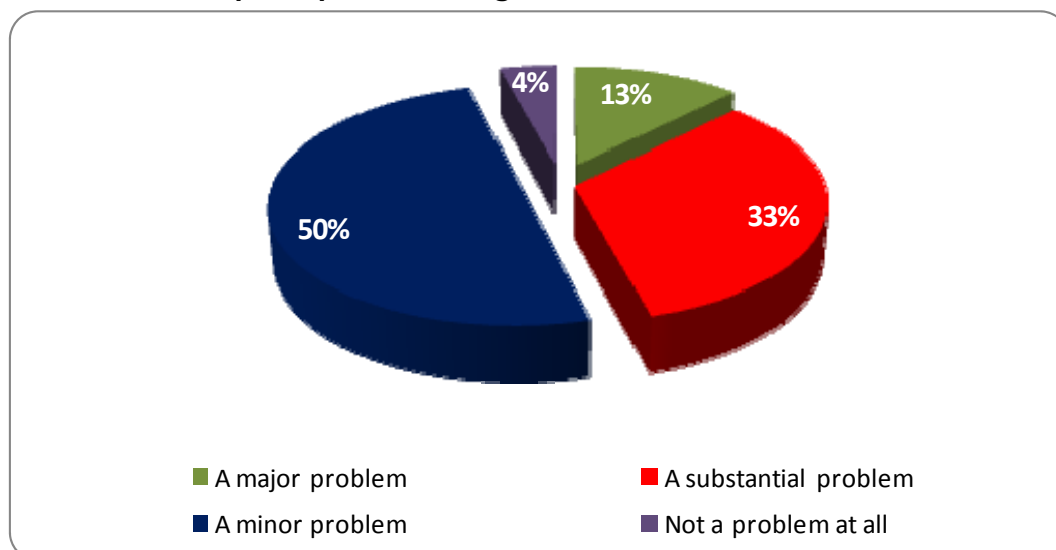
Additional insights on the quality standards of professional drivers' lives were provided by responses to the questions on **drivers' resting and eating habits**. With a very few exceptions (two replies), all drivers that were interviewed declared to habitually sleep and rest on-board of their lorry 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 for more than one consecutive week, EU12 drivers asserted staying away for two to four consecutive weeks before returning to their homes. As for their eating habits, the 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, nevertheless, regarded in a similar manner amongst all consulted drivers.

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

Figure 20: Drivers' perception of fatigue

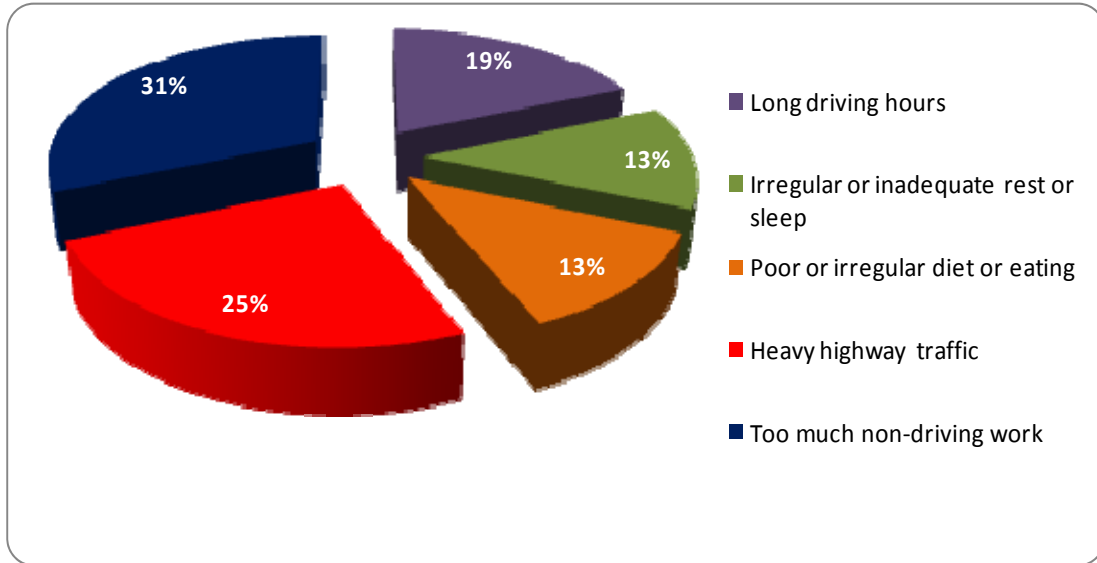


Source: Compilation by the authors.

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 timely secure the ensuing delivery, while staying within the limits of the driving times set by the legislation.

Figure 21: Main contributing factors to fatigue

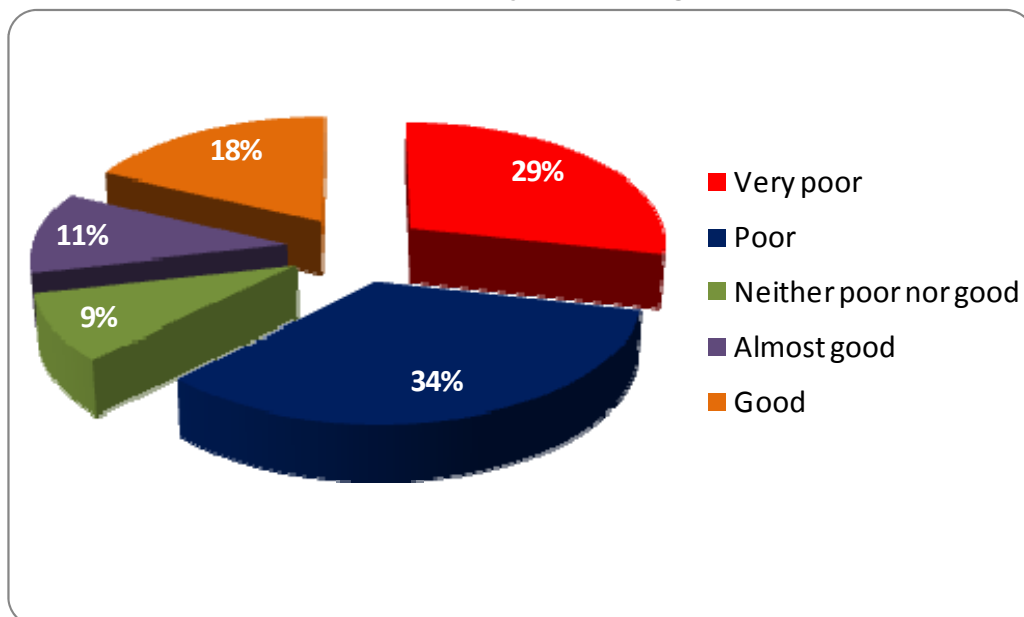


Source: Compilation by the authors.

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 the parking areas across the EU Member States, although there are some exceptions such as Germany and France where parking areas globally 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 the parking areas where they stop. Critical aspects are: price (estimated to be too expensive), 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 legislative body in the road transport sector have moved along the direction of **modernising, streamlining and harmonising** the previously existing set of norms in order to make them more adequate with respect to the new market and labour conditions that today characterise this sector.

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 legislation⁶⁸, achieving a **well balanced interplay** between improving social standards for the professionals in this field, while fostering at the same time a greater and loyal competition amongst road freight transport undertakings remain the core objective of such improvements. It is, then, under this perspective that should be considered and evaluated the way in which, firstly, the EU social legislation and, secondly, the new norms governing access to the market and the occupation have been designed and adopted.

As the study has found, by analysing the available literature in combination with the results obtained from the consultation process that involved both trade unions and drivers, the direction along which the road freight transport market has evolved since the liberalisation process started in the nineties **has not resulted in a convergence** between, on the one side, the increased competition and, on the other side, a parallel process of social harmonisation across the EU Member States in the employment and working conditions for road freight transport workers.

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

Significantly wide remain, in particular, the differences in terms of labour and social market structures amongst the EU countries which, *inter alia*, reflect an European Union where its 27 Member States are much less homogeneous in terms of social and economic structures as the old EU15 were before the two enlargements in 2004 and 2007. This creates gaps that, as illustrated by this study, can end up in **encouraging disloyal competition and social dumping practices** instead of providing opportunities for social and economic growth. This especially occurs in the case of those transport companies that, unable to cope with persistently fiercer competition, seek to increase their efficiency and competitiveness by primarily minimising costs, and labour costs in particular.

This last point is notable because this study has brought knowledge and insights for a number of EU15 Member States about **abuses and irregularities** (for example "letter-box companies", false self-employed drivers, performance-based contracts) that result in market distortions and unfair employment conditions of, namely, Eastern European drivers.

The latter are increasingly recruited to replace their (more expensive) EU15 colleagues through labour contracts that, despite the provisions set by the European legislation

⁶⁸ Cited above, see note 5.

(Directive 96/71/EC on the posting of workers⁶⁹) and rulings of the European Court of Justice (the “Koelzsch case”⁷⁰), 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, that is 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 results of this reasoning lead to a further consideration that may be drawn by the answers and feedback provided by the stakeholders and the drivers. There is, indeed, 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 market⁷¹) and drivers about the fact that the **road freight transport sector has been experiencing for several years a considerable deterioration of its working environment**. Importantly, the study has also acknowledged that, although the limited samples of questionnaires filled out and interviews carried out may not provide a robust scientific evidence base, its findings are in line with other investigations made in some Member States⁷².

Discriminatory employment schemes (exacerbated by the recourse to social dumping practices), downward income levels, greater difficulties in balancing professional life with personal needs, declining quality standards of life, continuously more burden and flexibility required by job demand are examples of **components of the social dimension of the road freight transport sector where stakeholders and drivers see a major regressive trend compared to the past**. It comes, therefore, as no surprise that the profession of drivers is increasingly seen with **less favour and attractiveness by the younger generations**. Analogously, stakeholders have also confirmed that the road freight transport sector does not guarantee a workable family friendly work and life balance, therefore it **does not encourage more women to be drivers**.

For instance, on income levels drivers do not only report continuously dropping wages, but also that they are forced to accept performance-based salaries or to work as false 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 task flexibility 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 respect delivery times.

Globally, it must be noted that **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 “real life situation” that features common discomforts and problems** (such as the poor instance related to the accessibility to clean and secure parking areas). The only difference in this respect is that EU15 drivers have a greater chance to rest at their home during the weekends, while EU12 drivers are obliged to stay away up to four weeks (or even longer). This undoubtedly

⁶⁹ Cited above, see note 16.

⁷⁰ Cited above, see Box 11 and note 57.

⁷¹ Cited above, see note 50.

⁷² 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 51).

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 is nowadays **substantially adequate to secure an appropriate level of social rights** to 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.

In this respect, certainly problematic appears in their opinion the current degree of enforcement which still **lacks an effective control mechanisms in the Member States** against those transport undertakings that are responsible for illegal or disloyal employment practices. This is further associated to a **low level of application and harmonization** with regards to enforcement practices, sanctions and penalties across the EU Member States, as stakeholders believe that enforcement standards largely differ, or that enforcement is not given the same priority in all EU countries. Therefore, they concluded, there is a need to **increase enforcement mechanisms and cooperation between Member States** to guarantee that social legislation is applied and that drivers' social rights are fulfilled across all Europe.

Markedly, this concluding remark recalls what the authors of the current study described in their above-mentioned study on the enforcement of the EU social legislation regarding the pivotal role of enforcement 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 penalties⁷³.

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 of EU institutions for improving the social and working conditions of professional drivers.

As indicated by the study, the problematic issue lies first of all in the lack or poor effectiveness and quality of the enforcement mechanisms applied across the different EU Member States. Though controls and their low efficacy do not bear the entire responsibility for the application and persistence of disloyal competition and 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, in this regard 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 may be summarised as follows:

- **Strengthening enforcement mechanisms in the Member States.** This would require increasing and making more effective the controls and enforcement mechanisms, and might include (similarly to what was done with Regulation (EC) No 561/2006 on the enforcement of driving times and rest periods) drafting an *ad hoc* enforcement directive to support the application of Regulations (EC) No 1071/2009

⁷³ Cited above, see note 4. On this point, see Chapter 5 (*Conclusions and recommendations*).

and 1072/2009⁷⁴. This likely directive should determine frequency and minimum levels of enforcement required to ensure compliance with the rules set out in regulations.

- **Introducing reporting mechanisms on the application of Directive 96/71/EC on posting of workers.** Enforcement may be more effective whether supported by constantly updated data and information about the state-of-the-art related to the implementation of the various norms. This might be the case for Directive 96/71/EC on posting of workers, for which it might include into Regulation (EC) 1072/2009 an amendment for a reporting mechanism that requires each Member States to inform the Commission about the application of Directive 96/71/EC. Again, the obligation for reporting with regards to Regulation (EC) No 561/2006 might be a remarkable example to replicate.
- **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 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 with 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.

The data collected through the consultation process have also showed that drivers (whose points of view are supported by similar comments from the stakeholders) consider quality of the parking areas as 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 may be proposed:

- **Continuing the monitoring and benchmarking work on the quality of the parking areas.** EU-funded projects like SETPOS⁷⁵ and LABEL⁷⁶ 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 or properly informed

⁷⁴ This enforcement directive should also be extended to Regulation (EC) 1073/2009, which has not been treated in this study as it is not relevant to the scope of this research work.

⁷⁵ Secured European Truck Parking Operational Services.

⁷⁶ Creating a Label for (Secured) Truck Parking Areas along the Trans-European Road Network and Defining a Certification Process.

about these progresses. In this respect, it might 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 does not have a workable family friendly work/life balance to encourage more women to be drivers, improving the image of the profession could help to attract more women and help with the shortage of drivers.

REFERENCES

Main publications

- Adams-Guppy, J., Guppy, A. (2003). Truck driver fatigue risk assessment and management: a multinational survey. *Ergonomics*, 2003; 46:763–79.
- Arnold, P.K., Hartley, L.R., Corry, A. *et al.* (1997). Hours of work, and perceptions of fatigue among truck drivers. *Accid Anal Prev* 1997; 29:471–7.
- Baier, J. (2012). *Trends im Straßengüterverkehr - Aktueller Status und Meinungen der Berufskraftfahrer in Deutschland*. Hochschule Furtwangen University.
- Beilock, R. (1995). Schedule-induced hours-of-service and speed limit violations among tractor-trailer driver. *Accid Anal Prev*, 1995; 27:33–42.
- Bernaciak, M. (2012). *Social dumping: political catchphrase or threat to labour standards?*. ETUI working paper, Collection 2012.06. Brussels: ETUI.
- Braver, E.R., Preusser, C.W., Preusser, D.F., *et al.* (1992). Long hours and fatigue: a survey of tractor-trailer drivers. *J Public Health Policy* 1992; 13:341–66.
- Eurofound (2012). *Social dumping*. Dublin: Eurofound
- European Commission (2011). *Road Freight Transport Vademecum 2010. Market trends and structure of the road haulage sector in the EU in 2010*. Brussels: EC.
- European Commission (2012a). *EU Transport in Figures. Statistical pocketbook 2012*. Brussels: EC
- European Commission (2012b). *Report of the High Level Group on the Development of the EU Road Haulage Market*. Brussels: EC
- European Commission (2012c). *26th report from the Commission on the implementation of the social legislation relating to road transport, SWD(2012) 270 final*. Brussels: EC
- European Commission (2012d). *Practical Guide: the legislation that applies to workers in the European Union (EU), the European Economic Area (EEA) and in Switzerland*. Brussels: EC
- European Conference of Ministers of Transport (2002). *Social Dumping in the ECMT Area. The Road Freight Haulage case*. Paris: ECMT.
- European Court of Justice (2011). *Case C-29/10, Heiko Koelzsch v État du Grand-Duché de Luxembourg*. Luxembourg: ECJ
- European Road Transport Workers Federation (2012a). *An ETF manifesto for the improvement of working conditions*. Brussels: ETF.
- European Road Transport Workers Federation (2012b). *Modern slavery in modern Europe? An ETF account on the working and living conditions of professional drivers in Europe*. Brussels: ETF.
- European Road Transport Workers Federation (2012c). *The ETF demands a moratorium on cabotage. Statement to the European Commission, the EU Member States and the European Parliament*. Brussels: ETF.
- European Road Transport Workers Federation and International road Union (2012). *Agreement between the IRU and the ETF on the joint statement concerning the opening of the EU road Haulage market*. Brussels: ETF and IRU.
- Hakkanen, H., Summala, H. (2000). Sleepiness at work among commercial truck drivers. *Sleep* 2000; 23:49–57.

- Hakkanen, H., Summala, H. (2001). Fatal traffic accidents among trailer truck drivers and accident causes as viewed by other truck drivers. *Accid Anal Prev* 2001; 33:187–96.
- Hamelin, P. (2001). *La durée de travail des conducteurs professionnels comme enjeu de la flexibilité et de la compétitivité des transports routiers de marchandise*. BTS Newsletter, 15-16:42-51.
- Hermann, C. (2003). *Branch Survey on Working Conditions: Freight Road transport: National Report Austria (p. 1-69)*. FORBA (Working Life Research Center), Vienna. Project No. 0262/Contract No. 02-3030-53.
- Hilal, N. (2008). *Unintended Effects of Deregulation in the European Union: The Case of Road Freight Transport*. *Sociologie du travail* 50S, p. 19-29.
<http://ec.europa.eu/transport/facts-fundings/statistics/doc/2012/pocketbook2012.pdf>
<http://ec.europa.eu/transport/modes/road/doc/2010-road-freight-vademecum.pdf>
<http://ec.europa.eu/transport/modes/road/doc/2012-06-high-level-group-report-final-report.pdf>
http://ec.europa.eu/transport/modes/road/social_provisions/driving_time/doc/swd-2012-270.pdf
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62010CJ0029:EN:HTML>
<http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/SOCIALDUMPING.htm>
<http://www.europarl.europa.eu/committees/en/studiesdownload.html?languageDocument=EN&file=76395>
<http://www.itfglobal.org/files/extranet/-75/37900/ETF%20brochure%20Modern%20slavery%20in%20modern%20Europe%20EN.pdf>
- International Transport Forum (2010). *Working together to combat freight crime*. Presentation delivered at the Truck Parking Conference, Brussels, 25-26 October 2010.
- International Transport Forum and International Road Transport Union (2007). *Attacks on Drivers of International Heavy Goods Vehicles*.
- Istituto per la Ricerca Sociale e TRT Trasporti e Territorio (2009). *The shortage of qualified personnel in road freight transport*. Study for the European Parliament, Directorate General for Internal Policies. Brussels: EP.
- Ladou, J. (1988). The health of truck drivers. In: Carl Zenz, ed. *Occupational medicine—principles and practical application*. 2nd edn 1988:958–69.
- Maycock, G. (1995). Driver sleepiness as a factor in car and HGV accidents. Transport Research Laboratory, Report 169. 1995:1–39.
- Mitler, M.M., Miller, J.C., Lipsitz, J.J., et al. (1997). The sleep of long-haul truck drivers. *N Engl J Med* 1997; 337:755–61.
- Sabbagh-Ehrlich, S., Friedman, L., Richter, E.D. (2004). Working conditions and fatigue in professional truck drivers at Israeli ports. *Inj Prev* 2005;11:110-114
- TRT Trasporti e Territorio (2012). *Overview and Evaluation of Enforcement in the EU Social Legislation for the Professional Road Transport Sector*. Study for the European Parliament, Directorate General for Internal Policies. Brussels: EP
- UBOT-FGTB (2012). *Livre noir des parkings*.
- VIDA (2012). *Ergebnisse der BerufslenkerInnen-befragung*. Vienna: VIDA
- ZF Friedrichshafen AG (2012). *ZF-Zukunftsstudie Fernfahrer. Der Mensch im Transport- und Logistikmarkt*.

ANNEXES

ANNEX A: LIST OF CONSULTED STAKEHOLDERS

NAME	ACRONYM	COUNTRY
Gewerkschaft vida	VIDA	Austria
European Transport Workers' Federation	ETF	Belgium
Union Belge des Ouvriers du Transport Fédération Générale du Travail de Belgique	UBOT-FBTB	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	
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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	
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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	
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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?

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