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FINAL REPORT



SOCIAL CONDITIONS IN LOGISTICS IN EUROPE: FOCUS ON ROAD TRANSPORT

FINAL REPORT

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PREFACE

The idea of applying for this project at the General Direction Employment and Social Affairs of the European Commission came in August 2016. At that time, delegations of the Danish trade union 3f and the United Services Trade Union – ver.di met in Berlin to look at the special situation in the German-Danish border area. It quickly became clear to the participants that the situation was not that special and that it might also be a problem in other border areas. It was and is our aim to take a close look at tariff escalation by means of letterbox companies in the border areas and to be able to explain the causes for the actions of the entrepreneurs afterwards. The result is the project “Social Conditions in Logistics in Europe”. Social dumping in border regions is not a single phenomenon. We experience it between all countries with differences in wages and social conditions.

Not only did we want a mere exchange with our colleagues and employers, but we also wanted to get sound and scientific knowledge about the conditions in the logistics industry in Germany and its neighbouring states. Together with our co-applicants (ETF – European Transport Workers Federation, Brussels and the EVA Academy, Berlin) and the other project partners (Union 3F, Denmark, BTB-ABVV, Belgium and ACV-Transcom, Belgium) and the scientific institute wmp Consult, Hamburg, we have found a perfect match to successfully carry out the project.

For example, for the first time we have been able to obtain a complete overview of individual working conditions, company and collective structures in the countries involved through the scientific approach described in this project report. At the same time, the participants in our online survey, the numerous interviews and, last but not least, the participants in our three workshops described the legal situation in the respective countries.

We very much hope that the findings of our project will be incorporated into future political work within the EU, and that the European Union becomes a Union of Citizens and Workers and not unilaterally dedicated to the interests of the economy.

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1

INTRODUCTION AND METHODOLOGY



With the expansion of the single market in the European Union, the division of labour in the economy and rising economic integration and entanglement, road transportation in Europe is increasing. Road transport is essential to the economy in terms of its contribution to GDP (2 %) and the social services provided. According to Eurostat, the sector employs around 3 million people in the EU. However, the process of liberalisation has not been accompanied by a parallel process of social harmonisation of employment and working conditions. On the contrary, these are experiencing a general downward trend for both resident and non-resident professional drivers. The internationalisation of the sector and unfair competition practices leads to a danger of substantial undercutting of social regulations and social and working conditions of drivers.

Working conditions in the road transport sector are generally considered to be strenuous. Atypical working hours with long absences from home, prolonged sitting, road safety risks, accessibility of facilities and services, violence and assaults are problematic aspects of this occupation. However, working and living conditions – especially of non-resident or cross-border – professional drivers in the European Union have deteriorated drastically. Non-resident or cross-border professional drivers are often of Eastern European origin, and increasingly non-EU or non-European. The working conditions of these drivers are considered to be significantly worse than those of drivers from Western European countries.

Low operating margins in the highly competitive road transport sector lead to attempts to minimise operating costs, especially labour costs. Differences in wage levels and social security contributions are a significant source of differences in competitive conditions between Member States. A massive salary gap still exists between EU 13 and EU 15 Member States, fuelling illegal or unfair social dumping practices. Several studies have shown that working and social conditions have deteriorated sharply over the last five years (Broughton et al. 2015; Gibson et al. 2017; Pastori/Brambilla 2017).

European trade unions have frequently highlighted the situation and campaigned against unacceptable conditions (for example 3F Transport and the Danish Transport and Logistics Association (DTL) 2016), BTB-ABVV 2017, ETF 2012). According to the ETF, “road transport has one of the

worst records in complying with social and labour law in Europe” (ETF 2018a). Critical issues identified with respect to social and working conditions in the road freight transport sectors are, among others, non-compliance with applicable wage regulations (in particular in connection with cabotage and dispatching), illegal employment, non-compliance with rest periods and breaks, activities not regarded as working time, time spent away from appropriate facilities and illegal cabotage practices.

The aim of the study is to provide an overview of the provisions concerning social conditions in collective bargaining agreements and legislation in the road freight transport sector. This does not exist so far. This project aims to improve the knowledge of trade unions at the European level with regard to social conditions in the logistics sector, and to address challenges related to employment and work as well as social dialogue. The knowledge gained through the project shall also enable trade unions to better understand national similarities and differences, supporting a cooperative approach of trade unions in Europe, and providing arguments for collective bargaining at sector level as an efficient source of decent working and social conditions in the transport and logistics sector in Europe.

METHODOLOGY

As there are sufficient analyses of drivers' working conditions, and as the weaknesses of the legal framework and the problematic practices in the transport sector have also been examined in detail (European Commission 2009; European Parliament 2016a and 2016b; Pastori/Brambilla 2017), the study focuses on aspects of working and social conditions for which there is so far hardly any robust information available: different national sources of regulating of working and social conditions, including pay and remuneration and in particular the role of legal and other requirements and standards that go beyond minimum standards as defined in EU legislative frameworks.

Within the framework of the ETF project and this study, provisions concerning social conditions in collective bargaining agreements and legislation in the road transport sector were analysed at a sectoral and company level and compared at country level. The analysis includes provisions regarding salaries and wages and other working conditions, employment contracts, and qualification, among others. In addition, enforcement of rules, compliance monitoring, control and sanctions also have been a topic of the project and this study.

The research covers seven EU Member States: Austria, Belgium, Czech Republic, Denmark, Germany, the Netherlands and Poland. Various factors played a role in the selection of countries. These include, among others, the importance of the country as a logistics market (measured by turnover or tonne-kilometres (tkm) and the role of the country as a logistics service provider (measured by share in international transport and cabotage). In addition, the sample covers countries from both the EU-13 and EU-15.

The project is based on the analysis of primary and secondary empirical data and information on legal and other provisions concerning working conditions of drivers and their enforcement. As part of the project a literature review and a survey of trade union representatives, company level employee representatives and management representatives were carried out. The systematic literature review included the analysis of official documents from EU level institutions, research studies, documents by key stakeholders and grey literature.

At three workshops between September 2018 and January 2019¹⁾ further important insights were gained. Participants of the workshops were trade union representatives and worker representatives, such as work councillors, from the countries studied. In order to supplement and deepen the study, qualitative telephone and face-to-face interviews were conducted with trade union representatives in the countries surveyed.

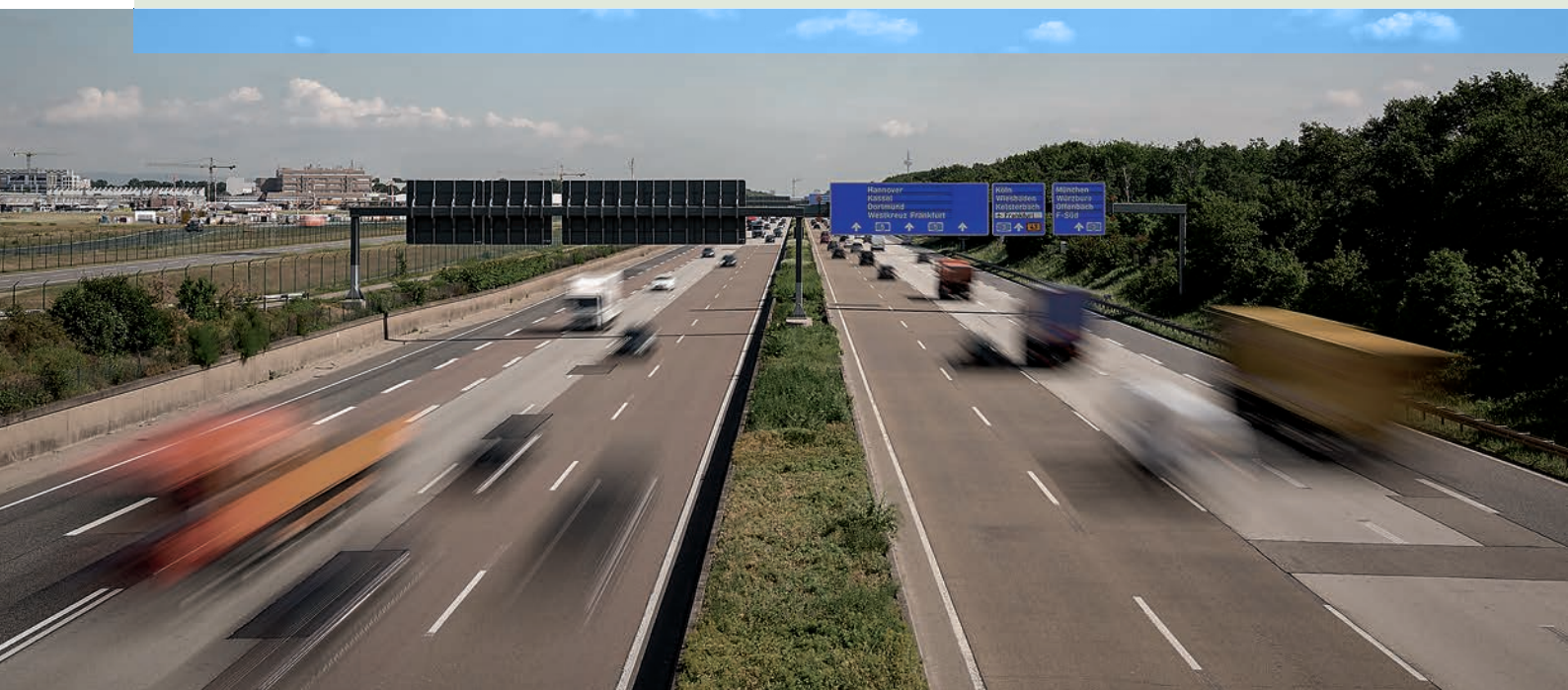
An online survey was carried out to collect primary data on social provisions in collective bargaining agreements and legislation in the logistics sector on the sector and company level as well as enforcement (see textbox 1).

The research was carried out between February 2018 and March 2019 on the basis of close cooperation between the external contractor and the ETF steering committee, consisting of ETF, EVA, ver.di, BTB-ABVV, ACV-Transcom and 3F. The online survey was conducted between May 2018 and February 2019.

The following chapters summarise key results of the study, with the following topics:

- » Chapter two deals with company and employment developments and recent developments in business strategies and practices.
- » Chapter three discusses basic legal regulation with regard to working and employment conditions in the road freight sector based on EU directives.
- » As the main part of the study, chapter four analyses national framework conditions and the role of collective bargaining agreements in the form of country reports of the seven countries surveyed.
- » Chapter five contains challenges for implementing regulation, in particular regarding controls and sanctions.
- » The final chapter six of the report draws conclusions and recommendations arising from the analysis and considers venues for future improvements of social and working conditions in the European logistics/road freight sector.

1) Three workshops were carried out in the context of the project. Each workshop was attended by ETF, ver.di, BTB-ABVV, ACV-Transcom and 3F as well as ETF member organisations from 2–3 countries: The first workshop took place in Liège/Belgium (5–6 September 2018), was hosted by the Belgium trade unions and focussed in particular on national experience and framework conditions in Belgium and the Netherlands; the second workshop was hosted by the German trade union ver.di, took place in Flensburg/Germany (13–14 November 2018) and addressed the situation in Germany and Denmark; the third workshop was held in Vienna (23–24 January 2019), was hosted by the Austrian trade union vida and addressed social and working conditions in logistics and road freight transport in Austria, Poland and the Czech Republic.



TEXTBOX 1: OVERVIEW OF ONLINE SURVEY

As part of the study an online survey was conducted. The multi-lingual survey was supported by the ETF secretariat. ETF national affiliates were invited to take part in the survey and disseminate the invitation amongst affiliates at company, regional or local level in the respective country.

The survey consists of three parts addressing the different target groups: trade unions, works councils and management. The questionnaire covered the following contents:

- » Main trends in employment, market development and competition in the road transport sector;
- » Social and working conditions, wage setting and remuneration components – legal and other sources of regulation and the role of collective bargaining;
- » Critical issues with respect to social and working conditions
- » (Regulatory) sources of wage setting, remuneration and social conditions in the road transport sector
- » Enforcement of rules, checks and controls
- » Assessment of EU regulation of international road transport

There were a total of 156 valid responses to the survey, of which 57 responses were from trade union representatives, 69 responses from management representatives and 30 responses from works councillors. The survey was carried out in all the countries researched. Most responses came from Belgium, Denmark and Germany.

2

LOGISTICS AND THE ROAD FREIGHT SECTOR: OVERVIEW OF THE TRANSPORT MARKETS AND MAIN TRENDS



2.1 EU-LEVEL DATA AND TRENDS

2.1.1 VOLUMES

Road freight transport is the most important mode of transport of goods within the European Union and generates approximately 2 % of the gross domestic production of the European Union (European Commission 2015). An analysis of the data on freight transportation by the mode of transport in EU-28 shows that road transport accounts for a share of 49.3 % in total transport, followed by sea (32.3 %) and rail (11.3 %) (European Commission 2018).

In terms of tonnage, European road freight transport continued to increase in 2017 for the fourth consecutive year (2.8 % higher compared with 2016), reaching the highest value since 2013 according to Eurostat's most recent data.²⁾

In terms of tonne-kilometres (tkm)³⁾, total road freight transport increased by 11.8 % between 2013 and 2017. An important factor in the increase of road freight transport observed since 2013 is the development of international transport.

Between 2013 and 2017 international road freight transport increased by 15.3 % while national road transport only increased by 9.9 % according to Eurostat. Correspondingly, cross-trade⁴⁾ and cabotage both recorded substantial growth of 8.5 % and 17.1 % respectively between 2013 and 2017.

As the following figure shows, overall road freight transport increased in terms of tkm by 4.5 % in the EU as a whole between 2016 and 2017. However, there was quite a strong polarisation between high growth rates reported for countries such as Lithuania, Cyprus and Greece on the one hand and decreases of more than 10 % in Belgium and the Czech Republic.

According to the most recent Eurostat figures, in terms of transport of goods in the national territory, Germany, France, the United Kingdom, Spain and Poland dominated European road transport in 2017, measured in tkm. These countries accounted for 60.1 % of the total goods transported in the Member States of the European Union, with the goods transported in Germany representing 21.7 % of the total.

Considering international transport (i. e. goods entering and leaving the country, including cross-trade), the countries addressed by our study show different characteristics when it comes to development trends and the share of international in total haulage (see table 1).

Whereas in terms of billion kilometres, national and international haulage increased by 4.2 % on average in the EU28 between 2010 and 2016, the increase in kilometres was particularly strong in Poland (43.7 %) and Slovakia (30.8 %). By contrast and with the exception of Denmark (slight increase) and Germany (stagnation), road freight transport in terms of kilometres decreased during that period, most strongly in France (-14.5 %), the Netherlands and Belgium (both by slightly more than -11 %).

A comparison of different countries also shows that countries in Central and Eastern Europe on average have a high share of international transport in total transport volumes, measured in total kilometres driven. As regards our country sample, the respective shares are 84 % in Slovakia, 63.3 % in Poland and 50.7 % in the Czech Republic. The shares are much lower in France (7.5 %), Germany (14 %) and Denmark (19 %), though higher (similar to the EU average) in the Netherlands (49 %), Austria (36 %) and Belgium (39 %).

2) Eurostat Road Freight Transport Statistics, available at: https://ec.europa.eu/eurostat/statistics-explained/index.php/Road_freight_transport_statistics#Growth_in_EU_road_freight_transport_for_the_fifth_consecutive_year

3) This means the transport of one tonne of goods over a distance of one kilometre.

4) Cross-trade is international road transport between two different countries performed by a road motor vehicle registered in a third country. A third country is a country other than the country of loading/embarkation and other than the country of unloading/disembarkation. This transport is reported by the country in which the vehicle is registered.

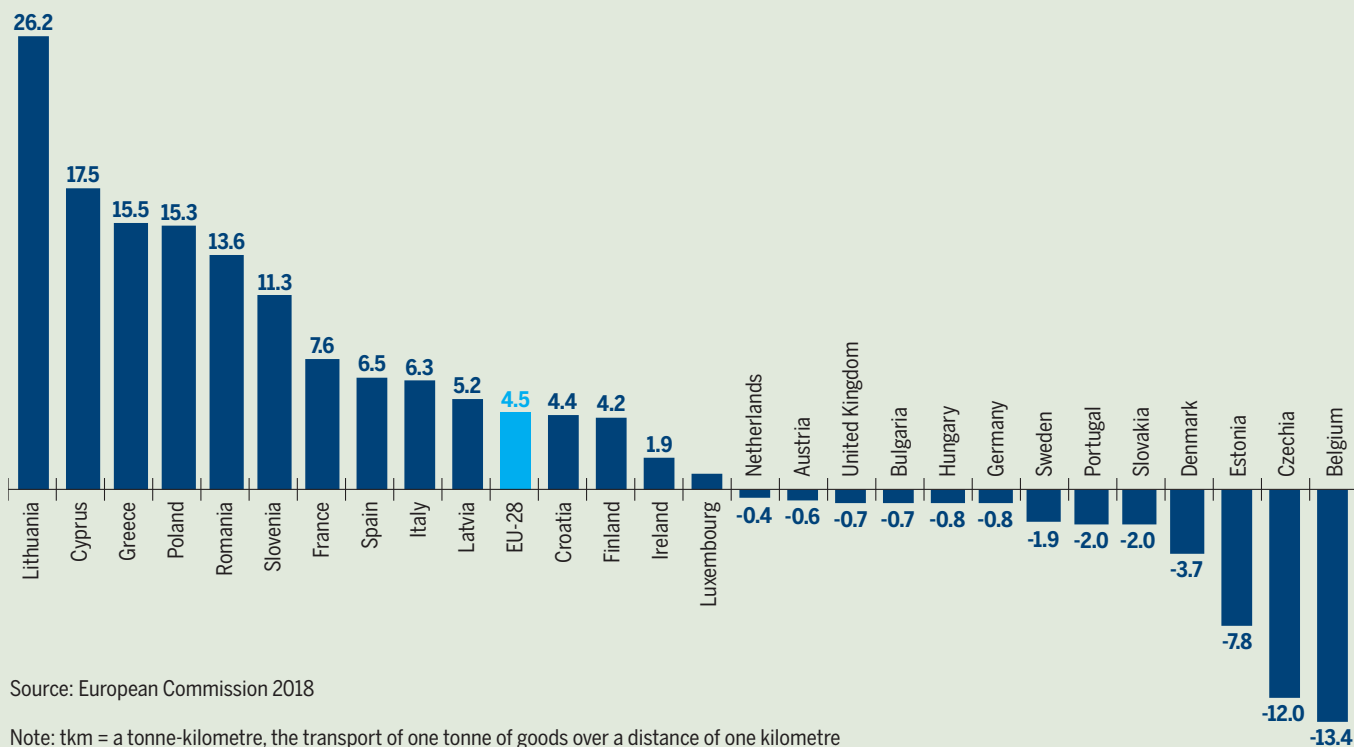


Figure 1: Road freight transport – % change in tkm, 2016 – 2017

	National and international haulage		International haulage 2016			
	2010	2016	% change	billion tkm	% of total haulage	
AT	28.7	26.1	-9.1	9.6	36.9	
BE	35.0	30.9	-11.7	12.1	39.1	
CZ	51.8	50.3	-2.9	28.0	55.7	
DK	15.0	16.1	7.3	3.1	19.0	
DE	313.1	315.8	0.9	44.1	14.0	
FR	182.2	155.8	-14.5	11.6	7.5	
NL	76.8	68.0	-11.5	33.77	49.6	
PL	202.3	290.7	43.7	184.1	63.3	
SK	27.6	36.1	30.8	30.4	84.2	
EU27/28	1,756.4	1,831.0	4.2	657.2	35.9	

Source: European Commission 2018. Note: Including cross-trade and cabotage. Only haulage of heavy goods vehicles (usually >3.5 tonnes load capacity).

Table 1: National and international road freight transport, 2010 – 2016 (billion ton-kilometres)

2.1.2 EASTWARD SHIFT OF EMPLOYMENT IN ROAD FREIGHT TRANSPORT

“There are excessive wage and cost-of-living disparities within the EU, leading to unfair competition and market distortion. It is also unacceptable that foreign drivers have to stay in their trucks for weeks and then become overtired and possibly alcoholised on the road with frustration.” (Management representative, Germany)

“The number of non-resident drivers from foreign countries increases every year about 5 %.” (Representative of an Employer Association, Poland)

It is well known that international transport is regarded as very strenuous and exhausting due to long absence from home, reduced rest periods and often inadequate infrastructure, accommodation and other working conditions. Against this, it was not surprising that German trade union representatives and company managers reported in the online survey and in interviews that German drivers in most of the cases are engaged only in national and shorter distance transport and most of the international transport activities are carried out by foreign subsidiaries.

Workshop participants and interviewees identified a strong trend in Western European countries for international transport activities to be sub-contracted to companies (often subsidiaries) in the Central and Eastern European region. It was also reported that those drivers from Central and Eastern European countries that work directly in Belgium, the Netherlands or Denmark have increased in recent years.

These trends can also be seen in the statistics. As the following table shows, the most important EU Member States in 2016 in terms of national and international haulage were Germany, Poland and France. However, there have been marked different trends during the period 2010 to 2016: While Poland and Slovakia experienced the strongest increases in total transport, France as well as Belgium saw the strongest slump.

When only international haulage is taken into account, the differences become even more pronounced: The highest shares of international in total haulage can be found in Slovakia (84 %), Poland (63 %) and the Czech Republic (56 %).

As comparative analyses show, the eastward shift of employment and activities is clearly based on cost factors. The following table is taken from a report published by the French Comité National Routier that tries to compare the costs of drivers in France and Poland. It clearly shows not only that Polish drivers cost much less than French drivers but also that in terms of total working time and social security contributions the conditions are much worse.

Trade union representatives from Belgium report that around 10,000 jobs of Belgium drivers in international transport have been substituted by posted workers from other EU countries.

It has to be noted in this context that the costs for drivers from lower wage countries are lower for companies, even if they are employed on the same remuneration conditions as domestic drivers. This results from the fact that, even if employed directly or posted by a sending company in Central and Eastern Europe, social security contributions are paid in the country of origin, which often are significantly lower.

It has also been reported by the European Commission that the number of drivers from non-EU countries being employed in the EU has increased. The number of driver attestations issued to these drivers has almost doubled between 2014 and 2016 to around 76,000 (i. e. 2.5 % of the total workforce in the road haulage sector). Most of them are employed in Poland, Lithuania, Slovenia and Spain (European Commission 2017c).

This trend is a response to the increasing shortage of professional drivers in Central and Eastern European countries as well. As described in a recent report on the Polish road freight transport market, the number of foreigners working for Polish transport companies has increased significantly in recent years. In 2016 alone, the number of Ukrainian and Belarusian drivers doubled, as compared with the previous year. The authors of the study commented on future trends:

“It seems, however, that in a long-term perspective, foreign drivers will not solve the problem of the shortage of drivers on the Polish market, mainly because of the exhaustion of the reserves of drivers interested in work in Poland. A new source to supply professional drivers to the Polish market may be Kazakhstan.” (PWC/TLP 2016)

	Unit	France	Poland
Gross salary (miscellaneous bonuses and overtime included), subject to social security contribution and to income tax	€/year	29,544	6,180
Travel expenses and other elements of remuneration not subject to social contributions nor to income tax	€/year	8,996	12,900
Employer contributions (after deduction of state aids)	%	30.3	22.0
Employer contributions in absolute terms	€/year	8,952	1,358
Annual cost total	€/year	47,492	20,438
Number of actual working days per year	€/year	216	252
Working time per year	day/year	1,551	1,980
Annual mileage	hour/year	106,466	128,000
Cost of one hour's work Base 100 Francs	€/h	30,62 100	10.32 34
Cost per kilometre Base 100 Francs	€/km	0.45 100	0.16 36

Source: Comité National Routier 2017.

Table 2: Costs of drivers in France and in Poland, 2017 values

2.1.3 EMPLOYMENT AND ENTERPRISES

In 2015, the road freight transport industry employed 3.07 million people (European Commission 2018). As shown in table 3, with more than 420,000 employees, Germany employs the largest workforce, followed by France (330,000) and Poland (328,000). Given the smaller size of the country, the Czech Republic is also an important location and provider of road freight transport with more than 120,000 employees and over 30,000 companies. This is remarkable when compared with Belgium (58,000 employees), Slovakia (44,500) and Denmark (36,000).

When comparing data for 2015 with employment figures of 2010, diverging trends between the EU-15 and EU-13 are quite striking (see also the table below):

- » While EU-average employment increased by 4.7 %, employment decreased in Belgium (-6.6 %), France (-11.4 %) and the Netherlands (-3.6 %);
- » The highest growth rates in terms of percentage change between 2010 and 2015 are reported for Slovakia (48.8 %), Denmark (26.7 %), Poland (20.5 %) and Germany (18.7 %);

- » In absolute numbers employment in Germany and Poland increased most strongly, accounting for more than 120,000 employed persons which equals 88 % of the EU-28 total employment increase.

In 2015, there were 571,000 enterprises registered for road freight transport in the EU, according to Eurostat (see table 3). The large majority of these companies offer road haulage services for hire and reward. In 2015, just 14 % of all tkm have been transported by companies that were carrying their own goods.

By far, the largest number of enterprises were located in Poland (more than 83,400), followed by Germany (36,900), France (34,400) as well as the Czech Republic (30,300). Considerably fewer enterprises are located in Austria (6,500), Belgium (8,000), Denmark (4,800) and Slovakia (8,800).

The road freight transport industry in the EU is highly fragmented. On the one hand there are very large companies with several thousands of employees that carry out complex transport and logistic services. However, most of the enterprises are small and medium-sized and often carry out services not only directly for customers but also for larger transport companies.

	Employment (thousand)			Number of enterprises		Turnover (€ million)	
	2010	2015	% change	2010	2015	2010	2015
AT	57.3	59.6	4.0	6,742	6,577	8,576	9,546
BE	62.1	58.0	-6.6	8,835	7,991	10,670	11,498
CZ	110.9	121.1	9.2	28,118	30,321	7,299	8,005
DK	28.5	36.1	26.7	6,102	4,827	4,802	5,808
DE	359.8	427.1	18.7	34,470	36,921	33,698	41,194
FR	375.1	332.4	-11.4	37,607	34,415	42,958	42,351
NL	119.3	115.0	-3.6	9,946	11,139	18,228	19,946
PL	272.1	327.9	20.5	78,280	83,414	16,601	24,826
SK	29.9	44.5	48.8	7,379	8,840	1,771	3,582
EU27/28	2,926.4	3,065.2	4.7	581,462	571,046	293,564	334,046

Source: European Commission 2018. Notes: Employment refers to the total number of persons who work in the unit of observation (inclusive of working proprietors, partners working regularly in the unit and unpaid family workers).

Table 3: Development of road freight transport in selected countries, 2010 and 2015

In 2015, the average number of employees per company in the EU-28 was 5.36 persons. The highest average number of employees was recorded in Germany, where the average number of employees was 11.6 persons. However, 95 % of the companies had less than 50 employees. For Belgium it was reported by a trade union expert in one of the project workshops

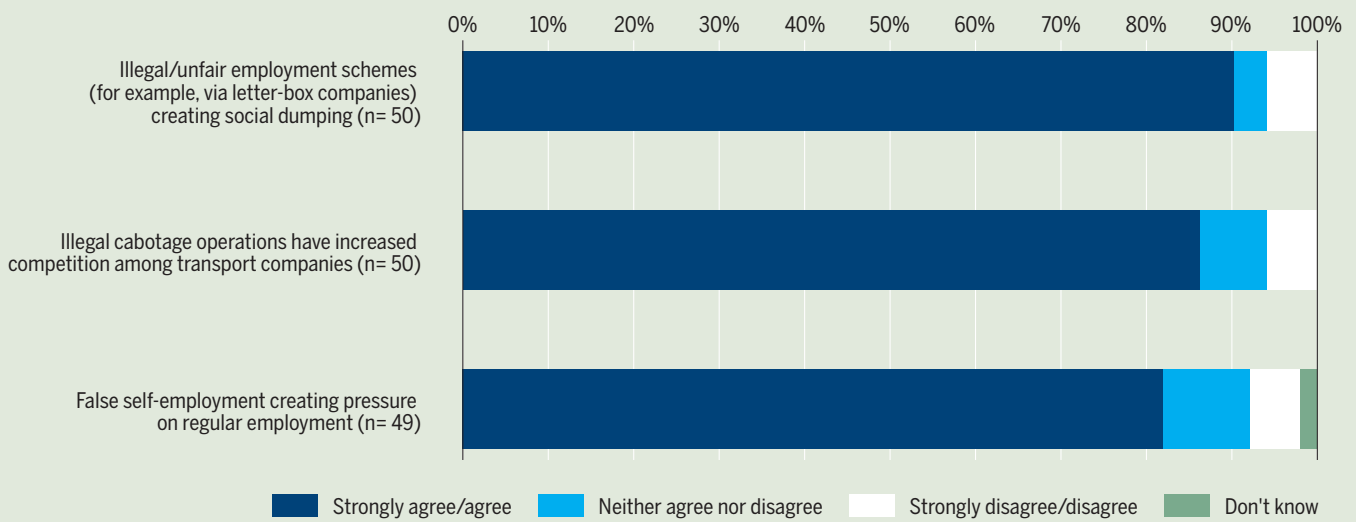
that 56 % of all companies have fewer than 5 employees and only 4 % have more than 50 employees. Similar patterns were reported from the Netherlands, where 91 % of all companies have only 50 or less employees. At the same time, it has also been noted that 50–60 % of all Dutch truck drivers work for large companies.

2.2 MARKET TRENDS IMPACTING ON SOCIAL CONDITIONS

A main trend of the road freight traffic is the shift in employment in international road transport and the substitution of drivers in the EU-15 by drivers from EU-13 countries. This shift results from multiple factors, including a lack of qualified drivers in many Western European countries, strenuous working conditions and the bad image of jobs as well as business strategies that are based mainly on price and cost competition. This latter trend was indicated strongly by contributions of management representatives to our survey and by many reports that market and competitive conditions put a strong pressure on wages, working conditions and other social aspects of the job in international as well as parts of the national transport. Also, trade unions in Germany reported that domestic companies increasingly are engaged directly only in highly specialised activities such as the transport of dangerous goods and the provision of complex logistic and transport services that require highly qualified drivers.

When it comes to mainstream business strategies and practices, the online survey as well as workshop participants indicated that it is increasingly hard to survive in the transport market without engaging drivers at low cost/wage rates and when respecting legal rules as regards working time, remuneration and social protection. It has been reported that in particular the following strategies are adopted to stay competitive in a highly contested road freight market:

- » Establish letterbox companies in Central and Eastern European countries that provide services in the home markets;
- » Engage in illegal cabotage activities to substitute national transport activities;



Source: Online Survey carried out in the context of this study.

Figure 2: Critical business practices as reported by trade union representatives

- » Exploit loopholes in the legal frameworks in order to circumvent social legislation in the road transport sector, for example by increasingly using light commercial vehicles (LCVs) for freight transport activities;
- » Substitute regular employment contracts by self-employed drivers in order to reduce significantly wage costs, social security obligations and other legal requirements.

This is illustrated by the following figure which summarises main results of the online survey amongst trade union representatives.

Also, management representatives that participated in the online survey reported a general increase in competition between companies (75.9 %) and even more, competition based on unfair practices and social dumping (79.3 %) as the most important trends in the road freight transport business.

Quite remarkably, around 68 % of managers reported that social and working conditions in the international transport have worsened.



2.2.1 CABOTAGE AND THE CHALLENGE OF ILLEGAL CABOTAGE

“A study conducted in 2016 by an Austrian expert in international transport found that the extent of cabotage is far greater than that recorded by Eurostat on the basis of company surveys. In addition, cabotage is increasingly replacing national road haulage in Austria.”

(Trade Union representative, Austria)

“The working conditions of many drivers from Romania, Bulgaria or from non-EU countries are intolerable. They are treated like slaves, receive far too low payments and have to live in the truck cabins for up to half a year. The trucks never go home to the country of registration.”

(Company level trade union representative, Denmark)

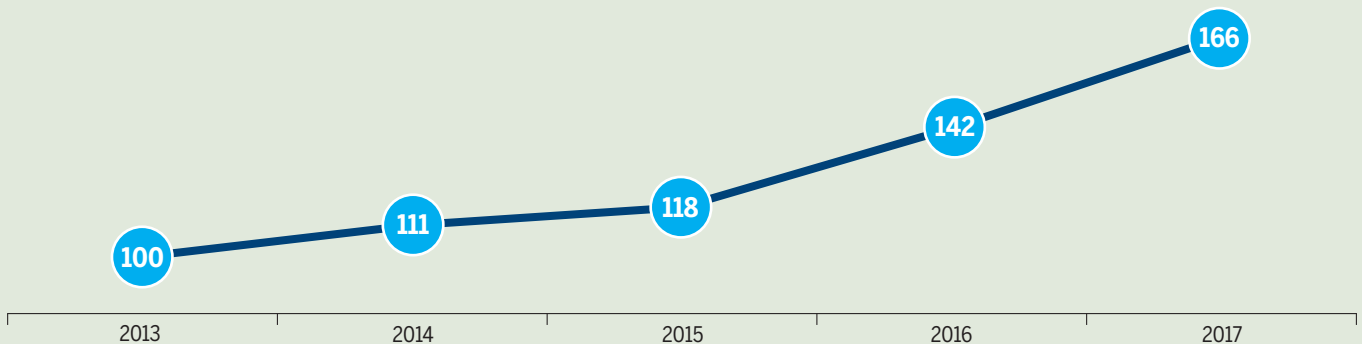
“Years ago, the German companies that carried out cabotage went bankrupt. That is why we cannot say that there is still competitive pressure. Of course, it used to be different. Cabotage is now carried out by foreign companies.” (Trade union representative, Germany)

Cabotage is the transport of goods between two places in the same country by a transport operator from another country. In terms of transport performance measured in tkm transported, cabotage in the EU-28 still is quite low (4.3 %) but has increased continuously since 2013 (see figure 3).

In 2017, the highest penetration rates by cabotage at country level were recorded in Belgium (13.8 %) and Luxembourg (10.0 %), followed by France (8.6 %), Austria (8.2 %) and Germany (8.0 %), while the lowest rates were observed in Poland and Bulgaria (both 0.1 %). However, in terms of cabotage

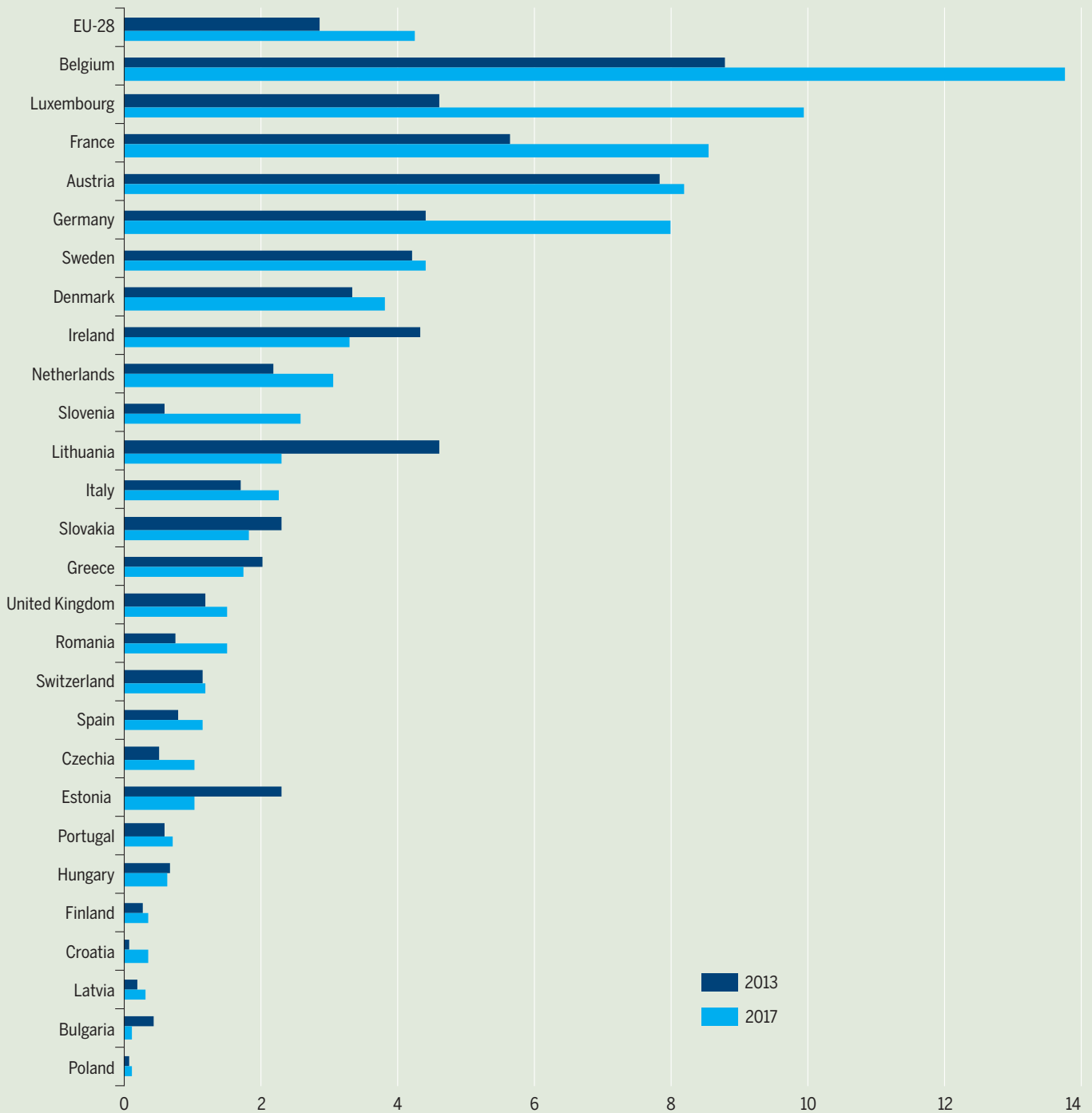
transport by country in which cabotage took place, Germany was in first place with almost half of the total EU cabotage tkm performed on its territory. France was second, with a quarter of the total tkm, followed by Italy with a bit more than 5 %.

In terms of cabotage performance by hauliers from reporting countries in 2017, Poland continued to lead with nearly 40 % of the total cabotage performed in the EU, followed by Romania (8.7 %), Spain (6.2 %) and Lithuania (5.7 %, see Figure 4).



Source: Eurostat (online data code: road_go_ta_tot). Data extracted February 2019.

Figure 3: Development of road freight cabotage transport, EU-28, 2013–2017 (tonne-kilometres)

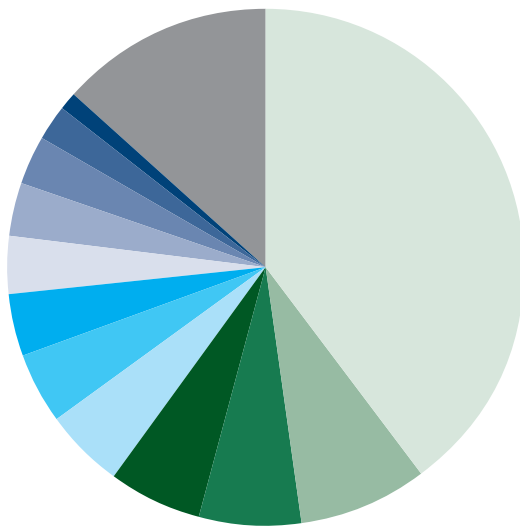


Source: Eurostat (online data codes: road_go_ta_tot and road_go_ca_c). Data extracted February 2019

Figure 4: Cabotage penetration rate for hire and reward transport by country in which cabotage takes place, 2013 and 2017 (% share in tonne-kilometres)

It should be noted that cabotage data as reported by Eurostat are generally problematic and underestimate the phenomenon. As Eurostat has noted already, cabotage data are collected on the basis of sample surveys of companies whereby “the

accuracy of data on cabotage is lower than the accuracy of other variables and the percentage standard error of cabotage transport varies significantly from country to country.” (Eurostat 2018).



Source: Eurostat (online data codes: road_go_ta_tott and road_go_ca_c).
Data extracted February 2019

Figure 5: Cabotage performed by hauliers from reporting countries, 2017 (% share in tonne-kilometres)

At the same time, very few national studies on cabotage activities in specific countries exist. Existing research indicates a much higher level of cabotage activities as well as a high share of illegal cabotage activities (see textbox 2).

Regulation 1072/2009 of the European Parliament and of the Council of 21 October 2009 sets common rules for access to the international road haulage market with a view to cabotage.⁵⁾ The so-called Cabotage Transport Regulation defines cabotage as the national carriage of goods for hire or reward carried out by non-resident hauliers on a temporary basis in a host Member State. According to the regulation, every haulier is entitled to perform up to three cabotage operations within a seven-day period (3 in 7 rule). The period starts counting the day after the unloading of the international transport. However, the ETF points out that the regulation does not limit cabotage, since it can be interpreted that three cabotage operations are permitted after each border crossing within a seven-day period (ETF 2018b). In addition, restrictions are very difficult to enforce, as the number of cabotage operations cannot be checked. Also, Member States do not enforce cabotage rules consistently: some have specific controls, others do not check at all. An ex-post evaluation of the regulation showed that, due to wage cost differentials, illegal cabotage is rather widespread in the EU (European Commission 2016a; 2017a; 2017b).

5) 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.

TEXTBOX 2: STUDY ON THE EXTENT OF CABOTAGE IN AUSTRIA

A study by the Institute for Transport and Logistics Management at the Vienna University of Economics and Business for the Austrian social partners attempted to determine the actual extent of cabotage journeys in Austria with the help of traffic data from 35,107,812 individual journeys of toll vehicles > 3.5 t from January to July 2016. The study concludes that cabotage accounts for 21.7 % of national transport in Austria. By way of comparison, Eurostat statistics yield a figure of only 8.0 %. Eurostat thus considerably underestimates the volume of cabotage in Austria.

Analysing the probabilities of illegal cabotage and taking into account the number of stops, the study conservatively estimates a proportion of illegal cabotage of:

- » 1.07 % of all transports in Austria (incl. bilateral transports and transit)
- » 2.13 % of all national transports with Austrian trucks
- » 3.28 % of national transports in Austrian commercial freight traffic.

This data are minimum values and most probably underestimate the proportion, as it is assumed that no foreign truck crosses the border without load.

The study also found that illegal cabotage is carried out systematically and in some cases to an extreme extent: Individual foreign vehicles have carried out more than 300 journeys within one month.

Source: Kummer et al 2016.



Though specific data from other countries are missing and existing Eurostat data tend to play down the problem, trade union representatives from Austria, the Netherlands, Belgium, Denmark and Germany strongly stressed that illegal cabotage

practices and a lack of enforcement of existing rules should be regarded as a key problem as regards a fair level playing field of road freight transport and an important challenge for guaranteeing decent social and working conditions of drivers.

2.2.2 INTERNATIONALISATION OF ROAD FREIGHT TRANSPORT COMPANIES

The internationalisation of road haulage companies is an inevitable consequence of the globalisation of the economy and the single market. The transport of goods between companies and customers is increasing as a result of international supply and value chains, production sharing and outsourcing. The internet and the strong growth of e-commerce also support the internationalisation of road freight transport. Companies are responding by setting up subsidiaries abroad or buying up companies. It has been reported from all our survey countries that large companies in particular have set up subsidiaries abroad.

Quantitative data analyses have shown (De Wispelaere/Pacolet 2018) that a total number of 885 European road freight transport companies had one or more subsidiaries in another EU Member State in 2016. This accounts to only 0.16 % of total hauliers in EU-28. However, in terms of turnover and employees the share of road freight transport companies with a foreign subsidiary in total is much higher. Transport companies with a foreign subsidiary represent some 15 % of total turnover and 9 % of total employment in the EU road freight transport sector. Moreover, the authors explain that turnover as well as employment are underestimated as such information is not available for all transport companies.

Our survey of management representatives as well as employee representatives at company level shows that the main functions of the companies' subsidiaries in other European countries can be quite different.

As in many other sectors of the economy, market access plays one of the most important roles in the creation of subsidiaries abroad (50 % of management agreed, 70 % of works councils). In some cases, it is also the customers of large logistics service providers who demand local representation from their service providers at their own locations abroad. From the management's point of view, however, the recruitment of drivers in the relevant country (70 %) and also the recruitment of third country drivers (60 %) play the most important role. On the other hand, it can also be assumed that, at least with regard to subsidiaries in Central and Eastern Europe, attempts are being made to exploit disparities in labour and social standards between different countries, especially if the drivers are deployed or dispatched in international transport. For 50 % of managers, the registration of trucks is still a reason for having company subsidiaries in other European countries.

2.2.3 LETTERBOX COMPANIES

In the context of internationalisation and “regime shopping”, “fake” subsidiaries or letterbox companies have been identified as a major problem (European Parliament 2016a and 2016b; McGauran 2016; Pastori/Brambilla 2017).

A “letterbox company” can be defined as a company that is formally registered in a Member State but has no administrative or economic activity in that Member State. Some Western European operators establish these letterbox companies in countries where wages are significantly lower, namely in Central and Eastern Europe, while transports mostly take place in high wage Member States to exploit wage differentials, to minimising employees’ social security contributions and to avoid taxes (Cremers 2014; Rasmussen 2018). The primary purpose of a letterbox company is to post workers abroad. Nonresident drivers are hired by a letterbox company with a local contract but then work entirely abroad in Western European countries. Also, trucks are registered in most cases by the letterbox company in the respective country but will not return to the country.

The scale of letterbox companies is difficult to determine. It is known that a total of 2.4 % of road haulage companies belong to a foreign owner or major shareholder – although minority shareholdings can also play a significant role with regard to letterbox companies (De Wispelaere/Pacolet 2018). A large number of foreign owned companies exist in England and Luxembourg but also in Slovakia and Romania. Though there is a lack of reliable data, there has been plenty of evidence arising from research studies (Broughton et al. 2015; Cremers 2014, McGauran 2016).

The problem of letterbox companies is not new and has been addressed already by Regulation 1071/2009 on admission to the occupation of road transport operator. Applying as of 4 December 2011, Regulation (EC) No 1071/2009 establishes common rules concerning the conditions to be complied with to exercise the occupation of the road transport operator.⁶ According to Regulation (EC) No 1071/2009, each undertaking engaged in the occupation of road freight transport needs to:

- » be of good reputation;
- » have appropriate financial standing;

- » have the requisite professional competence; and
- » be independently operated and effectively and stably established in a Member State.

Special emphasis is to be placed on the requirement that an undertaking engaged in road freight transport be independently operated and effectively and stably established in a Member State, meaning that they should have an office and an operating centre in that country. These requirements should enable a more effective tackling of the phenomenon of letterbox companies. Furthermore, companies need to:

- » Designate a “transport manager” who has to manage effectively and continuously the transport activities of an undertaking. This person must provide proof of high-quality professional competence (140 hours of training and an examination) by holding a Certificate of Professional Competence (CPC).
- » In the case that the transport manager is hired as self-employed, the regulation sets a limit to the number of companies and to the number of vehicles a single transport manager may be responsible for. The current limit is four companies and 50 vehicles.

However, the evaluation of Regulation (EC) No 1071/2009 showed that it was not very effective (Gibson et al. 2017). In particular, Belgium letterbox companies that are established by nearly all Belgian important transport companies are a major problem (see textbox 3)

Examples of letterbox companies can also be found in Germany and the Netherlands (McGauran 2016). For example, the border regions in Germany in particular are a location for letterbox companies of Dutch origin. Due to salary differences with neighbouring countries, Germany is also the location of letterbox companies for both Belgian and Danish companies. Letterbox companies are also considered a major problem by Danish trade union representatives. Austrian companies, on the other hand, set up letterbox companies in Slovakia and Slovenia. The representative of the Czech trade union, on the other hand, does not believe that letterbox companies exist to a large extent in the Czech Republic.

6) 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. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009R1071>, date of access: June 13, 2018.

TEXTBOX 3: **LETTERBOX COMPANIES AND SOCIAL DUMPING BY BELGIAN COMPANIES IN SLOVAKIA**

The extent of letterbox companies as a business model for many large Belgian transport and logistic companies became prominent through extensive research by a trade union representative of the BTB-ABVV trade union. On the basis of the Slovak register of companies, the trade union representative identified Belgian-owned road haulage companies in Slovakia. It turns out that more than 100 Belgian companies have letterbox companies in Slovakia. An increase in monitoring has recently led to the use of “straw men” who keep the identity of the owners’ secret and are used by letterbox company dispatchers to ensure that they can be reached by telephone. The companies then recruit Slovak as well as Romanian drivers on a large scale, who then drive permanently in Belgium under a Slovak employment contract. If trucks are registered with the company, they are driven back to Slovakia for technical inspections once a year. Otherwise they are in use in Western Europe.

The BTB-ABVV trade union made its findings public, see; including through the Black Book “The road to Slovakia: social dumping: this is how it works: BTB investigates” (BTB-ABVV 2017).

2.2.4 SUBCONTRACTING AND BOGUS-SELF-EMPLOYMENT

“Large companies in Germany no longer have their own vehicle fleets. Outsourcing began 20 years ago and has largely been completed. The large logistics companies earn their money through logistics management. They then organise the logistics services and take on subcontractors for the forwarding services.” (Trade union representative, Germany)

“There are thousands of one-person-undertakings in the road freight transport sector today. They totally act outside social legal regulation for road freight transport and are not covered by the collective agreements because they are formally self-employed.”

(Trade union representative, Austria)

“In Poland, one-person companies in recent year have increased rapidly. The sole purpose is to circumvent social regulation and minimum wage conditions. The situation is totally intolerable and the practice should be abolished immediately.” (Trade union representative, Poland)

As a result of increased competition and internationalisation, complex subcontracting chains have emerged in road freight transport.

Subcontracting allows, in particular, large companies to operate cost-effectively and flexibly by using subcontractors (often from the EU-15) or by posting workers through foreign temporary work agencies. This allows large companies to benefit from low labour costs in other countries. Some large companies no longer have their own fleet of vehicles, but earn their money through logistics management. They then organise the logistics services and subcontractors take care of the forwarding services. There is no data on the extent of subcontracting, but relevant studies suggest that it is considerable (Broughton et al. 2015:28). The results of our survey of trade union representatives also indicate that subcontracting is increasing steadily in all countries surveyed and that the level of subcontracting in the sector is high. At the same time, works councils in the survey point out that subcontracting has reduced the volume of work in the company and led to substitution. Subcontracting chains have shrunk profit margins, which in turn result in downward pressure on workers' wages at the subcontractor (Pastori/Brambilla 2017). Cases from Germany show that companies conclude contracts with foreign subcontractors whose conditions are so tight that the freight company cannot pay the minimum wage at all. General contractor liability in this area does not exist in Germany.

A specific form of subcontracting is bogus or false self-employment. Many regulations, e.g. relating to minimum wage

requirements, social security contributions and other remuneration elements, are less strict for self-employed workers, and therefore there is an incentive to substitute regular employed drivers with self-employed persons. Supposedly self-employed drivers will cost the company no taxes, no social contributions and no paid leave. Only the Working Time Directive 2002/15/EC, which lays down rules on the organisation of the working time of drivers, applies to self-employed drivers.⁷⁾ It establishes the requirements on maximum weekly working times, minimum breaks in work and on night-time working and contains clarifying provisions on definitions of working time, daily working time, weekly working time, maximum working time, breaks, and recording of working time. Bogus self-employed drivers seem to be particularly relevant for the lower subcontractor tiers and the "last mile" (Haidinger 2018). Substitution of regular drivers by self-employed also has been reported as a major problem in Austria, where as a result only 20 % of drivers in the light vehicle transport sector (< 3.5 t) are regular drivers because the overwhelming majority of drivers today are self-employed.

However, while bogus self-employment is generally losing importance in the road haulage sector due to the lack of skilled workers in the countries surveyed, its extent in the parcel delivery sector is sometimes very high. In Germany, as well as in the Netherlands, the increase in e-commerce in particular has led to a large number of different subcontractors with very small vehicle fleets and bogus self-employed persons delivering parcels. The reason for this is that these are light commercial vehicles (LCVs) whose use does not require a driver qualification. A normal driver's licence is sufficient.

2.2.5 LIGHT COMMERCIAL VEHICLES (LCVS)

"Social dumping is also endangering road safety. Light freight good vehicles below 3.5 t are a major problem. They are not covered by the tachograph regulation, often are overloaded and drive at very high speed. Such vehicles increasingly drive on Sundays in Belgium. Driving licenses are cheap to acquire. They are very dangerous."

(Company level trade union representative, Belgium)

A relatively new trend is that the use of light commercial vehicles (LCVs) below 3.5 t in European road haulage is increasing sharply. Previously limited to the parcel delivery market, LCVs are now increasingly used in international transport.

The drivers of LCVs do not need to comply with any rules regarding access to the occupation of road transport operator and market access. Also, EU legislation on social conditions

in the road transport sector do not take effect and there is no need to install a tachograph in these types of vehicles. As a result, driving times and rest periods, for example, do not have to be observed. As a consequence, there are examples from all countries surveyed where companies use LCVs to circumvent regulations and thus gain a competitive advantage. Serious consequences for working and employment conditions are obvious.⁸⁾

7) 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

8) <https://www.trucker.de/osteuropaeische-kleinlaster-angriff-von-unten-1376085.html>

3

EU SOCIAL RULES FOR THE ROAD FREIGHT SECTOR AND OTHER RELEVANT EU LEGISLATION



3.1 OVERVIEW

Attempts to influence fair competition and uphold social standards in road transport through EU regulation have a long history. As early as 1969, attempts were made in the European Economic Community to work towards minimum social standards by means of provisions on working hours, driving time and breaks. Since then the EU has established a framework of social rules for road transport operators with three complementary goals:

- » to ensure the adequate social protection of road transport workers;
- » to guarantee fair competition between companies; and
- » to improve road safety.

Most existing regulations fall into one of two strands – either creating minimum working conditions or discouraging unfair competition.

Regarding social conditions of professional drivers in the road transport sector, Directive 2002/15/EC of 11 March 2002 focusses on working time, night time work and breaks (see table 4).⁹⁾

Furthermore, the directive gives a concrete definition of “working time”, thus closing a previous legal loophole on what is to be understood as working time. According to the directive, working time not only includes the driving of the vehicles but also other activities such as loading and unloading the trucks, technical maintenance and cleaning of the vehicles.

Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 specified rules on working time laid out in Directive 2002/15/EC.¹⁰⁾ It establishes requirements related to daily and weekly driving times as well as breaks and rest periods (see table 5).

Regulation (EC) No 561/2006 also aims at improving road safety by stating that carriers shall not give a bonus or wage

supplement related to distances travelled or amount of goods carried if that payment could lead to endangering safety on the road safety and health of workers.

Directive 2006/22/EC, which is known as the Enforcement Directive for Regulation (EC) No 561/2006, contains a set of provisions to enforce compliance with the regulations on driving time.¹¹⁾ It establishes minimum levels of roadside checks and controls at the premises of transport companies to be carried out every year by Member States (see table 6).

Unfair competition is a long-standing problem in the road freight transport sector. Several EU laws address this issue. In 1996 the Posting of Workers Directive (Directive 96/71/EC) established a set of mandatory terms and conditions of employment, which need to be observed in the case of employees being sent abroad by their employer for a temporary period.¹²⁾ These cover:

- » maximum work periods and minimum rest periods;
- » minimum rates of pay, including overtime rates;
- » minimum paid annual holidays;
- » health, safety and hygiene at work;
- » provisions on non-discrimination.

There are several mechanisms in practice that should help to distinguish genuine posting from fake posting. In particular these are the Social Security Regulation 883/2004/EC¹³⁾ and Directive 2014/67/EU, the so-called Enforcement Directive for the Posting of Workers Directive. Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 establishes the Internal Market Information system (IMI) for administrative cooperation between Member States (European Parliament 2014). The Internal Market Information system links up national, regional and local authorities across borders and can assist authorities in identifying abuse, such as workers falsely declared as self-employed.

9) 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. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32002L0015>, date of access: June 13, 2018.

10) 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. <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32006R0561>, date of access: June 13, 2018.

11) 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.

12) 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. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:31996L0071>, date of access: June 13, 2018.

13) The European Parliament and the Council of the European Union (2004): Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, Official Journal of the European Union, 30.4.2004; <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:166:0001:0123:en:PDF>, date of access: June 13, 2018.

Working time	» Weekly working time shall not exceed 48 hours, but it is possible to extend the weekly working time to 60 hours as long as an average of 48 hours per week is not exceeded within a period of four months
Night-time work	» Workers are obliged to take a break after six consecutive hours of work of at least 30 minutes
Breaks	» Workers are obliged to take a break after six consecutive hours of work of at least 30 minutes » When working nine hours or more, workers are obliged to take a break of at least 45 minutes

Table 4: Key Requirements of the Working Time Directive (2002/15/EC)

Uninterrupted driving time	» Maximum 4.5 hours
Interruption of the driving time	» At least 45 minutes uninterrupted » OR splitting up the interruption: Minimum 15 minutes followed by an interruption of at least 30 minutes (obligatory in that order)
Daily driving time	» Maximum 9 hours in between 2 daily resting periods or a daily resting period and a weekly resting period » A prolongation up to 10 hours possible twice a week
Normal daily resting time	» Maximum 9 hours in between 2 daily resting periods or a daily resting period and a weekly resting period » A prolongation up to 10 hours possible twice a week
Reduced daily resting time	» Minimum 9 hours consecutive » Maximum 3x in between 2 weekly resting times
Weekly driving time	» Not more than 56 hours
Two-week driving time	» Added total driving time of two consecutive weeks cannot be more than 90 hours
Regular weekly resting period	» At least 45 hours (not in the truck*) which cannot start later than before the end of six periods of 24 hours until the end of the latest weekly resting time
Reduced weekly resting period	» At least 24 hours provided that compensation in one piece before the end of the third week
Restricting period in a period of two consecutive weeks	» 2 normal weekly resting times of at least 45 hours » OR one normal weekly resting time and 1 shortened weekly resting time of at least 24 hours (provided that compensation is taken).

* See European Court of Justice (2017).

Table 5: Key Requirements of the Driving Time Regulation (561/2006)

Checks	» Checks should cover at least 3% of the total number of days worked by drivers » Roadside checks and checks at the premises of the transport companies should make up at least 30 % and 50 % of all checks, respectively; » Member States should undertake at least six concerted roadside checks per year
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Table 6: Key Requirements of the Enforcement Directive (2006/22/EC)

3.2 THE MOBILITY PACKAGE

On 31 May 2017 the European Commission launched a major revision of EU rules covering two of the most important aspects pertaining to commercial road transport: its social and market pillars. The two stay at the core of social rights and fair competition in a sector which has struggled for decades with growing inequalities affecting drivers and business alike.

The ETF is part of the context in which this proposal was launched. In 2012, the ETF Road Transport Section started its “Respect for Drivers” campaign with a key goal of raising awareness on the unprecedented scale of dumping practices in the haulage market. What made the ETF plea so strong were the hundreds of drivers and trucks parked at night and at weekends along roads and motorways. No road user – among whom many policy makers – could ignore such blatant evidence of modern slavery in a modern Europe. The ETF brochure bearing the same title and produced within the frame of our campaign pins up key aspects social dumping in road transport, with pictures and simple text to convey the message. Hence, one may conclude that as early as 2012 the ETF set the scene, and EU Institutions had to react!

In 2015, the new president of the European Commission Jean-Claude Juncker committed to address social dumping. In autumn 2016, the European Parliament passed a motion on social dumping in the European Union. Several pages were dedicated to road transport. One year later, after extensive consultations, the European Commission Directorate for Mobility and Transport, DG MOVE, launched their proposal for the revision of social and market rules in road transport, the so called Mobility Package 1. One of its political objectives was to address social dumping via clearer posting and cabotage rules, via tighter criteria meant to eliminate letter-box companies and via changes in driving and rest time regulation. But ... did they? Did the DG MOVE proposal hit the mark? The ETF considered that was not the case. The Mobility Package 1 proposed, in a nutshell, that drivers engaged in international transport to be exempted from posting for every first slot of three working days spent on a territory of a Member State. On driving and rest time rules, the Package proposed a totally different distribution of rest time over a span of a month. In simple words, under the current rules, a driver was entitled to 3 days off every two weeks of work. The DG MOVE proposal reversed this to 3 weeks of work with only 2 days off in between. On cabotage, the European Commission went for 5 days period of unlimited cabotage operations, ignoring the real problem: that of the international journey preceding each cabotage period. The latter had been easy to fake and the new proposal failed to come with anything strong to fix the problem. Finally, on the letterbox companies, nothing substantial. Talking of “substantial”: during the consultation procedure preceding the launch of the package the ETF insisted that the only way to eradicate letter-box companies would be for the substantial part of operator’s activity to be carried out in its country of establishment. But our recommendation failed to be part of the European Commission proposal.

With this on its hands, the ETF started its lobbying and campaign work, to fix the failures of the Package. It has established its red lines, mostly to do with the driving and rest time proposal, starting working on alternative solutions in what concerns the cabotage rules, the so called letterbox company criteria and the application of posting rules to international drivers. The ETF planned its work around the key step of the EU

institutional process, so that to better influence it. By April 2018, the ETF already had a workable solution for posting of workers. It took only six months to convince the EU Institutions – the Council of Ministers, the European Parliament and the European Commission – to take this solution on board.

On driving and rest time, the ETF ran a totally different strategy. It was crystal clear that any further flexibilisation of the driving and rest time periods would affect not only the drivers’ health and work-life balance, but also their pay. Here, the ETF choose campaigning as a tool to prevent any further flexibility being granted to companies in establishing the drivers’ schedules. It took a few months of trade union action, and strong alliances with other road safety European organisations, to stop these attempts in both passenger and haulage transport. The driver’s weekend rest conditions were also under attack, as strong voices in the European Parliament insisted that drivers should spend their full weekends in the cabin. The challenge for the ETF was to fight against the above, while preserving the more positive parts of the DG MOVE proposals, notably the drivers’ regular return to the home country.

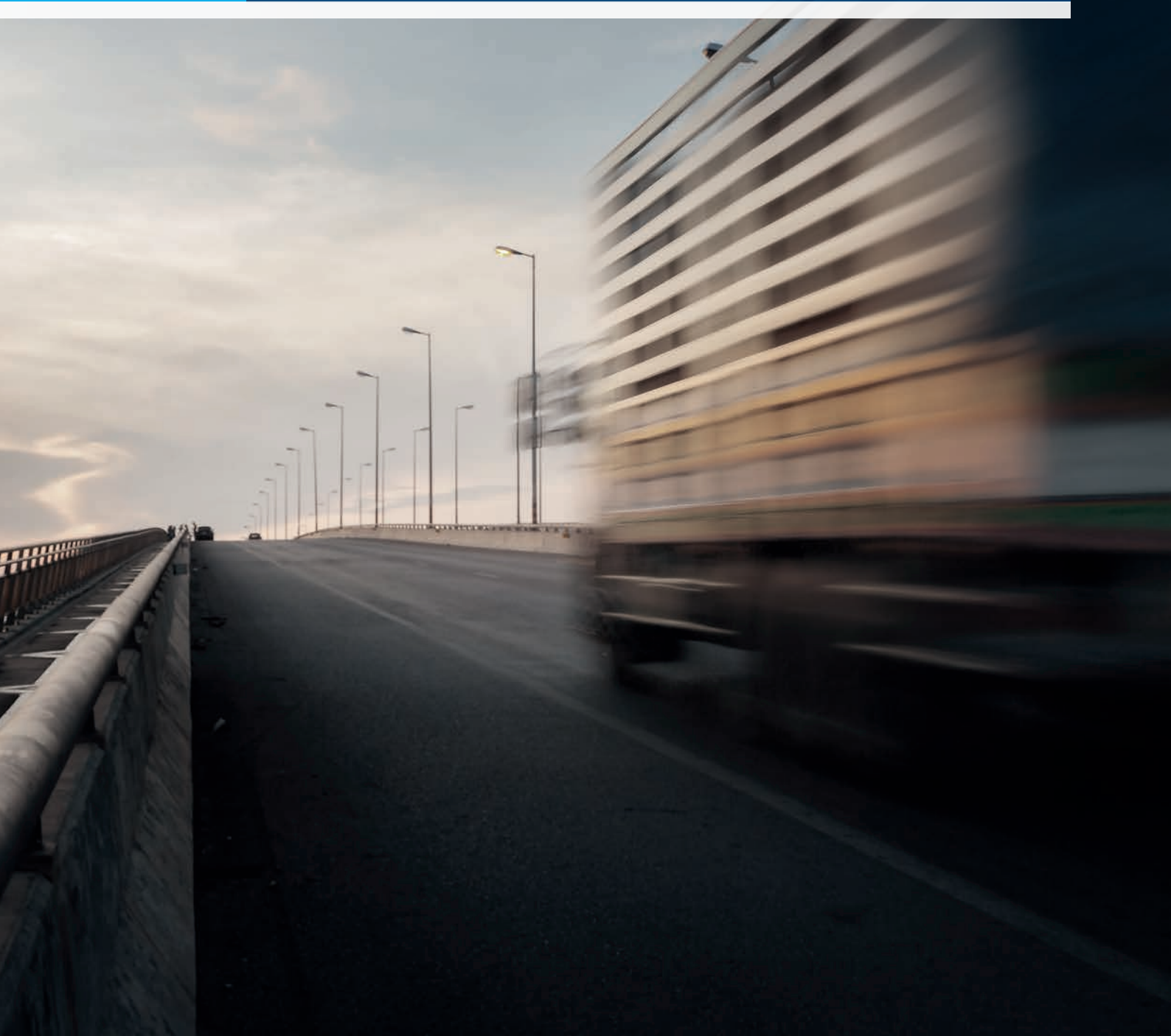
Lobbying on a viable solution for posting of drivers, campaigning on driving and rest time, and keeping a close eye on the EU inter-institutional debates on cabotage and letterbox company regulations – that has been a constant challenge for the ETF and its members of the Road Transport Section for the past couple of years.

But where are we today? The ETF, via its networks of friendly MEPs and via good contacts with the Member States, managed to influence both the European Parliament and the EU Council of ministers of transport to such an extent that our position is today part and parcel of the positions adopted by the two institutions. We had strong arguments and good solutions. That was key to gaining credibility to being part of the process. Negotiations between the Council and the European Parliament will soon start on what the ETF can qualify as a good base for workers. On posting rules, the exemptions are reduced to those situations where the driver returns home regularly. Thus, the risk of wage dumping is extremely limited. On driving and rest time we obtained a total ban of rest in the vehicle at week-ends, a regular return home of the drivers, and no changes in driving and rest time rules. On cabotage, we obtained a time-based buffer zone in between two cabotage periods, a guarantee that this type of transport will only be of temporary nature. As far as the letter-box companies are concerned, in its position, the European Parliament introduced safeguards along the lines of the ETF “substantial activity” requirement. Last but not least, it is now a fact that the smart tachograph, a key tool for enforcement and control of cabotage and posting of drivers, will be massively introduced on all vehicles – buses, coaches and trucks – within a short deadline after the full adoption of the Mobility Package 1. Light vehicles will also be equipped with tachographs, by this enlarging considerably the scope of enforcement, to a grey area opened to abuse.

The ETF and its Road Transport Section member organisations take pride in these developments. It has been a learning curve in terms of pushing our demands and solutions at the very top of the EU agenda, and determining the EU policy makers to keep their promises to the drivers the ETF represents.

4

NATIONAL FRAMEWORK CONDITIONS AND THE ROLE OF COLLECTIVE BARGAINING AGREEMENTS



4.1 AUSTRIA

“The working conditions in the Austrian haulage sector are characterised by lack of skilled workers, high amount of overtime work, outsourcing of work to subcontractors (in particular one-person-companies) and strong pressure on indigenous companies from South Eastern European competitors. In companies without a works council there is also a growing pressure on workers to be available permanently.” (Trade union representative, Austria)

4.1.1 TRADE UNIONS AND SOCIAL PARTNERS

In Austria, there are only two social partners organising the road freight transport and logistics sector¹⁴⁾:

- » the professional association/employer organisation for transport and logistics, affiliated to the Austrian Economic Chamber;¹⁵⁾
- » the vida trade union, road section that represents the interests of all professional drivers in Austria, including in the road freight transport and logistics, bus drivers or taxi drivers;

The two social partners representing the interests of around 70,000 dependent employees in the road freight sector (which is the single largest sector within the transport and logistics sector) that are employed by around 11,000 companies in the sector (data for 2017, see WKO 2018).

While the number of companies in the road freight transport sector since 2010 has been quite stable, employment decreased between 2008 and 2015 quite significantly. After 2015, it increased very modestly until 2017, but without reaching the peak level of 2008.

4.1.2 LEGAL FRAMEWORK AND THE ROLE OF COLLECTIVE BARGAINING

The legal framework regulating social and working conditions in road freight transport in Austria consists of European and national legal sources. The EU regulation on working and rest time had different effects on previously existing standards in Austria. According to a study commissioned by the Vienna Chamber of Labour (Hermann 2004), the introduction of limits on maximum driving time and minimum rest time improved legal security. However, the regulation on maximum driving time of up to ten hours and weekly rest periods of only 24 hours also worsened standards when compared to the pre-

vious requirements of the Austrian working time act and the act on rest time (Arbeitszeitgesetz, AZG). It should be noted however that in contrast to the EU regulation, only dependent employees were covered by the Austrian regulation on working time and rest time.

The EU regulation was implemented into Austrian law with immediate legal effect, for example the working time and rest time legislation. Further important national legislative frameworks in the road transport sector are the road vehicle

14) It should be noted that the social partners represent third-party road freight transport and logistics. Own-account transport (i.e. organised by a company itself, 'Werkverkehr' is organised by those unions and employer organisations that represent the specific respective sector.

15) By law, every single person who is entitled to operate an independent business venture in crafts and trades, industry, mining, finance, banking and insurance, transport, information and communication, broadcasting, tourism and leisure, as well as other services, is a member of the Federal Economic Chamber under Austrian law. At the same time every member is also a member of multiple Economic Chamber organisations. Thus, every member belongs to the Regional Chamber of his/her federal province and the relevant trade group, as well as the Austrian Federal Economic Chamber and the relevant Trade Association.

Act (Kraftfahrzeuggesetz, KFG), the road traffic regulation (Strassenverkehrsordnung, StVO) and the regulation regarding dangerous goods transportation.

In Austria, collective agreements play an important role for the implementation of EU and national regulation, for example in the field of working time. For instance, it is explicitly stated in the collective agreement of the road freight transport sector that the agreement implements the EU Working Time Directive 2002/15/EG, Regulation 561/2006 on the harmonisation of certain social legislation relating to road transport, as well as EU Regulation 165/2014 on tachographs in Road transport and the Austrian working time legislation.

Since 2011 and in the context of the ending of restrictions on labour market access by workers from Central and Eastern European Members States, Austria has also introduced legislation to fight wage and social dumping, the according Act (Lohn- und Sozialdumping-Bekämpfungsgesetz, LSD-BG) applies to domestic as well as foreign companies that post workers to Austria.

Since an amendment in 2017 the revised law has been implemented in the context of the Austrian Posted Workers Act (Employment Contract Law Adaptation Act, Arbeitsvertragsrecht-Anpassungsgesetz, AVRAG) and aims to ensure that foreign companies adhere to Austrian wage regulations and provide employees with wages according to Austrian minimum standards as regulated by law and collective agreements, thus preventing potentially unfair competitive advantages.

Since 2017, the amended law has been implemented as a standalone act (previously it was included in the AVRAG) The LSD-BG came into effect on 1 January 2017 and includes the transposition of the posted workers Enforcement Directive (2014/67/EU). In addition, cross-border administrative prosecutions (on the grounds of infringements such as wage dumping) of employers posting workers to Austria have now been improved and accelerated to make it easier to enforce the regulation (see for further details Allinger 2017).

However, it should be noted that “transit traffic” activities, including mobile workers or crew members in the cross-border transport of goods and people, whose usual place of work is not in Austria, are exempt from the act. At the same time, the act does apply to cabotage operations.

4.1.3 COLLECTIVE BARGAINING PRACTICE

A key feature of the Austrian collective bargaining system is the high coverage of companies by collective agreements. As in most other sectors, around 100 % of all companies in the transport and logistics sector are covered by a collective agreement. This is due to the obligatory membership of Austrian companies in the Economic Chamber (see above).

Due to the high coverage of economic sectors by collective wage bargaining, Austria has not introduced statutory minimum wages.

Collective bargaining on wages normally takes place each year and collective agreements have a national scope. Collective bargaining is highly centralised and there are no company level collective agreements.

The trade union negotiates with the respective employer organisation on a national as well as regional or local level, with collective agreements covering different sections of road transport and logistics (excluding freight transport for company purpose only, *Werkverkehr*).¹⁶⁾ In the freight transport sector there are two collective agreements with different functional scopes:

- » An agreement covering the whole road freight transport sector that includes not only regulations on pay and working conditions but also sections on labour law and working time (implementing EU and national legal acts);
- » A further agreement covering road freight transport with light trucks and a load of less than 3.5 tons. This agreement only addresses issues related to remuneration and working conditions.

The collective agreements have a national scope and an indefinite duration – whereas the labour law and wage related sections have a notice period of three months, the stipulations implementing European and national working time requirements are binding as long as the respective legal sources will remain unchanged.

The agreement covering drivers and other workers engaged in light truck freight transport came into force at the beginning of 2018 and defines a number of minimum standards such as minimum pay (€ 1.376,34), normal weekly working time (40 h), overtime premiums (50 %) and notice periods (ranging from one week to 3 weeks depending on seniority). The more comprehensive agreement, covering the whole road freight sector, is described in the next section.

16) There are national agreements for private as well as public bus companies, road freight transport undertakings, as well as transport, logistics and taxi companies.

4.1.4 CONTENTS OF COLLECTIVE AGREEMENTS

The collective agreement stipulates a normal weekly working time of 40 hours as well as working time flexibility that reflects the provisions of the EU Directive. The maximum working time in single weeks can be 60 hours but only if the average of a maximum of 48 hours within a reference period of 26 weeks is guaranteed. However, if the exceeding working hours are stand-by work (thus not driving), the maximum weekly working time could be 55 hours.

The collective agreement also defines what should be understood as working time: Preparatory works, loading work and waiting time count as working time and must be remunerated as working time. The only exception is the daily lunch break of one hour per day which is not counted as working time and thus will not be paid. Each hour exceeding the 40th weekly working hour should be counted as overtime and shall be remunerated accordingly. The overtime premium will be 50 % of the normal hourly rate. Work outside the normal working day (between 8 pm and 5 am) will be remunerated with a premium of 100 %. Working time between 12 am and 4 am will be counted as night work.

Apart from working time, the collective agreement includes a number of regulations as regards basic terms and conditions of employment and working and social conditions, namely

- » Driving and rest time provisions, including daily and weekly rest;
- » Operating time (Einsatzzeit);
- » Requirements and provisions regarding parking areas;
- » Requirements and provisions regarding analogue and digital tachographs;
- » Holidays and rights regarding unpaid holidays (in the context of preparing for exams for specific licences and/or certificates);
- » Holiday and Christmas pay
- » Additional holidays in specific situations (marriage, birth, death, sickness of children, removals, etc.);
- » Notice periods (ranging from one week to three weeks depending on seniority);

- » Further training and qualification (professional qualification measures have to be paid by the employer);
- » Apprenticeship remuneration
- » Allowances/premiums for dangerous, heavy or dirty work
- » Wage and remuneration.

The current collective agreement includes detailed wage scales on the basis of hourly, weekly and monthly wage levels. Basic wages scales differ because of seniority (five different groups/levels) and around a dozen of different qualification levels.

Depending on seniority and qualification, basic wages for drivers according to the 2019 collective agreement range between € 9.19 per hour (€ 1,589.87 per month) for a driver with less than 5 years of working for the company to € 11.10 (€ 1,920.30) for experienced drivers of petrol or heating oil.

The so-called normal wage of driver increases by further remuneration components such as daily fees and/or overnight fees when travelling within the country or abroad. The driver is entitled for at least a part of the daily fee (€ 26.40 per calendar day) when travelling for more than three hours. In case of overnight stays, the driver receives a specific overnight allowance of € 15. In case of hotel accommodation needs, costs will be reimbursed. In case of travelling in another country daily fees as well as overnight allowances are different.

There are also arrangements for additional allowances in case of specific transport that are linked to strenuous, dangerous or dirty work. Such allowances are paid either by piece (for instance, € 21.73 for loading/unloading of heavy goods) or day (for instance, € 15.56 for workers engaged in waste collection). Specific work related to waste work collection or to dirt will receive an allowance of 10 % of the normal collectively agreed wage.

According to the assessment provided by vida, no Austrian driver earns less than € 2,000 net per month.

Apprentices remuneration per month ranges between € 662.41 (during the first year of training), € 1,243.70 (third year) or € 1,419.44 for apprentices in a double apprenticeship pathway during the fourth year.

TEXTBOX 4: VIDAFLEX – INITIATIVE OF THE VIDA TRADE UNION FOR ONE-PERSON-COMPANIES

In Austria, 99.7 % of all enterprises are one-person enterprises (EPU) and small and medium-sized enterprises (SMEs). In particular, one-person enterprises often have poor social security. Nevertheless, the number of one-person enterprises (EPU) is steadily increasing. More than 306,000 companies are already one-person companies – and the trend is rising, especially in road freight transport with light commercial trucks (LCV).

In 2018, the vida trade union and cooperation partners from the fields of research, insurance, banking and tax consultancy founded the trade union initiative vidaflex for one-person companies (EPUs) and freelancers, which is unique in Europe to date. The aim of vidaflex is to be there for those groups in the world of work who have not yet found a place in the trade unions. Within the framework of a basic membership in vidaflex, self-employed persons are offered a comprehensive tax and legal service and protection package as well as training and further education in addition to representation of their interests.

At the press conference on the founding of vidaflex, Austrian Chancellor Christian Kern acknowledged the political task of shaping change in the world of work. Establishing fairness for the EPUs, e.g. with regard to entitlement to sick pay, is one of the objectives in his Plan A for Austria: “We need a political lever so that one-person entrepreneurs get the same social rights and the same respect for their performance,” emphasises Kern.

Further information: www.vidaflex.at, www.facebook.at/vidaflex

4.1.5 CHALLENGES FOR COLLECTIVE BARGAINING

Apart from the problems and challenges related to the strong increase of illegal cabotage operations and the increasing substitution of national transport by cabotage (see chapter 2.2.1) in Austria, a number of further challenges for collective bargaining and the regulation of social and working conditions in transport have been reported by vida in the context of interviews and workshop contributions.

The most important challenge is the rapid increase in so-called one person enterprises (Ein-Personen-Unternehmen, EPUs) consisting of self-employed drivers that often work under very precarious conditions. Such drivers are not covered by the collective agreement because formally they are self-employed and not a member of vida nor the employer organisation. EPUs have increased particularly strongly in light transport (< 3.5 tons) where the share of self-employed drivers is estimated at around 80 % today. The high share

of self-employed drivers that work for low wages and under excessive working time conditions puts those parts of the light transport sector under pressure that are bound by the collective agreement and trigger a downward spiral of wages and working conditions.

The worsening of working conditions in specific segments of road freight transport is also linked to illegal practices such as performance-based payment (e.g. wages based on € 10 per 100 km) or illegal piece work (payment per piece, e.g. in parcel delivery).

Such challenges and negative trends in the market have been addressed by vida activities and initiatives, such as the vidaflex pilot project, aim at providing better support for one-person enterprises.



4.2 BELGIUM

“Belgian drivers are under pressure to work more for less money because of the strong competition and pressure caused by drivers from low wage countries employed by foreign letterbox companies but working mainly in Belgium.” (Trade union representative, Belgium)

4.2.1 TRADE UNIONS AND SOCIAL PARTNERS

In Belgium, labour unions play an important role for representing workers at company, sectorial, inter-sectorial and national levels. This is also illustrated by a high trade union and employers' membership density – Belgium trade union density is estimated at around 56 %.

The main labour unions representing workers in Belgium are the ABVV (FGTB in French), the ACV (CSC in French) and the ACLVB (CGSLB in French). Specific labour unions exist for the

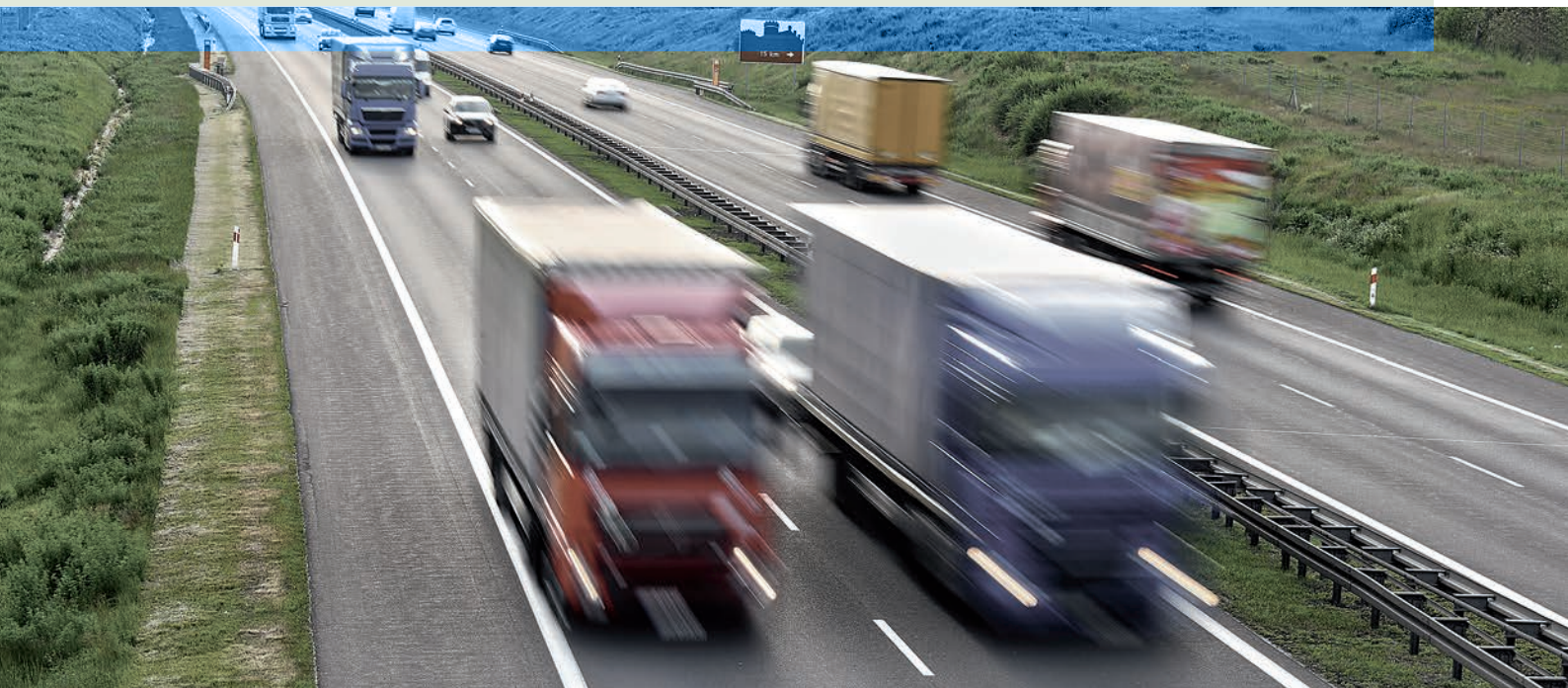
transport sector: BTB as part of ABVV and Transcom as part of ACV. Also, in transport and logistics, the share of workers that are members of the trade unions is around 56 %.

The main sectoral employers' organisations in the transport sector are FEBETRA, TLV and UPTR. They are all affiliated to a cross-sectoral employer organization: FEBETRA is affiliated to VBO, TLV to UNIZO and UPTR to UCM.

4.2.2 LEGAL FRAMEWORK AND THE ROLE OF COLLECTIVE BARGAINING

The sectoral and inter-sectorial levels play a substantial part in the elaboration of labour legislation applicable to the road transport sector. At the sector level, the trade unions negotiate, within different Joint Committees (Commissions Paritaires), the collective labour agreements (Convention Collective de Travail or CCT). The joint committees are composed of representatives of employers and trade unions of the same

sector. The CCTs establish the rights and duties of employers and workers of the sector. At inter-sectorial level, trade unions act at the National Labour Council (Conseil National du Travail), the central economic council (Conseil Economique Central) and in groups of social partners. Every two years an inter-professional agreement is negotiated which applies to all sectors, and therefore to all workers.



The interests of workers of the transport sector are represented in the “Road transport of freight and passengers” joint committee (number 140). Within the joint committee 140, several sub-sectorial committees exist for bus and coach services (140.01), taxi (140.02), road transport and logistics for third parties (140.03), airport auxiliaries (140.04) and removal services (140.05).

Regarding minimum wages, these are established by the legally binding collective labour agreements of the joint committee 140, and its sub-committees. There are therefore numerous collective labour agreements setting out different wage rates according to the sub-sector. Regarding the sub-sector of road transport and logistics for third-parties (140.03), the minimum wages are set by the collective labour agreement on the working conditions and wages of the road personnel working for road transport and logistic companies. The minimum hourly wages differ depending on the type of tasks carried out by the personnel.

The Belgian wage setting system can be characterised by two main points. First of all, it is highly institutionalised, combining regulation with strict procedures for decision-making and encompassing the wage setting of nearly all employees. Secondly, it is free in the sense that voluntary agreements between employers and employees can be made at any level as long as lower level agreements respect employees’ rights of higher-level agreements. For example, any wage agreement at the company level cannot set wages below a sector or national agreement. The legal structure for this bargaining system has been in place since 1968.

Since 1975, the national minimum wage is determined by the National Labour Council (Nationale Arbeidsraad – Conseil National du Travail) by the social partners – the employers’ and employees’ representative bodies. Any agreement reached by the National Labour Council legally applies to all workers and employers, as if it were law, and can only be overruled in by-laws. It is worth noting that, in addition to the minimum wage, the social partners at the national level also agree on a maximum increase of wages (the so called “wage norm”), which is, as a rule, non-binding but closely followed in lower level agreements.

The freedom of bargaining is mainly implemented and dominated by sector level agreements which are issued by joint committees. Extension of these agreements by the Ministry of Labour is common practice. Belgium is the European country with the highest degree of bargaining centralisation and coordination. The centralisation is linked to the favourability principle that builds on the national minimum wage (which is determined in the National Labour Council) and the generalised practice of wage indexation at sectoral level on the one hand, and the bi-annual Wage Norm on the other hand. Nevertheless, the main legislative level remains the sector level. As a result of this structure, collective bargaining coverage is nearly 100 %.

Sector-level collective bargaining forms the core of Belgium’s minimum wage system, but the country differs from the Nordic or German models in that a national statutory minimum wage plays an important role as well. The national minimum wage (salaire minimum interprofessionnel) is negotiated between the social partners in national councils (Conseil central de l’économie and the Conseil national du travail).

4.2.3 COLLECTIVE BARGAINING PRACTICES

The sector-level collective labour agreements (CLAs) are negotiated in one of more than hundred sectoral Joint Committees. Given that these commissions are segregated by occupational status (in most sectors blue- and white-collar workers belong to separate commissions), workers at the same firm typically belong to several bargaining commissions and different minima may apply within the same firm. Public sector employees and apprentices are exempted from the national statutory minimum wage and are covered by specific agreements.

It should be noted that the difference between blue- and white-collar workers as a result of recent political decisions of the Belgian Government is going to disappear and this will have a strong impact on the sectoral bargaining and the number of joint parity committees. The difference between the blue- and white-collar workers is expected to cease to exist in 2023.

Belgium's high collective bargaining coverage (around 96 %) stems from the practice that all collective agreements are extended to all workers by Royal Decree.

There are three types of collective agreements:

- » Inter-sectoral agreements that are negotiated at the national level in the National Labour Council.
- » Sectoral agreements negotiated in the respective Joint Committees (Commissions Paritaires) between the two trade unions and the three employer organisations.
- » Agreements that are negotiated at company level between the company level trade union structure and the employer.

As regards the latter, it should be noted that company level

agreements apply to all employees of the company irrespective of their affiliation to the signatory trade union. As regards the hierarchy of agreements, lower-level agreements can only improve (from the employees' perspective) what has been negotiated at a higher level; in other words, there is no derogation possible except when it is explicitly stated in the higher-order agreement.

In addition to this, it is possible that a company has an individual agreement with one worker. This is mostly done in small companies where there is no trade union representation.

In Belgium, collective bargaining on wages takes place every two years. However, wage adjustments are made normally on an annual basis as a result of an automatic wage indexation system and a centrally defined wage norm in surplus. Since 1989 the Central Economic Council advises by a bi-annual report on the maximum margins for collectively agreed pay increases in Belgium. This advice leads to the important Wage Norm that pegs wage development in Belgium to expect productivity increases in the economies of the main trading partners. During last decades the wage norm has been tightened. While originally the Wage Norm was in principle a non-binding agreement by the social partners in the informal "Group of Ten" committee to guide sectoral negotiations, it has become stricter. The revision of the law in March 2017 finalised this process. Now the Wage Norm is, in theory, enforceable at the company level, meaning that the total wage bill cannot increase by more than the Wage Norm. As a result, the margins for wage negotiations have become extremely tight. Furthermore, in 2018, the Belgium government intervened in the system of automatic wage indexation that is included in sector-level bargaining agreements in order to compensate living cost increases.

4.2.4 CONTENTS OF COLLECTIVE BARGAINING AGREEMENTS

The current collective agreement for the road transport sector and logistics on behalf of third parties (JSC 140.03) has entered into force on 1.1.2018.

According to the collective agreement, the weekly working time is 38 hours or 39 hours with six paid compensation days.

In the sector of road transport (road transport and logistics on behalf of third persons, JSC 140.03), both minimum wage scales and various premiums are entirely governed by CLAs that have been declared universally applicable.

Wages are set, in the form of hourly gross wages, for five wage categories of road freight transport workers (vehicle crew members)¹⁷⁾:

- » Assistant attendants
- » Workers in training (accompanied by an experienced worker)
- » Workers on a vehicle with a payload of less than 7T and workers of delivery services with less than 6 months of seniority in the sector (category A)

17) The agreement covers a sixth category of vehicle crew members: Drivers/chauffeur-driven car rental services (7 pay groups according to seniority).

- » Workers on a vehicle with a payload of at least 7T or more and workers of delivery services with more than 6 months seniority in the sector (category B)
- » Workers of a vehicle with a payload equal to 15 T or more and workers on an articulated vehicle, workers on an approved ADR vehicle (for dangerous goods), workers on a refrigerator vehicle and workers of a courier company.

In 2019, the hourly gross wage ranged from € 11.0110 (category 1) to € 12.1040 (category 5). Further wage and remuneration related details of the collective agreement are summarised in the box.

2019 amounts (+15 tonnes) according to the CLA in road transport and logistics on behalf of third persons

Working time:

€ 12.1040 for 38 h/week

€ 11.7930 for 39 h/week

Availability:

€ 11.9830 for 38 h/week

€ 11.6750 for 39 h/week

Allowance per hour under General Health and Safety Regulation:

€ 1.4460 per hour of availability

Subsistence allowance:

€ 38.1180/night

€ 15.4505 for the first daily rest where duty time (working hours + hours of availability) is less than 8 hours or where time away from home is less than 24 hours, and only entails a single day rest.

Fixed subsistence allowance:

€ 10.3635 per day

Nightly work:

€ 1.2015 for under 50s

€ 1.5015 for those aged 50s and over

According to the wage indexation system, the wages are adjusted each year on the basis of official index figures. Wage negotiations in the Joint Committee are taking place on a bi-annual basis.

The CLA (of September 2011, No. 106,713) obliges the employer to pay seniority allowances. The allowance consists of a supplement paid by the employer on an hourly basis (for working and availability hours) to workers who have at least one year of continuous service in the company. The amount gradually increases in line with the seniority (3, 5, 8, 10, 15, 20 years). Seniority allowances are paid by the employer to 100 % and are paid for all hours worked, including waiting and availability time. The hourly allowances range from € 0.0545 (after 1 year of service) to € 0.3965 after 20 years of service.

When it comes to premiums, CLAs provide for additional allowances for work under specific schedules or otherwise linked with (extra) working time, in particular a premium for night work, for work on Sundays and public holidays, the bonus for availability time (which is remunerated at 99 % of the basic hourly wage of the relevant category), overtime remuneration (50 % of hourly wage, becoming 100 % for overtime on a Sunday or public holiday) and, lastly, bonuses for exceeding the average service hours (i. e. for working over 60 hours of service per week a bonus of 50 % is due).

It should be noted that certain categories of working time are distinguished and clearly defined by the CLAs in the transport sector, namely working time, availability time, service time, breaks between the working hours, rest periods, overtime and permanent residence time.

A CLA (of October 2016, No. 138,105) provides for an end of the year bonus (equalling 5 % of the gross wage, subject to social security contributions) that is paid by the Social Fund Road Transport and Logistics. To be entitled to the end of year bonus, a worker must have earned € 2,500 at least in one or more companies in the sector within the 12-month reference period.

Several CLAs in the road transport sector oblige employers to cover certain costs, to provide for certain objects, tools and facilities and/or to pay a corresponding compensation. In this regard, the social partners have agreed that employers should bear the costs associated with the driver card for digital recording equipment (tachograph) (CLA of 18 April 2013, No 114,996), the ADR training¹⁸⁾ (CLA of 21 November 2013, No 118,574) and the medical sifting (CLA of 18 April 2013, No 114,998), in which case they are eligible for a financial participation paid by the sectoral welfare fund (Social Fund Transport and Logistics). Such participation is also open to employers who contributed towards the costs of obtaining the driver licence C or CE (CLA of 19 September 2013, No 117,654).

18) For drivers of vehicles which transport hazardous substances.

The flat-rate residence allowance and the so-called GRLP allowance are the subject of the CLA of 26 November 2009 (No 96,986). The former is due to workers who are obliged, by necessity of the service, to take their daily and/or weekly rest (as provided for by Regulation (EC) No 561/2006) outside their place of residence or outside their working place as provided in their labour agreement. The GRLP allowance, whose acronym refers to the “General Regulation on Labour Protection” (ARAB/RGPT), is intended to compensate the costs which are incurred by workers outside the employer’s offices and which are at the employer’s expense (e. g. sanitary facilities, drinks etc.). The GRLP allowance is granted per attendance hour (i. e. working hour plus availability time).

When it comes to travel expenses, except where the employer guarantees free transportation, workers are as per CLA entitled to a financial intervention in the costs of public or private transportation (CLA of 4 May 2009, No 95,499). An old CLA (13 July 1972, No. 1452) stipulates that the employer is obliged to put working clothes at the disposal of the workers and to maintain them, failing which s/he has to pay them a monthly compensation.

A quite extensive list of benefits is administered by the Social Fund Transport and Logistics (SFTL).¹⁹⁾ These include the compensation in case of dismissal due to the permanent loss of the medical certificate (CLA of 19 September 2013, No 117,655), the farewell bonus (CLA of 28 June 2007, No 84,266), the compensation in case of fatal accident

at work or death at work (CLA of 13 February 2014, No 121,128), the compensation in case of damage, loss or theft of personal belongings (CLA of 26 November 2009, No 96,990), the contract for assistance during professional voyages (CLA of 16 February 2012, No 109,262), the end-of-year bonus (CLA of 26 April 2004, No 71,335), the hospitalisation insurance (CLA of 25 September 2009, No 96,074), the supplementary pension (CLA of 15 September 2011, No 106,704, as amended) and the supplementary allowances in case of (non-employment-related) incapacity for work (CLA of 15 September 2011, No 106,710). It may be noted that the first two benefits are initially paid by the employer, who is subsequently reimbursed by the Social Fund.

Apart from social related benefits, the Social Fund Transport and Logistics is also responsible for training and qualification activities, namely driver licences and specific qualifications. The Fund owns about 150 own trucks and collaborates with three official public vocational training agencies (VDAB in Flanders, Bruxelles Formation in Brussels, and Le Forem in Wallonia) to train drivers. The Fund also collaborates with secondary schools all over Belgium. Approximately 1,000 drivers per year are trained. The Fund is financed by employer contributions (8 % of the workers wage payments). It should be noted that the SFTL is only responsible for blue collar workers.

The annual revenues are around € 145 million (2017) but over 90 % is spent for the end of the year premium.

4.2.5 CHALLENGES FOR COLLECTIVE BARGAINING

Key challenges for collective bargaining are social dumping and a downward spiral of social and working conditions that creates a strong pressure on those companies that act in accordance to the legal requirements and the collective agreements in the transport sector.

Both the BTB-ABVV and ACV-Transcom have actively lobbied against social dumping as well as illegal business practices (in particular letterbox companies of large Belgium transport companies in Central and Eastern Europe). In addition, loopholes and weaknesses of the European social legislation in road freight transport have been identified and highlighted. Both unions are actively involved in the ETF Fair Mobility campaign.

ACV-Transcom for example has defined core principles for a fair and level playing field of road freight transport.

If a driver,

- » works in Belgium
- » departs from Belgium and if also the truck is stored there
- » goods are mainly loaded/unloaded in Belgium
- » returns to Belgium after the end of the assignment

then the driver should fully be covered by Belgium legislation and collective agreements.

In order to fight social dumping, ACV-Transcom has issued multi-language info flyers in order to inform foreign drivers on social legislation and basic working conditions of drivers in Belgium. The trade union has also carried out national action weeks, regularly visits parking spaces to speak to foreign drivers and cooperates closely with the BTB-ABVV as well as the ETF and ITF.

¹⁹⁾ See the website of the Fund: www.sftl.be (available in Dutch, French and German language).

TEXTBOX 5: SOCIAL DUMPING: BELGIAN TRANSPORT FEDERATION WINS COURT BATTLE. LABOUR COURT AWARDS SEVEN BULGARIAN DRIVERS EQUAL PAY FOR EQUAL WORK AT LIMBURG TRANSPORT COMPANY RMT

In June 2015, the BTB-ABVV filed a complaint against the company Rematra, RMT in Tessenderlo after having been mandated by seven Bulgarian drivers. Through its Bulgarian subsidiary RMT employed them in Belgium, but not at Belgian wage and employment conditions.

- » For their respective periods of employment at RMT, the difference between the Bulgarian and Belgian wages was claimed. The Bulgarians received a wage of only 414 Bulgarian lev, or € 211 per month. According to the BFT, Rematra in Bulgaria was no more than a construction to escape Belgian wage and employment conditions. The drivers did not drive in Bulgaria and received their orders from Tessenderlo.

- » After a long and bumpy trajectory, the Labour Court of Hasselt in October 2018 ruled fully in favour of the BTB-ABVV. The Bulgarian drivers are entitled to the difference with the Belgian wage. The total claim was € 236,000 plus interest and costs. The Court ruled that RMT assumed the actual exercise of authority over the drivers and thus was the effective employer. Consequently, Belgian labour law applied to the employment relationships.

According to Frank Moreels, the BTB-ABVV President: “Bulgarian drivers got what they were entitled to. This of course is also in the interests of Belgian drivers, since it eliminates unfair competition. The principle of “equal pay for equal work” was confirmed here by the court.”

Source: BTB-ABVV website: <https://www.btb-abvv.be/en/news/669-social-dumping-belgian-transport-federation-wins-court-battle-labour-court-awards-seven-bulgarian-drivers-equal-pay-for-equal-work-at-limburg-transport-company-rmt>

ACV-Transcom and BTB-ABVV also cooperate with trade unions all over Europe, including in Central and Eastern Europe. In October 2017, in collaboration with five ETF-affiliated transport workers' unions from Denmark, Sweden, Romania and Belgium, an office was opened in Romania. This is an international bureau for Romanian lorry drivers employed in Belgium, Sweden and Denmark if they need assistance when they do not receive the wages and working conditions they are entitled to. ACV-Transcom also has a collaboration agreement with the Polish trade union Solidarność.

In addition, BTB-ABVV has carried out own investigations in letterbox practices of Belgium logistic and transport companies and published a report on the results that contributed to a raise in the awareness of the problem.²⁰⁾ Four reports have been published already (2010, 2012, 2017 and 2019), available on www.stopsocialdumping.com.

Also, BTB-ABVV is very active on social dumping issues, campaigning for Fair Transport and supporting foreign drivers

by various activities. As the recent example above shows, BTB-ABVV has also successfully taken Belgium companies to the court in order to fight illegal and abusive business practices.

But there are also other challenges. As highlighted by the Belgium trade union representatives at the project workshop in Liège in September 2018, the road transport sector suffers from a significant shortage of young people due to the strenuous working conditions and comparatively modest wages in the sector. As reported by the unions, as a consequence, there has been quite a strong increase in the number of foreign drivers that work with Belgium labour contracts (1,713 in 2017 mainly from the Netherlands, France and Germany). A key challenge from the perspective of the Belgium trade unions is to make working and in particular pay conditions more attractive and increase activities of recruiting and retention of young talents. The problem of recruitment will increase in the future as around half of the drivers are older than the age of 40.

20) Available at: https://www.btb-abvv.be/images/WegvervoerEnLogistiek/campagne/sociale_dumping/Engels/Zwartboek-2017-ENG-DIGITAAL.pdf



4.3 CZECH REPUBLIC

“Working hours in domestic transport are not a problem. It is international journeys that are a problem. The drivers normally work from Sunday to Friday, they leave on Sunday evenings and return on Friday afternoons. That works in the better companies. The worse companies send their drivers abroad for three weeks after which they have 2–3 days off. In the past, they were even on the road for six weeks. But we were able to get this reduced to three weeks.” (Trade union representative, Czech Republic)

4.3.1 TRADE UNIONS AND SOCIAL PARTNERS

The largest trade union representing drivers in the Czech Republic is Transport Union of the Czech Republic (Odborový svaz dopravy, OSD,). In addition to professional drivers, the union represents employees in airlines and airports (except pilots), river transport, bus transport and public transport. All in all, it has more than 8,000 members. The trade union belongs to the umbrella organisation ČMKOS, which is by far the largest trade union confederation in the Czech Republic. It has 30 separate affiliated member unions divided broadly on an industry basis. ČMKOS is the Czech successor of the Czech and Slovak union confederation, ČS KOS, which was founded in March 1990. ČMKOS is officially politically independent.

With regard to trade union services, in addition to improvements in working conditions, legal advice plays a particularly important role at OSD. In the first half of 2018, the union supported 105 requests for legal aid from members. All trade unions in the Czech Republic complain of a decline in the level of union membership among employees.

The level of organisation among companies is low. Where employers' associations exist, there is also a widespread reluctance to conduct collective bargaining and conclude contracts. Employers' associations often see themselves as exclusively economic interest groups and not as social part-

ners or collective bargaining parties. However, the transport sector is an exception and social dialogue is comparatively well structured. The OSD's negotiating partner on the employers' side is Association of Employers and Entrepreneurs in Transport (Svazem dopravy CR, sekci silniční dopravy). The employers' association is part of the umbrella organisation Confederation of Industry of the Czech Republic (Svaz

průmyslu a dopravy České republiky) and is the largest of 25 business associations represented in the Confederation of Industry of the Czech Republic. The Association of Employers and Entrepreneurs in Transport officially states that it represents 143 transport operators employing over 140,000 employees. According to the trade unions' opinion, however, the actual membership figures are much lower.

4.3.2 LEGAL FRAMEWORK AND THE ROLE OF COLLECTIVE BARGAINING

Czech labour law is based on various pillars. The Labour Code "Zákoník práce" (No. 262/2006 Coll.) defines the framework conditions of Czech labour law. Among other things, it regulates the following points:

- » Employment relationship, employment contract (§ 33–§ 37) and termination of an employment relationship (§ 48–§ 73a)
- » Working hours and rest periods (§ 78–§ 100)
- » Occupational safety and health protection (§ 101–§108)
- » Provisions on Wage, Salary and Remuneration (§ 109–§ 150)
- » Leave regulations (§ 211–§ 223),
- » Occupational safety and health protection (§ 101–§ 108)
- » Employee information and consultation procedure, competence of a trade union organisation, a works council and a representative for occupational safety and health protection (§ 276–§ 299).²¹⁾

Another important law, the Collective Bargaining Act (Zákon o kolektivním vyjednávání, No. 2/1991 Coll.) regulates collective bargaining between trade unions and employers as well as behaviour in the event of a collective bargaining dispute or strike.²²⁾ The possibility for generally binding collective bargaining agreements exists: The request to extend industry level collective agreements to other employers in the same industry, even if they are not members of the employers' association which signed the agreement, must be made jointly by the largest union and the largest employers' association in the industry.

Concerning work and safety, an important law is the Act on Further Provisions on Safety and Health at Work (zákon o zajištění dalších podmínek bezpečnosti a ochrany zdraví při práci, No. 309/2006), which supplements regulations of the Labour Code.²³⁾ Furthermore, the Act on Labour Inspection (Zákon o inspekci práce, No. 251/2005 Coll.) establishes regulatory bodies to oversee employment relationships and working conditions and determines obligations regarding inspections and sanctions in case of violations.²⁴⁾

In the Czech Republic, each employee is guaranteed a statutory minimum wage (minimální mzda, see Labour Code section on minimum wage). The minimum wage can be increased annually by the government after consultation with employers and trade unions. At the turn of the year 2019, the minimum wage increased by 9.6 % to CZK 13,350 – which equals about € 513. A so-called guaranteed wage (zaručená mzda) is based on the minimum wage (Labour Code § 122) and applies to all employees who are not covered by a collective agreement. The guaranteed wage consists of 8 groups, taking into account the complexity, responsibility and strenuousness of the work being performed. Due to its pay scale classification, the minimum wage in the road haulage sector is therefore around € 650. The minimum wage plays a major role in the payment of truck drivers. It represents the basic salary of professional drivers upon which only premiums and allowances are added.

Regarding employee allowances, Czech labour law makes a distinction between regular and higher-qualified professions, the latter of which often have higher allowances. However, professional drivers fall into the category of regular professions. The following list gives an overview of the premiums in percentages on top of the regularly hourly wage:

21) Labour code (full translation) No. 262/2006 Coll., as amended „Zákoník práce“ https://www.mpsv.cz/files/clanky/3221/Labour_Code_2012.pdf

22) Zákon č. 2/1991 Sb. Zákon o kolektivním vyjednávání; <https://www.zakonyprolidi.cz/cs/1991-2>

23) Zákon č. 309/2006 Sb. Zákon, kterým se upravují další požadavky bezpečnosti a ochrany zdraví při práci v pracovněprávních vztazích a o zajištění bezpečnosti a ochrany zdraví při činnosti nebo poskytování služeb mimo pracovněprávní vztahy (zákon o zajištění dalších podmínek bezpečnosti a ochrany zdraví při práci) <https://www.zakonyprolidi.cz/cs/2006-309>

24) Zákon č. 251/2005 Sb. Zákon o inspekci práce; <https://www.zakonyprolidi.cz/cs/2005-251>

- » Premium for work on Saturdays and Sundays: +10 % (§ 118)
- » Premium for overtime work: +25 % (§ 114)
- » Night work allowance: +10 % (§ 116)
- » Premium for work in a difficult working environment (ztížené pracovní prostředí): +10 % (§ 117)

The total amount of social security contributions is 31.5 % in the Czech Republic, of which the employer's contribution is

25 % and the employee's contribution 6.5 %. Health insurance contributions total 13.5 %, of which 9 % is paid by the employer and 4.5 % by the employee.

In terms of qualification and training, employers generally bear all the costs of training. Employers also pay for medical exams and for compulsory training, which every driver must undergo in accordance with EU directives. In addition to a driver's licence for trucks, professional drivers in the Czech Republic must be at least 21 years old, have a valid medical examination and no driving ban (Turek/Franc n. y).

4.3.3 COLLECTIVE BARGAINING PRACTICE

Collective bargaining in the Czech Republic can take place at industry level, where the agreements reached are known as "higher level collective agreements" (kolektivní smlouva vyššího stupně, KSVS). Road freight transport has such an agreement. The collective bargaining agreement on a higher level in road transport has been in force since June 2016 and is valid until December 2020. It was negotiated between OSD and the employers' association for road transport (Svazem dopravy CR, sekci silniční dopravy). After the negotiations, both social partners filed an application with the Ministry of Labour and Social Affairs for general applicability of the collective bargaining agreement. As a result, the collective agreement was declared generally binding with effect from 1 September 2017. It therefore applies to considerably more companies than the members of the employers' association. However, the companies must have certain characteristics in order to be covered by the generally binding collective agreement. These requirements are that employers must:

- » Have their main activity in the carriage of goods (CZ-NACE 49.39, 49.41 and 52.29)
- » Employ certain kinds of professions (e.g. professional drivers)
- » Have at least 20 employees.

OSD estimates that this collective agreement applies to 1,100 transport companies in the Czech Republic and covers around 80,000–100,000 of the 121,100 employees in the sector. Many transport companies in the Czech Republic are very small and only have a handful of employees.

According to OSD, there are no negotiations at company level going on in the area of road haulage, and there are no company collective agreements.

4.3.4 CONTENTS OF COLLECTIVE BARGAINING AGREEMENTS

The content of the generally binding collective bargaining agreement is, first of all, a statement on freedom of association and freedom of collective agreement. In addition, the collective bargaining agreement contains provisions on the form of the employment contract, dismissal regulation, work and break regulations and provisions on occupational safety (e.g. with regard to the avoidance of accidents). It also refers to the right of trade unions to monitor occupational safety in companies in the logistics sector. These regulations are very closely based on the rules of the above-mentioned labour code. The generally binding collective agreement also stipulates that drivers must receive at least the minimum wage (in accordance with their salary grade). Furthermore, it has been agreed that, if the minimum wage increases, the drivers' salary must

also be adjusted accordingly. This was not always the case before the conclusion of the collective agreement, although the payment of the minimum wage is actually mandatory by law.

In addition, the collective agreement also provides for premiums on weekend work, night work and overtime. While the supplements for overtime, night work and working in a difficult working environment match those of the Labour Code, the premium for Saturdays and Sundays is +30 % of the minimum wage (instead of the statutory +10 % of § 118 Labour Law).

Based on the Labour Code, the collective agreement states that, in the case of standby (pracovní pohotovost), an employee is entitled to remuneration in the amount of at least 10 %

of his average earnings for the period of standby. Further, the collective bargaining agreements clarify that, when the availability time exceeds the specified weekly working time, it is counted as overtime.

OSD regards the agreement as very successful. It has been calculated that employees covered by this collective agreement earn about € 2000 per year more than employees in companies not covered by the collective agreement.

In addition to the provisions in the collective agreement, employers pay two other wage components. One is daily allowances for international transport, the other is a performance-based bonus. Paragraphs § 166 to § 72 of the Labour Law deal with types of travel expenses and their reimbursement. However, beyond meal allowances, few concrete figures are given. Employers have therefore started to voluntarily pay a uniform amount. This amount is € 45 per day. The sum

was increased from € 32 a few years ago when there was a shortage of drivers. Nevertheless, OSD points out that the expense allowance is still far too small for drivers to be able to stop at hotels or restaurants in other European countries. The second voluntary benefit provided by employers is a performance-based pay per km driven. Performance-based pay can amount to about € 20 on an average working day. Neither social security contributions nor taxes have to be paid on daily allowances or performance-based pay.

A big problem for professional drivers in the past was time spent waiting until, for example, a new journey could be started. This time was not regarded as working time. Political pressure from OSD led to changes in this practice. The interruption of work for periods of less than 16 minutes is now counted as normal working time. Longer interruptions are rewarded as in the past and paid for with CZK 107 for every hour spent waiting.

4.3.5 CHALLENGES FOR COLLECTIVE BARGAINING

In summary, drivers in the Czech Republic get the minimum wage, premia for night work, overtime and weekend work, and in addition a daily allowance for travel costs abroad (i. e. when driving outside the Czech Republic) and a supplement for kilometres driven. The following is an example given by a representative of ODS for what the average salary and the salary components of a professional driver from the Czech Republic in international transport might look like:

- » Legally required minimum wage: € 650 per month
- » Saturday and Sunday work, nighttime work, overtime: + € 150 per month
- » Daily allowances and performance based pay: € 63

All in all, the average truck driver in the Czech Republic receives about € 1,500–€ 2,000 a month. What initially looks like a good salary in the Czech Republic turns out to be prob-

lematic on closer inspection. The social security contributions for professional drivers relate solely to the minimum wage. Contributions to health insurance and pension insurance, and thus claims, are not based on the total wage but only on the minimum wage component. The same applies to holiday pay. Other wage components, which make up a large part of the actual wage, are not included. As a result, professional drivers are in the lower segment of income groups in the Czech Republic.

Thus, a fundamental demand of OSD is to increase wages. In the last negotiations on the minimum wage, trade union representatives demanded an increase of 12 %. In addition, OSD is against the exemption of road freight transport from the Posting of Workers Directive and also opposes very long-term postings. However, the Czech government so far does not want professional drivers to be included in the Posting of Workers Directive, as it sees this exception as a competitive advantage for the Czech Republic.



4.4 DENMARK

“Due to our high organisation rate and collective agreements we were able to put pressure on large transport companies to provide us with information about their sub-contractors. This is possible because in Denmark industrial action is possible to compel the adoption of a collective agreement. This also enables us to get in touch with driver at sub-contractors and organise them.” (Trade union representative, Denmark)

4.4.1 TRADE UNIONS AND SOCIAL PARTNERS

In Denmark, the main trade union in the transport and logistics sector is the 3F trade union (United Federation of Danish Workers). The 3F trade union also organises workers in sectors such as hotel and restaurants, the “green” sector (agriculture, gardening) and the industrial sector and is a member of the LO Denmark. 3F is the country’s strongest trade union in terms of membership and the number of collective agreements. With 64 local branch offices 3F is also the most decentralised union in Denmark, offering numerous services to members such as,

- » checking wages and employment contracts in order to make sure that members receive a remuneration they are entitled to;

- » providing free of charge legal assistance in the field of working conditions and if necessary taking member’s cases to the labour court;
- » supporting foreigners working in Denmark, for example by providing interpretation services for meetings with the employer;
- » offering a broader range of private insurances at a discount with significant savings on premiums;

3F organises workers in all branches of transport, including taxi drivers and bicycle couriers. In the field of road freight transport 3F organises around 60–65 % of the workforce that consists of about 30,000 drivers.

On the employer side, the main employer organisations in the transport and logistics sector are DI Transport and DTL.

DTL, the Danish Transport and Logistics Association (Dansk Transport og Logistik) is the trade organisation for the Danish road and urban transport sector. DTL represents employers in the road and urban transport sector on political issues at local, national and EU level. DTL has 2,300 urban, logistics and road transport companies as members. DTL is a member of the main cross-sectoral employer organisation, the Confederation of Danish Employers, DA. The DTL is also a member of the Danish Chamber of Commerce (Dansk Erhverv).

Apart from DTL, there is the transport section within the industry employer organisation Confederation of Danish Industry (DI), DI Transport (Danish Transport Federation). DI Transport has 3,000 members that represent a wide range of activities within transportation: logistics, distribution and all kinds of freight transport on road and in the air; public transport by bus and coach; ports and port operators; service providers and consultants linked to transportation and infra-

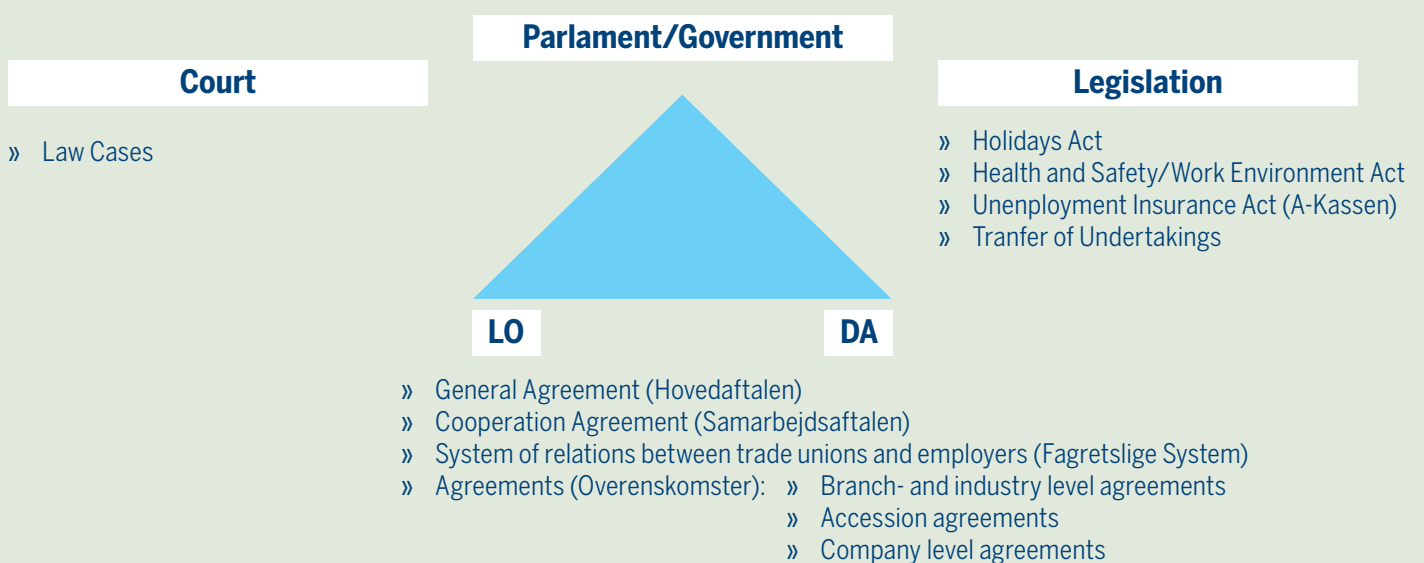
structure and aviation. DI Transport closely works with ATL, the Association of Employers in the Haulage, Transport and Logistics Industry which is the main professional organisation in the transport and logistics sector. ATL is also the main partner of 3F in the field of training of transport personnel (see next section below).

Apart from the 3F, there are also two “yellow unions” that organise workers in the transport and logistics sector. Yellow unions are not affiliated to LO or the other large trade union confederations and they organise workers in companies that are not members of the Danish employers’ federation, DA. A characteristic of the yellow unions is that the membership fee is much lower than for the traditional unions and thus these trade unions have become attractive. However, yellow unions are not a part of the traditional collective bargaining system in Denmark and the collective agreements they negotiate provide for lower wage and working condition standards than the agreements within LO, FTF (public sector employees) and Akademikerne (academic professionals, including students).

4.4.2 LEGAL FRAMEWORK AND THE ROLE OF COLLECTIVE BARGAINING

In Denmark, trade unions and employers’ organisations organised in LO and DA play a different and more active role in Denmark than in most other European countries when it comes to wages and working conditions as well as training and social security. This way of doing things is typically referred to in Denmark as “the Danish Labour Market Model” or simply “the Danish model”.

As the figure shows, the collective agreements negotiated between LO and DA play a crucial role within the Danish model of the labour market and working conditions. Legislation only defines certain minimum standards through the holidays act, the working environment act (health and safety) and the unemployment insurance funds act. Apart from civil court decisions, the Danish model of labour relations is self-regulat-



Source: 3F trade union.

Figure 6: The Danish Model of labour market regulation

ed by collective agreements, namely the general agreement between LO and DA (further details in next section).

Thus, not only wages but also basic elements of the Danish collective bargaining and labour relations system as well as working and employment conditions are typically defined in collective agreements agreed upon by the trade unions and employers' organisations. This means that the state does not play an active role in determining social and working conditions in Denmark. Therefore, and in contrast to many other EU Member States, there is no statutory minimum wage defined in the law. The wages and working conditions, including minimum standards will be defined in each individual sector and there is no system for setting a single national minimum wage.

4.4.3 COLLECTIVE BARGAINING PRACTICE

Collective bargaining in Denmark operates within a clearly defined structure. At the highest level there are the framework agreements between the LO and the DA, which set the rules for issues that in many other countries would be regulated by the law.

The most important agreement in the labour market in Denmark is the main agreement (hovedaftalen), the main agreement gives the right to industrial conflicts in order to organise employers who are not part of the main agreement, and to resolve professional disputes in the Labour Court. The main agreement came into existence in 1899, and has been revised several times, most recently in 1973. The main agreement is negotiated by LO and DA.

The agreements that regulate the Danish collective agreements are made by employee organisations that are members of LO and the employers' organisations that are members of DA. The collective agreements cover, among other things, pay conditions, whereby pay is negotiated in two different ways: First, there is minimum pay, most of which covers industry work here, based on a minimum wage agreement. The rest of wage formation takes place at the workplace, and is negotiated locally by the company and the shop stewards. The standard wage, which covers, among other things, the warehouse and the transport industry, is a fixed hourly wage agreement, and therefore less a matter of local negotiations.

Minimum wage levels are negotiated by the trade unions and employer organisations for each sector.

A specific feature of the Danish social security system is that there is no mandatory unemployment insurance system. Workers have to register with the unemployment fund (a-kasse), which is most often handled by the trade unions, in the case of 3F it is the 3FA insurance fund. For full-time members of the 3FA, the monthly fee is DKK507 (ca. € 68²⁵). It should be noted that in Denmark workers are entitled to deduct the membership fee for the trade union and the unemployment fund within the Danish tax system.

Overall, the coverage of collective bargaining is high. It is estimated that around 70 % of those employed in the private sector and 100 % of those in the public sector were covered by collective bargaining agreements.

As already noted, negotiations in Denmark cover a range of issues that elsewhere are often dealt with by legislation. And since the late 1980s bargaining at industry level has covered issues such as pensions, increased flexibility in working time – by providing frameworks for local agreements – and collective funds for maternity leave and training.

There is also a fairly rigid calendar for negotiations on collective agreements, with the negotiations for the bulk of the manufacturing sector between the union CO-industri and the employers' association DI starting the process, followed by negotiations for e.g. logistic and drivers. Agreements normally last for several years, typically either two or three.

25) In addition, there is the membership fee for the trade union of about DKK 460 (€ 61).

	Basic wage	Basic wage plus Seniority premium (DKK 8.15 /€1.25) and professional qualification (DKK 4.00/€ 0.54)
Hourly wage	DKK 144.40 € 19.35	DKK 156.55 € 20.99
Weekly wage	DKK 5,342.80 € 716.20	DKK 5,792.35 € 776.56
Monthly wage	DKK 23,151.00 € 3,103.43	DKK 25,099.00 € 3,365.00

Source: 3F trade union.

Table 7: Basic wage levels and premiums in Danish road freight transport

4.4.4 CONTENTS OF COLLECTIVE AGREEMENTS

The transport sector operates with 39 different collective agreements that regulate wages and working conditions in the different transport branches and trade. The collective agreements ensure that decent working conditions and rights such as pension, holiday pay, payment of 5 special holidays, public holiday pay, sick pay, etc. are guaranteed.

The collective agreement in the transport sector is covering all workers in the sector, if the agreement is covered by LO and DA.

Key elements of the collective agreement in the road freight transport sector are the following:

- » The normal daily working time is 7.4 hours between 6:00 and 18:00.
- » In case of working outside normal hours or overtime, the worker is entitled to premiums (€ 26.57 for the first three hours of overtime and € 34.00 after that).
- » Workers covered by the collective agreement are entitled to sickness pay up to 49 days at full wage level.
- » Workers are entitled to 25 paid annual days of holiday according to the Danish Holiday Act. In addition, the collective agreement entitles workers to five additional paid days off.
- » Employees working at a workplace within the transport sector that is covered by a collective agreement are entitled to a sectoral pension scheme that is financed by contributions of the employer (8 % of the gross wage amount) and the individual employee (4 %) into the PensionDanmark fund. Collectively, the 12 % are paid into PensionDanmark.

- » The collective agreements also provides for support for workers with children: Workers on parental leave will receive nearly the same remuneration; the worker is entitled to days off in case of the child is sick, at a hospital or needs care at home.
- » The collective agreement also includes provisions on continuous learning: workers are entitled to spend up to 14 days per year on individual competence development. The contents of educational courses is not restricted and can be freely chosen by the worker.

As regards wages, the collective agreement, provides the following basic wages and seniority premiums and premiums for professional qualifications:

It should be noted that the wage levels mentioned above are basic or minimum wage ("minimallon") levels as negotiated in the country-wide agreement. In particular in larger companies there will be also local company-level wage negotiations that will result in company wages ("normallon") that are higher.

If any employer, irrespective of the membership in the employer organisation is not paying at least the "minmallon", the trade union has the right to take industrial or legal action.

As mentioned before, the collective agreement in the transport sector is universally binding for all employers and their employees that have signed the agreement. In contrast to other countries, Danish trade union also have the possibility to take industrial action against companies that do not adopt the collective agreement. This has happened (successfully) in the past where 3F has announced an industrial conflict/blockage of the company that was supported by solidarity action of other trade unions.



As described by the 3F representative in the context of the workshop in Flensburg (Germany) of the ETF/ver.di project, the actual wages of truck drivers in Denmark normally will be higher than the basic wage levels. This is not only due to seniority and qualification-related premiums but also overtime premiums and premiums for work at night or during the weekend. Against this, it is not unusual that a Danish truck driver will earn as much as € 5,000 per month. 3F has also done estimations and comparisons based on the average working and driving times of foreign drivers from Central and Eastern European countries. Based on this, the drivers' remuneration would be at least € 6,000 per month.

3F and the employer organisation in the transport sector have jointly set up a joint fund for the Danish transport sector is a joint fund, the "Transport Competence Fund", the TSU (Transportens Udviklingsfond). The aim of the fund is to support, subsidise and develop new education and courses for the transport industry in Denmark.²⁶⁾ The fund is financed by the employer (820 DKK per employee per year) and partially owned by the employer organisation for transport and logistics (ATL) and 3F.

4.4.5 CHALLENGES TO COLLECTIVE BARGAINING

Key challenges according to 3F are related to trends and business practices in road freight transport that results in an erosion of the coverage of workers by the collective agreement and practices. Such trends and practices in particular are the following:

- » increase in the number of bogus self-employed drivers from foreign countries;
- » Danish freight and logistic companies establishing letter-box companies in Eastern European countries that then hire drivers for cabotage transport operations in Denmark at very low wages and unacceptable working conditions;
- » a lack of monitoring and controlling the implementation of existing rules of social and working conditions due to a lack of qualified personnel and competences;

- » "yellow" trade unions that undermine the wage agreements concluded between 3F and DI Transport.

These trends not only are undermining sectoral standards of working and remuneration conditions but also worsen the competitiveness of those companies that apply the rules set by legal frameworks and in collective agreements.

Therefore, 3F has been engaged in a number of own activities and campaigns as well as joint initiatives with employer organisations to highlight problematic working conditions and business practices in Danish transports. In 2015 for example, the 3F transport group together with the Danish Transport and Logistics Association DTL commissioned a larger research study on pay, working conditions and living standards of Bulgarian, Romanian and Macedonian truck drivers in Denmark and Western Europe.

26) <http://www.tu.dk/da/about-us/>

The study was implemented by the private research company COWI and is based on a survey of truck drivers. The study aimed at, “portraying actual conditions on the basis of information from the drivers themselves, the objective being to provide critical and constructive input to the debate on the EU single market and the creation of a framework that will ensure fair competition and better working conditions in the European transport sector.”

In November 2018, the 3F trade union (in cooperation with unions in the Netherlands and Germany) made public a shocking story about the mistreatment of around 40 Filipino drivers in Denmark, the Netherlands and Germany. Exploiting loopholes in EU rules, irresponsible employers brought drivers to Europe from Manila to work (on the basis of a Polish con-

tract with a letterbox company of a Dutch logistic company in Poland) for a dumping wage of around USD 1,000 per month. The drivers also faced constant insults, abuse and dehumanising treatment. In between cargo runs, the 22 drivers were housed in terrible conditions on the site of a Danish logistic company in Padborg near the Danish-German border. They were not able to leave their job because contracts oblige them to pay very high penalties in such a case.

With the help of the 3F, Danish police managed to get the drivers to safety. The scandal has been reported and debated widely in Danish media and the company is subject to investigation by Danish authorities for people smuggling and has been criticised by politicians from all parties in Denmark.

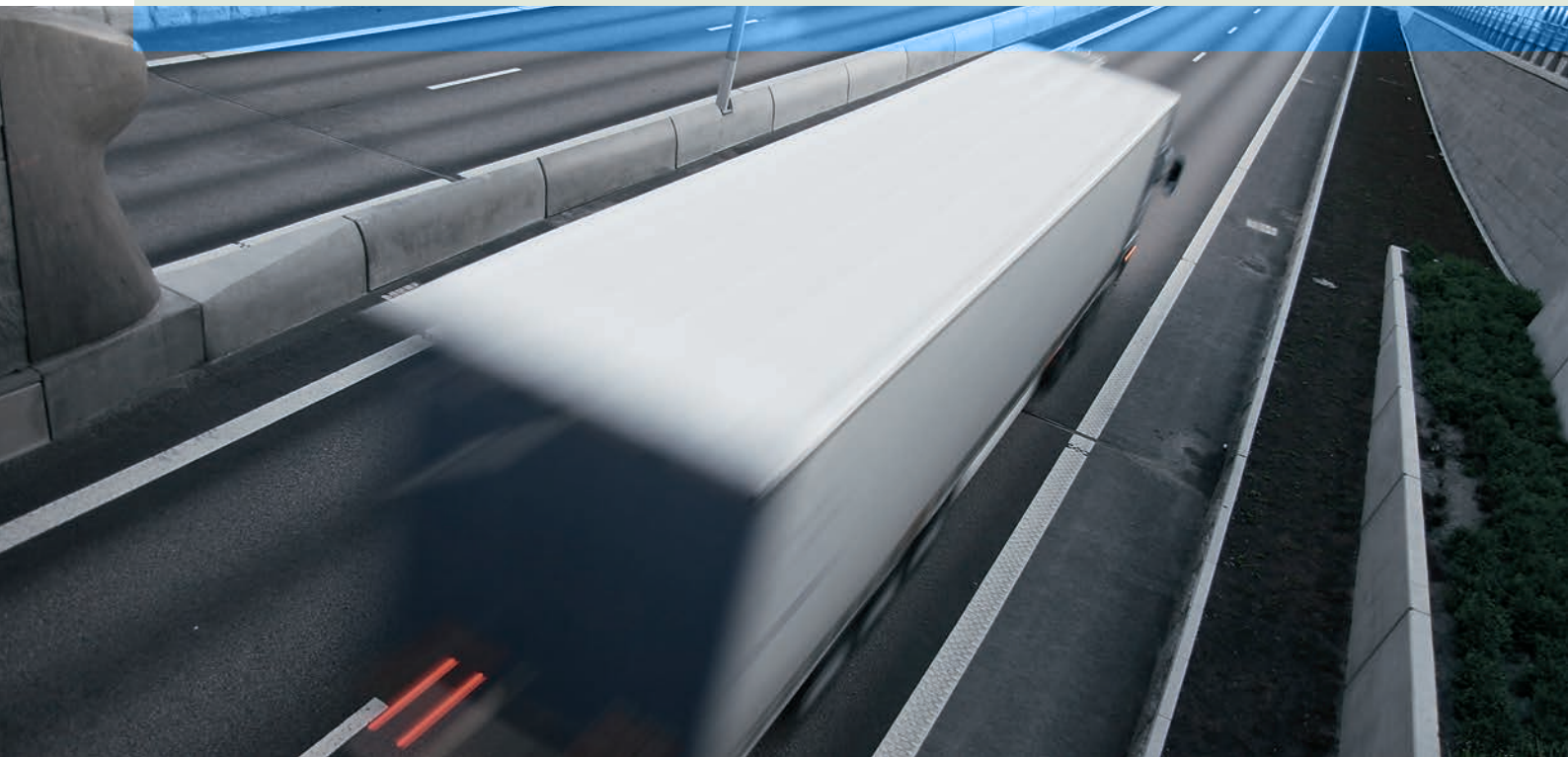
TEXTBOX 6: BYWAYS IN DANISH TRANSPORT

The study on pay, working conditions and living standards of Bulgarian, Romanian and Macedonian truck drivers in Denmark and Western Europe by COWI shows that when Romanian, Bulgarian or Macedonian workers drive in Denmark or another country in North-western Europe, they typically do so at monthly wages of € 1,500. This is between a third and a half of the wages earned by local drivers, i.e. Danish, Swedish, German, Dutch, Belgian and French drivers. Apart from Denmark, most of the driving took place in Sweden, Norway, France, Germany and the Benelux countries; never in the drivers' home countries. The majority of the respondents paid tax in Romania or Bulgaria. No respondent paid tax in Denmark, although 12 % of the drivers stated that office and fleet management was based in Denmark.

- » 77 % of the drivers stated that they worked for an employer based in Romania or Bulgaria.
- » 47 % stated that at the time when they completed the questionnaire they had been away from home for more than seven weeks, and 14 % stated that they had been away for more than eleven weeks.
- » 88 % stated that they had been away from home for more than two weeks.

- » 74 % of the Bulgarian, Romanian and Macedonian drivers stated that they earned between € 1,100 and € 1,900 a month.
- » 89 % of the drivers were employed drivers, while 11 % owned, rented or leased their lorry, which makes them self-employed hauliers or rather “bogus” self-employed hauliers, since they do not have any control over their own business and income.
- » 77 % of the drivers stated that they worked for an employer based in Romania or Bulgaria.
- » 23 % stated that they were employed in a country other than those two countries.
- » 12 % had an employer based in Denmark.
- » 88 % – and thus the vast majority of the drivers – stated that they slept in their lorries most nights.
- » 71 % of the drivers stated that they received instructions from a person located in Bulgaria or Romania.

Source : 3F Transport/Danish Transport and Logistics Association (DTL): Byways in Danish Transport.



4.5 GERMANY

“As long as we truck drivers are regarded as second-rate, as long as truck traffic is perceived mainly as cause of emissions and bad roads, as long as industry does not cut back on its profits but squeezes the last cent of the margin out of transport companies, (...) as long as we accept all this for cheap prices and poor quality, this industry will never come to rest again and fair, transparent goods traffic will never again be possible.”

(Works council representative, Germany)

4.5.1 TRADE UNIONS AND SOCIAL PARTNERS

The trade union representing professional drivers in Germany is the service sector trade union ver.di (Vereinte Dienstleistungsgewerkschaft). Ver.di is affiliated with the German Confederation of Trade Unions (DGB). The trade union seeks to organise service workers in both the private and public sector. With a total of 1,969,043 members, it is the second largest trade union in Germany. There is no bigger trade union for professional drivers in Germany.

On the employer side, the German Freight Forwarding and Logistics Association (Deutsche Speditions- und Logistikverband (DSL) e. V.) exists as an umbrella organisation for the freight forwarding and logistics industry in Germany. It has around 3,000 members who are organised in 16 regional

associations. The members generate about 90 % of the sector's turnover.

In addition, there is another federal trade association in the sector: The German Road Haulage Association Logistics and Waste Disposal (Bundesverband Güterkraftverkehr Logistik und Entsorgung, BGL), which has around 7,000 members. Both federal trade associations are not employers' associations and therefore cannot negotiate collective agreements. Instead, they represent economic policy interests vis-à-vis the political system and pursue a coordinating function at industry level.

To make things even more difficult, there is a large number of very small companies in Germany, which are generally not

Industry (WZ 2008)	Companies from... to... employees	Companies		Total Turnover		Dependent employees	
		Number	in %	€ Mio.	in %	Number	in %
49.4	Haulage companies, Freight forwarders	31,019		37,189		337,143	
	1–9	22,205	71.6	6,134	16.5	47,337	14.1
	10–49	7,515	24.2	13,294	35.7	143,663	42.6
	50–249	1,218	3.9	12,418	33.4	111,520	33.1
	250–499	61	0.2	3,329	9.0	21,270	6.3
	500 and more	19	0.1	2,015	5.4	13,352	4.0
52.29	Moving companies	16,296		82,241		421,216	
	1–9	10,457	64.2	9,870	12.0	25,560	6.0
	10–49	4,519	27.7	18,436	22.4	92,029	21.8
	50–249	1,111	6.8	18,747	22.8	108,370	25.7
	250–499	117	0.7	7,542	9.2	40,370	9.6
	500 and more	90	0.6	27,646	33.6	154,886	36.8
53	Courier, express and postal services	16,296		30,186		503,348	
	1–9	10,889	80.0	1,218	4.0	16,508	3.3
	10–49	2,064	15.2	2,275	7.5	38,930	7.8
	50–249	425	3.1	2,036	6.7	52,881	10.5
	250–499	124	0.9	561	1.9	41,712	8.3
	500 and more	115	0.8	24,097	79.8	353,317	70.2

Source: German Federal Statistical Office

Table 8: Industrial structure in the logistics sector according to company size classes, 2017

organised in associations. As table 8 shows, 71.6 %/64.2 % of companies in the road freight transport sector (haulage companies, freight forwarders, moving companies) had only one to nine employees in 2017. 95.8 %/91.9 % had less than 49 employees. The situation is similar in the courier, express and postal services sector, where 80 % have up to nine employees and 95.2 % have fewer than 49 employees in total.

With regard to trade union organisation, the constant mobility of drivers poses a challenge. To counteract this, there are professional drivers' circles (KFK, ver.di-Kraftfahrerkreise) in

Germany. Drivers' circles are groups of unionised professional drivers, which work together with the regional ver.di officials. The aim of the drivers' circles is to be a link between the trade union and the professional drivers. There are 14 of such drivers' circles nationwide. It is estimated that each group meets about four times a year. Each drivers' circle decides independently on the topics of the meetings. Frequent points, however, are the rights and obligations of professional drivers. Politicians and regulators are invited to their meetings on a regular basis to inform drivers about their rights and obligations.

4.5.2 LEGAL FRAMEWORK AND THE ROLE OF COLLECTIVE BARGAINING

Germany has a large number of laws that regulate basic working conditions. These include, for example, the Federal Leave Act (Bundesurlaubsgesetz, BurlG.), which provides for an annual leave of at least 24 working days on the basis of a six-day week (§ 3). However, due to the shortage of drivers, the holiday entitlement of professional drivers goes significantly beyond the minimum statutory holiday entitlements.

Working time for drivers is regulated in the Working Hours Act (Arbeitszeitgesetz, ArbZG,) which implements Directive 2002/15/EC in § 21. The paragraph that states working time includes:

- » loading and unloading times
- » cleaning and maintenance work
- » time for legal and official formalities
- » monitoring of loading and unloading
- » waiting times.

The Driving Personnel Ordinance (Fahrpersonalverordnung, FPersV) defines driving times and rest periods of professional drivers and includes regulations for the digital tachograph. Section three of the Driving Personnel Ordinance also stipulates that employees are not remunerated according to the distance travelled or the quantity of goods transported. Exceptions are payments which are not likely to impair road safety.

In Germany there is a ban on driving on Sundays and public holidays; this is regulated in § 30 paragraphs 3 and 4 of the Road Traffic Regulations (Straßenverkehrsordnung, StVO.). However, violations of driving restrictions on public holidays, which apply only regionally, are usually not controlled or punished.

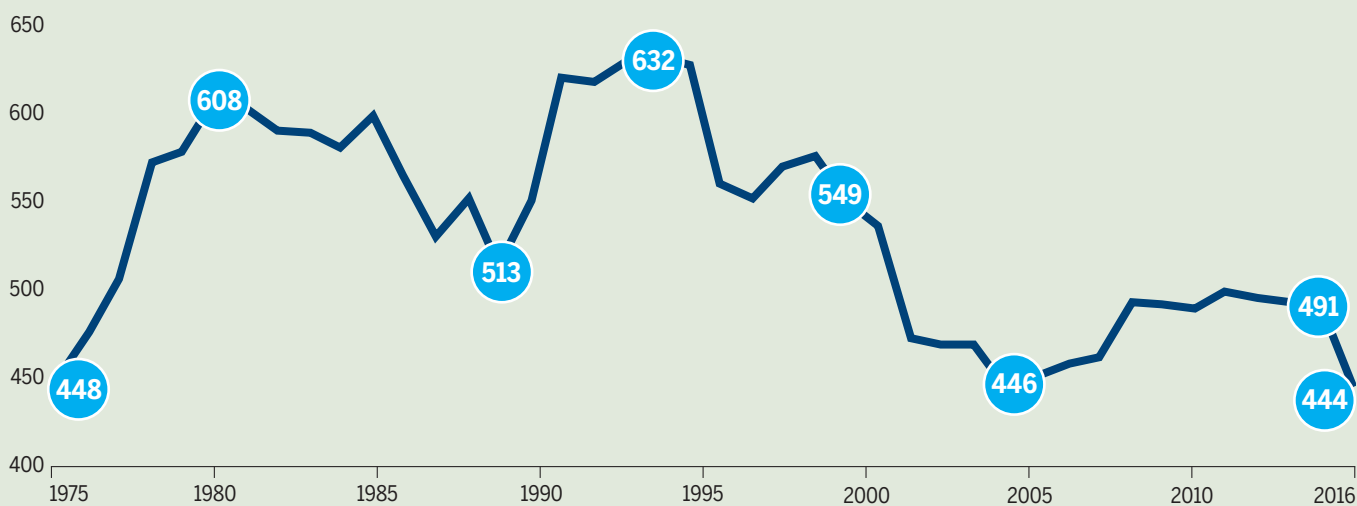
Only since 2015 has there been a minimum wage in Germany. The minimum wage is based on the law regulating a general minimum wage, the Minimum Wage Act (Gesetz zur Regelung eines allgemeinen Mindestlohns – Mindestlohngesetz, MiLoG). The law also stipulates that a Minimum Wage Commission must decide every two years on adjustments to the level of the minimum wage. The Minimum Wage Commission consists of a chairman, three employee representatives and three employer representatives as well as two non-voting academic advisory members. The statutory minimum wage in Germany started

at € 8.50 on 1 January 2015 and rose to € 9.19 on 1 January 2019 (2018: € 8.84) and is supposed to rise to € 9.35 on 1 January 2020. As a rule, however, professional drivers in Germany are hired with a surcharge on the applicable collective wage. Only in some regions and sometimes with regard to drivers from other EU countries does the minimum wage play a role at all.

To become a professional driver in Germany there is a three-year dual vocational training programme primarily aimed at young people who have completed school. Getting young people interested in starting an apprenticeship in the occupation represents a major challenge for companies in the road haulage sector. In the training year 2015/2016, there were an average of 2.18 registered open vocational training positions for each candidate and the number of prospective professional drivers completing the three-year training is declining (Bundesamt für Güterverkehr 2018). There are also classes focusing on unemployed people to be retrained as professional drivers. However, it is also possible to drive a lorry just by obtaining a driver's licence for lorries (category C and CE). Thus, the termination of an apprenticeship the moment the driving licence is obtained occurs quite frequently.

According to the Professional Drivers Qualification Act (Berufskraftfahrer-Qualifikationsgesetz, BKrFQG), which implements the corresponding EU regulation 2003/59/EC, professional drivers are obliged to participate regularly in further training courses. The Bundesamt für Güterverkehr notes that this regulation leads to a decline in marginally employed professional drivers (e.g. after retirement), as very few of these drivers take part in the further training courses (Bundesamt für Güterverkehr 2016:12). Employers refuse to cover the costs of these classes for the marginally employed. Regarding regular employees, the financing of further training is sometimes part of the collective bargaining agreements.

Incidental labour costs in Germany include pension insurance, health insurance, unemployment insurance, long-term care insurance and statutory accident insurance. The level of contributions is determined by the federal government and the social security contributions are compulsory. The employer's contributions to these costs currently add up to approximately 21 % of the employee's gross wage. Pension insurance, health insurance, unemployment insurance and long-term care insurance are paid almost equally by the employer and the employee, with employees paying somewhat more into the long-term care insurance.



Source: WSI – Institute of Economic and Social Research.

Figure 7: Total number of collective agreements declared universally binding (1975–2016)

4.5.3 COLLECTIVE BARGAINING PRACTICE

Collective bargaining in Germany is primarily conducted at industry level between individual trade unions and employers' organisations. Sometimes these collective agreements can also be declared generally binding. However, as figure 7 shows, the number of generally binding collective agreements, which amounted to 444 in 2016, is declining. Although the development of the number of generally binding collective agreements is not continuous, it seems evident that the peak values of 1980 and 1995 with over 600 agreements will not be reached again.

Collective agreements in road freight transport are not all declared universally binding. Road freight transport has also not been included in the law on the posting of workers. If it were, in combination with a generally binding collective agreement, all drivers from abroad would be covered by the agreement. In the road haulage sector collective bargaining agreements are oriented along the borders of the 16 German federal states, which leads to differences in pay of professional drivers between the federal states. Collective bargaining takes place at federal state level between the trade union ver.di and the respective regional employers' associations.

At the beginning of 2019, the federal states of Bremen and Mecklenburg-Western Pomerania had no collective bargaining agreement. Mecklenburg-Western Pomerania suffers from major structural weakness and is hardly affected by the shortage of professional drivers.

As a result, employers see little need to conclude a collective bargaining agreement. Collective bargaining agreements exist

in all other federal states. Due to the large number of collective agreements, there are approximately five to seven collective bargaining negotiations per year in Germany in the road haulage industry. This involves the negotiation of a basic collective agreement that regulates employment and working conditions and an income collective agreement that only regulates wages. The lack of qualified drivers had a positive effect on the wage development in the past. Due to the shortage of professional drivers, actual pay often exceeds the wage levels in the collective agreements. Nevertheless, employers refuse to adjust the collective bargaining agreement accordingly. Another difficulty in collective bargaining is that it is not made public which employers are in the employers' association, so that it is not clear to the trade union which companies are being negotiated for.

In theory, collective bargaining coverage only applies to ver.di members, but in practice employers hardly differentiate between union members and non-union members. With less than 20 % of the employees covered by an agreement, collective bargaining coverage in the road haulage sector is generally low.

Collective bargaining agreements at the company level play a minor role in the road haulage industry in Germany. Occasionally, companies in the courier and parcel service have concluded in-house collective agreements, e.g. the Deutsche Post DHL Group (4.000 drivers). It should therefore be noted that the express, courier and postal sector in Germany does not always have poor working conditions, as there are large companies, such as Deutsche Post DHL group but also UPS, which offer employees better working conditions.

4.5.4 CONTENTS OF COLLECTIVE AGREEMENTS

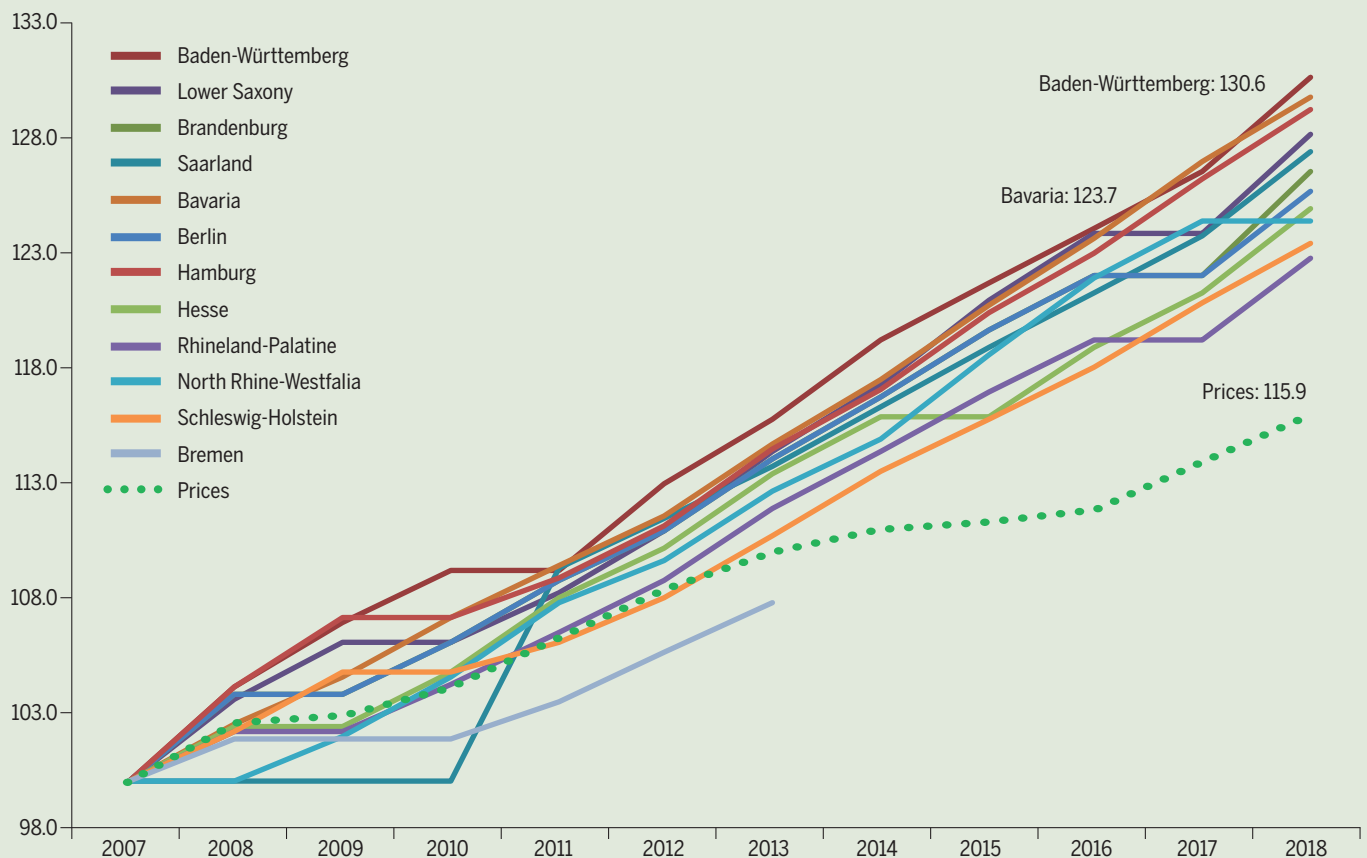
Typical contents of the regional collective agreements are: working time regulations, duration of leave, regulations on dismissals and illness, surcharges for overtime, night work and shift work, capital-forming benefits and protection from rationalisation and training. For example, the collective agreement for North Rhine-Westphalia states that the standard weekly working time for professional drivers is 40 hours. The holiday entitlement is 27 days and is increased to 30 days based on the length of service. There is also an additional holiday allowance of € 14 per day as well as a special annual payment of at least 30 % of a monthly wage.²⁷⁾

With regard to pay, the regional collective agreements provide for wages of between € 2,100 and € 3,500 on average for drivers. The collective bargaining processes between the federal states are not coordinated very much. Figure 7 below

shows the development of wage levels in the various collective agreements from the base year 2007 onwards. Overall, the better the economic situation in a federal state and the lower the unemployment rate, the better are the collective agreements that can be concluded. A further reason for the strongly differing collective bargaining results are the regionally very different levels of trade union organisation within ver.di. Saxony, Saxony-Anhalt and Thuringia show the highest growth in wage rates (+44.6 % in the last 10 years). Bavaria and Baden-Wuerttemberg, which benefit from a particularly low unemployment rate, also have a high growth in wage rates. The lowest growth in wage rates, on the other hand, are to be found in the eastern German federal states.

The collective bargaining development in the sector is on a par with the nominal wage development in Germany as a whole

27) Manteltarifvertrag für die gewerblichen Arbeitnehmer in der Speditions-, Logistik- und Transportwirtschaft Nordrhein-Westfalen vom 20. August 2013.



Source: ver.di.

Figure 8: Collective wage levels of professional drivers in selected federal states, developments 2007–2018

(Teuschner 2017). The figure also shows that wage increases in all federal states are above the rate of price increases (+15.5 % since 2007). A study from 2014 showed that professional drivers in companies covered by collective agreements receive on average 17 % higher pay, more holidays and higher Christmas bonuses than drivers in companies not covered by an agreement (Dribbusch, Kaun and Stoll 2014). The study also found out that, while work contracts state

46 hours of work per week for professional drivers on average, 63 % of drivers actually worked more than 50 hours a week. However, professional drivers in companies covered by a collective agreement work much shorter hours than those in other companies, where more than half of the drivers work 60 hours or more. Overtime was also more frequently remunerated in companies covered by an agreement.

4.5.5 CHALLENGES FOR COLLECTIVE BARGAINING

Trade union strategies are limited by a low degree of organisation among professional drivers. This is due to the large number of small companies in the sector. In addition, the acute lack of drivers in Germany puts the individual driver in a quite good bargaining position and the need to be represented by a trade union is not always seen. Already in 2017 there was a lack of about 90,000 professional drivers in Germany. Every year this gap increases because of a growing number of retirements and a decline in the number of apprenticeships. German employers' associations and ver.di estimate that the gap of missing professional drivers is growing every year by 25,000. However, little is still being done to tackle this "Fahrernotstand" (drivers' emergency).

In addition to the shortage of drivers, challenges arise from the strong competition of an international market in the road haulage sector. Both representatives of trade unions and management agree that poor working conditions of drivers from other countries and the behaviour of black sheep in the industry lead to social dumping and a failure to comply with laws, which creates a major risk on the German market. One way seen by the trade union to tackle this challenge is to strengthen the rights of foreign drivers. Ver.di supports the project on fair mobility that assists drivers from Central and Eastern European countries to enforce their rights.

TEXTBOX 7: THE GERMAN TRADE UNION PROJECT 'FAIR MOBILITY'

The fair mobility project is part of the Fair-Labour-Mobility.eu initiative. The aim of the project is to enforce fair wages and fair working conditions for employees from Central and Eastern European EU countries on the German labour market. The political responsibility for the project lies with the DGB. The project is supported by various German trade unions, the Federal Ministry of Labour and Social Affairs and the Federal Ministry of Economics and Energy. The project maintains seven counselling centres in different federal states, which offer mobile employees counselling on labour law and social law in their own language. In addition, further training courses are offered for works councils and other

interested parties on the subject of fair working conditions for employees from Central and Eastern European EU countries. In addition to the construction industry, the transport sector is a focal point of the fair mobility project. Since mid-2017, Fair Mobility has informed some 2,300 drivers in their native languages about their rights in Germany. To this end, 35 information campaigns were carried out at service stations and car parks throughout Germany and in the border areas with Poland, the Netherlands and Denmark.

Source: <http://www.faire-mobilitaet.de>



4.6 NETHERLANDS

“The Dutch drivers are actually doing very well. This is a result of the pretty secure position and well-regulated social and working conditions in the Netherlands.”

(Trade union representative, The Netherlands)

4.6.1 TRADE UNIONS AND SOCIAL PARTNERS

In the Netherlands professional drivers are represented by various trade unions. One is FNV for industry, commerce, transport and services, which represents professional drivers in its section FNV Transport and Logistic (FNV Transport en Logistiek). FNV is the largest trade union in the Netherlands with around 1.2 million members and 16 individual trade unions. The other important trade union for the representation of professional drivers is CNV Vakmensen (CNV Professionals), which belongs to the umbrella organisation Christian National Trade Union Confederation (Christelijk Nationaal Vakverbond, CNV). CNV Vakmensen represents the interests of employees

in many different sectors, including construction, industry, food, retail, wholesale and services. FNV and CNV were initially divided on ideological and confessional lines. FNV emerged from the merger of a socialist and a catholic trade union federation. CNV describes itself as a Christian trade union and comes from a tradition of Protestant trade unionism. However, the relations between the two umbrella organisations are considered to be good.²⁸⁾ It estimates that somewhat less than 60 % of professional drivers are affiliated to a trade union in the Netherlands.

28) <https://www.worker-participation.eu/National-Industrial-Relations/Countries/Netherlands>

The two largest employers' organisations in the transport sector are Transport and Logistics Netherlands (Transport en Logistiek Nederland) and Vertical Transport Association (Vereniging Verticaal Transport). They are the bargaining partners of the trade unions in collective bargaining.

Social dialogue is also practised within the framework of a joint fund between trade unions and employers' organisations. The Training and Development Fund for Professional Goods Transport by road and mobile crane rentals, SOOB fund (Stichting Opleidings- en Ontwikkelingsfonds Beroeps-goederenvervoer), is financed by annual employer contributions (0.61 %) and employees' contributions (0.25 %), which amounts to 0.86 % of the gross wage on which social insurance contributions are payable (bruto loonsom sociale verzekeringen). The objectives of the fund and the areas of responsibility are laid down in a collective agreement.²⁹⁾ Mainly the fund is used for financing or subsidising costs relating to:

- » information, research and development with regard to law and legislation and developments in the field of employment conditions, industrial relations, social security, job development and employability
- » activities providing information about the job evaluation system: developing and managing benchmark positions, carrying out company visits, job assessments, job descriptions and grading

- » activities in the field of company health care, e. g. risk inventory and assessment, working conditions checks, reintegration
- » activities in the field of training and development: improvement and/or provision of vocational training and professional competence, encouragement of trainees in the professional goods transport sector to obtain the required driving licences by providing loans; establishing and maintaining study centres for the sector
- » activities to enforce compliance.

Social and labour market policies, such as the integration of people with disabilities, are also supported by this fund. For example, one hundred work experience places were made available to young people with disabilities (Wajongers). Work experience places offer these people the chance to learn first-hand about the skills and requirements it takes to become a lorry driver. Furthermore, together with the Association of Netherlands Municipalities (Vereniging van Nederlandse Gemeenten; VNG), there is an effort to create 2,750 additional work experience places for young people aged 18 to 27 years.

4.6.2 LEGAL FRAMEWORK AND THE ROLE OF COLLECTIVE BARGAINING

In the Netherlands, national labour law regulates minimum rights with regard to working conditions. For example, the Working Hours Act (Arbeidstijdenwet, ATW) regulates maximum working hours, volume of night work, standby duty and standards for minimum rest periods, among other things.³⁰⁾ Concerning holidays, § 7 of the Dutch Civil Code (Burgerlijk Wetboek, BW) contains a minimum entitlement to leave. The minimum holiday entitlement is calculated from the number of working days per week × 4 (usually 4 × 5 = 20 holiday days). These laws are regarded as the basic standard, and in many sectors supplementary sector-specific regulations or collective agreements apply. This is also the case for the road freight transport sector. For example, with regard to working hours, a Working Hours Decree on Transport (Arbeidstijdenbesluit Vervoer) implements Directive 2002/15/EC11 into Dutch law. With regard to holiday entitlement (and other working conditions), a generally binding collective bargaining agreement for the road freight transport sector improves upon the statutory minimum standards.

The Dutch statutory minimum wage is a monthly wage and not an hourly wage. It is adjusted twice a year. Since 1 January 2019, the minimum (gross) wage is € 1,615.80 per month for full-time employees aged 22 and over. In addition, a statutory holiday pay entitlement of 8 % of the gross wage amount is granted (equivalent to € 129.26 a month). Due to a generally binding collective agreement applying in the road freight transport sector, the remuneration of professional drivers is significantly higher than the Dutch minimum wage.

There is no ban on driving on Sundays and public holidays in the Netherlands.

With regard to the training of drivers, it should be noted that training in the Netherlands costs around € 10,000 and the costs are borne by companies or the sectoral SOOB fund. The training lasts approximately 5-6 months and the minimum age of the trainees is 21 years. There are a number of legal requirements as to how the training must take place.

29) Collective Agreement on Terms and Conditions of Employment for the Opleidings- en Ontwikkelingsfonds Beroepsgoederenvervoer over de weg en de verhuur van mobiele kranen (Training and Development Fund for Professional Goods Transport by road and mobile crane rentals) 1 July 2017–1 July 2022

30) <https://www.awvn.nl/normen-arbeidstijdenwet-2/>

The legal requirements have been agreed with the social partners and educational institutions in the sector.

As far as social insurance is concerned, unemployment insurance is financed by the employer and the level of contributions depends on the sector, the size of the company and other aspects. Health insurance in the Netherlands is obligatory

and is financed by the individual. Regarding pensions, a basic pension financed by the state plays the most important role. In addition, there are pension payments based on industry-specific regulations. In the road transport sector, employers pay about two-thirds and employees about one-third of pension contributions, which is about 10 % of wages. Pension contributions can be increased on a voluntary basis.

4.6.3 COLLECTIVE BARGAINING PRACTICE

In the Netherlands, there are collective bargaining agreements known as *Collectieve Arbeidsovereenkomst (CAO)*. Agreements can be concluded at industry level as well as at company level. They regulate, for example, working hours, wages, notice periods, sick pay and supplementary insurance. In general, collective bargaining agreements apply to the members of the employers' organisations and the trade unions that sign them. However, employers signing the agreement are obliged to offer the same terms of employment to non-union members, so that in practice all employees are covered by the agreement. In addition, the parties to a collective agreement can ask the government – as happened in road haulage sector – to make the term of the agreement generally binding to all employees in a particular industrial sector. For this to happen, the agreement must already cover a “substantial proportion” of those employed in the industry – normally 55 % or more.

The generally binding collective bargaining agreement for road haulage, *Collective Agreement on Terms and Conditions of Employment for Professional Goods Transport by road and mobile crane rentals (Collectieve Arbeidsovereenkomst voor*

het Beroepsgoederenvervoer over de weg en de verhuur van mobiele kranen),³¹⁾ was negotiated between the employers' organisations *Transport and Logistics Netherlands (Transport en Logistiek Nederland)* and *Vertical Transport Association (Vereniging Verticaal Transport)* and the trade unions *CNV Vakmensen, FNV and De Unie*.³²⁾ The agreement covers the period from 1 January 2017 to 1 January 2020.

In addition to the generally binding collective bargaining agreement, there are several company collective agreements in the road haulage sector in the Netherlands. It can be assumed that about 7–10 % of the companies have a company-based collective bargaining agreement. These are mostly larger companies. There are no regulations on the contents of company-based collective bargaining agreements. However, for the agreement to be valid, it must be approved by all trade unions and employers' associations that agreed the generally binding collective bargaining agreement. Thus, it is ruled out that the company-based collective agreement is below the level of the generally binding collective bargaining agreement.

4.6.4 CONTENTS OF COLLECTIVE AGREEMENTS

The generally binding collective agreement covers a wide range of working conditions. With regard to remuneration, it should be noted that the current generally binding collective bargaining agreement foresees a 10 % increase in wage payments within three years.

The wage levels in the collective bargaining agreement vary widely. The table below provides an excerpt of the current pay scales that are relevant for professional drivers. Most often professional drivers in the Netherlands are paid according to

the pay grade D5, which pays € 2,270.84 for a period of four working weeks. Only drivers who are at least 21 years of age and have just started their driving careers are paid according to the pay scale D0. After D0, the agreement foresees a 4.0 % wage increase per year until the professional driver has reached pay grade D6. This is usually the case after approximately 6–7 years. A promotion from D6 to higher pay grades is normally not possible.

31) *Collectieve Arbeidsovereenkomst voor het Beroepsgoederenvervoer over de weg en de verhuur van mobiele kranen*. Tussen: 1. *Transport en Logistiek Nederland*, gevestigd te Zoetermeer; *Vereniging Verticaal Transport*, gevestigd te Culemborg; hierna gezamenlijk te noemen partij ter ener zijde, 2. *CNV Vakmensen*, gevestigd te Utrecht; *FNV*, gevestigd te Amsterdam *De Unie*, gevestigd te Culemborg hierna gezamenlijk te noemen partij ter andere zijde, is de navolgende *Arbeidsovereenkomst gesloten voor de periode van 1 januari 2017 tot 1 januari 2020*

32) *De Unie* is a smaller union for employees working in industry and services.

Pay grade	Amounts per 4 weeks (in Euros)
D 0	1,866.48
D 1	1,941.12
D 2	2,018.76
D 3	2,099.52
D 4	2,183.52
D 5	2,270.84
D 6	2,301.12

Source: Collectieve Arbeidsovereenkomst voor het Beroepsgoederenvervoer over de weg en de verhuur van mobiele kranen (2017)

Table 9: Wage structure according to the collective bargaining agreement in road freight transport sector in the Netherlands

However, professional drivers with special qualifications, such as driving dangerous goods or special international trans-

ports, are partly paid according to wage group E7, which pays € 2,510.08 for four working weeks.

The collective agreement also provides for bonuses for night work, weekend work and overtime. The premium to the regular salary for overtime is 30 %. The supplement for Saturday work is 50 % and for Sunday work 100 %. For night work there is a premium of 25 %. Quality bonuses and 13-month bonuses do not exist in the Netherlands. The collective bargaining agreement provides for a bonus for dirty work or hazardous work, but so far only one company pays that bonus.

The collective bargaining agreement extends the statutory leave entitlement with so-called extra statutory holiday days (arbeidstijdverkortingsdagen or ATV-dagen). For example, the normal annual leave for employees starting at age 19 is 24 days. The number of holiday days increases with the employee's age and the years of service (to a maximum of 29 days).

There is also a reimbursement for travel expenses. There is extra pay for being away multiple days or spending weekends and National Holidays on the road. The extra pay is for food, sanitary provisions, etc. Accommodations are paid for separately. When a company moves or an employee is transferred, the additional costs for commuting are reimbursed for one year.

4.6.5 CHALLENGES FOR COLLECTIVE BARGAINING

Working conditions in road freight transport sector in the Netherlands are comparatively good. As a result, companies sometimes try to relocate fleets to cheaper countries - be it as actual subsidiaries or as letterbox companies. Against this background, Germany is also regarded a low-cost country. The relocations primarily affect international transport. Differences in social security obligations also play a role in this strategy. For example, trade unions point out that social security regulations allow a foreign employee to work in the Netherlands but pay social security contributions in his or her home country. This leaves room for wage dumping.

Eastern European drivers are often used to circumvent the standards of working conditions in the Netherlands. Trade unions are responding to this by attempting to report Dutch companies that permanently employ foreign drivers in the Netherlands without proper work contracts. In addition, the trade unions have arranged for the generally binding collective agreement to be translated into various languages, such as

Polish and Romanian. Brochures have also been published in many languages on the ban on taking the regular weekly rest in the cabin.

In addition, attempts are being made to prevent exploitation by holding large companies responsible for misconduct in their logistic supply chains. Together with Belgian trade unions, a major campaign was conducted against the Ikea group, whose suppliers use professional drivers with Bulgarian and Slovakian employment contracts in the Netherlands.³³⁾

Another challenge for trade unions in the Netherlands is the long working hours of drivers. The massive shortage of drivers in the Netherlands leads to the fact that many drivers constantly work overtime or do not take their holidays. Trade unions plan to address this issue in the collective bargaining process that will start in 2019.

33) https://www.youtube.com/watch?v=wvyBRaE_U78



4.7 POLAND

“In the transport and logistics sector in Poland there are no sector-wide collective agreements. There are very few company level collective agreements but these only regulate wages and allowances. There are no collective agreements in international transport companies.” (Trade union representative, Poland)

4.7.1 TRADE UNIONS AND SOCIAL PARTNERS

Road transport workers in Poland are organised by the transport section of the Solidarność trade union, the KSTD (Krajowej Sekcji Transportu Drogowego) NSZZ Solidarność. The trade union not only organises road freight transport workers but also drivers in road passenger transport. 85 % of the union members are professional drivers in larger companies. KSTD NSZZ Solidarność has 2,000 members in the sector which is very low when the overall number of professional truck drivers is taken into account.³⁴⁾ The KSTD NSZZ Soli-

darność is the only Polish affiliate of the ETF road transport section.

Apart from the transport section of NSZZ Solidarność, there is also a professional drivers' trade union, the independent drivers' union NZZK (Niezależny związek zawodowy kierowców). However, the trade union has only about 350 members, most of them in road passenger/bus transport. NZZK is affiliated to the Polish Trade Union Forum (FZZ), but not to the ETF.

34) According to a report published by the transport employer organisation TLP in cooperation with PWC in 2017 on the drivers' job market, no reliable data are available of the number of professionally active drivers of passenger and heavy goods vehicles. On the basis of data on the number of people receiving periodic trainings and preliminary qualifications every year, the study estimates the number to be around 600–650 thousand in 2017, thus significantly above the number as calculated by Eurostat (see chapter 2.1 one of this report). See PWC / TLP (2017).

It should be noted that the third larger Polish trade union confederation, the All-Poland Alliance of Trade Unions (OPZZ) has no special section for road freight transport.

As regards employer organisations in the road transport sector there are two main players: The largest professional employer association is ZMPD (Zrzeszenie Międzynarodowych Przewoźników Drogowych) that already exists since 1957 and indicates to have more than 4,500 affiliated companies that are registered with international road transport.

The second employer association is TLP (Transport i Logistyka Polska). TLP was only established in 2014 when a number of larger transport companies founded the organisation. According to a statement on the TLP website, the main objective

of TLP is to „create a positive image of Polish road transport, both in Poland and abroad, to influence the situation and legal status of the sector, and protect its interests“.³⁵⁾ As regards social principles, TLP noted on the website that the organisation respects the principles of fair competition and also the „employees’ rights and providing employees with the proper working conditions, with particular attention to the restrictions arising from the specific nature of road transport.“

Both TLP and ZMPD are members of the international road transport organisation IRU.

Neither TLP nor ZMPD are social partners in a sense that they have a clear mandate of their affiliates to negotiate collective agreements with the trade unions.

4.7.2 LEGAL FRAMEWORK AND THE ROLE OF COLLECTIVE BARGAINING

Thus, as regards pay and working conditions, collective bargaining does not play any regulatory role for the social and working conditions of Polish truck drivers.

As regards wages, these are negotiated individually between the company and the driver. In many small companies’ remuneration is made up of a basic wage which in particular in smaller companies is oriented on the national minimum wage. According to the KSTD NSZZ Solidarność, the wage of truck drivers are at the lower end of Polish workers incomes.

Poland has a statutory minimum wage which in 2019 is fixed at € 523 per month that is € 6,277 per year. Against 2018, the minimum wage has increased by about € 150.

As explained by the representative of the KSTD NSZZ Solidarność, remuneration of Polish drivers consists of two different elements: First, there is a wage component that in most cases is based on the national minimum wage and that is subject to income tax and social security contributions (amounting to around 25 %). Secondly, there are two allowances (these are per diem allowances and the allowance for overnight stays) that are not subject to social security contributions and that in case of international drivers can be up to 75 % of the total monthly remuneration. This is highly problematic as sickness and holiday payments as well as other social benefits including old age pensions are calculated only on the basis of the wage component that is subject to social security contributions.

According to KSTD NSZZ Solidarność, variable remuneration components are in particular the daily allowances (€ 7 in national and at least € 7 in international transport) and allowances for overnight stays (€ 10 in national transport and around € 35 in international transport). In addition, Polish

drivers receive a quality bonus (10–25 % of basic pay) and bonuses that depend on the employer as they are not legally obligatory such as no-accident bonus, eco-driving bonus or Christmas bonus. It should be noted here that there is no legal obligation to pay a Christmas bonus or a 13-month bonus in Poland. However, there is a legal provision on holiday pay – this should be the average of the last three months of work (based on the remuneration subject to social security).

Overtime benefits are regulated by the Polish Labour Code. Most of the drivers get a lump sum for overtimes (this is according to Polish legislation). This lump sum for overtime thus is regulated by legislation. The overtime lump sum is subject to social security contributions.

According to a recent overview paper on Road Transport in Poland that has been published by the French Comité National Routier (CNR), the majority of Polish drivers are likely to receive performance-based bonuses per kilometre, though this is legally not allowed (Comité National Routier 2017).

The current conditions and framework of regulation of social and working conditions in road freight transport in Poland clearly illustrate the negative impact of a situation where there are no sectoral collective agreements. Only legal obligatory basic conditions exist and any additional remuneration or other components are totally depending on the good will of a specific employer. According to representatives of the NSZZ Solidarność trade union, both the Polish government and the employers are interested in keeping social security costs low because this is regarded as a key competition factor of the Polish road transport sector.

35) <http://tlp.org.pl/en/about-us/history/>

In addition, in the absence of collective agreements that are binding for the whole sector, there is a vacuum as regards different categories of working time and remuneration, namely overtime, working time at unusual hours, availability time, resting time (and remuneration) as well as in relation to tasks such as loading/unloading.

The current remuneration system and the problematic working conditions have been strongly criticised by the KSTD NSZZ Solidarność union as it disadvantages the drivers in Poland and is socially not sustainable.

4.7.3 CHALLENGES TO COLLECTIVE BARGAINING

Though drivers in road transport are by far the largest single professional group on the Polish labour market, wage levels and working conditions are clearly below the average of workers in Poland (at least if per diems and sleeping allowances are not taken into account). According to the President of the NSZZ Solidarność road section in a presentation at the ETF project workshop in Vienna in January 2019, 80 % of truck drivers in Poland only earn the minimum wage of around € 500 and the gross income (i.e. that part that is subject to social security contributions) of most truck drivers is lower than the net income of workers even in small companies in other sectors.

The trade union also reported that the increasing shortage of drivers in the Polish road freight transport sector so far has not led to improvements of wage and working conditions. Instead, Polish transport companies have started to recruit foreign drivers, for example Ukrainians, Russians, Georgians or Kazakhs that are even cheaper than Polish drivers in order to react to labour shortages. It should be noted here that according to the current posting of workers rules, it is possible that also third country workers, who obtain the respective A1 certificate in an EU Member State (for instance in Poland), can be posted to any other Member State.³⁶⁾

One further reason for the difficulty to attract young people to the transport sector is related to the costs of drivers training and for obtaining the necessary qualifications. The estimated cost of training programmes and exams necessary to start working as a professional truck driver is at least € 2,200, i. e. two to three times the amount of the average monthly pay. Such costs normally have to be paid by the worker who would like to start a career as a driver.

There are also signs that the current system of working and social conditions is not economically sustainable in the long run. As highlighted by the Polish trade unions as well as in a recent report on the Polish road freight transport market, there is an increasing shortage of drivers which will get even worse in the future because of demographic trends. As highlighted by trade union representatives of the transport section of NSZZ Solidarność the lack of drivers is compensated by foreign drivers, in particular from the Ukraine.

One further problem of the Polish road freight transport market highlighted by KSTD NSZZ Solidarność is the large number of one-person-undertakings (EPU). Due to the fact that it is quite easy and cheap to obtain a business licence, the number has increased significantly during the last decade. About 80 % or all companies today belong to this category. Working conditions and wage levels in EPU are often very precarious and also on the Polish market there is a strong competition on costs.

KSTD NSZZ Solidarność also criticised a business practice that has emerged in recent years in relation to temporary agency work and drivers lending to other companies. As reported in an ETF workshop in the context of the project, there are companies that own for example ten trucks but employ more than 100 drivers that overwhelmingly are lend to other companies, often letterbox companies of large Western European logistic companies.

A further problem that according to the Solidarność trade union urgently needs to be tackled is the circumvention of legal requirements by shifting freight transport to light commercial vehicles (LCVs) with a gross vehicle weight of not more than 3.5 metric tons. According to the trade union, the current social and working conditions in this transport segment are totally intolerable and require a strict regulation.

Polish trade union representatives in the context of the project have also highlighted that in Poland as well as in the EU as a whole, drivers lack a decent and sufficient infrastructure along roads. Currently they have to work without access to basic amenities such as dignified and comfortable rest areas, secure parking with access to cheap eateries and sufficient sanitary facilities.

36) The A1 form certifies which social security legislation applies to the holder of the form.

Against this, key demands of KSTD NSZZ Solidarność in relation to fair employment contracts, wages and working conditions of truck drivers in Poland are:

- » Actual and not fictitious pay for work
- » A minimum basic wage of at least € 800 that should be subject to social security contributions;
- » Uniform rules on business travel expenses/daily allowance (minimum € 60);
- » Payment of sufficient lump sums for accommodation;
- » Salary for overtime and night work;
- » Extra payments for loading and unloading goods;
- » Early retirement (after 35 years in the driving profession or 40 years in total regardless of age);
- » Costs for the training of drivers necessary to maintain professional qualifications should be paid by the employer.

4.8 COLLECTIVE BARGAINING MAKES THE DIFFERENCE

The country specific analyses of regulations regarding social and working conditions in road freight transport clearly shows that collective agreements at sectoral level clearly make a difference not only as regards the detailedness of regulation but also in relation to aspects that go beyond wage related issues and those aspects that are regulated by EU Directives (working and rest time).

As table 10 shows, those countries where collective bargaining plays a strong or relevant role in general have remuneration components that often go beyond the legal requirements, for example when it comes to seniority bonuses or Christmas payments. In addition, there is a further dimension of collective bargaining agreements beyond remuneration aspects that is at least as important. As shown in the previous chapters of this study, collective agreements clarify different aspects of social and working conditions of workers in road freight transport in a much more detailed way than legal regulation.

The following aspects have been identified as highly relevant:

- » Definition of working time, driving and rest time and further relevant categories (for instance availability time, service time, etc.)
- » Allowances for dangerous, heavy or dirty work
- » Additional holidays beyond legal requirements
- » Job/task profiles and qualification groups
- » Initial and further training and qualification rights (including financing)
- » Trainee apprenticeship remuneration and working conditions
- » Health and safety standards
- » Implementing EU rules at the national level, for instance training of labour inspector
- » Notice periods and redundancy payments
- » Joint social and training funds and support measures for workers
- » Requirements regarding parking areas.

	DK	BE	DE	AT	NL	PL	CZ
Seniority allowance	CBA	LP/CBA	CBA	CBA	CBA	CBA	No
Quality bonus	No	No	No	No	No	CBA	No
13 month bonus/christmas payments	No	LP/CBA	CBA	CBA	No	No	No
Reimbursement of travel expenses	LP	LP/CBA	LP/CBA	LP/CBA	LP/CBA	LP	LP
Daily allowance to compensate for posting	LP	LP/CBA	LP	LP	CBA	LP	LP
Holiday pay	LP	LP/CBA	LP/CBA	LP/CBA	LP/CBA	LP	LP

CBA = collective bargaining agreements, LP = legal payments; Source: Authors, based on questionnaire responses, interviews and workshop contributions.

Table 10: Remuneration components in addition to the basic wage

5

ENFORCEMENT OF RULES



“There are enough regulations within Germany. However, these regulations should also apply to ALL employees working in Germany. The control density should be increased, especially with regard to weekly rest time in the cabin and the statutory minimum wage. Above all, however, if controls are to be carried out, sanctions must also be mandatory and this must be applied against ALL.” (Company management representative, Germany)

“The social rules applying to the international road transport sector are very complicated and confusing, they give the opportunity for many interpretations. There is a need for regular training for drivers, control authorities, transport operators and shippers. Also, we think that EU regulation should be changed in such way to ensure an easier and more flexible application.” (Representative of an Employer Association in road freight transport, Poland)

5.1 LEGISLATIVE LOOPHOLES, CIRCUMVENTIVE AND FRAUDULENT PRACTICES

An ex-post evaluation of European legislation in the road transport sector under the Regulatory Fitness and Performance Program (REFIT) between 2015 and 2017 revealed that existing social legislation and its enforcement was unable to address emerging social and labour market issues and challenges (European Commission 2016a, 2017a, 2017b). In addition, the European Parliament initiated its own studies on the effectiveness of legislation in the road transport sector (European Parliament 2016a, 2016c; Pastori/Brambilla 2017). In summary, issues found in the impact assessments and various studies include:

- » deficiencies in the existing social road transport legislation (in particular with regard to driving, working and resting times of drivers),
- » inefficient implementation of the provisions of the Posting of Workers Directive in road transport and
- » letterbox companies and illegal cabotage.

The main problems with the legislation were seen to be linked to weak application and enforcement in the Member States. Differences between the States included the interpretation of legislation, definitions and categorisation of infringements, levels of fines and sanctions, and discrepancies in control mechanisms and enforcement practices (Tsamis 2018).

The results of our study also point in this direction. For example, the works councils were asked about the most frequent types of violations of working time, remuneration and other

social provisions. Responses indicate that the most frequent violations concern working time and break and rest periods, followed by unpaid working hours and manipulation of digital tachographs or data sheets. More than 90 % of the trade union respondents agreed or strongly agreed that “... poor enforcement of rules and lack of effective controls (for example, of working and driving time (...))” is a critical issue.

The major reasons for violations of working time, remuneration and other social provisions are interpreted differently by trade union respondents. As regards the reasons (loop holes in the legislation, for example cabotage rules, flagging out practices, performance-based payments, fraudulent practices, and weak sanctions and penalties) trade union responses are quite polarised as regards confirming or rejecting specific reasons. However, there is again a strong common assessment that a key problem is the lack of personnel conducting checks and controls.

As regards the question of how to improve the situation, trade unions very often highlighted the need to improve the application and enforcement of existing legislation, to improve the effectiveness and quantity of controls and to provide enforcement authorities with more financial resources.

Further trade union demands are related to the application of national labour law to all drivers active on the territory of the country, faster installation of smart tachographs and tougher sanctions (e. g. suspension of driver's licenses or elimination of companies without trucks).

	Agree/ strongly agree	Neither agree nor disagree	Disagree/ strongly disagree	Don't know/ no answer
There is a sufficient body of rules.	47.5	8.2	41.0	3.3
Enforcement, checks and controls are sufficient.	18.0	8.2	73.8	0.0
Sanctions and penalties are effective.	6.6	27.9	63.9	1.6
There is no need for additional or specific rules in order to improve enforcement or address malpractices.	29.5	14.8	54.1	1.6

Source: wmp, based on responses to the survey carried out in the context of the study.

Table 11: Managers' assessment of EU regulation and enforcement of rules (% of management responses)

It should be noted that challenges related to the enforcement of rules is an important issue of concern for employers as well as table 11 shows.

Though around half of all employers' representatives think that there is a sufficient body of rules and there is no need for additional rules, more than 60 % of management repre-

sentatives think that enforcement, checks and controls are not sufficient. Also, more than 60 % think that sanctions and penalties are not effective enough.

In summary, it can be seen that the challenge seems to lie less in the lack of legislation than in its implementation and compliance.

5.2 PROBLEMS WITH CHECKS AND CONTROLS

“We once calculated that we have fewer labour inspectors than a third world country. We also filed a complaint with the ILO here and in fact the ILO also supported our complaint, but nothing has changed.” (Trade union representative, The Netherlands)

The Enforcement Directive 2006/22/EC establishes minimum levels of roadside checks and controls at the premises of transport companies to be carried out every year by Member States. Furthermore, it requires Member States to communicate information on checks in national reports. These are to be published in a biannual report of the European Commission which gives an account of the level of checks at the roadside and at the premises of the transport companies and offences detected. The most recent report was published in March 2017 and covers the period of 1 January 2013 to 31 December 2014 (European Commission 2017e). It shows that most offenses concern the categories rest periods (25 %), breaks (23 %) and driving time records (17 %).

An increasing problem is tachograph fraud in trucks. As in the past tachograph fraud was rather simple and easy to detect, an Austrian criminal investigation in 2017 and 2018 showed

that frauds are becoming more sophisticated, involving adapting circuit boards and software to make enforcement of driving times and rest periods more difficult.

As regards the administrative cooperation between Member States it is reported that there is a lack of structured cooperation and risk rating between Member States (European Commission 2017a). Regulation (EU) No 1213/2010 of December 2010 establishes common rules concerning the interconnection of National Electronic Registers (NERs) of road transport undertakings to allow a better exchange of information between Member States, so that authorities can better monitor the compliance of road transport undertakings with the rules in force (European Commission 2010). According to the Regulation, the information shared should include information on infringements, infringement notification messages, and infringement response messages. Also,

answers to search request messages on checking the good repute of transport managers should be given. Furthermore, Regulation (EU) 2016/403 of March 2016 defines common classifications of serious and very serious infringements of the EU road transport rules. In 2017 a study showed that three Member States (Poland, Luxembourg and Portugal) had still not connected their national electronic registers of road transport undertakings. However, the study also showed that several Member States use the European Register regularly in order to exchange information with other Member States, in particular on good repute and serious infringements (European Commission 2017d).

A number of different institutions are responsible for monitoring road freight transport in the countries under investigation. The police are often responsible for road safety or checking driving speeds, while the commercial and/or labour inspectorates are responsible for occupational safety. Above that, there are further institutions involved when it comes to social and working conditions, for example border control organs, financial police or social security investigators.

Our analysis shows that there are major problems with the number and the depth of controls. Although the number of checks required by Directive 2006/22/EC is largely met at national level, the number of checks required and their depth is considered by all the union representatives interviewed to be too low. This is mainly due to the lack of inspectors. Often more inspectors are promised by the government, but are not actually hired, as reported for example by the Austrian trade union representatives in one of the ETF workshops in the context of the project.

Similar problems were reported by the Austrian trade union *vida* in the context of the ETF workshop in Vienna in January 2019. In the whole of Austria there are only 500 inspection personnel, which is not sufficient. However, according to the Austrian trade union that is not the only problem. Other problems emerge from the fact that inspection of cabotage transport rules in practice is hardly possible. And even if breaches of rules are detected, sanctions and fees are not paid by foreign companies because this will have no consequences for the respective company.

Trade unions also criticise the fact that when they draw attention to infringements, the inspectors only take action so late that the infringements are often no longer traceable. In Denmark there are only three inspection posts where large trucks can be inspected. In addition, the police and supervisory authorities do not have enough staff to carry out checks.

The German trade union representatives explain that there are about 200 inspectors at the Federal Office for Goods Transport (Bundesamt für Güterverkehr, BAG) who check infringements of driving time, cabotage rules or other offences. In the case of comprehensive checks, 75 % of the checked trucks reveal infringements (for normal checks, the average is 25 % of the cases). € 1,600,495 fines were imposed and 105 prison sentences were passed in 2017. On the other hand, there are 400 toll inspectors who check violations of the German toll obligation. However, only in 2 % of all checked vehicles is a violation of rules regarding toll detected.

In the Netherlands, where trade unions complain about a massive shortage of labour inspectors, some controls have been taken over by the trade unions. A “collective bargaining police” (FNV’s foundation called VNB, for instance), which monitors the implementation of collective bargaining agreements, also checks the correct application of labour law in companies in the transport sector. The tools needed to be able to effectively police working conditions are provided for by the collective bargaining agreements. The task is not an easy one, as each company must be examined individually. If, however, violations referring to payment are suspected, it is the responsibility of the respective company to prove that the rules have actually been complied with.

Moreover, in the Netherlands companies get checked based on infringements and risk analyses. In the system, all infringements get basic scores derived from a risk analysis. A central database gathers all complaints, signals and reports of various inspection agencies to generate a final score of individual companies. The scores determine whether the company will be selected for a check or self-assessment. To gather this information results of road side inspections are documented. Interestingly, these results – sorted by country of origin of trucks – also show that most inspections resulting in penalties, concern trucks from Lithuania, Ireland, Finland and Slovakia as well as the Netherlands (Schipper n.y.).

In the Czech Republic, the inspection of occupational health and safety in road freight transport is the task of 700–800 labour inspectors responsible for compliance with occupational health and safety throughout the Czech Republic in all sectors. The Czech trade union OSD notes that the labour inspectors are hardly qualified for this particular task, given that there are many special regulations in the road haulage sector. One consequence of this is that labour inspectors often refrain from carrying out inspections in road haulage companies. The trade union has therefore started to offer forms of cooperation and to train labour inspectors to apply labour law regulations to road transport. This cooperation is beginning to bear fruit; for example, in one road haulage company, regular cleaning of the driver’s cab has been ordered.

5.3 OTHER PROBLEMS RELATED TO ENFORCEMENT

“Sanctions should only be imposed on the company. Drivers should not be held responsible because they are the last link in the chain. If they acted lawfully, they would risk being dismissed.” (Trade union representative, Germany)

“With the low salary that Czech drivers receive and the high sanctions in Western European countries, the consequence of such sanctions for the driver is a disaster.” (Trade union representative, Czech Republic)

Concerning the issue of enforcement, it is important to bear in mind that the criminal consequences of an infringement still depend on the criminal law of the Member States. Criminal law is part of the competencies of Member States and does not fall under the jurisdiction of Community law. As the criminal laws of the Member States differ, infringements in one state may lead to companies being subject to sanctions, while competitors from other Member States may not be exposed to such legal consequences. Studies note that Member States have different types of penalties and the size of fines varies greatly (European Commission 2009; Pastori/Brambilla 2017).

These problems have been strongly confirmed by trade unions in the context of the ETF project, including those in Central and Eastern European countries.

According to trade union representatives, Denmark imposes comparatively high penalties for offences, while Germany and the Netherlands have lower penalties than neighbouring countries. However, according to these representatives, one problem is that penalties are imposed not only on the employer but also on the drivers. German trade union representatives from ver.di state that drivers are held liable for violations of speed limits, driving licences, rest periods, cargo safety and vehicle conditions, although they have relatively little influence on these items. In Denmark, the driver is responsible for speeding, truck condition and rest periods.

Apart from the need to strengthen harmonised penalties and sanctions in case of violations, trade unions also agree that there is a need to address loopholes and issues that so far are not covered by regulation, in particular the increasing problem of freight transport carried out by light commercial vehicles (LCVs) below the weight of 3.5 tons.

The Czech trade union OSD is currently campaigning against the high penalties imposed on Czech drivers in Western European countries. In particular, two cases have been made public where Czech drivers have been found guilty of human trafficking of refugees in lorry trailers and are now serving long prison sentences and are subject to high fines. Due to the large differences in wages, a penalty according to Western European standards is particularly costly for Czech drivers. The trade union therefore demands that drivers who violate these standards be brought to justice in their home country.

6

CONCLUSIONS



“A harmonised European Transport Market is important to facilitate the real free movement of goods and persons within the EU. And the possible advantages of an integrated European Transport Market cannot be neglected: improved mobility, better environmental sustainability, enhanced internal cohesion and international competitiveness of the EU. But this cannot be achieved to the detriment of fair pay and working conditions for transport workers, the quality of transport services and the safety of passengers, workers and goods.” (ETF 2018a, p. 3)

“A common Europe is a good idea, but the elaboration and implementation is anything but sufficient.” (Trade union representative, Belgium)

“Market liberalisation leads to anarchy and social downward spirals. We need European common rules of pay and working conditions.” (Trade union representative, Poland)

This study has provided rich and fresh evidence on the important role of collective bargaining and trade union campaigns and practices as regards the improvement of social and working conditions in road freight transport in Europe and the fight against social dumping and illegal practices.

The study has addressed a number of information gaps. These relate for example to business and market trends within the sector and how they impact on social and working conditions in the sector. Here, the study, and in particular the results of the online survey of representatives of sectoral trade unions, employee interest representation bodies at company level and of employer organisations and single companies as well as interviews and workshop contributions, have delivered a number of new insights and assessments on the impact of letterbox companies, illegal cabotage activities, bogus self-employment, subcontracting and the use of light commercial vehicles in order to circumvent European and national level legal regulation of working conditions.

Furthermore, and based on the different modes of gathering evidence and information as mentioned above, the study has filled a gap in information and data on national framework conditions and regulations of social and working conditions in the road freight transport. Here, the research has in particular focussed on the role of collective bargaining in setting minimum wage levels, defining wages groups and regulating further remuneration components as well as additional benefits and social security rights.

By focussing on seven countries, the study shows that the role of collective bargaining and collective agreements at sector level as well as at regional and local (company) level differs significantly due to the different national legal systems and regulation, such as extension practices and general bindingness of agreements. As a result, collective bargaining rates in the analysed countries range from nearly 100 % coverage of companies and workers in the sector in countries such as Austria, Belgium and Denmark to very low rates in countries such as Poland, the Czech Republic or Germany. The study also shows that there is a strong correlation between high trade union membership rates on the one hand and high membership rates of employer organisations as well as collective bargaining activities on the other hand. It also should be noted that in countries such as Belgium and the Netherlands, the state is playing an important role of supporting collective bargaining between trade unions and employers by declaring collective agreements as generally binding for the whole sector, if certain representativeness criteria are met.

While the study confirms that there are significant differences in drivers' wages, it also shows that the role of collective agreements goes far beyond wages: Collective agreements define different wage groups depending on qualifications or seniority, set minimum requirements as regards overtime, working at unusual hours or at weekends, regulate different categories of working time, regulate benefits and allowances for dangerous, heavy or dirty work, holiday pay or end of the year premiums and other aspects. And beyond remuneration, collective agreements also play a strong role in shaping social



and working conditions of apprenticeships, specific health and safety standards, workers' rights to initial and further training and qualifications and even infrastructure requirements such as those regarding parking areas. The strong role of social dialogue and collective bargaining is also illustrated by funds for training, welfare and social security that have been jointly established in Belgium and the Netherlands.

Both the country-specific analysis as well as the comparative review of collective bargaining practices and outcomes strongly show that collective agreements make a difference as regards the detailedness of social regulation but also by establishing supplementary rights and monetary as well as non-tangible benefits for workers.

However, our study also found that there are a number of collective bargaining challenges and not all problem areas can be addressed by collective agreements. In particular, practices linked to illegal activities can hardly be eliminated within the framework of collective agreements. Collective agreements also have no effect on foreign competitors who, for example, engage in social dumping. In addition, the country analyses show that not all employees benefit from a collective agreement. In Poland there is no collective agreement at sector level, in the Czech Republic the recently negotiated collective agreement covers only some of the employees and in Germany the collectively agreed wage levels are lower than what is regularly paid by employers. In most countries addressed by the research the increasing number of self-employed drivers and one-person companies is a major problem for the collective bargaining system because these are not covered by collective agreements.

It also needs to be noted that, although there is a shortage of drivers, this problem has not yet been considered seriously enough by employers to improve wage levels and working conditions in order to make the profession more attractive. At the same time, trade unions have stressed strongly that the shortage of professional drivers is not a result of 'attractiveness' but related to bad social and working conditions that should be improved by collective bargaining.

The factual evidence gathered in this research not only confirms already existing evidence and knowledge as regards working conditions in the road freight transport sector but also raises some fundamental questions regarding the effectiveness of existing and planned EU legislation:

According to trade unions but also to management representatives contributing to this study, the current legislative framework is characterised by several weaknesses that, as a result, is not able to contain social dumping and establish a level playing field for fair competition in the road freight transport market. Such weaknesses of the legal framework for social and working conditions are in particular: too complicated rules (in particular as regards cabotage), totally inadequate and ineffective enforcement and sanction mechanisms, as well as regulatory loopholes and gaps that have resulted in a downward spiral of transport costs and thereby of social and working conditions of drivers in international and – increasingly – also national road freight transport.

Responses and assessments received in the context of this study from national trade unions as well as company level workers and management representatives indicate that social and working conditions have worsened in recent years, also because of wage and income gaps which have further increased as a result of a growing number of professional drivers coming from non-EU countries and even from non-European countries such as the Philippines or Tadjikistan.



A particularly worrying result of the study's survey of logistics and road transport companies in this context has been the assessment of management representatives that those companies that obey the legal rules and pay fair wages to their workers have no chance to remain competitive in international transport.

The study, and in particular the contributions of trade unions from the Central and Eastern European countries, show that there are hardly any differences in the perception between drivers, workers' representatives and trade unions between Eastern and Western Europe. There is the joint assessment that the underlying reasons for the overall deterioration of social and working conditions are the result of social dumping practices and unfair competition and the insufficient and ineffective system of controls, checks and sanctions. According to all trade unions and workers' representatives irrespective of the national background, as well as to the responses the study received from employer representatives and company managers, there are some problems that urgently have to be addressed in order to avoid a further deterioration of social and working conditions but also of safety conditions on EU roads: This is in particular the emergence of one-person companies engaged on the basis of formal self-employment that not only compete with minimum wage levels but also work outside the existing EU legal framework of social and working conditions. Similarly, the increasing trend of using light commercial vehicles with a permissible total weight of less than 3.5 tons in international road freight transport has been highlighted not only by trade unions in Western Europe but also in the Central and Eastern European countries as a new dimension for circumventing working and resting time regulations.

Against this, two important conclusions can be drawn as regards legislative and other regulatory measures to improve social and working conditions in road freight transport:

First, the scope and effectiveness of legislative improvements in the highly mobile sector of international road freight transport will be limited as long as wage and income differentials of drivers still remain high and do not show any trend of convergence. Furthermore, the effectiveness of EU level legislative frameworks of social and working conditions will be low because it is undermined by the trend in Western European countries of illegal cabotage activities increasingly substituting for national road transport or the problem of one-person-companies in the road freight sector. There is no just and fair level playing field. This is because fair working conditions first and foremost are based on fair wages and a decent income level that ideally should be equal for all workers in a common market or at least based on the principle for equal pay for equal work at the same place.

This leads to the second conclusion: The current discussion about the Mobility Package and strengthening the EU legislative framework and regulation of road freight transport undoubtedly includes a number of improvements.

But such improvements need to be anchored in more fundamental economic and social policy framework conditions in the transport and logistics sector: What minimum standards of remuneration, of the various wage components and of social security should there be in a uniform road haulage market? What role and responsibilities should companies in the road freight sectors, companies that hire them, and the social partners have?



REFERENCES/LITERATURE

3F Transport and the Danish Transport and Logistics Association (DTL) (2016): **Byways in Danish transport: Pay, working conditions and living standards of Bulgarian, Romanian and Macedonian lorry drivers in Denmark and Western Europe. A report on the free movement of labour in the transport sector.** Prepared by COWI for 3F Transport and the Danish Transport and Logistics Association (DTL) with financial support from the Danish Working Environment Authority, Copenhagen.

Allinger, B. 2017: **Austria: Updated Law on Wage and Social Dumping comes into force, Eurofound.** <https://www.eurofound.europa.eu/fr/publications/article/2017/austria-updated-law-against-wage-and-social-dumping-comes-into-force>

BTB-ABVV (2017): **The Road to Slovakia: Social dumping: BTB investigates, Antwerp.** https://www.btb-abvv.be/images/WegvervoerEnLogistiek/campagne/sociale_dumping/Engels/Zwartboek-2017-ENG-DIGITAAL.pdf

Broughton, A.; Curtarelli, M.; Bertram, C.; Forhbeck, A.; Hinks, R. and Tassinari, A. (2015): **Employment Conditions in the International Road Haulage Sector.** Study for European Parliament, Directorate General for Internal Policies, Policy Department A: Economic and Scientific Policy, Committee on Employment and Social Affairs, Brussels.

Bundesamt für Güterverkehr (2016): **Marktbeobachtung Güterverkehr: Auswirkung des Berufsfahrer-Qualifikation-Gesetzes.**

Bundesamt für Güterverkehr (2018): **Marktbeobachtung Güterverkehr Auswertung der Arbeitsbedingungen in Güterverkehr und Logistik 2017-I - Fahrerberufe -28.**

Comité National Routier (2017): **Road transport of Polish goods.** Abstract. Version of 12 December 2017. CNR EUROPEAN STUDIES.

Cremers, J. (2014): **Letter-box companies and abuse of the posting rules: how the primacy of economic freedoms and weak enforcement give rise to social dumping,** ETUI, Brussels.

De Wispelaere, F.; Pacolet, J. (2018): **Economic analysis of the road freight transport sector in Belgium within a European context: employees and employers in “survival mode”?** HIVA, KU Leuven.

Dribbusch, H.; Kaun, L.; Stoll E. (2014): **Lange Arbeitszeiten, bescheidener Verdienst: Berufskraftfahrer im Güterverkehr: Eine Analyse von Einkommensdaten auf Basis der WSI-Lohnspiegel-Datenbank; WSI; Arbeitspapier 27.**

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

European Commission (2009): **Report from the Commission – Analysing the penalties for serious infringements against the social rules in road transport, as provided for in the legislation of the Member States.** <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A52009DC0225&from=EN>

European Commission (2010): **Commission Regulation (EU) No 1213/2010 of 16 December 2010 establishing common rules concerning the interconnection of national electronic registers on road transport undertakings.** L 335/2.

EU Commission (2014): **Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation').** <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32014L0067>, date of access: June 13, 2018.

European Commission (2015): **EU transport figures. Statistical pocketbook 2015.** Luxembourg: Publications Office of the European Union.

European Commission (2016a): **Inception impact assessment: Enhancement of the social legislation in road transport**, 1.9.2016. http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_move_005_social_legislation_en.pdf

European Commission (2016b): **Proposal for a Directive of the European Parliament and of the Council amending 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 service.**

European Commission (2017a): Commission Staff Working Document: **Ex-post evaluation of the social legislation in road transport: Regulation (EC) No 561/2006 on driving times, breaks and rest periods of drivers, Directive 2002/15/EC on the working time of road transport mobile workers and Directive 2006/22/EC on enforcement requirements.** Brussels, 31.5.2017 SWD(2017) 184 final. <https://eur-lex.europa.eu/legal-content/DE/ALL/?uri=CELEX%3A52017SC0184>

European Commission (2017b): Commission Staff Working Document: **Impact Assessment, Accompanying the document Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) 561/2006.** Brussels, 31.5.2017 SWD(2017) 187 final. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52017SC0186>

European Commission (2017c): **Europe on the Move: An Overview of the EU Road Transport Market in 2015.** European Commission, DG for Mobility and Transport Unit C.1 – Road transport, May 2017.

European Commission (2017d): **Report from the Commission to the European Parliament and the Council on the implementation in the period from 1 January 2013 until 31 December 2014 of certain provisions of Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator.** COM(2017) 116 final, Brussels, 7.3.2017.

European Commission (2017e): **Report from the Commission to the European Parliament and the Council on the implementation in 2013-2014 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.** SWD(2017) 100 final; 7.3.2017, COM (2017) 117 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017DCO117&from=EN>

European Commission (2018): **Statistical Pocketbook 2018: EU Transport in figures.** Luxembourg: Publications Office of the European Union.

European Court of Justice (2017): **Judgment of the Court (Tenth Chamber) 20 December 2017 in Case C-102/16, Request for a preliminary ruling under Article 267 TFEU from the Raad van State (Council of State, Belgium), made by decision of 4 February 2016, received at the Court on 19 February 2016, in the proceedings Vaditrans BVBA vs. Belgische Staat.** <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62016CJ0102&from=EN>, date of access: June 13, 2018.

ETF (2012): **Modern Slavery in Modern Europe? An ETF account on the working and living conditions, of professional drivers in Europe.** <https://www.etf-europe.org/wp-content/uploads/2018/09/ETF-brochure-Modern-slavery-in-modern-Europe-EN.pdf>

ETF (2015): **ETF explanatory note on the application of national minimum wage to the road transport sector: a measure imposed by the EU legislation**, Brussels, 02 March 2015, <http://www.etfroadsectionblog.eu/wp-content/uploads/2017/12/ETF-note-on-applicable-labour-law-in-road-transport-EN.pdf>

ETF (2017): **The Warsaw Declaration: European transport workers' Federation and its member organisations call on the European commission, European Parliament and the EU member states to adopt a Road initiative to effectively combat social dumping and unfair competition in the EU road transport sector**, 5 April 2017; <https://www.etf-europe.org/wp-content/uploads/2018/10/ETF-Warsaw-declaration-original-signed-version-EN.pdf>

ETF (2018b): **The European Commission road initiative: What it needs to include to effectively combat social dumping and unfair competition in the EU haulage market:** An ETF set of concrete proposals on cabotage rules and access to occupation. <https://www.etf-europe.org/wp-content/uploads/2018/10/ETF-position-access-to-occupation-cabotage-EN.pdf>

ETF (2018): **Fair Transport Europe. A Vision for the Future of European Transport**, Brussels. https://www.etf-europe.org/wp-content/uploads/2018/10/280915_Vision-Paper-Final-Design-EN.pdf

European Parliament (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, Brussels.

European Parliament (2015): **European Parliament resolution of 9 September 2015 on the implementation of the 2011 White Paper on Transport:** taking stock and the way forward towards sustainable mobility.

European Parliament (2016a): **Draft Report on social dumping in the European Union** (2015/2255(INI)). Committee on Employment and Social Affairs, 7.1.2016, 2015/2255(INI).

European Parliament (2016b): **European Parliament resolution of 14 September 2016 on social dumping in the European Union** (2015/2255(INI), 14.09. 2016.

European Parliament (2016c): **Draft Report on social dumping in the European Union** (2015/2255(INI)). Committee on Employment and Social Affairs, 7.1.2016.

Eurostat (2018): **Road Freight Transport Statistics – Cabotage.** Statistics explained, 30.10.2018.

FNV (2017): **Information Brochure for Professional Goods Transport by Road and Mobile Crane Rental**, CAO 1 January 2017 - 1 January 2020. <https://www.fnv.nl/getmedia/75fcb1da-9177-47a3-9072-633aeee34cf3/498-tln-beroepsgoederenvervoer-cao-engels-2017-2020>

Gibson, G. et al. (2017): **Study to support the impact assessment for the revision of Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009.** Final report. European Commission, Directorate-General for Mobility and Transport, Directorate D - Logistics, maritime & land transport and passenger rights Unit D3 – Land transport.

Haidinger, Bettina (2018): **Tackling Undeclared Work in the Road Transport Industry.** Working Life Research Centre (FORBA). European Platform Undeclared Work; Brussels.

Hermann, C. (2004): **Arbeitsbedingungen im Straßengütertransport.** FORBA, im Auftrag der AK Wien.

Kummer, S. et al. (2016): Endbericht: **Quantitative Analyse der Kabotage in Österreich.** Institut für Transportwirtschaft und Logistik. Wirtschaftsuniversität Wien.

McGauran, K. (2016): **The impact of letterbox-type practices on labour rights and public revenue;** European Trade Union Confederation (ETUC).

Pastori, E.; Brambilla, M. (2017): **Research for TRAN Committee – Road Transport Hauliers in the EU: Social and Working Conditions (Update of the 2013 study) study.** European Parliament, Directorate-General for Internal Policies, Policy Department for Structural and Cohesion Policies, Transport And Tourism, Committee on Transport and Tourism.

PWC/TLP 2016: **Raport przygotowany na zlecenie i wykonany we współpracy ze Związkiem Pracodawców „Transport i Logistyka Polska”** (The Drivers Job Market in Poland), Warsaw.

Rasmussen, F. (2018): The Mobility Package. Road Transport, DG MOVE, Presentation at the conference, **On the road. Economic and legal aspects of the road transport sector in Europe.**

Schipper, G. (n. y.): **Road Transport Risk Rating in the Netherlands. Human Environment and Transport Inspectorate.** Ministry of Infrastructure and the Environment.

Teuscher, Stephan (2017): **Stärkung der Tarifbindung: Kämpfe um Tarifbindung in ver.di – Probleme, Erfahrungen, Strategien. Speditionen und Logistik,** Berlin, 15.05.2017.

Tsamis, A. (2018): **Inconsistent and ineffective enforcement of the rules. Different interpretation and implementation of the rules: Lessons from the evaluation of the European legislation on road transport.** HIVA– EZA – ACV-TRANSCOM conference on the road transport, Brussels, 26 March 2018 <https://hiva.kuleuven.be/nl/nieuws/docs/14-00-tsamis-hiva-eza-acv-transcom-conference-on.pdf>, date of access: June 13, 2018.

Turek, M.; Franc, J. (2018): **Assessment of the working conditions of professional drivers: posouzení pracovních podmínek profesionálních.** https://vslg.cz/wp-content/uploads/2018/06/6-turek_m.pdf, date of access; April 04, 2019.

WKO (2018): **Die österreichische Verkehrswirtschaft – Daten und Fakten,** Wirtschaftskammer, Wien.

