



STATUS OF THE IMPLEMENTATION

OF THE MOBILITY PACKAGE AND RECOMMENDATIONS

Four years have passed since the Mobility Package was adopted on July 8 and 9, 2020. The first measures came into force on August 20, 2020 and the last will come into force on July 1, 2026. Major measures affecting road transport have been implemented almost simultaneously and interdependently, impacting the transport sector for the next several decades.

The ambition of the Mobility Package (MP) is to strengthen the competitiveness of the European mobility sector, in particular by ensuring a socially fair and competitive internal market for road transport services. In this respect, the Mobility Package aims to prevent fragmentation of the internal road transport market, avoid excessive administrative burdens for businesses, improve the clarity and implementation of the regulatory framework and combat abuses such as the use of «letterbox companies» or illegal cabotage operations.

The main rules applicable to road transport include:

- Rules on drivers' driving times and rest periods (Regulation 561/2006) and the tachograph (Regulation 165/2014),
- Minimum implementation requirements for the implementation of regulations 561/2006 and 165/2014 (directive 2006/22),
- Provisions relating to the organisation of drivers' working time (Directive 2002/15),
- Provisions relating to the posting of workers (Directive 96/71),
- Regulations on access to the profession (1071/2009) and access to the market (1072/2009),
- The implementing directive 2014/67/EU.

These legal acts are part of a wider effort to improve working conditions for drivers, guarantee fair competition between operators, improve safety on European roads, and ensure a balance between the social protection of workers and the freedom of operators to provide cross-border services.

In this context, the main objective of the Sodial MP project was to ensure that the Mobility Package, and therefore its implementation and application, was seen as a key issue for European road transport through national and European social dialogue.

To this end, the members of the Sodial MP project, involving a coordinator (ACV CSC-Transcom), three partners (AFT, ETF and OTRE) and sixteen associated partners (trade unions and employers' organisations) from Belgium, Spain, France, Italy and Poland, analysed the implementation of the Mobility Package from a holistic point of view, starting with the social dialogue between the social partners. The Sodial MP project has not only examined all the regulations consolidated in the Mobility Package, but has also extended the scope of its reflection and analysis beyond that, to address related issues such as its relationship with the Green Deal, with the regulations applicable to the coordination of European social security systems, and with regulations relating to the attestation of third-country drivers and training for light transport (vehicles < 3.5T).

This synthesis document presents the main results, findings and conclusions of surveys, as well as the main recommendations and proposals for optimising the Mobility Package, formulated in agreement with all the social partners involved in the Sodial MP project to ensure the long-term future of European road transport in compliance with coherent and fair regulations.

What changes have been made to the regulations following the introduction of the Mobility Package?

The Mobility Package is a set of six texts designed to improve transport policies in Europe, amending existing regulations and directives:

Texts of the Mobility Package		Modifications
3 Regulations	Regulation 2020/1054	Regulation (EC) no. 561/2006: minimum requirements for maximum daily and weekly driving times and minimum daily and weekly breaks and rest periods. Regulation (EC) 165/2014: tachographs in road transport.
	Regulation 2020/1055	Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012: Access to the profession Market access, cabotage Checks
	Regulation 2020/1056	No amended text. Concerns electronic information relating to the transport of goods.
1 Directive	Directive 2020/1057	Directive 96/71 Posting drivers and checks. Directive 2014/67 Directive 2006/22/CE Regulation 1024/2012
2 Executive regulations	Regulation 2022/694	Regulation (UE) 2016/403: Serious infringements of EU rules that may lead to the loss of the good repute by the road transport operators.
	Regulation 2022/695	Implementing rules for Directive 2006/22/EC: Common formula for calculating the risk rating of transport undertakings.

The most significant changes to the existing texts are brought by the two regulations 2020/1054 and 2020/1055, and by the directive 2020/1057.

Implementation of texts

To analyse the implementation of the texts following the entry into force of the Mobility Package, a questionnaire was sent to professional organisations and trade unions in the five countries taking part of the project: Belgium, Spain, France, Italy and Poland.

The results of the questionnaire showed that the two regulations 2020/1054 and 2020/1055 and directive 2020/1057 have been effectively implemented in the participating countries. However, according to the responses received from professional bodies and trade unions, the directive 2020/1057 has been implemented in its entirety whereas the two regulations have only been partially implemented.

In addition, the survey reveals that the Mobility Package is applied inconsistently from one country to another, and between enforcement bodies within the same country. All the responses mention a lack, or even an absence, of controls, which can render the measures taken ineffective, and a need to train control officers.

Furthermore, it has been observed that in some countries the decrees implementing the Mobility Package have been issued in 2023, whereas the measures implementing the Mobility Package should have been in force since 2020.

Main endogenous difficulties encountered in implementing the Mobility Package and recommendations

The analysis of the implementation of the Mobility Package texts was then the subject of transnational consultations and workshops in order to identify existing implementation difficulties and to propose possible courses of action and recommendations.

Regulation 2020/1054

• NORMAL WEEKLY REST OUTSIDE THE VEHICLE AND SECURE CAR PARK

The text stipulates that normal weekly rest periods of more than forty-five hours must be taken in suitable sleeping facilities at the employer's expense (Article 8, paragraph 8 of Regulation 561/2006).

The various consultations and exchanges with the social partners have shown that the definition of the term «*suitable sleeping facilities*» is varied and unclear. In addition, the text does not specify the minimum facilities and services required for these places of adapted accommodation.

The companies and social partners have reported difficulties with drivers' weekly rest periods, including a lack of suitable infrastructure, the high cost of accommodation, the fact that hotels are located outside car parks where lorries and their goods can be parked, and difficulties in finding a parking space.

As a result, drivers have to drive further to reach a secure area or a car park with available parking spaces. Some companies offer their own facilities, others encourage drivers to leave the motorway and head for the cities, while others use secure pay-and-display car parks.

The project's work has also highlighted the lack of controls relating to this measure and the difficulties in carrying out checks. It was pointed out that in some countries checks can only be carried out if the offender is caught in the act, but this concept is absent from European legislation.

ACTIONS TO BE IMPLEMENTED:

Proposal N°1: Creation of different parking areas depending on the value of the goods to be protected.

Proposal N°2: Set up a funding programme to help countries build adequate parking areas, with a mechanism for imposing penalties on the countries with the most traffic on their territory.

Proposal N°3: Establish very precise standards around the notion of adapted accommodation: a shower means with hot water, a toilet that can be flushed, a bed with clean sheets, a cafeteria or kitchen to enable drivers to prepare balanced meals. All equipment must be cleaned hygienically.

Proposal N°4: Set affordable prices in secure parking areas.

Proposal N°5: Member States (MS) must have as little leeway as possible to avoid building parking areas or to lower their standards. This means that strong, well-thought-out regulations should be implemented to compel MS to do what is necessary in terms of safe and adequately equipped parking areas.

Proposal N°6: Appropriate use of daily allowances: Daily allowances must be used as such and not as a disguised salary. They must cover all expenses, i.e. allow the driver to stay in the parking area, eat, rest, shower and so on.

• WEEKLY REST AND RETURN OF THE DRIVER TO THE EMPLOYER'S OPERATIONAL CENTER

Paragraph 8a of Article 8 of Regulation 561/2006 states that transport undertakings shall organise the work of drivers in such a way that the drivers are able to return to the employer's operational centre where the driver is normally based and where the driver's weekly rest period begins, in the Member State of the employer's establishment, or to return to the drivers' place of residence, within each period of four consecutive weeks, in order to spend at least one regular weekly rest period or a weekly rest period of more than 45 hours taken in compensation for reduced weekly rest period.

The concept of an operational centre can be freely interpreted by the social partners, companies and supervisory bodies alike.

Surveys have shown that the majority of companies and social partners consider that an operational centre is defined as «any base of the company», while a minority define it as the company's head office or as the place where the driver is declared in his employment contract.

While more than half of the companies consulted consider that a driver can return to different operational centres of the company, a minority consider that this is not possible. On the other hand, the inspection services and the professional and trade union organisations consider the notion of operational centre to be the company's head office or the establishment to which the contract is attached.

In Spain, it has even been specified that the operational centre may be far from the driver's home, as the driver's affiliation centre may be located in a region where salaries are lower.

Given this freedom of interpretation, controls are difficult and considered insufficient.

ACTIONS TO BE IMPLEMENTED:

Proposal N°1: The principles of labour law (Rome I regulation, habitual place of employment/fraudulent postings) should be preserved from administrative decisions on the concept of headquarters.

Proposal N°2: Develop solid training on these concepts to improve mutual understanding.

• DRIVER REMUNERATION

Article 10(1) of Regulation 561/2006 has been expanded to include the concept of «speed of delivery»: Transport undertaking shall not give drivers it employs or who are put at its disposal any payment, even in the form of a bonus or wage supplement, related to distances travelled, the **speed of delivery** and/or the amount of goods carried if that payment is of such a kind as to endanger road safety and/or encourages infringement of this Regulation.

It appears that this provision has not brought any changes and that it relates more to light and urban transport.

However, the concepts mentioned would benefit from being better defined, because it can be considered here that if road safety is not compromised, any form of remuneration can be made, and this road safety issue is left to the free appreciation of each person and in particular the inspector.

With regard to the control bodies, more than a third reported difficulties in controlling this measure and the majority indicated that they did not know, in particular:

- That they have very few opportunities, if at all, of carrying out this type of roadside inspection,
- Proof of the infringement is difficult to establish,
- That there are ways of getting round the regulations on remuneration by making untaxed money transfers that are not considered as remuneration.

ACTIONS TO BE IMPLEMENTED:

Proposal N°1: Add the notion «and in strict compliance with European social regulations», i.e. rest periods, driving times, etc., or even emphasise eco-driving.

Proposal N°2: Delete from paragraph: «if that payment is of such a kind as to endanger road safety and/or encourages infringement of this Regulation». The safety condition is not the only one to be taken into account, and the ban must apply to all these remuneration possibilities.

European Union Directive 2020/1057, known as the «Lex specialis», has adapted the rules on posting to the road transport sector and imposes new reporting requirements.

As far as pay is concerned, all the rules of the host country applicable to local workers also apply to posted workers from the first day of the posting; in other words, the principle of equal pay for the same work performed in the same place applies. In addition, the revision introduces clearer rules on allowances and does not allow travel and accommodation costs to be deducted from workers' pay. The implementing directive stipulates that information on the compulsory elements constituting pay in a Member State must be made available on a single national website.

The remuneration of posted drivers is calculated differently in each EU country and depends on national legislation. Employers therefore have a duty to adapt drivers' pay and working conditions to comply with the national rules of the country to which they are posted. However, the variety of social systems from one Member State to another makes the application of the text complex.

ACTION TO BE IMPLEMENTED:

Proposal: Provision by the European Commission of a consultation area, a website, where all the working conditions and pay of all the countries would be listed. The creation of a digital application would make it possible to reduce the administrative burden on companies, increase the effective application of legislation and enable the wages of posted drivers to be calculated in real time.

CONTINUOUS DRIVING AND MULTI-MANNING

Article 7 of Regulation 561/2006 on multi-manning has been amended and the following paragraph added: «A driver engaged in multi-manning may take a break of 45 minutes in a vehicle driven by another driver provided that the driver taking the break is not involved in assisting the driver driving the vehicle.»

The working groups highlighted the fact that this provision is impossible to control. Indeed, there is no proof, apart from what drivers say, that the driver on a «break» is not assisting the driver who is driving. Moreover, the notion of assistance remains unclear and leaves room for free interpretation by inspectors and those being inspected.

ACTION TO BE IMPLEMENTED:

Proposal: Define the concept of assistance in concrete terms by asking the European Commission to clarify it more precisely in the context of breaks and in compliance with the regulations. Assistance should be defined as «everything that concerns the driver's job». Drivers who are not driving should not have to do anything related to their job. All actions, all tasks, that have to do with the job should be considered as assistance. Assisting means giving directions, looking at the map, telephoning to see if there is a parking space, etc. The following examples are compatible with a break: sleeping, watching a film, talking about sport, etc.

TRAINING OF CONTROL BODIES

Recital 31 of Regulation 2020/1054 states that « Control officers who check compliance with relevant Union law in the road transport sector face challenges due to the variety of tachograph devices in use and the fast evolving sophisticated manipulation techniques. This is particularly the case when those checks are carried out at the roadside. Therefore, it is **crucial that control officers receive appropriate training** to ensure that they are fully aware of the latest technological developments and manipulation techniques ».

The project showed that there was a lack of knowledge about the training courses taken by the control bodies.

Consultations with control bodies and administrations revealed that half of the control bodies consulted had received training as mentioned in recital 31, but more than 2 out of 5 control

bodies indicated that this training was insufficient. Those dissatisfied with the training said that it was too short, too theoretical and did not include enough practice.

Training for the various inspectors varies (and sometimes does not exist) from one country to another, and even within the same country. As a result, there is a significant lack of uniformity, both qualitatively and quantitatively, in the way inspections are carried out.

ACTION TO BE IMPLEMENTED:

Proposal: For each regulation relating to road transport, draw up a common training programme for all officers responsible for monitoring these regulations in the various EU countries. The corresponding training module would lead to the issue of a certificate of professional qualification to the agent who has successfully completed the module.

This training should also provide a good understanding of the sanctions catalogue and the procedures to be implemented. Regulations are becoming increasingly complex, and it is very difficult for an inspector to master them all. It would be good if some controllers could specialise in a particular regulation.

Regulation 2020/1055

CABOTAGE AND REST DAYS

Paragraph 2a of Article 8 of Regulation 1072/2009: Hauliers are not allowed to carry out cabotage operations, with the same vehicle, or, in the case of a coupled combination, the motor vehicle of that same vehicle, in the same Member State within four days following the end of its cabotage operation in that Member State.

According to the European Commission, these are four calendar days, excluding public holidays and Sundays. However, the Court of Justice of the European Union has not yet ruled on the question of counting public holidays, which is a source of confusion.

The wording of the text is confusing considering that, with regard to the obligation to comply with the four days waiting period, Article 8.2a does not require the vehicle to leave the territory of the Member State where the cabotage took place during the waiting period.

However, article 8.2 of regulation 1072/2009 requires that between two cabotage cycles a certain period of time must be allowed for the vehicle concerned to carry out an international carriage before starting a new cabotage cycle in the same host Member State. As a result, the haulier must leave the country. Therefore, in the event of a new cabotage operation in the same country, the haulier must comply with the following conditions:

- The performance of an international carriage
- The 4-day waiting period in the cabotage country

OBSERVATION:

The existing rule should be clarified as regards the inclusion of public holidays.

The waiting period must not cause the haulier to lose sight of the definition of cabotage, which requires an international carriage, as cabotage can only be consecutive to an international carriage.

The definition of cabotage and the waiting period are only understood in terms of the 'same vehicle', and not in terms of the driver, who is only concerned by the concepts of posting and driving and rest periods.

• COHERENT CONTROL STRATEGY

An article 10a has been added to Regulation 1072/2009. It requires Member States to apply a coherent enforcement strategy, focusing on undertakings with a high risk rating.

Article 2 of Directive 2006/22, as amended by Directive 2020/1057, states that: « Each Member State shall organise checks in such a way that at least 3 % of days worked by drivers of vehicles falling within the scope of Regulations (EC) No 561/2006 and (EU) No 165/2014 are checked [...]. From 1 January 2008, at least 30% of the total number of working days inspected will be at the roadside and at least 50% at company premises.

There is a lack of knowledge of the control strategies implemented in the various European countries, which makes it difficult to assess their consistency.

The lack of clarity in the concept of high-risk undertakings further accentuates the difficulties and the lack of uniformity in controls. To date, there are no statistics on the specific infringements introduced by the Mobility Package. In addition, national enforcement policies vary. The inspection bodies have minimum annual inspection quotas imposed by the European Commission (via the directive), which may encourage inspectors not to spend enough time on risky or high-risk companies. For this reason, the social partners consider that setting minimum inspection quotas is an incentive not to look for certain serious infringements. The minimum number of checks to be carried out does not imply the quality of the checks.

The debates highlighted the importance of harmonising controls in Europe and determining a certain number of criteria and elements to be checked in relation to the Mobility Package.

ACTION TO BE IMPLEMENTED:

Proposal: Establish a Europe-wide database of infringement categories. This database should be accessible to all categories of controllers at national and European level.

During each inspection, inspectors will have to fill in this database. This database must contain 5 elements:

1. infringements of rest periods in the cab,
2. infringements concerning the return of the driver,
3. infringements concerning the return of the vehicle,
4. infringements concerning posting,
5. infringements concerning cabotage.

For each series of infringements, two columns:

- infringement recorded (deposit, etc.)
- infringement recorded as final (immediate collection, judgment, etc.)

Assign a European rating per infringement and per type of infringement (e.g. very slight, slight, serious, fairly serious, very serious).

• AVAILABILITY OF INFORMATION

Article 22 of Regulation 561/2006 and Article 8 of Directive 2006/22 provide for Member States to regularly **exchange information on infringements** committed by non-residents. Article 18 of Regulation 1071/2009 provides for exchanges of information on convictions and penalties imposed for any serious infringement.

A lack of knowledge about the existence and implementation of these exchanges of information was noted: the majority of stakeholders consulted said that they did not know whether exchanges of information relating to infringements committed by non-residents were effective in their country, and only a minority said that exchanges did exist; these exchanges were then described as partial and focused on forms of fraud relating to the tachograph, for example.

Access to the ERRU system (European Register of Road Transport Undertakings) to consult and transmit information has proved to be complex, if not totally inaccessible.

Furthermore, although the Mobility Package has been in force since July 2020, and the first measures came into force in August 2020, there are still no statistics on the implementation, application and monitoring of the measures in force.

ACTION TO BE IMPLEMENTED:

Proposal: Use of the ERRU sanctions system:

The full ERRU sanctions register must be used. Article 16 of EU Regulation 1071/2009 stipulates that a database must be set up for companies that do not properly comply with the transport rules.

These data must be fed continuously and as fully as possible by the infringements recorded and penalties imposed by all the enforcement services in the field: police, labour inspection services, customs, transport inspectors, etc., as well as by the courts and the administrative fines department. Infringements detected abroad must also be recorded.

The relevant data in this national electronic register must be accessible to all competent authorities (cf. EU 1071/2009, art. 16, pt1) and must be used as a risk classification system for transport undertakings.

Sanctions against foreign carriers must also be reported centrally to other EU Member States so that they can also be included in the local register of sanctions.

• THE CONCEPT OF EXCEPTIONAL CIRCUMSTANCES

Article 12 of Regulation 561/2006 has been supplemented to allow derogations from the maximum driving time in exceptional circumstances:

Provided that road safety is not thereby jeopardised, in exceptional circumstances, the driver may also depart from Article 6(1) and (2) and Article 8(2) by exceeding the daily and weekly driving time by up to one hour in order to reach the employer's operational centre or the driver's place of residence to take a weekly rest period.

Under the same conditions, the driver may exceed the daily and weekly driving time by up to two hours, provided that an uninterrupted break of 30 minutes was taken immediately prior to the additional driving in order to reach the employer's operational centre or the driver's place of residence for taking a regular weekly rest period.

The driver shall indicate the reason for such departure manually on the record sheet of the recording equipment, or on a printout from the recording equipment or in the duty roster, at the latest on arrival at the destination or a suitable stopping place.

Any excess period of driving time shall be compensated by an equivalent period of rest taken "en bloc" with any rest period, at the latest by the end of the third week following the week in question.

The concept of exceptional circumstances, introduced in Article 12 of Regulation 561/2006, is difficult to define. It is agreed that it can refer to exceptional weather conditions, technical failures, exceptionally serious disruptions, etc. However, the results of the consultation carried out with companies and the social partners show that interpretations vary widely.

For example, in the event of an accident, half of the administrations and control bodies questioned consider that any type of accident is an exceptional circumstance, while the other half say that it depends on the type of accident: only those that directly extend the time or distance, those that result in a prolonged stop, those that have a major impact on the flow of traffic, etc. are considered to be exceptional circumstances.

For example, in Spain, an accident indicated on Waze that could be avoided is not considered an exceptional circumstance. Similarly, there is a disparity when it comes to roadworks, with some controllers pointing out that they only take roadworks into account if they have an impact on traffic flow and require drivers to slow down. In France, the derogation could apply when drivers return from abroad on a Friday evening. In Poland, it is the unexpected/unforeseeable nature that predominates to justify exceptional circumstances. The lack of clarity and consensus leads Member States to apply the rules differently, which increases uncertainty for drivers and hauliers.

In addition, checks are complex to carry out because it is not always possible to verify whether or not the derogation is justified.

ACTION TO BE IMPLEMENTED:

Proposal: Draw up a stricter definition of exceptional circumstances to leave less room for free interpretation.

QUESTIONS TO DEFINE CLEARER APPLICATION RULES:

«From December 2024, will it be necessary to be able to present evidence for up to 56 days instead of the current 28 days?»

• DRIVERS RETURN AFTER 4 WEEKS AND VEHICLES AFTER 8 WEEKS

Paragraph 8a added to Article 8 of Regulation 561/2006 modifies the conditions relating to weekly rest (return during each period of four consecutive weeks).

«8a. Transport undertakings shall organise the work of drivers in such a way that the drivers are able to return to the employer's operational centre where the driver is normally based and where the driver's weekly rest period begins, in the Member State of the employer's establishment, or to return to the drivers' place of residence, within each period of four consecutive weeks, in order to spend at least one regular weekly rest period or a weekly rest period of more than 45 hours taken in compensation for reduced weekly rest period.»

Article 5 of Regulation 1071/2009 has been amended and supplemented to detail the conditions relating to the establishment requirement:

« In order to satisfy the requirement laid down in Article 3(1)(a), an undertaking shall, in the Member State of establishment: [...]organise its vehicle fleet's activity in such a way as to ensure that vehicles that are at the disposal of the undertaking and are used in international carriage return to one of the operational centres in that Member State at least within eight weeks after leaving it ».

The application of penalties relating to the return of the vehicle every 8 weeks is considered problematic. On the one hand, fines may not be paid on the spot, making it difficult for foreign companies to recover them.

On the other hand, the catalogue of fines does not provide for immediate recovery, so there may be no point in issuing an official statement of infringement.

In addition, it has been found that it is possible to hire vehicles bearing host country number plates for six months and use them within the framework of national transport legislation. During this period, there will be virtually no checks on cabotage journeys.

To date, the requirement to return the vehicle every 8 weeks has not been checked or enforced. Only the return of the foreign driver after 4 weeks can be checked.

Update January 2025: The CJEU judgment C-541/20 to C-555/20 (Grand Chamber) of 4 October 2024 annulled the obligation to return vehicles to the transport company's operational centre every eight weeks.

ACTION TO BE IMPLEMENTED:

Proposal: Extraterritorial sanctions options.

Host countries should be able to impose immediate driving restrictions on vehicles that do not return to their country of origin.

It should also be possible to take swift action in the country where the check is carried out to prevent drivers from not returning. All the more so as drivers themselves complain that their right to return is not respected by the company that employs them.

Main exogenous difficulties encountered in implementing the Mobility Package and recommendations

The consistency of the provisions of the Mobility Package with other regulations in force in the European Union, but also with public policies supported by the European Union, has also been analysed.

In addition to the endogenous difficulties of implementing the Mobility Package, four exogenous problems have been identified by the project partners:

- The Mobility Package and EC Regulation 883/2004 on the coordination of social security systems,
- The Mobility Package and the Green Deal,
- The Mobility Package and attestations for professional drivers from third countries,
- The Mobility Package and light vehicles.

These topics were the subject of consultations with various stakeholders during the project. Using an online questionnaire, we questioned professional bodies, trade unions and companies.

• COORDINATION OF SOCIAL SECURITY SYSTEMS

Regulation (EC) 883/2004 concerns the coordination of social security systems. It forms part of the free movement of persons and should help to improve their standard of living and conditions of employment. Its aim is to develop a system of coordination, while respecting the specific characteristics of national legislation, and to ensure that the people concerned receive equal treatment under the various national laws within the Community.

In the case of posting, there are currently few checks to ensure that the time spent by the driver outside the country of the company for which he is working tallies with the level of remuneration and social security contributions paid as part of his posting.

ACTIONS TO BE IMPLEMENTED:

Proposal N°1: With the digital tachograph and geolocation systems, it is possible to know the driver's position and route, and how much time he has spent in each country. The tachograph data should then be cross-referenced with the declaration made by the company during inspections by labour inspectors.

Proposal N°2: Creation of a European transport agency to monitor the application of this regulation. This agency would be made up of representatives of trade unions, employers' organisations and inspection bodies.

Proposal N°3: Educational measures addressed to all transport companies in Europe, by public authorities, professional organisations and trade unions. Include knowledge of the provisions of the Mobility Package in the initial and periodic training of drivers.

• CERTIFICATES FOR THIRD-COUNTRY DRIVERS

Article 5 of Regulation 1072/2009 stipulates that a driver attestation in accordance with Annexes I and III of this Regulation must be issued to a third-country driver (long-term non-resident) by the competent authorities of the Member State in which the haulier is established.

The Mobility Package does not mention the use of third-country driver attestations and their possible impact on the various Mobility Package measures.

Third-country driver attestations are considered to be a source of unfair competition. Their issue should be better controlled, and they should include a time limit on the driver's presence on European territory.

In particular, there is evidence that some Lithuanian companies are opening offices in Europe (more than 500 companies) and employing workers from third countries from these offices. There are currently around 300,000 non-European drivers working in Europe, but they are generally not active in the country in which their employer is based. These mainly drive into other European countries, which creates unfair competition. This unfair competition is exacerbated by the practice of paying salaries in cash as a means of avoiding the payment of taxes and social security contributions in Europe, as well as other violations that tarnish the general image of transport companies.

POINTS FOR DISCUSSION :

It is necessary to standardise, at European level, the specific conditions for work and residence in each Member State and for granting driving licences to drivers from third countries. Some countries have bilateral reciprocal agreements on driving licences, while others do not.

There is an urgent need to re-establish respect for the rules for all companies and fair competition between them.

• GREEN DEAL

The ambition of the Green Deal is to achieve a 55% reduction in net greenhouse gas (GHG) emissions from 1990 levels by 2030, and carbon neutrality by 2050.

The Mobility Package, and more specifically the Lex Specialis, allows a vehicle to travel empty throughout Europe as part of a third-party transport operation, for both goods and passenger transport, which runs counter to the objectives of the Green Deal. As a reminder, a third-party transport operation is an international road transport operation between two different countries carried out by a road vehicle registered in a third-party country that is neither the country of loading nor the country of unloading.

In addition, the Green Deal could call into question the advances made in the Mobility Package in several respects. In the context of the referral to the Court of Justice of the European Union by Member States against the Mobility Package, the Advocate General concluded that the provision for the return of the vehicle every 8 weeks should be annulled, arguing that there had been an infringement of the principle of proportionality due to the absence of a social and/or economic and environmental impact assessment of this obligation.

Update January 2025: The CJEU judgment C-541/20 to C-555/20 (Grand Chamber) of 4 October 2024 annulled the obligation to return vehicles to the transport company's operational centre every eight weeks.

Moreover, the Mobility Package prohibits the normal 45-hour weekly rest period in the cab, so it is essential to have secure car parks in Europe. To date, there is a flagrant lack of parking areas, which means that there is a potential contradiction between the requirement to develop new secure parking spaces that contribute to the artificialisation of land, and the ambition of the Green Deal.

Stakeholders have concluded that it is necessary to ensure that the Green Deal measures do not have a negative impact on drivers and fair competition, and that measures other than those in the Mobility Package are needed to meet the challenges of the Green Deal.

● TRAINING FOR EMPLOYEES AND COMPANY DIRECTORS

Light vehicles will be subject to the same rules as vehicles over 3.5 tonnes from 1 July 2026. However, there are currently no plans to train these drivers. However, consultations carried out within heavy goods vehicle transport companies – which are already subject to the Mobility Package – have revealed a lack of information on the Mobility Package, including among drivers who have continuing training obligations. As a result, practices can vary greatly from one company to another and from one country to another, and some provisions may be misunderstood.

ACTIONS TO BE IMPLEMENTED:

Proposal N°1: Creation of two web platforms dedicated to explaining the Mobility Package, one for company directors and the other for employees, accessible to all concerned. These platforms would be steered by the European Commission, as a guarantee of neutrality. Introduction of a Smartphone application for drivers.

Proposal N°2: Revision of the content of initial and periodic driver training courses to bring them up to standard, taking account of the Mobility Package; revision of the CPC programme to bring it up to standard, taking account of the Mobility Package.

Proposal N°3: Introduction of awareness-raising initiatives for companies and employees by professional organisations and trade unions.

● TRAINING FOR CONTROL BODY TRAINERS

As mentioned above, the training of the various officials responsible for inspection varies (and is sometimes non-existent) from one country to another, and even within the same country.

The choice of control body trainers is therefore very important and must be made with care.

ACTIONS TO BE IMPLEMENTED:

Proposal N°1: Provide initial training (for control bodies) leading to a kind of certificate of professional competence.

Proposal N°2: Allow training to be given by regulatory specialists, possibly using staff from another control body.

● OTHER POINTS FOR DISCUSSION WITH THE SOCIAL PARTNERS

· Under certain conditions, Spanish law prohibits drivers from loading and unloading their vehicles. In addition, waiting times for loading and unloading are regulated and can lead to penalties if they are too long. Reference is also made to the exchange of pallets, which should be replaced by pooling.

· Spain has 52 collective agreements (1 per province). These should be standardised into a single national collective agreement, which would make it easier to apply the rules of the Mobility Package to international transport.

· It is important to draw attention to the possible loss of good reputation as a penalty. A small company with just a few vehicles may be more likely to lose its good reputation as a result of a penalty than a company with several thousand vehicles.

Project methodology

From November 2022, the social partners from 5 European countries (Belgium, Spain, France, Italy and Poland) and 16 local, national and European organisations (ACV CSC-Transcom, AFT, OTRE, EFT, FGA-CFDT, UGT, FILT CGIL, TLV, FIT CISEL, SOLIDARNOSC, TLP, ASTIC, CONF TRASPORTI, ASSOTIR, FNTL FO UNCP, FSC-CCOO) have been analysing the legislation and implementation of the Mobility Package from a holistic point of view.

The inclusion of road transport social partners active in several Member States, some of them in the European social dialogue, combined with the participation of personalities directly involved in highly executive functions (president of the ETF road section, vice-president of the European sectoral social dialogue for road transport, etc.) ensured a balanced approach.

The central action of the Social MP project has been subdivided into different phases or themes, each concluding with a seminar:

- Analysis of the texts and changes introduced by the Mobility Package – Concluding seminar in Paris in March 2023
- Analysis of the conditions under which the Mobility Package is applied in the participating Member States – Concluding seminar in Rome in May 2023
- Analysis of the endogenous coherence of the Mobility Package – Concluding seminar in Gant in September 2023
- Analysis of the exogenous coherence of the Mobility Package – Concluding seminar in Krakow in November 2023
- Drawing up recommendations for the various stakeholders in the Mobility Package and communication plan – Concluding with a seminar in Madrid in February 2024

From a methodological point of view, the first themes were approached in a similar way:

1. In-depth preliminary research and analysis on the subject in question.
2. Development of survey forms sent to all project participants (trade unions and employers' organisations) but also, where appropriate, to other organisations such as supervisory authorities, ministries, etc. The aim was to

gather additional concrete information on the application and/or implementation of the theme in question.

3. Follow-up and analysis of the results of the surveys and questionnaires. The results were compiled in a working document which was then discussed at the concluding seminar.
4. Preparation of the seminar. Presentations were created and brainstorming activities organised on the basis of the results of the above investigations.
5. Organisation and running of the seminar on the topic in question. The seminar was organised over two days and aimed to share, disseminate, raise the level of debate and facilitate discussion between all the stakeholders. Depending on the topics addressed, representatives from the host country's Ministry of Transport and Employment, the ELA and the European Commission (DG MOVE and DG EMPL) were invited to take part. The aim of the seminar was to find answers to questions or outline possible solutions and recommendations in relation to the issues identified.

The final phase of the project and the communication strategy were prepared in advance by the steering committee, not on the basis of preliminary analyses and surveys but on the basis of the various documents that had been produced following the four previous seminars. The aim of this fifth seminar was to enable participants to agree on the content of the final report, the recommendations and the communication and dissemination strategies, at local, national and European level. To this end, working groups, presentations and votes were organised in such a way as to make the final work of this seminar easy and productive.

The sixth and final phase of the Social MP project took the form of a one-day seminar. Held in Brussels, this conference enabled the project partners to officially present the recommendations and communication strategies defined during the previous phase to the various national and European organisations and institutions at the heart of the Mobility Package (European Parliament, ECR, EWC, EESC, COREPER, ELA, etc.) as well as to the European social partners.