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**Abstract.** International road transport is a specific service within the frame of services provided in the European Union. It is because the conditions of being active on the market are influenced by the states where businessmen operate, but services can be provided throughout the whole year in other member states of the European Union. The aim of the contribution is to highlight the existing problems in international road freight transport sector. These problems persist despite the fact that market access was exempted from the national law of individual member states and regulated directly by EU regulations. Despite the unification of market access, tax and social harmonization is not ensured in international road freight transport. An unequal tax burden on carriers and different requirements of wage regulations create a discriminatory environment among entrepreneurs. The contribution identifies the factors that deform the equal operating conditions in single market. The aim of the contribution is also to provide the readers with the answers to the questions: Is it possible under current EU conditions to harmonize tax and social conditions? What impact would this harmonization have on business environment?

**Keywords:** approach, business activities, harmonization, market, road transport

## INTRODUCTION

The EU seeks to harmonize the conditions in road freight transport market, so the carriers would have the same conditions to access the market and operate there regardless of their country registration. For this reason, since 1985 the authority to establish market access rules for road freight transport has gradually moved to the EU level (Hilal, 2007). The transfer of member states' competence to this level has increased during the period of preparation for the opening of the EU single market in 1993. In the first stage, the market access was regulated by EU directives, however their application into national law did not create the same market access conditions for all carriers. The EU regulations were adopted in 2009 and are effective from 2011. They regulate the access to the road freight transport market across the EU. Together with the harmonization of market access the deregulation of national restrictions occurred. These restrictions have been used before in the form of transport permits (Poliak, 2013). The deregulation of road freight transport caused several problems in the market, mainly due to the delay in tax harmonization and labor law of individual member states (Hilal, 2007). The deregulation of the road freight transport market across the EU, while maintaining national competencies in the field of taxation and social affairs created a situation in the road freight transport market characterized by an unfair competitive environment. The problem of the road freight transport market is not only the different tax burden on carriers operating on the same markets (Poliak et al., 2016). Another problem is connected with different requirements of drivers concerning social sphere. It leads to a significantly higher fluctuation of drivers compared to other sectors of economy (Grand and Duret, 2000). The aim of the contribution is to identify the factors that cause a lack of competitive environment in the road freight transport business in the EU.

## UNIFORM MARKET ACCESS IN ROAD FREIGHT TRANSPORT

In road freight transport, the EU market access has deregulated gradually since 1985. According to the judgement of the European Court of Justice the requirements for freedom of providing services include the elimination of any discrimination towards a service provider in connection with his nationality, or the fact that he resides in other state than in a state where a service is provided. In 1996, Council Directive No. 96/26/EC was adopted. Given that the Directive allows a possibility of different approaches to its implementation among member states, Council Directive No. 96/26/EC did not achieve required harmonization of market access. Directive is binding with regard to the result that should be achieved by each member state, whereby a choice of forms and means is left to the national authorities (Poliak et al., 2016). The regulation of market access through Directive has made different demands for people in the EU who have considered to enter in the road freight transport market. Explanatory Memorandum to Regulation (EC) No. 1071/2009 states that the implementation of Council Directive No. Directive 96/26/EC has not been uniformly ensured by individual member states. Non-uniform implementation causes mainly the distortion of competition and market transparency (Domonkos et al., 2017). There is also a risk of employing low-skilled drivers or inadequate compliance with road safety and social security requirements. A disadvantage of the Directive is also the fact that the Directive has binding effects only after it has been implemented into national law and the transposition deadline expired (Rotondo, 2013). If the Directive is not implemented or is implemented improperly, it will create rights and obligations for the individual against the state, only if the conditions for direct effect are met.

The Regulation has several major advantages over the Directive. At first sight and in accordance with Article 288 of the Treaty on the Functioning of the European Union, the regulation adopted and published is almost immediately binding on all member states without the need for transposition into national law of each member state (Rotondo, 2013). The advantage of using the regulation to create the same rights and obligations that are uniformly applied and almost immediately binding in all member states without a delay or the risk of divergent approaches that could be caused by individual implementation of directives, it is clearly important for harmonizing access to a particular market, protection of personal data and financial services. In 2009, Regulations (EC) No. 1071/2009 and 1072/2009 which uniformly regulate access to the road freight transport market were adopted. The regulations are effective from December 4, 2012. The Regulations clearly define the way to access the profession of road freight transport entrepreneur by defining the professional knowledge that must be possessed by the road freight transport entrepreneur. Given the supremacy of the EU law, the provisions of Regulations (EC) 1071/2009 and no. 1072/2009 have priority over contradictory national law since December 4, 2012. The primacy of EU law is reflected in the case of *Leonesio* (which relates to the implementation of the Regulation), when the court granted a duty of loyal cooperation to a member state under Article 10 of the EC Treaty to take all necessary measures of a general or specific nature to ensure fulfillment of the obligations arising from the Treaty of establishment of the European Community or measures adopted by the Community institutions. From 4 December 2012, all entrepreneurs must prove the same knowledge as defined in the Annex to Regulation (EC) 1071/2009. The Regulation requires member states to adopt implementing national rules governing the technical access procedures to the market under the conditions of a particular country. On the basis of the above analysis, it can be concluded that there was a harmonization of conditions in terms of market access. A carrier who meets the conditions of access to the market under Regulation (EC) No 1071/2009 can apply for a Community license. On the basis of this license the carriers can carry out the road freight transport within the EU member states without restrictions (Poliak et al., 2015). Under certain conditions, cabotage transports can also be carried out (Poliak et al., 2013). In liaison with the harmonization of market access, the requirements for harmonizing conditions in the tax area have not been implemented. In addition to tax differences, there are notable differences in terms of work: wages, driver productivity, working hours, the way how it is calculated and the corporate structure varies significantly in individual member states (Hilal, 2007). The maximum weekly working time in

Belgium is 48 hours, in Portugal 56 hours, in Slovakia, Germany, France and Italy 60 hours, in the Netherlands 64 hours, in the UK and Sweden 68 hours and in Spain 70 hours – not to mention all occasional adjustments which allow different working arrangements and more or less frequent aids connected with overtimes and operations that only increase these differences. Working time, overtime work, rest, paid annual leave and social protection systems are still set at national level, which also widens the gaps in unifying conditions (Hilal, 2007).

### **IS THERE A SOLUTION FOR SOCIAL AND TAX HARMONIZATION IN ROAD TRANSPORT?**

Before 2004, carriers in Western Europe pointed to the risk of harmonizing the road freight transport market without harmonizing conditions in social and tax area. An opportunity to employ a driver from Central and Eastern Europe has caused a distortion of the competitive environment in the road freight transport sector (Hilal, 2007). An importance of distortion of competitive environment became meaningful, when manufacturing companies started to use the just-in-time method which significantly reduced their stock and the associated storage costs. This increased the use of freight transport and number of supplies between companies. The use of trucks began to increase and an emphasis was placed on carriers in terms of the quality of services, especially speed and reliability (Cyprich, 2013). New conditions on the market led to an increased share of night work in the driver's weekly working time and it also changed the drivers' willingness to perform the profession of a driver under particular wage conditions. Employment of drivers from Eastern and Central Europe is connected with a survey conducted in 2000. It showed that the most illegal workers in the EU were employed in construction and road transport (Lubanski, 2000). The wages of these employees are often lower than the average wage level in country. The aim of the European Commission concerning the EU enlargement in 2004 was a requirement that the candidate countries should catch up with the countries of Western Europe in terms of wages and social legislation through integrating into the European Union and by complying with Community requirements and EU regulations. It insisted on the fact that the social models should be consolidated through enlargement, as in the case of Spain and Portugal. In particular, harmonization of wages in the field of road transport is specific because carriers offer transport throughout the whole European Union market. Every carrier established in the European Union and with a license issued by the Community has the same access to this market. Individual states put pressure on increase of wages in international road transport with the use of national regulations in order to reduce the competitive pressure of lower prices of carriers located in the central and eastern parts of the European Union.

Regarding the remuneration of drivers, we conducted a research of drivers' compensation in selected transport companies. The research was conducted from January to March 2017 and the drivers of transport companies from 10 different EU states participated on it. Overall, drivers from 310 transport companies took part in the research. The countries were chosen so that in the research were the states which uphold the introduction of a minimum wage for the work of international road transport drivers (Germany and Austria), Western European countries which incline to a certain protection of the transport market (Belgium, Denmark, the Netherlands, Luxembourg, Italy) and the countries of the central and eastern part of the European Union which are against the unification of the minimum wage across the EU (Czech Republic, Poland, Slovakia).

In the research, the drivers responded to the form of remuneration and the amount of remuneration which appertain to them. The drivers were divided into groups according to whether they are remunerated with a monthly or hourly rate. On average, the highest hourly wage rate is reached by drivers in Luxembourg, it is 15.875 €/hour (Table 1). By the rates above € 10/hour are also remunerated drivers in Germany and Austria. Significantly lower rates are in the Czech Republic and Slovakia, where they are below 5 €/hour.

**Table 1.**  
**Remuneration of Drivers in International Road Transport.**

Country	Wage €/h	Wage €/km	Wage €/month
Germany	12.875	-	2347
Austria	10.33	-	1633
Belgium	-	-	1605
Denmark	-	-	1600
Netherlands	-	-	2100
Luxemburg	15.875	-	2381
Italy	-	0.15	1516
Czech Republic	3.77	0.083	1115
Poland	-	0.08	1400
Slovakia	4.33	0.131	1282

In several countries, drivers are not remunerated with €/hour, but with monthly wages. The highest average wage for drivers is in Luxembourg, Germany and the Netherlands and it is above 2000 €/month.

In the Czech Republic, Poland and Slovakia, drivers' wages are higher than the average wage in these countries, in Poland it is up to 58%. For Western European Union countries, the level of wages in road transport is below the average wage in that country, despite the fact that it is higher in absolute terms compared to the wages of drivers in the central and eastern parts of the European Union. Therefore, it can be expected that in the western part of the EU drivers are less interested in this profession, and companies are often looking for workers from the eastern part of the EU or from outside the EU. In Western European countries, the driver's remuneration reaches hardly 60% of the average wage in a particular country.

In analysis of a driver's wage in relation to the minimum wage, it is not possible to elaborate comparison in each country, since in Austria, Denmark and Italy the minimum wage is not the legal norm (in Austria since January 1, 2017 it is required to follow the minimum wage laid down by the collegiate body and it is expressed in €/hour). The average wage of drivers in individual countries reaches the required minimum wage level, but it is above 250% of the minimum wage in the countries of the Central and Eastern European Union, with a range of 105% to 158% in the western part of the European Union.

The research of drivers' remuneration also pointed to the fact that in the countries of the Central and Eastern part of the European Union, even in Italy, drivers are often rewarded in contravenes the principles of remuneration. Concerning the road transport, driver cannot be motivated with wage to perform more because such remuneration reduces road safety. This requirement is defined throughout the EU by Regulation (EC) 561/2006. Nevertheless, at the present time there is a significant part of drivers whose wages depend on the distance travelled using a wage rate of 0.08-0.15 €/km. According to the results of research, drivers are willing to accept this form of remuneration because the wage per month achieved with sufficient driving performance is above the average wage in the economy.

Harmonization of wages of international road transport drivers is problematic. For the countries of Western Europe, it is not possible to reduce the wage because it is already below the average wage. On the other hand, for the countries of the eastern and the middle part of the EU, it is not bearable to raise wages because nowadays they are significantly above the average wage.

In relation to the harmonization of conditions, it must be noted that the EU institutions do not have their own means of enforcing EU legislation. For example, there is no pan-European labor inspectorate. The principle of subsidiarity applies to: work and the privilege of enforcing legislation is a matter for member states. The EU therefore depends on the willingness of national governments of individual states. The issue of minimum wage in the road transport sector is partly similar to the taxation of corporation tax. According to Osterloh and Heinemann (2013), it is necessary to set minimum tax rates concerning corporation tax as a tool of relieving pressure of tax competition. According to neoclassical standard tax competition models, political leaders have repeatedly argued that globalization could lead to a destructive

competition that would lead to "bottom-line" tax rates and would result in insufficient financial support from public institutions (Osterloh, 2012). Similarly, it would lead to destruction in the case of a significant increase in minimum wage only for the profession of truck drivers above the level of other professions in the country. Current developments in the countries of the Central and Eastern part of the EU make towards this fact. Reducing the minimum wage in the Western European countries would dismantle the market with a significant shortage of drivers who already have to be acquired by companies from other states in the current situation.

The theoretical literature on social and tax coordination in the European Union, such as Zodrow (2003) or Oates (2001), focused mainly on the normative question of whether the level of tax and social policy co-ordination is increasing compared to competition. In his proposal for EU tax policy, Zodrow (2003: 655) concluded that "the standard tax competition model suggests the potential role of tax rate harmonization in the Union". This positive view of improving the standard of living through tax harmonization was impugned in the literature initiated by Brennan and Buchanan (1980), pointing out that the competition can cause a tendency to overspending (Edwards, 1996). In addition, increasing competition with a deeper integration of capital market may weaken the lobbying of capital owners, thus reducing political and economic equilibrium (Lay, 2010). The need to harmonize tax and social sphere is demonstrated in works, for example, Carderelli et al (2002) and Itayaa et al (2008).

Researches on the harmonization of tax and social policies, Poole and Rosenthal (1996); Blendon et al (1997); Caplan (2002); Scully (2005); Brøchner et al. (2007), Heinemann and Janeba (2011), and Osterloh and Heinemann (2013) show that the general view of policies concerning the need to coordinate tax and social policies across the EU, namely mandatory minimum tax rates and mandatory minimum wages should depend on these factors:

- a) Characteristics of member state – are the basis for national benefits from harmonization of taxes that are relevant to voters' interests. Those are consequently presented by members of EU parliament in line with the "Chief Representative" approach,
- b) Ideological attitude according to the "ideological approach",
- c) Individual characteristics that are associated with an education of individual politicians or socio-economic characteristics such as age or gender.

On the basis of analysis, it is possible to define the assumption that uniform minimum wage rates are enforced by larger states and states whose wage is above the EU average wage.

Countries that show a high minimum wage level of a driver should not be influenced by a uniform minimum wage rate as soon as their current minimum wage rate is higher. They should even benefit from it, because it would reduce the differences of other countries which have low wage rates nowadays. This would eventually lead to a reduction in the competitive pressure on their carriers operating across the EU. The assumption points to the discussion of social groups in the EU and the viewpoints of individual states. Supporters of minimum wage are mainly Germany and France. These are large states within the EU through which a high proportion of transit is carried out. The introduction of a minimum wage for all carriers would reduce the competitive pressure of carriers who have their registered offices in countries with lower minimum wage. On the other hand, states like the Czech Republic, Slovakia, Poland but also Bulgaria and Romania are opposed to the introduction of a minimum wage for the driver profession. The minimum wage would distort the national market, or more precisely it would reduce the competitiveness of these carriers on the EU market.

A similar situation is in the field of corporate taxation. The amount of tax encourages carriers to move companies to the countries with a lower tax rate. In analyzing the level of taxation, the average level of corporation tax in the countries of the central and eastern part of the EU is 17.258%. In the western EU countries, the average corporate tax rate is 27.256%. This tax difference motivates member states of the western part of the EU to put pressure on the establishment of a minimum corporate tax rate because significant differences in taxation encourage carriers to establish branches in countries with a lower tax rate or to move their headquarters to those countries. The headquarters are often moved only formally to achieve the benefit of a lower tax rate.

The pressure of the Western European countries towards the tax and especially social harmonization in road transport is all the more pronounced, as the different conditions of remuneration and different tax policies are connected with the creation of motivation of carriers to move their headquarters to the countries with a lower corporation tax rate. To relocate business in road transport is relatively simple because the vehicles carry out the transport within the whole EU and the vehicles themselves are connected with the headquarters only concerning the roadworthiness tests that are usually done once a year.

## CONCLUSION

This contribution contributes to filling the gap in understanding of social and tax harmonization in road transport. Road transport is specific as a service because it provides the transport across the EU but it is subject to national regulations of a particular state of corporate seat. Since 2012 there is a harmonized market access for road transport. Only a person who meets the requirements of the EU regulations can provide the transport of persons or goods. At present, there is no EU member state in which access to the EU market can be achieved on simpler terms.

An ongoing problem is the harmonization of conditions of road transport business in the EU common market. The carriers from eastern and central parts of the EU operate at lower wage costs in the same transport market than other EU countries. The contribution identifies the differences in social sphere of drivers and points to the fact that in the western part of the EU, the driver's occupation is considerably lower remunerated in relation to average wage than in the EU's central and eastern parts despite the fact that in absolute terms the wages in western part of the EU are significantly higher. The competitive advantage is highlighted by the fact that middle and eastern EU carriers are taxed at a lower rate of income tax.

An inability to harmonize social and tax policy in road transport business is solved by an effort of some states to introduce mandatory minimum wage for all drivers in international road freight transport. The contribution indicates a possible market distortion if such a procedure would be applied.

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