

November 2017

Making the market for bus and coach transport work better

Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services

This briefing is one in a series of 'Implementation appraisals', produced by the European Parliamentary Research Service (EPRS), on the operation of existing EU legislation in practice. Each such briefing focuses on a specific EU law which is likely to be amended or reviewed, as foreseen in the European Commission's annual work programme. 'Implementation appraisals' aim at providing a succinct overview of publicly available material on the implementation, application and effectiveness to date of an EU law, drawing on input from EU institutions and bodies, as well as external organisations. 'Implementation appraisals' are provided by the EPRS' Ex-Post Evaluation Unit, to assist parliamentary committees in their consideration of new European Commission proposals, once tabled.

Summary

Regulation 1073/2009 lays down the rules applicable to access to the international market for coach and bus services. Research of available documentation shows that there are various challenges to the present system that limit harmonisation in this particular field, including differences in rules on access to national markets across Member States, different openness of national markets and diverse national arrangements negatively influencing free provision of services in the field of transport.

The European Parliament has called on the European Commission to ensure the completion and improved operation of the internal market for the transport by road of passengers and freight. Similarly, the European Economic and Social Committee has called for changes in this field. The European Commission published its legislative proposal amending the regulation on 8 November 2017.

1. Background

One of the principles of the EU's common transport policy is the freedom to provide services in the field of transport. This freedom includes access to international transport markets for all EU carriers without discrimination on grounds of nationality or place of establishment. Need for implementation of this principle is also partially reflected in the [Commission's priorities for 2015 to 2019](#), especially in the objective for a deeper and fairer internal market but also in the energy union objective. Common rules for access to the international market for coach and bus services are currently regulated by Regulation 1073/2009 – the main subject of this briefing.¹

The 2017 Commission work programme noted the intention to revise the regulation in the fourth quarter of 2017, in order to improve competition on domestic coach markets, and ensure non-discriminatory access to terminals and other infrastructure.

¹ This briefing complements the following EPRS briefings: M. Remáč, [Enhancement of social legislation in road transport I \(Driving time\)](#), May 2017; M. Remáč with M. Méndez Juez, [Enhancement of social legislation in road transport II \(Working time and enforcement of Regulation 561/2006\)](#), May 2017; and A. Dinu and L. Schrefler [Access to the occupation of road transport operator and to the international road haulage market](#), March 2017.

Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services

The regulation simplified and developed conditions for the international carriage of passengers by coach and bus across the European Union.² Provisions of the regulation apply to: (1) regular service, (2) special regular service and (3) occasional service.³ Furthermore, the regulation applies to (4) cabotage operations⁴ and occasionally also to (5) own-account transport.

In order to provide services according to the regulation it is necessary to:

- (1) get an authorisation in the Member State of establishment to transport passengers,
- (2) satisfy the conditions on admission to the occupation of road passenger transport operator in national and international transport operations and
- (3) meet legal requirements regarding EU standards for drivers and vehicles.⁵

Furthermore, international carriage of passengers by coach and bus is subject to a Community licence issued by the competent authorities of the Member State of establishment. This licence is issued for renewable periods of up to 10 years (Article 4, Regulation (EC) No. 1073/2009) and carriers are obliged to carry it on board their vehicles.

The regulation also specified conditions for authorisation and authorising procedures including renewing or alternation of authorisation (Chapter III). Furthermore, it laid down rules for controls including inspections on the road and in undertakings. It is up to Member States to determine the penalties for breaches of the regulation (Article 27).

Based on the information provided by Member States, the Commission occasionally publishes information on the number of Community licences or certified true copies.

Table 1: Number of carriers holding a Community licence and number of certified true copies

Number of carriers holding a Community licence					
Year	2010	2011	2012	2013	2014
EU 28	-	-	-	36 124	35 659
EU 27	34 582	34 959	35 258	35 611	35 077
Number of certified true copies thereof					
EU 28	-	-	-	283 594	294 425
EU 27	257 191	260 683	272 417	280 272	290 501

Source: European Commission, [Reporting according to Article 28\(4\) of Regulation \(EC\) No 1073/2009 on common rules for access](#) (2015).

Table 1 shows that with the exception of 2014, there was an increase in the number of carriers in the EU 28 holding a Community licence issued by the competent authorities of the Member State of establishment pursuant to Regulation 1073/2009.

² The regulation merged two previous pieces of legislation – [Council Regulation 684/92/EEC](#) on common rules for the international carriage of passengers by coach and bus and [Council Regulation 12/98/EC](#) laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State.

³ Regular services cover carriage of passengers at specific intervals along specific routes with passengers being picked up at predetermined stops. Special regular services cover regular carriage of specified categories of passengers while other passengers are excluded (e.g. schoolchildren or workers). Occasional services cover irregular carriage of groups of passengers on the initiative of the customer or the carrier (e.g. one-off tourist trip or transport to a concert). See definitions included in Article 2 of the regulation. As to the specifics of these services, see Article 5 of the regulation.

⁴ Cabotage operations are either national services for hire and reward carried out on a temporary basis in a host Member State or transport of passengers within the same Member State in the course of a regular international service. See definitions included in Article 2 of the regulation.

⁵ See Article 3 of the regulation.

2. EU-level reports, evaluations and studies

Since adoption of the regulation in 2009, the European Commission has issued several documents, either referring to the regulation or dealing with its implementation. Already in October 2015, in its [roadmap on evaluation and fitness check roadmap](#) on Regulation (EC) No 1073/2009, the Commission provided information on the planned assessment of the implementation of Regulation (EC) No 1073/2009 and its effects between 2009 and 2014.

European Commission [communication](#) Europe on the move: an agenda for a socially fair transition towards clean, competitive and connected mobility for all (May 2017)

This communication presented the Commission's ambition to strengthen the EU's role as a leader in clean, competitive and connected mobility.⁶ Regarding the substance of this briefing, the communication noted the Commission's intention to ensure a fair and competitive internal market for road transport. In this context, according to the Commission, the EU's role was that of ensuring of 'a socially fair and competitive internal market for road transport services given the importance of the sector for the Union's economy and society'.⁷ Revision of EU rules on access to the road haulage market, as well as a review of the EU rules on buses and coaches was planned. These revisions should aim, for instance, to ensure a level playing field among transport operators and better enforcement of the existing legal provisions but also to eliminate unnecessary and burdensome administrative provisions, improve market conditions, and secure better travel options for consumers.⁸

European Commission [inception impact assessment](#) on the review of Regulation (EC) No 1073/2009 (December 2016)

The inception impact assessment⁹ noted four main shortcomings that limit the effectiveness of Regulation (EC) No 1073/2009 and that should be tackled by its upcoming amendment:

- (1) significant differences in rules on access to national markets for regular services applicable across Member States, presenting as technical barriers;
- (2) closed national markets;
- (3) numerous national and diverse national access arrangements causing obstacles to free provision of services, distorting competition and increasing administrative burdens; and
- (4) discrimination in access to terminals in some Member States, limiting competition.

According to the inception impact assessment, the performance of coach and bus services vis-à-vis other transport modes, especially private cars, must be improved. This could, according to the Commission, reduce the adverse effects of transport on the environment. In order to reach this general goal, two specific objectives of the initiative were mentioned: (1) to create more uniform business conditions and (2) to create a level playing field for access to terminals. The document considered four different policy options for creating more uniform business conditions including complete liberalisation of the market and restricted opening with limited access.¹⁰

European Commission [communication](#) on a European strategy for low-emission mobility (July 2016)

In the communication, the Commission presented a strategy for low-emission mobility in order to make an important contribution to modernising the EU economy.¹¹ Noting that transport was responsible for almost

⁶ COM(2017) 283 final, p. 2.

⁷ COM(2017) 283 final, p. 11.

⁸ COM(2017) 283 final.

⁹ The [Better Regulation Guidelines](#) (SWD (2015) 111 final) describe an 'inception impact assessment' as a roadmap for initiatives subject to an impact assessment. It sets out the description of the problem, issues relating to subsidiarity, policy objectives and options, and the likely impacts of each option in greater detail.

¹⁰ For specific information on the individual policy options see, inception impact assessment, p. 2.

¹¹ COM(2016) 501 final.

a quarter of Europe's greenhouse gas emissions and was the main cause of air pollution in cities,¹² the Commission called for the transport system to be optimised and its efficiency improved, not least by promoting multimodal transport¹³ which contributes to decarbonisation.¹⁴ Furthermore, the Commission noted a need to incentivise a shift towards lower emission transport modes and a need to promote multimodality. In this context, the Commission promised to take actions allowing 'further development of domestic bus and coach services'.¹⁵

European Commission [comprehensive study on passenger transport by coach in Europe](#) (April 2016)

The study was intended to provide a thorough review and analysis of the European coach industry.¹⁶ The study examined a number of international coach services and developed case studies of the domestic coach industry in 10 Member States.¹⁷ The study considered the impact of Regulation 1073/2009 on various issues including administrative burden, travel markets, the categorisation of coach services, the use of terminals and reporting and monitoring arrangements.

The study estimated that international coach passenger numbers grew by 40 to 60 % between 2009 and 2014.¹⁸ Regarding the administrative burden, the study did not find any major criticism of the regulation. Nonetheless, it found that reductions in red tape as a direct result of the regulation were 'likely to have been small'.¹⁹ According to the study, the majority of the direct administrative burden was in this context the 'largely self-imposed burden of national, regional or local competent authorities'.²⁰ The study also found that over the previous five years there had been an increase in regular international coach travel. However, it could not prove that this growth was directly linked to the introduction of Regulation (EC) No. 1073/2009.²¹ Several issues were identified with the current categorisation of coach services in the regulation, including limited clarity of definitions and the fact that Member States are not obliged to classify their domestic services in a comparable way.

The study noted that in a more liberalised environment the definitions included in the regulation could create practical difficulties.²² Furthermore, the study discovered examples of discriminatory practices with regard to access to (bus or coach) terminals and abuse of dominant position that could restrict market entry.²³ In this regard, it recommended measures to prevent discriminatory practices. On international coach fares, the study found that most international coach services were cheaper than comparable rail services.²⁴

European Commission [white paper](#): Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system (March 2011)

The Commission's white paper took 'a global look at developments in the transport sector, at its future challenges and at the policy initiatives that need to be considered'.²⁵ It presented 10 goals for a competitive

¹² COM(2016) 501 final, p.2.

¹³ With regard to multimodal transport see, M. Remáč, [Multimodal and Combined Freight Transport](#), EPRS, July 2017.

¹⁴ COM(2016) 501 final, p.4.

¹⁵ COM(2016) 501 final, p.4.

¹⁶ The study was outsourced by the European Commission and written by Steer Davies Gleave in 2015-2016. The European Commission had also outsourced another [study on passenger transport by coach](#) (June 2009) written by Steer Davies Gleave in 2008-2009. Since this study was written before the adoption of Regulation (EC) No. 1073/2009 it is not described in any detail.

¹⁷ Germany, Greece, Spain, France, Italy, Lithuania, Poland, Romania, Sweden and the United Kingdom.

¹⁸ Comprehensive study on passenger transport by coach in Europe, p.iii.

¹⁹ Comprehensive study, p.130.

²⁰ Comprehensive study, p.131.

²¹ Comprehensive study, p.132.

²² Comprehensive study, p.134.

²³ Comprehensive study, p.139.

²⁴ Comprehensive study, p.144.

²⁵ COM(2011)144, p.5.

and resource efficient transport system²⁶ that required certain action, including efforts to secure 'a higher degree of convergence and enforcement of social, safety, security and environmental rules'.²⁷

With regard to the increased efficiency of multimodal intercity travel and transport, the paper noted that an efficient core network for multimodal intercity travel and transport implied, inter alia, greater use of buses and coaches.²⁸ In this context, the paper pointed to a better integration of modal networks. With regard to a clean urban transport and commuting, the paper acknowledged that urban buses were one of the suitable types of vehicle for the introduction of alternative propulsion systems and fuels.

3. European Parliament position / MEPs' questions

3.1 Resolutions of the European Parliament

European Parliament [resolution](#) of 18 May 2017 on road transport in the European Union

Parliament's resolution²⁹ noted that in 2013 passenger transport activities by road amounted to 5 323 billion passenger kilometres³⁰ of which passenger cars accounted for 72.3% and buses and coaches only 8.1% (letter C). Parliament called for improved competitiveness and innovation in the road sector. Among other things, it pointed to a need 'to ensure the completion and improved operation of the internal market for the transport by road of passengers and freight' (point 1). Parliament also urged the Commission to increase harmonisation in passenger transport and the transport of goods (point 7). Member States were urged to implement relevant EU rules more thoroughly, while the Commission was asked to monitor this implementation closely (point 8). Member States were asked to step up checks in relation to compliance with cabotage rules (point 10) and the Commission was called on to simplify and clarify these rules (points 17 and 25). In addition, Parliament rejected proposals for any further liberalisation of cabotage (point 26). Parliament also called on the Commission to draw up a proposal 'which allow for a more effective distinction between the freedom to provide services and the freedom of establishment' (point 30).

The Commission's follow-up document to this resolution has not yet been published in the legislative observatory.

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

The resolution was the response to the implementation and mid-term review of the Commission's [white paper on transport](#).³¹ With regard to road transport, Parliament called on the Commission to adopt various measures including measures to ensure 'the compliance of national provisions with EU law in the field of cross-border transport', and to consider the establishment of a European road transport agency to ensure proper implementation of EU road legislation and promote standards across the Member States (point 64). Parliament also called on the Commission to adjust 'the application of the principles of the internal market which effectively separate freedom to provide services from freedom of establishment'. This has to be done in order to ensure the temporary nature of 'activities by an undertaking in a Member State in which it is not established' (point 64).

Although the Commission responded to this resolution in its [follow-up document](#), it did not react to Parliament's abovementioned calls.

²⁶ COM(2011)144, pp.9 -10.

²⁷ COM(2011)144, p.10.

²⁸ COM(2011)144, p.6.

²⁹ T8-0228/2017.

³⁰ Passenger-kilometre is a unit of transportation quantity that shows the distance travelled by passengers by a defined mode of transport (road, rail, air, sea, inland waterways).

³¹ P8_TA(2015)0310.

European Parliament [resolution](#) of 23 October 2012 on passenger rights in all transport modes

In this resolution, Parliament acknowledged that there was a need to cut red tape for smaller bus operators in rural areas (letter E) and that there had to be a balance between passenger rights and the burden that they posed for these operators (letter F). Parliament called for a holistic approach towards passenger rights and their integration within the legislative framework so as to allow fair competition between the various transport modes (point 9). Despite several further references included in the resolution, the issue of buses and coaches in international transport was covered only with regard to the rights of passengers in this type of transport, especially [Regulation 181/2011](#) concerning the rights of passengers in bus and coach transport.

3.2 Written questions by MEPs

Members have addressed several questions to the European Commission, in writing or orally, in which they have asked the Commission to provide answers or explanations with regard to various issues related to coach and bus transport. The following examples provide a selection of the most relevant Members' questions from the last two parliamentary terms.

[Written question by Agnieszka Kozłowska-Rajewicz \(EPP, Poland\)](#), 9 March 2017

The Member asked the Commission whether there were any formalities relating to the carriage of passengers that would be liberalised by way of EU legislation. Furthermore, the Member asked whether the Commission intended to make such licences uniform across the EU.

[Answer given by Corina Crețu on behalf of the Commission](#), 23 May 2017

The Commissioner answered that provisions concerning access to the market for international passenger transport were included in Regulation (EC) No 1073/2009. She explained that international regular services were liberalised but remained subject to authorisation granted by the competent authorities of Member States. She also referred to Article 25 of the regulation, which allowed Member States to conclude agreements on further liberalisation of services covered by the regulation, especially in border regions.

[Written question by James Nicholson \(United Kingdom, ECR\)](#), 3 October 2013

The Member asked the Commission to clarify if and when guidance would be provided to define the 'temporary basis' for cabotage operations according to the regulation. The Member also inquired whether the Commission had undertaken any engagements with Member States on this issue.

[Answer given by Siim Kallas on behalf of the Commission](#), 22 November 2013

The Commissioner explained that the expression 'on a temporary basis' included in Article 2(7) of the regulation should be read together with Article 15 of the regulation, which provided more information on authorised cabotage operations. In this regard, this expression was only connected with those cabotage operations that were authorised for occasional services according to Article 15 (b) of the regulation.³²

4. European Council

The issue of the international market for buses and coaches was raised indirectly in the [European Council conclusions](#) of October 2012. The European Council noted that in the field of transport it was important to eliminate regulatory barriers and to tackle bottlenecks and missing cross-border links in order 'to guarantee the efficient operation of the single market and promote competitiveness and growth' (point 1(2)(c)). Similarly, in its [February 2013 conclusions](#) on the multiannual financial framework, the European Council noted that interconnected transport, energy and digital networks were important elements in the completion of the European single market (point 17). The need for enhanced cooperation in the field of transport was underscored in its general [February 2013 conclusions](#) (point 12 (e)).

³² In addition to the abovementioned questions, Members also asked various questions with regard to Regulation (EC) No 1073/2009, for example, [E-005692/2013](#), [E-009757-12](#), [E-003277-13](#) and [E-4884/2010](#).

5. European Economic and Social Committee

The European Economic and Social Committee (EESC) considered the issues related to buses and coaches important and the [2017 work programme](#) of its Section for Transport, Energy, Infrastructure and the Information Society (TEN Section) noted the TEN Section's intention to contribute to the Commission's road initiatives, including the revision of Regulation 1073/2009. Similarly, the EESC [position paper on road transport](#) (2016) noted that 'the opening of transport markets in Europe significantly increased competitive pressure on operators and their mobile workers'. It also welcomed the Commission's intention to simplify and clarify EU road transport regulations.

In its [opinion on decarbonisation of transport](#) (2016), the EESC welcomed transport efficiency-enhancing measures, including multimodality and incentivising a shift to lower emission modes. The committee noted the Commission's call for market access for buses and coaches, however it recommended that the Commission also consider other policy measures that expand public transport networks and encourage a modal shift from private cars. In this regard, the EESC recommended 'an in-depth review' of the options available (point 1.7). The EESC also reflected on the issues of buses and coaches, but from the position of passenger rights.³³ The EESC is currently preparing [an opinion on access to the international road haulage market](#) and the occupation of road transport operator.

6. European Commission public consultation

Between December 2016 and March 2017, the European Commission carried out a [public consultation](#) on the review of Regulation (EC) No 1073/2009. The public consultation included two questionnaires: a general one, addressed to the general public and a specialised one addressed to key stakeholders, including Member States, associations of road passenger transport operators and individual undertakings or terminal operators. The consultation intended to provide the public with an opportunity to express their views on the relevant elements of road passenger transport and to gather specialised input on specific aspects of the legislation. Although the Commission published the results of the consultation by publishing both questionnaires, it did not provide any summary report analysing the answers received.³⁴

7. Citizens' petitions

Several petitions have been submitted to the European Parliament on the subject of bus and coach transport, including Regulation 1073/2009. In the case of petition [1340/2015](#), for example, a citizen claimed that providing state aid for cross-border transport competitors from Luxembourg breached the regulation's provisions. In petition [0768/2016](#), the petitioner suggested that a large German long-distance coach operator that was expanding its market could put other competitors and consumers at a disadvantage. In this context, the petitioner called for a maximum percentage of market share to be set.

8. Stakeholders' comments

Various stakeholders provided their comments with regard to bus and coach passenger transport. The following positions provide a sample of opinions adopted or presented in this regard. For instance, the Smart Move initiative³⁵ in its [study on doubling the use of collective passenger by bus and coach](#) (2016) presented diverse practical ways for transport providers to increase the number of passengers using bus and coach passenger transport. These recommendations were provided with regard to an improvement of the infrastructure for fast and convenient inter-modality, but also regarding customer information, bus accessibility, effective and fast ticketing, and security. The study did not make any specific recommendations

³³ In this regard see the EESC's [opinion on young persons with disabilities](#) (2012) and its [opinion on rights of passengers in bus and coach transport](#) (2009).

³⁴ No such summary had been published at the time of publishing this appraisal.

³⁵ The Smart Move initiative was launched in 2009 by [Busworld](#) and the [International Road Transport Union](#).

regarding the regulation. The International Road Transport Union, the Nordic Logistics Association, the Dutch Association for Transport and Logistics, and Euro Contrôle Route also presented their ideas [on practical solutions for enforcement for transport in Europe](#) (2016). They recommended that the Commission strengthen the enforceability of any new legislation to ensure the efficient use of existing resources or invest in cooperation between Member States.

9. Other sources of reference

Ratcliff C., [Road transport: harmonisation of legislation](#), Fact Sheet, European Parliament, March 2017.

Ratcliff C., [International and cabotage road transport](#), Fact Sheet, European Parliament, March 2017.

Ratcliff C., [Common transport policy: overview](#), Fact Sheet, European Parliament, June 2017.

Maciejewski M. and Pengelly K., [Freedom of establishment and freedom to provide services](#), Fact Sheet, European Parliament, June 2017.

Table 2: Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services

EP committee responsible at the time of adoption of the EU legislation: Committee on Transport and Tourism
Date of adoption of original legislation in plenary: 23 April 2009
Entry into force of original legislation: 4 December 2009 (Article 31)
<p>Planned date for review of legislation:</p> <p>Pursuant to Article 28 of the regulation, Member States are obliged to communicate to the Commission various information on biannual basis including 'the number of authorisations for regular services issued the previous year and the total number of authorisations for regular services valid at the end of that reporting period'. However, the regulation does not oblige the European Commission to report to the European Parliament or/and the Council on application by Member States. There is no other general obligation for the Commission to assess application of the regulation.</p> <p>In order to fulfil this reporting obligation, the Commission published on its website a document presenting the number of carriers possessing a Community licence for road passenger transport 2010-2014.</p>
<p>Timeline for new amending legislation:</p> <p>The revision of Regulation (EC) No 1073/2009 is provided for in Annex 2 of the Commission's 2017 work programme with a view to improving competition on domestic coach markets and ensuring non-discriminatory access to terminals and other infrastructure. The European Commission published its legislative proposal³⁶ amending the regulation on 8 November 2017.</p>

To contact the Ex-Post Evaluation Unit, please e-mail: EPRS-ExPostEvaluation@ep.europa.eu

Manuscript completed in November 2017. Brussels © European Union, 2017.

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

www.europarl.europa.eu/thinktank (Internet) – www.eptinktank.eu (blog) – www.eprs.sso.ep.parl.union.eu (Intranet)

³⁶ COM(2017) 647 final.