

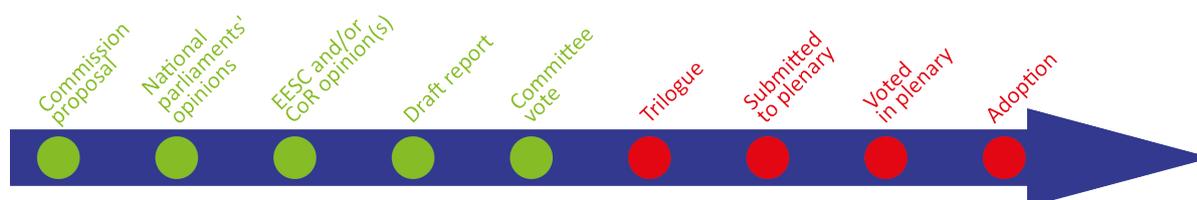
Access to the international market for coach and bus services

OVERVIEW

The European Union aims to ensure that road transport rules are applied effectively and without discrimination. The current rules governing the access to the international market for coach and bus services appear to have been only partly effective in promoting this mode of transport. There are still differences in rules on access to national markets, differences in openness of national markets, diverse national access arrangements and discrimination in access to terminals in some EU countries.

In an attempt to address the issue, the European Commission adopted a legislative proposal on 8 November 2017 to amend the EU rules for access to the international market for coach and bus services. The proposal is part of its 'Europe on the Move' package, which aims to modernise European mobility and transport. The European Parliament adopted its position on the proposal on 14 February 2019. However, interinstitutional negotiations cannot yet begin, as the Council has not reached a common position on the file.

Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services		
<i>Committee responsible:</i>	Transport and Tourism (TRAN)	COM(2017) 647 8.11.2017
<i>Rapporteur:</i>	Roberts Zīle (ECR, Latvia)	2017/0288 (COD)
<i>Shadow rapporteurs:</i>	Luis de Grandes Pascual (EPP, Spain) Peter Kouroumbashev (S&D, Bulgaria) Dominique Riquet (ALDE, France) João Pimenta Lopes (GUE/NGL, Portugal) Michael Cramer (Greens/EFA, Germany) Georg Mayer (ENF, Austria)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Trilogue	



Introduction

An effective road transport system is crucial for the economy of the European Union. It contributes to the achievement of policy priorities including jobs and growth, the single digital market and the energy union. Bus and coach services are an essential part of this system. They have a number of advantages compared to other modes of transport, for instance in terms of environmental impact,¹ safety² and flexibility.

Currently, access to the international market for coach and bus services is governed by [Regulation 1073/2009](#). This sets out which documents have to be issued to undertakings interested in such access and establishes provisions on sanctions and cooperation between EU countries. The regulation is closely related to legislation on access to the occupation of road transport operators and social rules for road transport operators, which the Commission also proposed to change in 2017. Together, they set the EU legal framework for road passenger transport operators.

A recent evaluation of Regulation 1073/2009 concluded that it is only partly effective in promoting coach and bus services as a sustainable alternative to individual car transport. [Various challenges](#) to the present system limit harmonisation in this field, including differences in rules on access to national markets, differences in openness of national markets, diverse national access arrangements and discrimination in access to terminals in some EU countries.

In an attempt to address the issue, the European Commission adopted a legislative proposal on 8 November 2017 to amend Regulation 1073/2009. It is part of the second stage of the European Commission's '[Europe on the Move](#)' package, which aims to fight climate change, make European industry stronger and more competitive, and improve the quality of life and choice of citizens for their daily mobility.

Existing situation

Regulation 1073/2009 sets the conditions for the international carriage of passengers by coach and bus within the EU by carriers for hire or reward or by own-account carriers. It merged previous Regulations [684/92](#) and [12/98](#) into one regulation, by clarifying the scope, simplifying procedures and establishing a standardised format for the community licence and for certified copies. Before that, the coach and bus market was regulated by EU Member States individually and by bilateral agreements between them.

Regulation 1073/2009 applies to regular services, special regular services and occasional services.³ It also applies to cabotage operations.⁴ It does not apply to urban and suburban coach and bus services.

According to Regulation 1073/2009, carriers are permitted to carry out regular, special regular and occasional international carriage services by coach and bus, without discrimination on grounds of nationality or place of establishment if they:

- are authorised in the EU country of establishment to carry out those services;
- fulfil the EU conditions on access to the profession;
- meet the legal requirements relating to EU standards for drivers and vehicles.

Own-account carriers are allowed to carry out transport services, without discrimination on grounds of nationality or place of establishment if they:

- are authorised in the EU country of establishment to carry out coach and bus services;
- meet the legal requirements relating to EU standards for drivers and vehicles.

International carriage of passengers by coach and bus is subject to a Community licence issued by the competent authorities of the country of establishment. The licence gives its holder the right to carry out international carriage of passengers by road for hire or reward in the territory of the EU.

Carriers have to carry a certified true copy of the Community licence on board their vehicles. The community licence is issued for renewable periods of up to 10 years.

Furthermore, the regulation specifies conditions for authorisation and authorising procedures, including renewal or alternation of authorisation. Authorisations specify:

- the type of service;
- the route of the service;
- the period of validity;
- the stops and the timetable.

Authorisations are issued in the name of the carrier for a period of up to five years and are non-transferable. However, on certain conditions, the carrier may operate the service through a subcontractor. Authorisations are issued in agreement with the authorities of all the EU countries on whose territories passengers are picked up or set down.

Cabotage operations are authorised for the following services:

- special regular services, if they are covered by a contract concluded between the organiser and the carrier;
- occasional services;
- regular services, performed by a carrier not resident in the host EU country in the course of a regular international service (except urban and suburban services).

Finally, the regulation lays down rules for transport tickets and for inspections on the road and in undertakings. It specifies under which conditions the community licence and authorisation can be withdrawn. It also obliges Member States to determine effective, proportionate and dissuasive penalties for breaches of the regulation, to exchange information via national contact points and to communicate to the European Commission the number of authorisations.

Parliament's starting position

The European Parliament has not made any direct calls in its recent resolutions for a review of the rules governing access to the international market for coach and bus services. However, it has expressed its views on road transport in general and touched upon some aspects of the international market for coach and bus services.

In its [resolution](#) of 18 May 2017 on road transport in the European Union, the European Parliament calls for the European road sector to be made more competitive and for fairer competition to be ensured, especially for SMEs. It urges EU Member States to implement relevant EU rules more thoroughly and the European Commission to monitor the implementation more closely. Finally, the Parliament calls on the Commission to examine possibilities to reduce the bureaucratic and financial burdens of different national legislations.

The European Parliament [resolution](#) of 23 October 2012 on passenger rights in all transport modes touched on the issue of buses and coaches in international transport with regard to the rights of passengers. It recommended that bus terminals should have information points and helpdesks which are accessible for all passengers.

Preparation of the proposal

The Commission promised to review EU rules on buses and coaches in the 2016 [European strategy for low-emission mobility](#) and confirmed its plans in the 2017 communication '[Europe on the move](#)'. The revision of Regulation 1073/2009 was listed in the [Commission 2017 work programme](#) under the regulatory fitness (REFIT) initiatives.

When preparing the proposal, the European Commission carried out an [ex-post evaluation](#) of Regulation 1073/2009. This evaluation concludes that the main objective – to offer a sustainable alternative to individual car transport – has been only partially achieved. It observes that there are

obstacles in national markets, excessive administrative costs of entry in the market and a problem of discrimination in access to terminals.

The Commission also [consulted stakeholders](#), conducted a special [Eurobarometer public opinion survey on coach services](#) and held several seminars, meetings and events for interested parties. The information gathered during this consultation process confirms the existence of problems identified during the ex-post evaluation. Interested parties support the addressing of discrimination in access to terminals. However, they do not all agree with removing restrictions on access to inter-urban national markets.

The Commission proposal to amend the regulation governing the access to the international market for coach and bus services is accompanied by an [impact assessment](#), which is the subject of an EPRS [initial appraisal](#). The impact assessment considers various options to address problems with market access, administrative burden and access to terminals. The Commission estimates that standardisation and simplification of the authorisation procedure, improved terminal access and abolition of the journey form for occasional services would allow for savings of up to €1 564 million in total between 2015 and 2035. It would increase coach traffic by more than 11 % by 2030 and increase its modal share by almost one percentage point. Expansion of the network of coach services would, according to the Commission, improve the connectivity of disadvantaged social groups, create new jobs, improve road safety and have a positive impact on the environment.⁵

The changes the proposal would bring

The Commission's [legislative proposal](#) to amend Regulation 1073/2009 extends the scope of the regulation considerably to include all regular (national and international) services for hire and reward operated by a non-resident carrier.

It modifies and adds some definitions. For example, it adds new definitions of 'terminal', 'terminal operator' and 'viable alternative' to clarify which other terminal can be proposed to the carrier when a terminal operator refuses access. It deletes the word 'temporary' in the definition of 'cabotage operation', considering it a regular service.

The Commission proposes to ask Member States to designate a (new or existing) independent regulatory body for the road passenger transport sector. The aim is to avoid any conflicts of interest when a regulatory body analyses whether economic equilibrium of a public service contract is compromised. The decisions taken by this authority would be binding.

The Commission also proposes some modifications to market access. It suggests that carriers should have a right of access to terminals on fair, equitable, non-discriminatory and transparent terms for the purpose of operating regular services. Access would only be refused if there was a lack of capacity in the terminal. Decisions on applications for access should be taken within two months and should state the reasons on which they are based. Carriers could appeal decisions to the regulatory body.

The Commission proposes to modify the authorisation procedure for international carriage of passengers and for national regular services. It proposes to allow the restriction of access to international or national regular service (including urban and suburban services) for distances of less than 100 kilometres as the crow flies, when the new service compromises the economic equilibrium of an already existing public service contract. The market would be fully liberalised for international regular transport services carrying passengers over distances of 100 kilometres or more as the crow flies.

In addition, the Commission proposes to abolish the journey form as a control document for occasional services. It deletes the obligation according to which regular services have to be performed as part of a regular international service. It amends rules relating to inspections to specify that they apply also to cabotage operations.

Finally, Member States would have to communicate to the European Commission every year – as opposed to every two years, which is currently the case – the number of authorisations for regular services (including cabotage operations) awarded.

Advisory committees

The European Economic and Social Committee (EESC) adopted an [opinion](#) on 19 April 2018 on access to the international market for coach and bus services. The opinion was prepared by the Section for Transport, Energy, Infrastructure and the Information Society (TEN) (rapporteur: Raymond Hencks, Workers' Group – Group II, Luxembourg).

In its opinion, the EESC says that extending the scope of the regulation to cover all regular services for hire or reward, including national services, run by a non-resident carrier, is problematic for some Member States, and that it fears that this could seriously undermine public service contracts. According to the EESC, the Commission proposal does not take account of the differences between countries in the way in which they organise their bus and coach transport services, particularly urban and suburban services, which are often provided free of charge or at reduced rates for all or for some categories of travellers. The EESC questions whether the proposal respects the subsidiarity principle, given that the Treaty on the Functioning of the European Union gives national, regional and local authorities wide discretion in organising services of general economic interest.

The European Committee of the Regions (CoR) touched upon the issue in its [opinion](#) of 5 July 2018 on 'Delivering on low-emission mobility', prepared by rapporteur Michiel Scheffer (ALDE, the Netherlands). The CoR considers that the decision whether or not to accept transport services should not depend on the distance (100 km as the crow flies) but rather on the impact the additional service would have on existing public service contracts. The CoR also thinks that transport services should not only be judged on economic terms but also in terms of quality, safety and territorial and social cohesion.

National parliaments

The [subsidiarity deadline](#) for national parliaments to submit reasoned opinions on the proposal was 11 January 2018. [Ireland](#) (Houses of Oireachtas) and [Spain](#) (Cortes Generales) submitted reasoned opinions, finding that the Commission proposal does not comply with the principle of subsidiarity, in particular as regards extending the scope of the regulation to national regular services.

Other parliaments have also criticised some aspects of the proposal, for example the differentiation between transport services based on the 100 km criterion and setting up a regulatory body for the road passenger transport sector. The [Czech Senate](#) believes that international passenger carriage routes would be artificially extended over 100 km in order to avoid the scrutiny of potential disturbance to the economic equilibrium of an already existing public service contract. The [Romanian Senate](#) fears that the proposed regulation could favour non-resident carriers from economically more developed countries. The [Slovenian National Assembly](#) disagrees with the abolition of the journey form for occasional passenger services.

Stakeholders' views⁶

Initially, few stakeholders expressed their position on the Commission proposal publicly. However, several associations and transport companies did share their views in the public consultation organised during its preparation, as well as following the vote in the European Parliament.

As mentioned in the [impact assessment](#) accompanying the Commission proposal, several stakeholders (for example, the Confederation of Passenger Transport UK (CPT) – the trade association representing the UK's bus and coach industry) – agreed during the consultation that terminal access was a big concern. Some (for example, the International Road Transport Union (IRU)) felt that there is a general lack of integrated terminal facilities. Others complained also about excessive time taken to grant or refuse an authorisation and little or no transparency in authorisation

procedures. For example, BusUp, a start-up offering on-demand public bus routes, claimed that both existing and new contracts are often tendered on terms that favour established transport operators.

Once the European Commission proposal was published, the [IRU](#) warned that the liberalisation of intercity bus and coach transport might be difficult, as there is a strong demand for guarantees that services covered by public service contracts remain protected. At the same time, it called for simpler, clearer and more aligned rules across the EU and for more targeted and intelligence-led checks.

The [European Transport Workers' Federation](#) (ETF) criticised the proposal for its impact on job quality and social sustainability of the road transport sector. It gave an example of the liberalisation of the interurban bus and coach market in Germany, which it claims led to a fall in prices, job depreciation and many law infringements. ETF also expressed its [disappointment](#) after the vote in the European Parliament in February 2019, highlighting concerns that the regulation could threaten some transport links and worsen the service and job quality.

Legislative process

The Commission submitted the proposal on 8 November 2017. In the **European Parliament**, it was assigned to the Committee on Transport and Tourism (TRAN). The Committee on Employment and Social Affairs (EMPL) decided not to give an opinion.

The TRAN committee rapporteur, Roberts Zile (ECR, Latvia) published his [draft report](#) on 15 June 2018. In general, the rapporteur has kept the spirit of the Commission proposal to further liberalise the bus and coach markets. However, he has introduced additional conditions under which authorisations for a new service could be denied, even over the Commission's proposed 100 km ceiling, for instance if the relevant service bundles together profitable and unprofitable routes or if the operator intends to provide services 'below their normal value for an extended period of time'. Moreover, the rapporteur suggests that access to a regular national service could be limited for journeys in urban and suburban areas or when a contract has granted an exclusive right to operate a particular route or network or in a particular area, in return for the discharge of public service obligations. He also suggests that terminals that are owned and used solely by the terminal operator for its own road passenger transport services can be excluded from sector liberalisation rules. Lastly, the draft report would allow EU Member States to have more liberal rules than the revised rules on regular national services.

During a [debate](#) on 10 July 2018, several TRAN committee members acknowledged that it is very difficult to liberalise the bus and coach markets and questioned whether the Commission proposal respected the principle of subsidiarity. A significant number of amendments have since been tabled. Some also argued that the vote on the present proposal should be postponed until progress is made on the social files of the first part of the 'Europe on the Move' package.

The [European Parliament](#) as a whole made minor changes to the TRAN Committee report (adopted on 22 January 2019) and voted in favour of it (354 votes in favour, 246 against and 8 abstentions) during its 2019 February plenary session.

In the **Council**, the file was assigned to the working party on land transport. The proposal was initially presented by the European Commission at the Transport, Telecommunications and Energy Council [meeting](#) on 5 December 2017. In the meantime, the Council has not reached a common position on the file.

EP SUPPORTING ANALYSIS

Remáč M., '[Making the market for bus and coach transport work better](#)' implementation appraisal, EPRS, November 2017.

Vikolainen V., '[Access to the international market for coach and bus services](#)', initial appraisal of a Commission impact assessment, EPRS, February 2018.

OTHER SOURCES

[Access to the international market by coach and bus services: further opening of national markets](#), European Parliament, Legislative Observatory (OEL).

ENDNOTES

- ¹ [Coaches](#) have the lowest CO₂ emissions of all long distance modes.
- ² As seen from table 2.7.3b (page 107) of the 2017 [Statistical pocketbook](#), bus and coach transport is one of the safest forms of road transport.
- ³ According to Regulation (EC) No 1073/2009, regular services cover carriage of passengers at specific intervals along specific routes, passengers being picked up and set down at predetermined stops. Special regular services cover regular carriage of specified categories of passengers while other passengers are excluded (e.g. pupils). Occasional services cover irregular carriage of groups of passengers on the initiative of the customer or the carrier (e.g. local excursion).
- ⁴ Either national road passenger services for hire and reward carried out on a temporary basis in a host country, or picking up and setting down of passengers within the same EU country in the course of a regular international service.
- ⁵ If the increase of bus and coach traffic reduces car traffic, which is more polluting and causes more road accidents.
- ⁶ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

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