

EUROPEAN PARLIAMENT

2004



2009

Committee on Transport and Tourism

2007/0097(COD)

5.11.2007

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
on common rules for access to the market for coach and bus services (recast)
(COM(2007)0264 – C6-0147/2007 – 2007/0097(COD))

Committee on Transport and Tourism

Rapporteur: Mathieu Grosch

(Recasting – Rule 80a of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on common rules for access to the market for coach and bus services (recast)
(COM(2007)0264 – C6-0147/2007 – 2007/0097(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0264),
 - having regard to Articles 251(2) and 71 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0147/2007),
 - having regard to Rules 80a and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Legal Affairs (A6-0000/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 6 a (new)

(6a) This Regulation should not apply either to carriers who have access only to their national market for coach and bus services or to the licences issued to those carriers by Member States of establishment.

Amendment 2
Recital 13

(13) Administrative formalities should be

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reduced as far as possible without abandoning the controls and sanctions that guarantee the correct application and effective enforcement of this Regulation. To this end the existing rules on the withdrawal of the Community licence should be clarified and strengthened. The current rules should be adapted to allow the effective sanctioning of serious or repeated minor infringements committed in *a* Member *State* other than the Member State of establishment. Sanctions should be non-discriminatory and in proportion to the seriousness of the infringements. It should be possible to lodge an appeal in respect of any sanctions imposed.

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Justification

Minor infringements can be considered to be of a 'repeated' nature if they have been committed in more than one Member State.

Amendment 3

Recital 14

(14) Member States should enter in their national register of road transport undertakings all serious infringements *and repeated minor infringements* committed by carriers and which have led to the imposition of a sanction.

(14) Member States should enter in their national register of road transport undertakings all serious infringements committed by carriers and which have led to the imposition of a sanction. *If, by virtue of their number and the fact that they have been committed repeatedly, minor infringements are such as to constitute a serious infringement, that infringement should likewise be mentioned in the register.*

Justification

There is no point in entering every minor infringement in the registers; all that needs to be recorded is serious infringements, including those resulting when there has been a high number of minor infringements or a given minor infringement has been committed repeatedly.

Amendment 4

Article 6, paragraph 6

6. The operator of a regular service may use additional vehicles to deal with temporary and exceptional situations.

6. The operator of a regular service may use additional vehicles to deal with temporary and exceptional situations. ***It shall inform the Member State in whose territory the place of departure is situated of the reasons for any such temporary and exceptional situation.***

Amendment 5
Article 6, paragraph 6 a (new)

6a. Member States may refrain from applying the authorising procedure to cross-border regular services not extending more than 50 km beyond the border. They shall inform the Commission and neighbouring countries thereof.

Amendment 6
Article 8, paragraph 3

3. The authorising authority shall take a decision on the application within ***four months*** of the date of submission of the application by the carrier.

3. The authorising authority shall take a decision on the application within ***three months*** of the date of submission of the application by the carrier.

Amendment 7
Article 8, paragraph 4, point (b)

(b) in the past the applicant has not complied with national or international legislation on road transport, and in particular the conditions and requirements relating to authorisations for international road passenger services, or has committed a serious infringement or repeated minor infringements of legislation in regard to road safety, in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers;

(b) in the past the applicant has not complied with national or international legislation on road transport, and in particular the conditions and requirements relating to authorisations for international road passenger services, or has committed a serious infringement or repeated minor infringements of legislation in regard to road safety, in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers, ***and the infringements in question have led to a loss of good repute within the meaning of***

the Regulation [on admission to the occupation of road transport operator];

Amendment 8
Article 8, paragraph 8

8. After having consulted the Member States concerned, the Commission shall within ***four months*** from receipt of the communication from the authorising authority take a decision which shall take effect *after* thirty days of the notification to the Member States concerned.

8. After having consulted the Member States concerned, the Commission shall within ***ten weeks*** from receipt of the communication from the authorising authority take a decision which shall take effect thirty days *after* the notification to the Member States concerned.

Amendment 9
Article 13

Within the framework of an international occasional service, a carrier may carry out occasional services (local excursions) in a Member State other than that in which it is established.

Such services shall be intended for ***non-resident*** passengers previously carried by the same carrier on one of the international services mentioned in the first paragraph and must be carried out with the same vehicle or another vehicle from the same carrier or group of carriers.

Within the framework of an international occasional service, a carrier may carry out occasional services (local excursions) in a Member State other than that in which it is established.

Such services shall be intended for passengers previously carried by the same carrier on one of the international services mentioned in the first paragraph and must be carried out with the same vehicle or another vehicle from the same carrier or group of carriers.

Justification

As far as European routes, say, are concerned, parties of tourists should be allowed to go on local excursions in their own country.

Amendment 10
Article 16, paragraph 1, point (f) (new)

Rules applicable to cabotage transport operations

(f) in the case of special regular services, implementation of Directive 96/71/EC of the European Parliament and of the

Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services¹.

1 OJ L 18, 21.1.1997, p. 1.

Justification

Recital 10 states that the 'posting' directive applies to cabotage transport operations. That fact should likewise be reflected in the enacting terms.

Amendment 11

Article 22, paragraph 3

3. ***In*** the case referred to in Article 23(1) the competent authorities of the Member State of establishment shall decide ***whether a*** sanction shall be imposed on the carrier concerned. They shall communicate to the competent authorities of the Member State in which the infringements were ascertained as soon as possible and at the latest within three months from receiving knowledge of the infringement which of the sanctions provided for in paragraphs 1 and 2 of this Article have been imposed. If it has not been possible to impose such sanctions, they shall state the reasons.

3. ***Where a serious infringement has been ascertained in the case referred to in*** Article 23(1) the competent authorities of the Member State of establishment shall decide ***what form of*** sanction shall be imposed on the carrier concerned. They shall communicate to the competent authorities of the Member State in which the infringements were ascertained as soon as possible and at the latest within three months from receiving knowledge of the infringement which of the sanctions provided for in paragraphs 1 and 2 of this Article have been imposed. If it has not been possible to impose such sanctions, they shall state the reasons.

Justification

When there have been serious infringements, a sanction has to follow.

Amendment 12

Article 22, paragraph 3 a (new)

3a. Where a minor infringement has been ascertained in the case referred to in Article 23(1), the competent authorities of the Member State of establishment shall decide whether a sanction shall be imposed on the carrier concerned.

Justification

When minor infringements are involved, the Member State of establishment should decide whether a sanction should be imposed; there is no need to inform the Member State where such an infringement was ascertained.

Amendment 13 Article 23, paragraph 1

1. Where the competent authorities of a Member State are aware of a serious infringement ***or of repeated minor infringements*** of this Regulation or of Community road transport legislation attributable to a non-resident carrier, the Member State within the territory of which the infringement is ascertained shall transmit to the competent authorities of the Member State of establishment as soon as possible but at the latest within one month from receiving knowledge of the infringement the following information:

1. Where the competent authorities of a Member State are aware of a serious infringement of this Regulation or of Community road transport legislation attributable to a non-resident carrier, the Member State within the territory of which the infringement is ascertained shall transmit to the competent authorities of the Member State of establishment as soon as possible but at the latest within one month from receiving knowledge of the infringement the following information:

Justification

Member States of establishment should be informed not only about serious infringements, but also about minor infringements committed in other Member States, so as to enable them to determine whether, given their number and their repeated nature, the minor infringements in question amount to a serious infringement. Since what is involved in this instance is just minor infringements, a Member State where such an infringement was ascertained does not need to be informed in turn about the action subsequently taken.

Amendment 14 Article 24

Member States shall ensure that serious infringements ***or repeated minor infringements*** of Community road transport legislation committed by carriers established in their territory which have led to the imposition of a sanction as well as the sanctions imposed are recorded in the national register of road transport undertakings as established under Regulation (EC) No [...] [establishing

Member States shall ensure that serious infringements of Community road transport legislation committed by carriers established in their territory which have led to the imposition of a sanction as well as the sanctions imposed are recorded in the national register of road transport undertakings as established under Regulation (EC) No [...] [establishing common rules concerning the conditions to

common rules concerning the conditions to be complied with to pursue the occupation of road transport operator]. Those entries in the registry which concern a temporary or permanent withdrawal of a Community licence shall remain in the database for at least two years.

be complied with to pursue the occupation of road transport operator]. ***Where, by virtue of their number and the fact that they have been committed repeatedly, minor infringements are such as to constitute a serious infringement, that infringement shall likewise be mentioned in the register.*** Those entries in the registry which concern a temporary or permanent withdrawal of a Community licence shall remain in the database for at least two years.

Justification

There is no point in entering every minor infringement in the registers; all that needs to be recorded is serious infringements, including those resulting when there has been a high number of minor infringements or a given minor infringement has been committed repeatedly.

Amendment 15 Article 30, paragraph 2

It shall apply from ***[date of application]***.

It shall apply from ***1 January 2009.***

Amendment 16 Annex I, first page of the licence

LICENCE No ...
CERTIFIED TRUE COPY No
for the international carriage of passengers
by coach and bus for hire or reward

LICENCE No ...
CERTIFIED TRUE COPY No
for the international carriage of passengers
by coach and bus for hire or reward, ***and
for cabotage transport operations***

Amendment 17 Annex I, General provisions, point 5 (c)

(c) has committed a serious infringement or repeated minor infringements of Community road transport legislation in ***any*** Member ***State***, in particular with regard to the rules applicable to vehicles, driving and rest periods for drivers and the

(c) has committed a serious infringement or repeated minor infringements of Community road transport legislation in ***one or more*** Member ***States***, in particular with regard to the rules applicable to vehicles, driving and rest periods for

provision, without authorisation, of parallel or temporary services as referred to in Article 5(1), fourth subparagraph, of Regulation (EC) No [.../...] [this Regulation]. The competent authorities of the Member State of establishment of the carrier who committed the infringement may, inter alia, withdraw the Community licence or make temporary or permanent withdrawals of some or all of the certified true copies of the Community licence.

drivers and the provision, without authorisation, of parallel or temporary services as referred to in Article 5(1), fourth subparagraph, of Regulation (EC) No [.../...] [this Regulation]. The competent authorities of the Member State of establishment of the carrier who committed the infringement may, inter alia, withdraw the Community licence or make temporary or permanent withdrawals of some or all of the certified true copies of the Community licence.

EXPLANATORY STATEMENT

General context

Access to the market for coach and bus services is at present governed by regulations (EEC) No 684/92 and (EC) No 12/98.

For the purposes of coach and bus transport, a distinction is made between two types of carriage, namely occasional services and regular services.

The above two regulations have already liberalised international carriage where occasional services are concerned.

As regards international regular services, carriers must seek authorisation from Member States whose territory is crossed by such services. Cabotage operations may, moreover, be carried out when providing international regular services.

The aim of the Commission proposal is to simplify the legislative framework. The regulation laying down the public service obligations applicable to road and rail transport has been adopted and must be taken into consideration in the authorisation procedure for regular services. In addition, the Commission is seeking to strengthen cooperation among Member States and harmonise document formats so as to make for easier checking.

The rapporteur's view

The two regulations have been combined to form a single text, and the resulting simplification of the legislative framework is to be welcomed.

1. One point to be made about **scope** is that the regulation does not apply to the 'national' licences that Member States issue to carriers performing national services only.

2. As regards the **procedure** for **authorising** international regular services, the sector is broadly in favour of the simplifications. Member States may not refuse authorisation other than in very specific cases, for instance when a regular service would seriously affect the viability of a service operated under a public service contract. The authorities of Member States whose territory is merely crossed in transit, but where no passengers are picked up or set down, will simply be informed once the Member States concerned have agreed to authorise the service in question.

To enable the procedure to run smoothly, it would be desirable to shorten the time allowed for Member States' authorities to grant or refuse authorisation; and, when a case has been referred to it after authorisation has been refused, the Commission should likewise be required to reach a decision within a shorter deadline.

The necessary provision should also be made to enable additional vehicles to be used temporarily in exceptional circumstances for regular services; when the place of departure is

situated on its territory, a Member State should accordingly be told that the above option is to be exercised as well as being informed of the reasons for the exceptional situation.

Member States should be allowed to exempt cross-border services from the authorising procedure; the regulation on public service obligations would in any case continue to apply.

3. Recital 10 of the proposal for a regulation states that the directive on the **posting of workers** applies to special regular services. That provision should be included in the appropriate article.

4. Regarding **cooperation among Member States**, the principles and changes that the rapporteur is proposing here are the same as those being put forward in connection with the regulation on access to the market for the international carriage of goods by road.

5. As regards the harmonisation of **control documents**, the rapporteur endorses the provisions set out in the proposal and especially the application of the comitology procedure with scrutiny by Parliament.