



17.12.2009

## NOTICE TO MEMBERS

**Subject: Petition 0811/2009 by Ms Haberbosch (german), on behalf of Government of Thuringia, on the application of EU legislation regarding seatbelts in busses and coaches**

### 1. Summary of petition

A little boy in Thuringia was injured when his school bus came to a sudden halt because a pedestrian crossed the road against a red light. The parents entered a petition with the German federal petitions committee asking them to review requirements for school busses to be equipped with seatbelts. The German federal petitions committee explained the legislation in force and division of responsibilities for implementing it and referred the matter back to the regional (Länder) authorities, since the responsibility was theirs. The petitions committee of Thuringia examined the application of legislation and considered that Thuringia was not in breach thereof. They decided to refer the matter to the petitions committee of the European Parliament, presumably to have confirmation of their interpretation.

### 2. Admissibility

Declared admissible on 12 October 2009. Information requested from Commission under Rule 202(6).

### 3. Commission reply, received on 17 December 2009.

The Commission would like to express its sympathy to the boy injured in the bus accident described by the petitioner, as well as to his parents.

The petitioner raises 2 main issues:

- first question : is there an obligation under EU law to have seat belts installed in school buses?

- second question : if so, is it obligatory to use them?

With respect to the first question the situation is as follows:

According to Directive 2005/40/EC of the European Parliament and of the Council<sup>1</sup> amending Council Directive 77/541/EEC, the fitting of seat belts is mandatory in those buses where all passengers have to remain seated when travelling and for which no area for standing passengers is provided. This provision applies irrespective of the nature of the transport activity.

Directive 2005/40/EC applies to new vehicle types put into service as of 20 October 2006 and to all new vehicles put into service as of 20 October 2007. However, it does not require seat belts to be retro-fitted in buses that were put into service before the entry into force of the Directive on 20 October 2005.

It is also important to clarify that some Member States required the fitting of seat belts in buses when they transposed into national law Commission Directive 96/36/EC of 17 June 1996 amending Directive 77/541/EEC, which means that many buses were already fitted with seat belts as from 1<sup>st</sup> October 1999.

Considering the above, the second question is only relevant for buses which have been fitted with seat belts following Directive 77/541/EEC as amended. As far as these are concerned, Council Directive of 16 December 1991 relating to the compulsory use of safety belts and child-restraint systems in vehicles<sup>2</sup>, states in Article 2(2)(a) that Member States shall require that all occupants aged three and over of M2 and M3 vehicles (buses with more than 8 seats) shall use the safety systems provided while they are seated. Therefore, this obligation does not apply to passengers who are not seated whilst the bus is in motion. From the description of the current case it is not clear whether the boy in question was seated or not. Moreover, following Article 6, indent 6, "Member States may, (...), with the Commission's agreement, grant exemptions (...) in order to take account of the specific conditions of use of M2 and M3 vehicles for local transport in urban and built-up areas, or in which standing is allowed". The Commission has authorised Germany to grant this exemption. (Commission Decision C (2008) 434 of 8 February 2008). Therefore, as far as such vehicles are used as school buses in Germany, there is no obligation to use seat belts, even if they are installed in these buses.

## Conclusion

The Commission does not have sufficient information on the concrete situation referred to by the petitioner so as to judge whether under the applicable EU legislation it was required in this case to have seat belts fitted on the bus, and if so, whether it was obligatory to use them. This depends in particular on the type of the bus in question, on its age and on the relevance of the derogation granted to Germany for this specific case.

However, even if the relevant Community provisions do not apply in this case, the Petition

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<sup>1</sup> Directive of 7 September 2005, amending Council Directive 77/541/EEC on the approximation of the laws of the Member States relating to safety belts and restraint systems in motor vehicles; OJ L 255/146 of 30.9.2005.

<sup>2</sup> As amended by Directive 2003/20/EC of the European Parliament and of the Council of 8 April 2003.

seems to indicate that it is possible in Germany to introduce such requirements for school buses or buses which are only used for transport of children to and from school by contract with the transport company concerned.