



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.7.2007  
COM(2007) 460 final

2000/0212 (COD)

**OPINION OF THE COMMISSION**

**pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty,  
on the amendments made by the European Parliament to the Council Common Position  
on a proposal for a**

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on public passenger transport services by rail and by road**

**AMENDING THE PROPOSAL OF THE COMMISSION  
pursuant to Article 250 (2) of the EC Treaty**

**COMMISSION OPINION**

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**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****on public passenger transport services by rail and by road****1. INTRODUCTION**

Article 251(2), third subparagraph, point (c) of the EC Treaty requires the Commission to deliver an opinion on the amendments proposed by the European Parliament at second reading. The Commission sets out below its opinion on the amendments proposed by Parliament.

**2. BACKGROUND**

Date of transmission of the revised proposal to the European Parliament and the Council (COM(2005) 319 final – 2000/0212(COD))	22 July 2005
Date of the opinion of the Committee of the Regions	16 February 2006
Date of the opinion of the European Economic and Social Committee	17 May 2006
Date of the opinion of the European Parliament (first reading) on the initial proposal COM (2000) 7	14 November 2001
Date of adoption of the common position	11 December 2006
Date of the opinion of the European Parliament at second reading:	10 May 2007

**3. AIM OF THE PROPOSAL**

The proposal is designed to replace a Regulation adopted in 1969 that still today constitutes the Community regulatory framework applicable in the public passenger transport sector<sup>1</sup>.

<sup>1</sup> Regulation (EEC) No 1191/69 of the Council of 26 June 1969 (OJ L 156, 28.6.1969, p. 1) on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway. Regulation as last amended by Regulation (EEC) No 1893/91 (OJ L 169, 29.6.1991, p.1).

The economic environment of the public passenger inland transport sector has changed profoundly since 1969. This Regulation is now outdated and constitutes a source of legal uncertainty that is already reflected in an increase in disputes.

Given the unsuitability of the Community legislative framework and with a view to boosting the effectiveness and quality of services, the Commission presented, in September 2000, a proposal for a Regulation of the European Parliament and of the Council<sup>2</sup> to replace the Regulation of 1969.

Following the opinion of the European Parliament in November 2001 (first reading), the Commission presented an amended proposal in February 2002. However, particularly in light of the widely differing experience in the Member States of opening up markets, the Council did not have the opportunity to continue its work on this matter.

In order to solve these difficulties, reconcile the different positions on this issue expressed in the European Parliament and the Council, and take into account the judgment of the Court of Justice of the European Communities in *Altmark*<sup>3</sup>, the Commission adopted a revised proposal for a Regulation in July 2005, which replaced the amended proposal of 2002.

The main thrust of the proposal is to simplify the legislative approach, introduce greater flexibility into the organisation of public transport services and take greater account of the principles of subsidiarity and transparency.

The proposal regulates the ways in which competent authorities may intervene in the inland public passenger transport sector. To that end, it lays down the methods for paying compensation for public service obligations and awarding exclusive rights in the sector. The proposal generalises the rules for the conclusion of contracts and increased transparency in the relations between public authorities and transport operators. At the same time, at the request of the European Parliament, the proposal acknowledges for the first time the free choice of local authorities in the organisation of public transport. It establishes a clear framework for the possibility of competitive tendering for public service contracts and for competent authorities to run the services themselves or have them run by an internal operator.

#### **4. COMMISSION OPINION ON THE AMENDMENTS ADOPTED BY PARLIAMENT**

The dossier has been the subject of interinstitutional negotiations which will make it possible to conclude it at second reading. The amendments adopted by the European Parliament concern technical clarifications and certain slightly more substantial aspects. The opportunities for subcontracting are regulated and limited, to ensure that in any event the contractor provides the majority of the transport services. The level of the thresholds for the direct award of transport contracts to small and medium-sized enterprises has been raised slightly from an annual value of EUR 1.7 million to EUR 2 million. Mechanisms which ensure that judicial remedy is possible have been introduced. Lastly, the amendments also reduce the period for entry into force and the transition period for the Regulation from 36 to 24 months and from 12 to 10 years respectively. The Commission can accept all the amendments adopted by the European Parliament at second reading.

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<sup>2</sup> COM(2000) 7 final - 2000/0212 (COD), as amended by COM(2002) 107 final.

<sup>3</sup> Case C-280/00 *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH* [2003] ECR I-7747.

## **5. CONCLUSION**

In accordance with Article 250(2) of the EC Treaty, the Commission is amending its proposal as indicated above.