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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.1.2009
COM(2008) 913 final

2007/0097 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

concerning the

**common position of the Council on the adoption of a regulation of the European
Parliament and the Council on common rules for access to the market for coach and bus
services (recast)**

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1. BACKGROUND

Date of transmission of the proposal to the EP and the Council (document COM(2007)264 final – 2007/0097 COD): 23 May 2007.

Date of the opinion of the European Economic and Social Committee: 26 September 2007.

Date of the opinion of the European Parliament, first reading: 5 June 2008.

Date of transmission of the amended proposal: 13 June 2008.

Date of adoption of the common position: 9.1.2009

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The objective of the proposal adopted by the Commission on 23 May 2007 is to establish common rules on the access to the market for coach and bus services. The proposal replaces two regulations currently applicable. One of the principal objectives is to simplify the authorisation procedure for international regular passenger services.

3. COMMENTS ON THE COMMON POSITION

3.1. General comments on the common position

The common position follows in general the proposal of the Commission and integrates some of the amendments of the European Parliaments first reading. The proposal did not lead to controversial discussions and many changes in the text are of technical nature.

3.2. Detailed Commission comments

As the Parliament has proposed in its first reading (see amendments 2, 3, 4, 8, 16, 20, 21, 22, 25), the common position deletes the references to "repeated minor infringements". The Commission can accept this stepwise approach on the registers. In the common position as well as in the first reading of the Parliament, the reference to working time as mandatory rules

applicable to cabotage has been deleted (amendment 14); the Commission can accept this proposal.

The other amendments of the Parliament were not included in the common position. This is due in part also to the short time limit between the adoption of the first reading (5 June 2008) and the political agreement (13 June 2008).

Of these amendments which have not been included in the common position, would have been acceptable or acceptable in principle for the Commission among others those on the duration of the application procedure (7), on the journey form (11, 12) or on the possibility to impose fines (17, 21). The Commission could also accept in principle and with a reformulation in order not to put into question the road safety, the amendments concerning the reintroduction of the "12 days rule" in the legislation on driving and rest times¹.

Other amendments which were not acceptable or not acceptable in the proposed wording for the Commission have not been included in the common position:

- on the introduction of a differentiation between different kinds of international regular passenger services (amendment 6);
- the deletion of the possibility for the Member State to suspend or to withdraw an authorisation in case it seriously affects the viability of a public service contract (9);
- the widening of the permission of local excursion (13);
- the reference to the posting of workers directive as rules applicable to cabotage (15).

The new elements introduced by the common position concern in particular:

- the introduction of a definition of international carriage (article 2 paragraph aa);
- a change in the definition of cabotage for regular services (article 2 paragraph e);
- the period of validity of licence (article 4 paragraph 4);
- the request that Member States shall set up non-discriminatory criteria when they evaluate the viability of a public service contract during the authorisation procedure for international regular services (article 8 paragraph 4 subparagraph d);
- the introduction of a new reason not to grant an authorisation for international regular services, notably when it is established that the principal purpose of the service is not to carry passengers between stops located in different Member States (article 8 paragraph 4 subparagraph e);
- the inclusion of security features for the licence and the certified true copies (Annex I).

¹ Regulation (EC) no 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, OJ L102/1, 11.04.2006

4. CONCLUSION

The Council adopted its common position by qualified majority. The Commission considers that the common position reflects the main objectives of its proposal and can therefore support it.