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*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a European Parliament and Council regulation amending Council Regulations (EEC) No 881/92 and (EEC) No 3118/93 for the purposes of establishing a driver attestation (10353/1/2001 – C5-0473/2001 – 2000/0297(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Rijk van Dam

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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PROCEDURAL PAGE

At the sitting of 16 May 2001 Parliament adopted its position at first reading on the proposal for a European Parliament and Council regulation on amending Council Regulations (EEC) No 881/92 and (EEC) No 3118/93 for the purposes of establishing a driver attestation (COM(2000) 751 – 2000/0297 (COD)).

At the sitting of 25 October 2001 the President of Parliament announced that the common position had been received and referred to the Committee on Regional Policy, Transport and Tourism (10353/1/2001 – C5-0473/2001).

The committee had appointed Rijk van Dam rapporteur at its meeting of 24 January 2001.

It considered the common position and draft recommendation for second reading at its meetings of 27 November 2001 and 19 December 2001.

At the latter meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Konstantinos Hatzidakis, chairman; Emmanouil Mastorakis, Helmuth Markov, vice-chairman and Rijk van Dam, vice chairman (and rapporteur), Pedro Aparicio Sánchez (for Carmen Cerdeira Morterero), Sir Robert Atkins, Emmanouil Bakopoulos, Rolf Berend, Theodorus J.J. Bouwman, Philip Charles Bradbourn, Felipe Camisón Asensio, Luigi Cocilovo (for Giorgio Lisi), Garrelt Duin, Giovanni Claudio Fava, Markus Ferber (for Jacqueline Foster), Jean-Claude Fruteau (for Danielle Darras), Mathieu J.H. Grosch, Mary Honeyball, Juan de Dios Izquierdo Collado, Georg Jarzembowski, Elisabeth Jeggle (for Reinhard Rack), Dieter-Lebrecht Koch, Brigitte Langenhagen (for Karla M.H. Peijs), Sérgio Marques, Linda McAvan (for John Hume), Arlene McCarthy (for Mark Francis Watts), Erik Meijer, Francesco Musotto, James Nicholson (for Dana Rosemary Scallon), Camilo Nogueira Román, Juan Ojeda Sanz, Josu Ortuondo Larrea, Wilhelm Ernst Piecyk, Giovanni Pittella (for Rosa Miguélez Ramos), Samuli Pohjamo, Alonso José Puerta, Marieke Sanders-ten Holte, Gilles Savary, Ingo Schmitt, Elisabeth Schroedter (for Reinhold Messner), Brian Simpson, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Margie Sudre, Adriaan Vermeer (for Isidoro Sánchez García, pursuant to Rule 153(2)), Demetrio Volcic, Brigitte Wenzel-Perillo (for Carlos Ripoll i Martínez Bedoya)

The recommendation for second reading was tabled on 20 December 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the Council common position for adopting a European Parliament and Council regulation on amending Council Regulations (EEC) No 881/92 and (EEC) No 3118/93 for the purposes of establishing a driver attestation (10353/1/2001 – C5-0473/2001 – 2000/0297(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (10353/1/2001 – C5-0473/2001),
- having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2000) 751²),
- having regard to the Commission's amended proposal (COM(2001) 373)³,
- having regard to Article 251(2) of the EC Treaty,
- having regard to Rule 80 of its Rules of Procedure,
- having regard to the recommendation for second reading of the Committee on Regional Policy, Transport and Tourism (A5-0469/2001),

1. Approves the common position ;
2. Notes that the act is adopted in accordance with the common position;
3. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
4. Instructs its Secretary General duly to sign the act and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Communities;
5. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

² OJ C 96, 27.3.2001, p. 207.

³ Not yet published in OJ.

EXPLANATORY STATEMENT

Commission proposal

The proposal aims to introduce a uniform ‘driver attestation’. This Community document must enable the national monitoring authorities to check the legal status of the employment relationship between employers from the EU and their drivers, engaged in the international carriage of goods in the Community. The Commission intends this attestation to resolve the present problems that occur with drivers from third countries in the service of EU companies. Some Community companies are engaging such drivers in an illegal manner. The drivers’ working conditions are often inferior, creating unsafe situations and distorting competition. As the Member States regulate working conditions in different ways – with the aid of different documents – it is virtually impossible for people from outside the country of establishment who are checking drivers to ascertain the legal propriety of an employment relationship. Introducing a uniform driver attestation makes this job easier and will thus be an effective way of tackling this form of distortion of competition.

First reading in Parliament

On 16 May 2001 Parliament noted¹ that, to a significant degree, illegally employed drivers originate in countries outside the Community. But the Member States’ inspection services do not have the adequate means for monitoring and dealing with the problem. Parliament also recognised that introducing a driver attestation for all drivers would place a considerable administrative burden on the Member States. These arguments supported temporary restriction of the scope to third country drivers. So in view of these points Parliament proposed limiting the scope of the regulation to third country drivers for the first two years after its entry into force. Parliament also took the view that adding the driving licence and social security number would improve the identification and protection of drivers.

The amended Commission proposal

The amended proposal of 5 July (COM(2001) 373) takes up Parliament’s wish to restrict application for the first two years to third country nationals. The Commission intends the regulation to apply six months after it enters into force, in view of the preparation time required. It joins the Council in also supporting Parliament’s proposal to add the driving licence and social security number to the attestation.

The Council common position

The common position of 23 October 2001 favours restricting the scope of application to third country nationals and, shortly after the regulation takes effect, looking into the desirability of extending the scope to EU nationals on the basis of a Commission review. So, unlike the Commission and Parliament, the Council does not want to be pinned down at present on future extension of the scope. It wants the regulation to apply one year after it comes into force, in view of the perceived need for preparation time. It also argues for introducing a stricter monitoring procedure, namely annual monitoring of at least 20 % of the attestations issued in the Member State. The common position further proposes amendment of Regulation (EEC) No 3118/93, to ensure that third country drivers must have a driver attestation in order carry out cabotage transport.

¹ PE 286.659.

Parliament's position

The Council accepted only part of the two categories of amendment that Parliament tabled at first reading. It fully endorsed the amendment adding the driving licence and social security number to the driver's personal details. But it did not take up the other amendments, involving phased implementation, unchanged. The following is a brief review of the differences between the Council and Parliament.

Scope

The Council's position did agree to a phased approach to implementation of the regulation, but did not state its views on every point. The regulation will apply, one year after it enters into force, to all drivers from third countries who are engaged in international transport within the EU in the service of an EU company. After a Commission assessment, which will include assessment of the impact of implementing the regulation, there will be a decision on extending its application to EU drivers. This position means that the Council and Parliament do not differ so much over including EU drivers in the regulation, as over the time-scale in which this is to occur. The rapporteur takes the view that, since third country drivers form the bulk of the problem, restricting the scope will not pose difficulties in the first instance, especially as a substantial administrative effort will be needed to provide all drivers with an attestation in the time required. With a view to the need for legal certainty it is surely important to decide on a deadline for the regulation's review. In the light of the results of the assessment it will then be necessary to see whether implementation of the regulation warrants including EU drivers in it.

Monitoring

The Council common position provides a quantitative gloss on the term 'regular'. To verify the validity of the attestations issued, at least 20 % of them must be monitored every year. In the rapporteur's view this is in the first instance an acceptable target figure. But an assessment must ascertain whether this intensity and manner of monitoring is sufficient to safeguard implementation of the regulation.

Cabotage

A point that will not be found in the original Commission proposal is the linkage with Regulation 3118/93 (EEC), governing the conditions in which cabotage is permissible in the Community. The rapporteur takes the view that it goes without saying that Regulation 3118/93 (EEC) must be coordinated with the present regulation.