



EUROPEAN PARLIAMENT

2009 - 2014

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*Committee on Transport and Tourism*

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**2012/0344(NLE)**

7.5.2013

## **OPINION**

of the Committee on Transport and Tourism

for the Committee on Economic and Monetary Affairs

on the proposal for a Council regulation amending Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid and Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road  
(COM(2012)0730 – C7-0005/2013 – 2012/0344(NLE))

Rapporteur: Brian Simpson

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## SHORT JUSTIFICATION

The Commission proposal amends provisions on certain state aid rules and, more importantly for TRAN committee, makes changes to regulation 1370/2007 on Public Service Obligations in public transport by rail and by road. Your rapporteur is concerned about the procedure chosen by the Commission to amend regulation 1370/2007<sup>1</sup> via this so-called enabling Council regulation on state aid.

According to the Commission proposal Article 9 of Regulation No 1370/2007 should cease to apply six months after the entry into force of a regulation adopted by the Commission concerning this category of State aid. Article 9 currently exempts from the prior notification requirement laid down in Article 108(3) TFEU public service compensation for the operation of public passenger transport services or for complying with tariff obligations established through general rules paid in accordance with that Regulation.

It is the inclusion of those changes to regulation 1370/2007 in the enabling regulation that makes the Commission's proposal highly irritating. Regulation 1370/2007 is a legal act which was adopted under the Co-decision procedure. In the rapporteur's view it is therefore not acceptable for the Parliament that the Commission proposes to modify a co-decided act by way of a non-legislative Council regulation on which Parliament is merely consulted, all the more since there is no legal obligation that would require the Commission to propose changes to regulation 1370/2007 in such a way.

In addition and to complicate things further the Commission adopted a new proposal for amending regulation 1370/2007 directly through the Ordinary Legislative Procedure (2013/0028(COD))<sup>2</sup>. It is not comprehensible why the Commission did not include the changes proposed via this enabling regulation directly in the proposal amending regulation 1370/2007.

The Commission, by designing the proposal of the enabling regulation in such a way, has manifestly disrespected Parliament's legislative prerogatives. Any change to regulation 1370/2007 that the Commission wanted to obtain should have been proposed only through the Ordinary Legislative Procedure.

Consequently, all the amendments tabled aim at deleting all references to regulation 1370/2007 from the Commission proposal.

## AMENDMENTS

The Committee on Transport and Tourism calls on the Committee on Economic and

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<sup>1</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70

<sup>2</sup> Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail

Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

## **Amendment 1**

### **Proposal for a regulation - amending act Recital 10**

*Text proposed by the Commission*

*Amendment*

*(10) In relation to aid concerning air and maritime transport, in the Commission's experience, aid having a social character to residents of remote regions for transport, provided that it is granted without discrimination related to the identity of the carrier, does not give rise to any significant distortion and clear compatibility conditions can be defined.*

*deleted*

## **Amendment 2**

### **Proposal for a regulation - amending act Recital 11**

*Text proposed by the Commission*

*Amendment*

(11) In relation to aid for transport by rail, road and inland waterways, Article 93 of the Treaty states that aid meeting the needs of coordination of transport or representing reimbursement for the discharge of certain obligations inherent in the concept of a public service shall be compatible with the Treaties. *Article 9 of Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road currently exempts from the prior notification requirement laid down in Article 108(3) of the Treaty public service compensations for the operation of public passenger transport services or for complying with tariff obligations that are established through general rules and*

(11) In relation to aid for transport by rail, road and inland waterways, Article 93 of the Treaty states that aid meeting the needs of coordination of transport or representing reimbursement for the discharge of certain obligations inherent in the concept of a public service shall be compatible with the Treaties.

*paid in accordance with Regulation (EC) No 1370/2007. In order to harmonize the approach to block exemption regulations in the field of State aid, and in accordance with the procedures foreseen in Articles 108(4) and 109 of the Treaty, aid for the coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service as referred to in Article 93 of the Treaty should be brought under the scope of Regulation (EC) No 994/98. Article 9 of Regulation (EC) No 1370/2007 should therefore be deleted with effect from six months after the entry into force of a regulation adopted by the Commission concerning this category of State aid.*

### **Amendment 3**

#### **Proposal for a regulation - amending act Recital 13**

*Text proposed by the Commission*

(13) Therefore, the scope of Regulation (EC) No 994/98 should be extended to include *such* categories of aid.

*Amendment*

(13) Therefore, the scope of Regulation (EC) No 994/98 should be extended to include categories of aid *hereby identified*.

### **Amendment 4**

#### **Proposal for a regulation - amending act Article 1 – paragraph 1 – point a Regulation (EC) No 994/98 Article 1 – paragraph 1 – point a – point xi**

*Text proposed by the Commission*

*(xi) residents of remote regions for transport, when this aid has a social character and is granted without discrimination related to the identity of the carrier;*

*Amendment*

*deleted*

## **Amendment 5**

### **Proposal for a regulation - amending act**

#### **Article 1 – paragraph 1 – point a**

Regulation (EC) No 994/98

Article 1 – paragraph 1 – point a – point xii

*Text proposed by the Commission*

*Amendment*

*(xii) coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service pursuant to Article 93 of the Treaty;*

*deleted*

## **Amendment 6**

### **Proposal for a regulation - amending act**

#### **Article 2**

Regulation (EC) No 1370/2007

Article 9

*Text proposed by the Commission*

*Amendment*

*Regulation (EC) No 1370/2007 is amended as follows:*

*deleted*

*Article 9 shall be deleted with effect from six months after the entry into force of a Commission regulation concerning the category of State aid referred to in Article 1 (a) xii of Council Regulation (EC) No 994/98.*

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	7.5.2013
<b>Result of final vote</b>	+: 44 -: 0 0: 0
<b>Members present for the final vote</b>	Magdi Cristiano Allam, Georges Bach, Erik Bánki, Izaskun Bilbao Barandica, Philip Bradbourn, Antonio Cancian, Michael Cramer, Joseph Cuschieri, Philippe De Backer, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Knut Fleckenstein, Jacqueline Foster, Mathieu Grosch, Jim Higgins, Juozas Imbrasas, Dieter-Lebrecht Koch, Jaromír Kohlíček, Werner Kuhn, Jörg Leichtfried, Bogusław Liberadzki, Eva Lichtenberger, Marian-Jean Marinescu, Hubert Pirker, Dominique Riquet, Petri Sarvamaa, Vilja Savisaar-Toomast, Olga Sehnalová, Brian Simpson, Keith Taylor, Silvia-Adriana Țicău, Gionnmaria Uggias, Peter van Dalen, Patricia van der Kammen, Dominique Vlasto, Artur Zasada, Roberts Zīle
<b>Substitute(s) present for the final vote</b>	Phil Bennion, Spyros Danellis, Alfreds Rubiks, Janusz Władysław Zemke
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Pilar Ayuso