

Access to the international market for coach and bus services. Recast

2007/0097(COD) - 21/10/2009 - Final act

PURPOSE: to provide a consistent framework for the international carriage of passengers by coach and bus throughout the Community.

LEGISLATIVE ACT: Regulation (EC) No 1073/2009 of the European Parliament and of the Council on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006.

CONTENT: the Council adopted three regulations that seek to modernise, replace and merge provisions governing road transport operators and access to the road transport markets, following a second reading agreement with the European Parliament under the codecision procedure. These regulations concern:

- [access to the international road haulage market;](#)
- [admission to the occupation of road transport operator;](#)
- on access to the international market of coach and bus services.

This Regulation which lays down the common rules governing access to the international market for the carriage of passengers by coach and bus seeks to revise and consolidate the current legislative framework by clarifying its scope by simplifying procedures and establishing a standardised format for the Community licence and certified copies thereof.

A number of substantial changes are to be made to Council Regulation (EEC) No 684/92 on common rules for the international carriage of passengers by coach and bus and to Council Regulation (EC) No 12/98 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State. In the interests of clarity and simplification, those Regulations have been recast and incorporated into one single regulation.

The main features of the new regulation are as follows:

Scope: this Regulation shall apply to the international carriage of passengers by coach and bus within the territory of the Community by carriers for hire or reward or by own-account carriers established in a Member State in accordance with its law, using vehicles which are registered in that Member State and are suitable and intended, by virtue of their construction and equipment, to carry more than nine persons, including the driver, and to the movement of such vehicles when empty in connection with such carriage.

In the event of carriage from a Member State to a third country and vice versa, this Regulation shall apply to the part of the journey on the territory of any Member State crossed in transit. It shall not apply to that part of the journey within the territory of the Member State of picking up or setting down, as long as the necessary agreement between the Community and the third country concerned has not been concluded.

This Regulation shall apply to national road passenger services for hire or reward operated on a temporary basis by a non-resident carrier.

12-day rule: in order to encourage tourism and the use of environmentally friendly means of transport, Regulation (EC) No 561/2006 has been amended to allow drivers engaged in a single occasional service providing international carriage of passengers to postpone their weekly rest period for up to 12

consecutive 24-hour periods if they are involved in passenger transport activities that typically do not include continuous and long driving hours. Such a postponement should only be allowed under very strict conditions which preserve road safety and take into account the working conditions of drivers, in particular, the obligation to take weekly rest periods immediately before and after the service.

Thus, a driver engaged in a single occasional service of international carriage of passengers may postpone the weekly rest period for up to 12 consecutive 24-hour periods following a previous regular weekly rest period, provided that:

- a) the service lasts at least 24 consecutive hours in a Member State or a third country to which this Regulation applies other than the one in which the service started;
- b) the driver takes after the use of the derogation: i) either two regular weekly rest periods; or ii) one regular weekly rest period and one reduced weekly rest period of at least 24 hours. However, the reduction shall be compensated by an equivalent period of rest taken en bloc before the end of the third week following the end of the derogation period; and
- c) after 1 January 2014, the vehicle is equipped with recording equipment in accordance with the requirements of Annex IB to Regulation (EEC) No 3821/85; and
- d) after 1 January 2014, if driving during the period from 22,00 to 06,00, the vehicle is multi-manned or the driving period referred to in Article 7 is reduced to three hours.

The Commission shall monitor closely the use made of this derogation in order to ensure the preservation of road safety under very strict conditions, in particular by checking that the total accumulated driving time during the period covered by the derogation is not excessive. By 4 December 2012, the Commission shall draw up a report assessing the consequences of the derogation in respect of road safety as well as social aspects. If it deems it appropriate, the Commission shall propose amendments to this Regulation in this respect.

This provision will apply from 4 June 2010.

Community licence: the international carriage of passengers by coach and bus should be conditional on the possession of a Community licence. Carriers should be required to carry a certified true copy of the Community licence aboard each of their vehicles, in order to facilitate effective controls by enforcement authorities, especially those outside the Member State in which the carrier is established. The conditions governing the issue and withdrawal of Community licences, their periods of validity and the detailed rules for their use should be determined. It is also necessary to lay down detailed specifications as regards the layout and other features of the Community licence and the certified copies thereof.

Roadside checks: roadside checks should be carried out without direct or indirect discrimination on grounds of the nationality of the road transport operator or the country of establishment of the road transport operator or of registration of the vehicle.

Authorisation: the authorisation for regular services should henceforth be granted subsequent to an authorisation procedure, unless there are clearly specified grounds for refusal attributable to the applicant. The grounds for refusal relating to the relevant market should be either that the service applied for would seriously affect the viability of a comparable service operated under one or more public service contracts on the direct sections concerned or that the principal purpose of the service is not to carry passengers between stops located in different Member States.

Non-resident carriers: non-resident carriers should be allowed to operate national road passenger services, but regard should be had to the specific characteristics of each form of service. When such

cabotage operations are performed, they should be subject to Community legislation such as Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport and to national law in force in specified areas in the host Member State.

Cabotage: the provisions of Directive 96/71/EC of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services apply to transport undertakings performing a cabotage operation.

Penalties: the new regulation adapts the current rules in such a way as to allow the effective sanctioning of serious infringements committed in a Member State other than the Member State of establishment. Penalties should be non-discriminatory and proportionate to the seriousness of the infringements. It should be possible to lodge an appeal in respect of any penalties imposed.

Member States should enter in their national electronic register of road transport undertakings all serious infringements attributable to carriers which have led to the imposition of a penalty.

In line with Parliament's wishes, Member States should provide a warning before the imposition of administrative penalties. Furthermore, the competent authorities of the Member State of establishment shall communicate to the competent authorities of the Member State in which the infringements were ascertained at the latest within six weeks of their final decision on the matter which penalties have been imposed.

Agreements between Member States: Member States may conclude bilateral and multilateral agreements on the further liberalisation of the services covered by this Regulation, especially in border regions.

ENTRY INTO FORCE: 04/12/2009.

APPLICATION: from 04/12/2011, with the exception of the '12-day rule' which is applicable from 04/06/2010.