

COMMISSION OF THE EUROPEAN COMMUNITIES

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Commission Report to the Council

on the operation of Regulation (EEC) No 517/72 (regular and special regular services) in 1973

Commission Report to the Council

on the state of the transport market as regards the shuttle services referred to in Article 11 of Regulation (EEC) No 516/72

(Submitted to the Council by the Commission)

COMMISSION REPORT TO THE COUNCIL ON THE OPERATION OF REGULATION (EEC) No 517/72
CONCERNING REGULAR AND SPECIAL REGULAR SERVICES IN 1973

I. INTRODUCTION

Council Regulation (EEC) No 517/72 of 28 February 1972 on the introduction of common rules for regular and special regular services by coach and bus between Member States¹ has applied in the original Member States since 1 January 1973. Article 23(b)² of the Regulation postponed application in the new Member States until 1 July 1973.

Article 15 of Regulation (EEC) No 517/72 stipulates: "the Commission shall each year send a report on the operation of this Regulation to the Council."

This report has been drafted in compliance with this provision. It covers the whole of 1973 in the case of the original Member States and the second half of 1973 in the case of the new Member States. Inter alia its purpose is to:

- indicate trends in transport connections and services,
- assess the efficiency of the procedures adopted,
- ascertain, where appropriate, the economic impact of the Regulation,
- identify the scale of infringement.

In addition the report makes it possible to examine ways in which, in the light of experience, the Regulation could be amended.

To obtain the information required for drafting this report the Commission sent a questionnaire to Member States on 22 July 1974.

¹ OJ No L 67, 20 March 1972, page 19

² Article 1 of Council Regulation (EEC) No 2442/72 of 21 November 1972 - OJ No L 265, 24 November 1972, page 7.

II. MEMBER STATES' REPLIES AND THE COMMISSION'S VIEWS

A. Trends in traffic services and connections

The statistics provided by Member States have been collated in various summary tables annexed to this report. However, they are too fragmentary to permit sufficiently reliable conclusions on trends in traffic services and connections. Every effort will be made to obtain fuller statistics in time for the next report.

B. Procedures

1. No Member State needed to make use of the negotiating procedure provided for by Article 13(1) of the Regulation with a view to reaching agreement on an application to introduce, change or withdraw a regular or special regular service or to renew an authorization.

No cases of dispute have been referred to the Commission for settlement under the second subparagraph of Article 14(1). It can therefore be concluded that as a result of the procedure introduced by the Community Regulation the Member States have not encountered any major difficulties when taking decisions on applications by carriers.

2. However, Belgium felt that it should be recommended that the competent authorities of each State, when consulted by a Member State about an application, should reply as soon as possible, by a deadline to be laid down at Community level, so that the time-lag between the date of the application and the date when the decision takes effect (one month after its notification to the other Member States - Article 13(4)) is not too long.

Although the Commission considers that the procedure for examining applications should be as expeditious as possible, it is doubtful whether it would be possible to fix a uniform maximum time-limit in view of the differences between the administrative structures of the respective Member States. Nonetheless the Commission invites the Member States to speed up the procedure.

3. Some Member States considered it regrettable that, in view of the time required for issuing authorizations, the Regulation did not provide for the issuing of "temporary authorizations" to meet urgent transport requirements. They therefore advocate an amendment to provide for the issue of "temporary authorizations" for one month or more to carriers providing services necessitated by the immediate requirements of users, pending completion of the procedural formalities (consultation of the Member States, dates on which decisions take effect).

The Commission points out that Article 19 of its original proposal for a regulation provided for the possibility of issuing a temporary authorization³ but that this proposal was not approved by the Council. Having also noted that some Member States still did not feel the need for such a procedure, or were even opposed to it, the Commission will examine the advisability of proposing an amendment to the regulation, where necessary, which would empower those States that so wished to make bilateral agreements for the issuing of such authorizations.

4. As regards infringements, Italy was the only country to find that the documents which have to be present on board vehicles were not always properly kept. The undertakings concerned were served notice to comply with the rules. No administrative or judicial penalty was imposed.

In the Commission's opinion the fact that there were hardly any infringements is chiefly to be attributed to the relative stringency of the arrangements introduced, particularly as regards the selection of carriers and the conditions stipulated in the authorization for the operation of the service.

³ OJ No C 123, 19 September 1969, page 1

C. Economic impact of the Regulation

The Member States felt that the introduction of the Community Regulation had hardly affected the economic situation; however, even if the Regulation has not created any new traffic it has at least led to better organization.

The Commission is of the opinion that not enough experience has yet been gained and that further information, particularly concerning the meeting of needs and the effects on coordination, could probably be supplied in future reports.

D. Amendments proposed and other suggestions

1. Article 22 of Regulation (EEC) No 517/72 stipulates inter alia that the provisions to be adopted by the Member States to implement the Regulation shall also cover penalties applicable in the event of infringements, and in particular failure to provide the notice required under the first subparagraph of Article 10(1). The United Kingdom considers that Article 10(1), which provides: "An authorization shall lapse three months after the competent authority has received from its holder notice of his intention to withdraw the service", does not require the carrier to inform the competent authority of his intention and, consequently, failure to give notification cannot constitute an infringement.

The Commission cannot accept this interpretation since the obligation, even if not specifically stated, is implicit in the provisions referred to. It points out that the other Member States have had no difficulty in providing for appropriate penalties in this connection. It is the responsibility of the United Kingdom to introduce those implementing measures under Article 22 of the Regulation which would enable it to penalise failure to give notice.

2. Another problem raised by the United Kingdom concerns the second subparagraph of Article 10(1), which states: "The holder of the authorization shall notify in an appropriate manner the public and the passengers concerned of his intention to withdraw the service." As "in an appropriate manner" is not defined in the Regulation, the United Kingdom Government suggests that a Community definition of the phrase be adopted as soon as possible.

The Commission feels that there is no need to draw up a Community definition. However, it suggests that the Member States inform it of the procedure used, so that it can guarantee the exchange of information between Member States.

3. Article 20 of Regulation (EEC) No 517/72 states that in the case of a regular service or a special regular service operated in the territory of only two Member States over a route of less than 100 km lying within a zone extending to a depth on each side of the frontier not exceeding 50 km as the crow flies, the Member States concerned may, under their agreement pursuant to Article 13(1), waive certain requirements listed in Article 20.

The United Kingdom Government has asked whether or not the distance travelled by sea between its country and another Member State should be included in these distances.

The Commission notes that there is a lacuna here in the Regulation. It considers that Article 20 should be amended to cover sea crossings by adding to it the same provision as that inserted, with the same purpose, in the First Council Directive on the establishment of common rules for certain types of carriage of goods by road between Member States ⁴:

⁴ OJ No L 84, 28 March 1974, page 8

"In the case of carriage between Member States whose territories are separated solely by an area of sea, no account shall be taken of the distance travelled on board a means of sea transport specially constructed and equipped for the carriage of commercial vehicles and operated as a regular service."

The Commission will therefore present a formal proposal to the Council, as soon as possible, with the object of modifying Regulation (EEC) No. 517/72 in the above-mentioned sense.

E. Miscellaneous

At a meeting of government experts convened by the Commission for drawing up this report, some delegations felt that there was little need to present a report every year on the application of Regulation (EEC) No 517/72, as provided for in Article 15 of that Regulation. They felt that the information relevant to this report could be gathered annually but that the report itself should be drawn up only every three or five years. Other delegations were in favour of simplifying the procedure and suggested that the Commission should send the report direct to the Member States and no longer to the Council.

The Commission cannot agree to the latter suggestion but it could accept the solution of drawing up a report every three years.

At this meeting some delegations raised the question of whether it was advisable to begin work on drawing up a uniform model for operating rules to implement the provisions of Article 5(1) of Regulation (EEC) No 517/72. They stated that the absence of such uniform operating rules had **not created** any difficulties.

The Commission has taken note of these unofficial opinions and will undertake a more detailed examination of the question.

COMMISSION REPORT TO THE COUNCIL ON THE STATE OF THE TRANSPORT MARKET AS
REGARDS THE SHUTTLE SERVICES REFERRED TO IN ARTICLE 11 OF REGULATION (EEC) No 516/72

I. INTRODUCTION

Article 11(1) of Regulation No 516/72 states: "By way of derogation from Article 2(3) of Regulation No 117/66/EEC, a carrier may, in the case of passengers coming from non-member countries and formed into groups at an airport on arrival by air, or at a port on arrival by sea, under a contract concluded before their arrival in the country where they are to be taken up, apply for authorization to make the first outward journey and the last return journey of a series unladen." Under Article 11(2) of Regulation No 516/72 authorizations may also be granted in other cases. Lastly, under Article 11(3) the Commission must, before the end of June 1975, present to the Council a report on the state of the transport market in this particular field, "reverse shuttle services", if necessary together with a proposal to amend the scope of Article 11.

To obtain the necessary information for drawing up this report, the Commission sent a questionnaire, dated 22 July 1974, to the Member States.

II. MEMBER STATES'REPLIES AND THE COMMISSION'S VIEWS

1. The replies received indicate that the shuttle services concerned are few and far between. Indeed, there were no applications for the introduction of such services in Belgium, Denmark, Ireland, Italy, Luxembourg, the Netherlands or the United Kingdom. Germany has reported that applications of this kind were turned down because of the unfavourable effect the operation of such services could have on national carriers.

For the period running from the entry into force of the Regulation, France has supplied the following figures:

- number of applications for authorization to operate shuttle services <u>with</u> accommodation	1
- number of authorizations issued for the operation of shuttle services <u>with</u> accommodation	1
- number of applications for authorization to operate shuttle services <u>without</u> accommodation	2
- number of authorizations issued for the operation of shuttle services <u>without</u> accommodation	2

These three authorizations were issued to an Italian undertaking which, in carrying out the services concerned, made 47 journeys, carried 3,182 persons and covered 18,840 kilometers.

2. On the subject of infringements, Belgium reported that in 1972 and 1973 Belgian inspection departments discovered that a few unauthorized "reverse shuttle services" were being operated by carriers of another Member State. Belgium was unable to impose penalties at the time because the entry into force of the legislation required had been delayed.

3. Because of this situation, the Commission considers that there are no grounds for amending the provisions set out in Article 11 of Regulation (EEC) No 516/72.

Regular services										Special regular services											
UK	NL	L	I	IRL	F	DK	G	B	Total	Transport operations	Total	B	G	DK	F	IRL	I	L	NL	UK	
-	24	-	4	-	13	-	6	X	47	Number BELGIUM	302	X	17	-	14	-	-	16	255	-	
-	832	-	2775	-	2533	-	1268	X	7.408	km	17.242	X	2457	-	692	-	-	815	13277	-	
-	4	-	-	-	4	-	X	-	8	Number GERMANY	11		X	-	7	-	-	-	4	-	
-	-	-	-	-	-	-	X	-	-	km			X	-	-	-	-	-	-	-	
-	-	-	-	-	-	X			-	Number DENMARK	-			X							
						X			-	km	-			X							
					X		9	11	20	Number FRANCE	2	2	-	-	X	-	-	-	-	-	
			850		X		320	1922	7.332	km	150	150	-	-	X	-	-	-	-	-	
				X					1	Number IRELAND	-					X					
				X					160	km	-					X					
			X						22*	Number ITALY	-						X				
			X						8.694*	km	-						X				
		X							-	Number LUXEMBOURG	-								X		
		X							-	km	-								X		
	X								-	Number NETHERLANDS	7									X	
	X								-	km	-									X	
X									-	Number UNITED KINGDOM	-										X
X									-	km	-										X

* No distinction has been made between regular services and special regular services.

ANNEX

(c) Number of authorizations issued to operate national transport services in the course of operation of an international service

Nil

(d) Number of authorizations withdrawn

Nil

(e) Number of services withdrawn

Regular Services				Special regular services				
F	-	NL	Total	Transport operations	F	-	-	Total
3	-	1	4	GERMANY	11	-	-	11
			9**	NETHERLANDS*				
			1**	ITALY*				
Total			14					11

Grand total = 25

* No distinction has been made between regular services and special regular services.

** No breakdown by type of transport operation with other Member States was supplied.

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1.2 Period running from implementation of the Regulation up to 31 December 1973(a) Services introduced and km covered

Regular services										Special regular services											
UK	NL	L	I	IRL	F	DK	G	B	Total	Transport operations	Total	B	G	DK	F	IRL	I	L	NL	UK	
								X	-	Number											
								X	-	BELGIUM	30	X	1	-	15	-	-	1	13	-	
								X	-	km	1.708	X	76	-	1037	-	-	85	510	-	
-	13	2	1	-	7	4	X	1	28	Number	57		X		40	-		1	16	-	
-	-	-	-	-	-	-	X	-		GERMANY			X	-	-	-	-	-	-	-	
							X		-	km			X	-	-	-	-	-	-	-	
							X		-	Number	-			X							
							X		-	DENMARK				X							
							X		-	km				X							
-	-	-	18	-	X	-	2	3	23	Number	1	1	-	-	X	-	-	-	-	-	
-	-	-	-	-	X	-	101	654	755	FRANCE	59	59	-	-	X	-	-	-	-	-	
					X				-	km					X	-	-	-	-	-	
					X				-	Number	-				X						
					X				-	IRELAND					X						
					X				-	km					X						
			X						-	Number	-						X				
			X						-	ITALY							X				
			X						-	km							X				
		X							-	Number	-							X			
		X							-	LUXEMBOURG								X			
		X							-	km								X			
	X								5*	Number	-								X		
	X								-	NETHERLANDS									X		
	X								-	km									X		
X									-	Number	-										X
X									-	UNITED KINGDOM											X
X									-	km											X

* No distinction has been made between regular services and special regular services.

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(*) Authorizations renewed and km covered

Regular services										Special regular services											
UK	NL	L	I	IRL	F	DK	G	B	Total	Transport operations	Total	B	G	DK	F	IRL	I	L	NL	UK	
-	2	-	-	-	12	-	8	X	22	Number BELGIUM	7	X	1	-	6	-	-	-	-	-	
-	300	-	-	-	2585	-	1851	X	4.736	km	1.058	X	734	-	324	-	-	-	-	-	
-	-	-	-	-	1	-	X	-	1	Number GERMANY	-		X								
-	-	-	-	-	-	-	X	-		km	-		X								
						X				Number DENMARK				X							
						X				km				X							
					X					Number FRANCE					X						
					X					km					X						
				X						Number IRELAND						X					
				X						km						X					
			X						21*	Number ITALY	-						X				
			X						8.384	km	-						X				
		X								Number LUXEMBOURG								X			
		X								km								X			
	X									Number NETHERLANDS										X	
	X									km										X	
X										Number UNITED KINGDOM											X
X										km											X

* No distinction has been made between regular services and special regular services.

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ANNEX

(c) Number of authorizations issued to operate national transport services in the course of operation of an international service

Nil

(d) Number of authorizations withdrawn pursuant to Article 18 (1)

Nil

(e) Number of services withdrawn

	F	I	TOTAL
BELGIUM*	1	2	3
ITALY*			2**
	GRAND TOTAL		5

*. No distinction has been made between regular services and special regular services.

** No breakdown by type of transport operation with other Member States was supplied.

