

COMMISSION OF THE EUROPEAN COMMUNITIES

ANGE
COM(77) 562 final.
ARI

Brussels, 14 November 1977

Proposal for a
COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 517/72
the introduction of common rules for regular and special regular
services by coach and bus between Member States

(submitted to the Council by the Commission)

COM(77) 562 final.

EXPLANATORY MEMORANDUM

On 28 February 1972, the Council adopted Regulation (EEC) No 517/72 on the introduction of common rules for regular and special regular services by coach and bus between the Member States¹. This Regulation came into force in the original Member States on 1 January 1973 and, in conformity with its Article 23(b)², on 1 July 1973 in the new Member States.

In the light of the experience gained in applying this Regulation and the convincing nature of various suggestions made by the Member States, there is reason to amend some of its provisions.

These amendments apply to the provisions of Articles 12, 15 and 16 of the abovementioned Regulation.

¹OJ No L 67 of 20 March 1972, page 19.

²OJ No L 265 of 24 November 1972, page 7.

Article 12

Paragraph 4 of this Article stipulates that copies:

- (a) of applications for setting up a regular or special regular service,
- (b) of applications for renewal of an authorization or for modification of the conditions to which operation of such a service is subject,
- (c) of notifications that a service is being discontinued, and
- (d) of the documents referred to in paragraph 3 of Article 12 shall be sent to the Member States whose territory is used by the service in question and to the Commission.

By virtue of Article 16(3) the Commission also receives copies of the decisions taken by the Member State to which the applications are made. Since this gives the Commission sufficient information about the development of the market in regular and special regular services, it takes the view that the Member States need not send it copies of these applications.

Article 12 shall be amended accordingly.

Article 15

Article 15 of Regulation (EEC) No 517/72 stipulates that "the Commission shall each year send a report on the operation of this Regulation to the Council". It was in conformity with this provision that the Commission sent the Council the report for 1973 under cover of a letter dated 22 July 1975.

During the preparatory work which the Commission initiated with a view to drawing up the 1974 report and, more particularly, at meetings with the Member States, the delegations stressed that, in relation to the situation existing before implementation of Regulation (EEC) No 517/72, there had been no notable changes as regards adaptation of carrying capacity to demand, protection of the services in question against unfair competition or, indeed, in the improvement of cooperation between undertakings. For, while eliminating some small divergences and establishing uniform procedures, the Regulation incorporated the principles already applied at national level.

Under these circumstances and in view of the substantial administrative workload involved in drawing up this report, it would be appropriate for the Commission to depart from the system of drawing up an annual report, as set out in Article 15 of Regulation (EEC) No 517/72, and draw up a triennial report instead.

An appropriate amendment of the aforementioned Article 15 is therefore proposed.

Article 16

Some Member States have informed the Commission that the procedure provided for in Articles 12 and 16 in respect of applications for launching a regular or special regular service and the issue of authorizations is likely to cause difficulties in some cases. This is true when it is a matter of setting up services intended to meet urgent transport requirements; the procedure in question often does not allow decisions to be taken with the speed necessary for responding to the requirements of the moment.

The same applies to applications for modification of the conditions subject to which a service is operated and applications for renewal of an authorization: when objections are raised to such applications by other carriers, the relevant authority may not make a decision until the authorization in question has expired.

The abovementioned Member States take the view that such problems could be resolved by issuing provisional authorizations, valid for a fairly short period and renewable without waiting for the conclusion of the procedure provided for in Articles 13, 14 and 16 of the Regulation. They specify that such provisional authorizations should not give their recipients any right to a definitive authorization.

The Commission acknowledges the merits of these suggestions, but, as other Member States take the view that the existing procedure is adequate for dealing with the cases in question, a flexible solution must be found. The Commission therefore proposes that the Member States be empowered to agree at the bilateral or multilateral level on measures allowing the issue of provisional authorizations when it has been established that urgent transport requirements cannot be met by existing services or when the decision to renew an authorization cannot, for procedural reasons, be taken in good time.

Proposal for a
COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 517/72 of _____
on the introduction of common rules for regular and special
regular services by coach and bus between Member States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 75 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Having regard to the Opinion of the Economic and Social Committee,

Whereas it is necessary to simplify the procedure under _____ in Article 12(4)
of Council Regulation (EEC) No 517/72 of 28 February 1972 on the introduction
of common rules for regular and special regular and special regular services
by coach and bus between Member States¹, by removing the obligation to send
to the Commission copies of the applications and notifications referred to in
Article 12(3); whereas this obligation is even less necessary since, under
Article 16(3), the Commission also receives copies of the decisions taken
by the Member State to which the applications are made;

Whereas Regulation (EEC) No 517/72 has not substantially changed the
economic situation of the market in regular service and special regular
services; whereas the annual report on the operation of the said Regulation
may accordingly be replaced by a triennial report;

¹OJ No L 67, 20.3.1972, p.19

Whereas, in order to set up regular services or special regular services to meet urgent transport requirements,
Member States should have the power to agree among themselves to issue provisional authorizations without waiting for the normal procedure to be completed and without prejudice to the final decision,

HAS ADOPTED THIS REGULATION:

Sole Article

Regulation (EEC) No 517/72 is hereby amended as follows:

1. Article 12(4) shall read as follows:

"4. The Member State referred to in paragraph 2 shall forward to the Member States over whose territory the service concerned is to pass a copy of each application and notification referred to in that paragraph, together with copies of the documents attached in accordance with paragraph 3."

2. In Article 15 the words "each year" shall read "every three years".

3. There shall be inserted after Article 16 the following Article 16a:

"Article 16a

1. The Member State referred to in Article 12(2) shall, after reaching agreement with the other Member States concerned, issue a provisional authorization,

(i) when the immediate creation of a regular service or special regular service is essential because of unforeseeable circumstances or force majeure and where transport requirements cannot be met by existing services, or

(ii) when a decision on an application for renewal of an authorization or a variation of the conditions subject to which a service is operated cannot, in particular because of objections raised by other interested carriers, be taken before the authorization expires.

2. The provisional authorization shall not prejudice the decision to be taken on the application in question, which decision shall be taken under of Article 16.

3. The provisional authorization shall not be valid for more than six months. However, it may be renewed on the same terms and for a single period of the same length. If, after the expiration of these periods there has not been a positive decision under the procedure referred to in Articles 12(4), 13, 14 and 16, the service provided for in paragraph 1 may no longer be operated.

4. The Member State referred to in Article 12(2) shall forward a copy of the provisional authorization to the other Member States concerned."

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

