

EUROPEAN PARLIAMENT

Working Documents

1975-1976

19 June 1975

DOCUMENT 145/75

REPORT

drawn up on behalf of the Committee on
Regional Policy and Transport

on the proposal from the Commission of the
European Communities to the Council (Doc. 104/75)
for a regulation on the action to be taken to
bring into force the European Agreement
concerning the Work of Crews of Vehicles
engaged in International Road Transport (AETR)

Rapporteur: Mr Horst SEEFELD

PE 40.871/fin.

By letter of 14 May 1975 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 75 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a regulation on the action to be taken to bring into force the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR).

The President of the European Parliament referred this proposal to the Committee on Regional Policy and Transport as the committee responsible and to the Committee on Social Affairs and Employment for its opinion.

For technical reasons the Committee on Social Affairs and Employment was unable to deliver an opinion before the June part-session of the European Parliament.

On 10 June 1975 the Committee on Regional Policy and Transport appointed Mr Seefeld rapporteur. It considered the proposal at the same meeting and unanimously adopted the motion for a resolution and the explanatory statement.

The Committee on Regional Policy and Transport decided to request consideration by urgent procedure and a vote without debate during the June part-session of the European Parliament.

Present: Mr McDonald, chairman; Mr Nyborg and Mr Gerlach, vice-chairmen; Mr Seefeld, rapporteur; Mr Albers, Mr Corrie, Mr Herbert, Mr Johnston, Mrs Kellett-Bowman, Mr Liogier, Mr Mitterdorfer, Mr Mursch, Mr Schwabe and Mr Starke.

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The Committee on Regional Policy and Transport hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Council regulation on the action to be taken to bring into force the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR)

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹;
 - having been consulted by the Council pursuant to Article 75 of the EEC Treaty (Doc. 104/75);
 - having regard to the report of the Committee on Regional Policy and Transport (Doc. 145/75);
 - considering that it has already expressed a favourable opinion on the entry into force of the AETR in the countries of the Community for reasons connected with competition, road safety and social progress;
1. Stresses that, in order to avoid disparities in the application of social rules on road transport in the Community, it is very important for the AETR to come into force simultaneously in all the Member States;
 2. Approves the proposed procedure, whereby all the Member States will jointly deposit their instruments of ratification or of accession to the AETR through the representative of the Member State holding the Presidency of the Council, who will act on behalf of the Community;
 3. Approves, therefore, the proposal from the Commission of the European Communities;
 4. Stresses, however, that any future changes in the AETR will be negotiated and concluded by the Community according to the procedure laid down in Article 228 of the EEC Treaty.

¹ OJ No. C 123, 3.6.1975, p. 2

EXPLANATORY STATEMENT

1. The harmonization of certain social provisions relating to road transport serves many purposes connected with competition, road safety and social progress¹.

2. On 25 March 1969 the Council adopted Regulation No. 543/69, which represents the first stage in the harmonization at Community level of Member States' legislation relating to road transport. Just over a year later, the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR) was laid open for signature by Member States of the Economic Commission for Europe (ECE), a United Nations body composed of 34 member countries with headquarters in Geneva. This Agreement has the same subject matter as Regulation 543/69.

The AETR will enter into force on the 180th day following the deposit of the eighth instrument of ratification. To date six non-Community countries have deposited their instruments. Once the AETR comes into force in the territory of the Community, Community norms and the norms established by an agreement under international law will exist side by side.

3. The proposal for a regulation on which the Parliament has been consulted has two main objectives. The first is the entry into force in the Community of the AETR, which will make it easier to supervise the crews of vehicles travelling to and from third countries when crossing an extra-Community frontier. The second objective is the simultaneous entry into force of the agreement in all the Member States; if it were to be applied in only some Member States and there were subsequent modifications to one of the two sets of provisions governing this matter (the AETR or the Community rules), there would be a risk of discrepancies in the treatment of employees and undertakings in this sector in the different Member States.

The proposal for a regulation accordingly provides that as from 1 January 1976 the provisions of the AETR shall apply 'to international road transport coming from or going to third countries who are parties to the Agreement, when carried out in vehicles registered in a third country which is also a party to the Agreement' (Article 1), and that 'Member States shall

¹ See report by Mr Laan on the proposal from the Commission of the European Communities concerning Regulation 543/69 on the harmonization of certain social legislation relating to road transport (Doc. 31/67-68)

proceed to ratify AETR or adhere to this Agreement before 15 June 1975' (Article 2 (1)).

4. As indicated in the explanatory memorandum preceding the proposal, a juridical problem arises in respect of the procedure to be followed: the question is whether the Community or the Member States are competent in the matter.

The Court of Justice delivered an important judgment in this connection in a case between the Commission and the Council of the European Communities (Case 22/70), following proceedings for annulment introduced by the Commission¹. The Court conceded that since the subject matter of the AETR comes within the scope of Regulation 543/69, the Community is competent to negotiate and conclude that Agreement as from the entry into force of the aforementioned Regulation².

However, the fact that the Commission had not acted at that time, either by exercising its right of initiative as provided in Articles 75(1) and 116(1), or in the role of negotiator as provided in Article 228(1) first para., and also the particular circumstances in this case led the Court to take a different decision: it ruled that 'during the negotiations and by the simultaneous conclusion of the Agreement according to the procedure laid down by the Council, the Member States have acted and continue to act in the interest and on behalf of the Community'³.

5. Your rapporteur therefore approves the procedure proposed in this case by the Commission, which is modelled on the judgment of the Court of Justice of the European Communities: according to the proposal for a regulation, the Member States shall send their instruments of ratification or accession to the Secretariat of the Council and representative of the Member States which has the Presidency of the Council shall deposit them jointly with the Secretary-General of the United Nations Organization (Article 2 (2 and 3)).

6. It is very important to stress in this connection that this procedure is justifiable only up to the entry into force of the AETR in all the Member States. The Court of Justice, in the case in question, clearly ruled that, even if Articles 74 and 75 of the EEC Treaty did not explicitly accord the Community competence in the matter of concluding international

¹ Reports of Cases before the Court, year 1971, p. 263 et seq.

² Grounds, footnote 30

³ Grounds, footnote 90

agreements, the implementation of Council Regulation 543/69 has nonetheless had the effect of making the Community competent to conclude with third countries all agreements relating to the subject matter of that Regulation¹. This competence can be deduced from Article 3 of Regulation 543/69 which provides that 'the Community shall enter into any negotiations with third countries which may prove necessary for the purpose of implementing this Regulation' (and, as already shown, Regulation 543/69 and the AETR deal with the same matter).

7. It is therefore clear that, once the AETR enters into force, the Community will be competent to negotiate any modifications to it; the procedure applicable would be that of Article 228 of the EEC Treaty, which requires the Council to consult the European Parliament where stipulated by the Treaty: since this matter is governed by Article 75, the Parliament should be consulted.

8. There is some doubt whether the deadlines laid down in the proposal for a regulation (15 June 1975 for the ratification of the AETR by the Member States, 1 January 1976 for the entry into force of the provisions of the Agreement) can be met. Your rapporteur hopes that, even if these deadlines have to be extended, the proposal for a regulation will be approved by the Council as soon as possible.

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By letter of 4 June 1975 the chairman of the Committee on Social Affairs and Employment notified the chairman of the Committee on Regional Policy and Transport that the Committee on Social Affairs and Employment had found it impossible to submit an opinion before the June part-session. He also indicated that such an opinion would reiterate the ideas already put forward in the previous opinion on the subject by Mr Pêtre².

¹ Grounds, footnote 28

² PE 32.696