

EUROPEAN PARLIAMENT

Working Documents

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DOCUMENT 1-244/81

Report

drawn up on behalf of the Committee on Transport

on the proposal from the Commission of the European Communities to the Council (Doc. 1-946/80) for a regulation amending Regulation (EEC) No 1191/69 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway

Rapporteur: Mr M. DOUBLET

12.1

By letter of 23 January 1981 the President of the Council of the European Communities requested the European Parliament, pursuant to Articles 75 and 94 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a Regulation amending Regulation (EEC) No. 1191/69 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway (Doc. 1-946/80).

The President of the European Parliament referred this proposal to the Committee on Transport as the committee responsible.

On 20 February 1981, the Committee on Transport appointed Mr Doublet rapporteur.

It considered the draft report at its meeting of 14 May 1981 and at the same meeting unanimously adopted the motion for a resolution, explanatory statement and amendments.

Present: Mr De Keersmaecker, vice-chairman and acting chairman; Mr Roberts, vice-chairman; Mr Doublet, rapporteur; Mr Albers, Mr Buttafuoco, Mr Gabert, Mr Klinkenborg, Mr Markozanis (deputizing for Mr Dalakouras), Mr Moorhouse, Mr Moreland and Mr Nicolaou (deputizing for Mr Loo).

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On the basis of the attached explanatory statement, the Committee on Transport hereby submits the following amendments and motion for a resolution to the European Parliament:

AMENDMENT No. 1

tabled by the Committee on Transport

Proposal from the Commission Doc. C 1-946/80

on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway

Proposal for a Regulation

New: last recital

' - whereas the list of criteria of assessment contained in the annex is non-restrictive',

AMENDMENT No. 2

tabled by the Committee on Transport

Proposal from the Commission Doc. C 1-946/80

on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway

Proposal for a Regulation

Paragraph 2

Replace the words '1 July 1981' by the words '1 January 1983'

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 regulation amending Regulation (EEC) No. 1191/69 on action by Member States concerning the obligation inherent in the concept of a public service in transport by rail, road and inland waterway.

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council (COM(80)907 fin.);
 - having been consulted by the Council pursuant to Article 75 of the EEC Treaty (Doc. 1-946/80);
 - having regard to the report of the Committee on Transport (Doc. 1-244/81);
 - urging the Council to decide on the 1972 proposal which envisages more far-reaching harmonization by extending application of (EEC) Regulation No. 1191/69 to transport undertakings and services where a comparable situation exists to that already covered by the regulation, i.e. chiefly to non-national railway undertakings, alternative transport services and certain types of road and inland waterway transport;
1. Feels that a clearer definition of the criteria for assessing whether to terminate or maintain public service obligations affords a triple advantage, in that it will
 - ensure adequate transport services
 - reduce or prevent distortions of competition
 - contribute to putting the accounts of the national railway undertakings on a healthy footing;
 2. Emphasizes nevertheless that the list of criteria for assessing the adequacy of transport services contained in the proposal for a regulation is not exhaustive;
 3. Approves the Commission's proposal, save for the date of entry into force of the regulation which it wishes to alter from 1 July 1981 to 1 January 1983.

EXPLANATORY STATEMENT

1. On 26 June 1969, the Council issued a Regulation (No. 1191/69) on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway.
2. In Article 2 of the aforesaid regulation the concept of 'public service obligations' is defined as follows :
'obligations which the transport undertaking in question, if it were considering its own commercial interests, would not assume or would not assume to the same extent or under the same conditions'¹.
3. The basis for the 1969 regulation is to be found in Article 5 of the Council Decision (No. 65/271) of 13 May 1965 on the harmonisation of certain provisions affecting transport by rail, road and inland waterway², in which it is stipulated that public service obligations may be maintained only in so far as is essential in order to ensure the provision of adequate transport services. However, Article 6 of the decision allows for an exception to be made in the area of transport rates and conditions in the interests of particular categories of person - on social grounds, of course.
4. The question of the public service obligations imposed by the governments of some Member States of the Community to ensure adequate transport services or in the interests of certain categories of person is obviously related to possible distortions of competition or, in other words, to potential disparities on the transport market.
5. The problem of public service obligations should also be seen in the light of the Community's efforts to bring the finances of the national railway undertakings into balance. It is well known that such undertakings are the ones most affected as regards their commercial policies by public service obligations³.
6. In its opinions on proposals from the Commission of the European Communities on this matter, the European Parliament has therefore always formulated recommendations aimed both at promoting healthy competition between the various transport sectors and transport undertakings within the Community and at improving the financial position of the national railway companies⁴.

¹ OJ No L 156, 28.6.1969, p.3.

² OJ No 88, 24.5.1965.

³ A draft report on this subject is currently being prepared by Mr RIPA
di MEANA.

⁴ See inter alia the reports by Mr RIEDEL (Doc. 203/68), Mr MURSCH (Doc. 28/73) and Mr ALBERS (Doc. 322/78).

7. The Commission now proposes to define more precisely the provisions governing the termination or maintenance) of public service obligations, that is to formulate in greater detail the criteria for such decisions.

8. The regulation in question contains only one article (apart from the inevitable article on entry into force), which seeks to replace Article 3, paragraph 2, of Regulation No. 1191/69 of 26.6.69 by the following text:

Article 3, paragraph 2

Regulation No. 1191/69

Proposed amendment

'The adequacy of transport services shall be assessed having regard to :

'In making the decisions referred to in paragraph 1¹, the competent authorities of the Member States, taking account of the criteria set out in the Annex, shall assess whether there is more than one way of "ensuring, under similar conditions, the provision of adequate transport services" and shall choose the public service obligation involving the least cost to the general public'

(a) the public interest;

(b) the possibility of having recourse to other forms of transport and the ability of such forms to meet the transport needs under consideration;

(c) the transport rates and conditions which can be quoted to users.'

9. The Annexes are therefore of considerable importance since they contain :

(i) a more detailed analysis of the three basic criteria for assessing the adequacy of transport services, viz :

- the public interest;
- the possibility of having recourse to other forms of transport;
- transport rates and conditions²;

¹ Article 3, paragraph 1, reads as follows : 'Where the competent authorities of the Member States decide to maintain, in whole or in part, a public service obligation, and where this can be done in more than one way, each capable of ensuring, while satisfying similar conditions, the provision of adequate transport services, the competent authorities shall select the way least costly to the Community.'

² Subparagraphs a, b and c of Article 3, paragraph 1 of Regulation No. 1191/69 respectively.

(ii) guidelines for determining the least cost of the general public.

10. In the first part of Annex I, the Commission draws a distinction between the public interest from the point of view of the user and from the point of view of the public at large. In the case of the latter, four specific fields are enumerated, namely:

- energy
- regional policy
- employment
- the environment.

11. Your rapporteur feels that a clear definition of the criteria governing the adequacy of transport services is an excellent method of achieving the twin aims of

- preserving the harmonization of the rules of competition between the various forms of transport,
- providing for the maintenance of public service obligations where these are essential for ensuring the adequacy of transport services.

It must be stressed, however, that the criteria thus defined (see page 7 of the annex to the proposal) must not be considered as an exhaustive list and that the Member States may take certain other factors into consideration when assessing these criteria.

12. With regard to the second part of Annex I, the Commission has drawn up an outline cost/benefit analysis for each of the forms of transport considered. See Annex II of the proposal.

This cost/benefit analysis takes into account both transport and non-transport factors.

13. The Commission's proposal sets out the guidelines enabling the Member States to opt for the solution which, while ensuring the adequacy of transport services, must involve the least cost and the greatest benefit to the general public (See page 6 of the proposal for a Council Regulation and Article 1 of the text adopted).

Your rapporteur feels, however, that it is difficult to anticipate how the assessment methods will be applied by the Member States and that it would be preferable, in order to avoid distortions, to provide for a trial period during which experimental studies would be conducted in each Member State.

For these two reasons, therefore, i.e.

- the need to seek solutions which, while providing adequate transport, must involve the least cost,
- the use of different methods by the Member States,

the date of the entry into force of the regulation should be altered from 1 July 1981 to 1 January 1983.

14. The Committee on Transport is of the opinion that a clearer definition of the criteria for assessing decisions on terminating or maintaining public service obligations affords a dual advantage in that it will, on the one hand reduce or prevent distortions of competition and, on the other, contribute to putting the accounts of the national railway undertakings on a healthy footing.

For these two reasons, the Committee on Transport feels able to approve the draft regulations, subject, however, to the amendment proposed above.

